

Compendium of Gender-Inclusive Legislation:

Framework for Equity, Empowerment & Justice



**A COMPILATION OF WOMEN SPECIFIC LEGISLATION
PREVAILING IN THE COUNTRY**



Law & Justice Commission of Pakistan
Supreme Court of Pakistan Building, Constitution Avenue, Islamabad
www.ljcp.gov.pk

DISCLAIMER

The Law and Justice Commission has endeavored to compile the most recent versions of women-specific legislation for reference purposes in this report. However, subsequent amendments and updates may occur. For any questions or clarifications, readers are advised to consult the original sources, specifically the relevant Gazette notifications. We disclaim any liability for inaccuracies or omissions in the information provided. Furthermore, the content of this report cannot be reproduced or used as evidence in a court of law.

WOMEN SPECIFIC LEGISLATION PREVAILING IN THE COUNTRY

Table of Contents

S. No.	Description	Page No.
	Foreword	i
A	Federal Laws	1
1.	The Anti-Rape (Investigation and Trial) Act, 2021 (XXX of 2021)	2
2.	The Anti-Rape (Sex Offenders Register) Rules, 2023	15
3.	The Anti-Rape (Investigation) Rules, 2022	26
4.	The Anti-Rape (Trial Procedure) Rules, 2022	31
5.	The Anti-Rape (Crises Cell and Medico-Legal) Rules, 2022	37
6.	The Enforcement of Women's Property Rights Act, 2020 (XII of 2020)	49
7.	The Hindu Marriage Act, 2017 (VII of 2017)	54
8.	The National Commission on the Status of Women Act, 2012 (VIII of 2012)	63
9.	The National Commission on the Status of Women Rules, 2014	73
10.	The Protection Against Harassment of Women at Workplace Act, 2010 (IV of 2010)	80
11.	The West Pakistan Family Court Act, 1964 (WP Act No. XXXV of 1964)	92
12.	The West Pakistan Family Court Rules, 1965	104
13.	The Muslim Family Laws Ordinance, 1961 (VIII of 1961)	110
14.	The Hindu Married Women's Rights to Separate Residence and Maintenance Act, 1946 (XIX of 1946)	117
15.	The Hindu Women Rights to Property Act, 1937 (XVIII of 1937)	119
16.	The Child Marriage Restraint Act, 1929 (XIX of 1929)	122
17.	The Guardian and Wards Act, 1890 (VIII of 1890)	126
18.	The Christian Marriage Act, 1872 (XV of 1872)	145
19.	The Divorce Act, 1869 (IV of 1869)	177

S. No.	Description	Page No.
20.	The Hindu Widows Re-Marriage Act, 1856 (XV of 1856)	204
21.	Pakistan Penal Code, 1860 (XLV of 1860) and Code of Criminal Procedure 1898 (V of 1898) (Provisions with regard to women rights)	208
B.	Laws of the Punjab	228
22.	The Punjab Women Hostels Authority Act, 2023 (VII of 2023)	229
23.	The Punjab Enforcement of women Property Rights Act, 2021 (X of 2021)	239
24.	The Punjab Sikh Anand Karaj Marriage Act, 2018 (VI of 2018)	244
25.	The Punjab Women Protection Authority Act, 2017 (X of 2017)	248
26.	The Punjab Protection of women Against Violence Act, 2016 (XVI of 2016)	257
27.	The Punjab Commission on the Status of Women Act, 2014 (I of 2014)	274
28.	The Punjab Fair Representation of Women Act, 2014 (IV of 2014)	282
29.	The Punjab Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2014)	302
30.	The Punjab Family Courts Act, 1964 (XXXV of 1964)	313
31.	The Punjab Suppression of Prostitution Ordinance, 1961 (II of 1961)	327
32.	The Muslim Family Laws Ordinance, 1961 (VIII of 1961)	333
33.	The Punjab Hindu Women Rights to Agricultural Land Ordinance, 1959 (XI of 1959)	340
34.	The Punjab Maternity Benefit Ordinance, 1958 (XXXII of 1958)	343
35.	The Punjab Child Marriage Restraint Act, 1929 (XIX of 1929)	350
C.	Laws of the Sindh	354
36.	The Women Agriculture workers Act, 2019 (V of 2020)	355
37.	The Sindh Maternity Benefits Act, 2018 (XXXI of 2018)	364
38.	The Sindh Hindus Marriage Act, 2016 (IX of 2016)	368
39.	The Sindh Commission on the Status of women Act, 2015 (XX of 2015)	377

S. No.	Description	Page No.
40.	The Sindh Child Marriages Restraint Act, 2013 (XV of 2014)	387
41.	The Sindh Child Marriage Restraint Rules, 2016	391
42.	The Sindh Domestic Violence (Prevention and protection) Act, 2013 (XX of 2013)	410
43.	The Sindh Domestic Violence (Prevention & Protection) Rules, 2016	421
D.	Laws of the Khyber Pakhtunkhwa	440
44.	The Khyber Pakhtunkhwa Domestic Violence Against Women Act, 2021 (III of 2021)	441
45.	The Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019 (XLIV of 2019)	452
46.	The Khyber Pakhtunkhwa Commission on the Status of women Act, 2016 (XXXVIII of 2016)	457
47.	The Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013 (II of 2013)	466
48.	The Khyber Pakhtunkhwa Enforcement of Women Ownership Act, 2012 (III of 2012)	469
49.	The Khyber Pakhtunkhwa Protection against Harassment of Women at Workplace Act, 2010 (IV of 2010)	472
E.	Laws of the Balochistan	487
50.	The Balochistan Commission on the Status of Women Act, 2017 (V of 2017)	488
51.	The Balochistan Protection against Harassment of Women at the Workplace Act, 2016 (I of 2016)	499
52.	The Balochistan Protection against Harassment of Women at the Workplace Rules, 2018	512
53.	The Balochistan Domestic Violence (Prevention and Protection) Act, 2014 (VII of 2014)	517
54.	The Balochistan Domestic Violence (Prevention and Protection) Rules, 2021	531

Foreword:

As the Secretary of the Law and Justice Commission of Pakistan (LJCP), it is my honour to present this comprehensive compendium, "Gender-Inclusive Legislation: Framework for Equity, Empowerment and Justice," on behalf of the Law & Justice Commission, Pakistan. This document is pivotal in our efforts to educate stakeholders about significant advancements in Pakistan's legal framework concerning women's rights. It stands as a testament to the LJCP's unwavering commitment to fostering an inclusive society where women are fully aware of their legal rights and the mechanisms available for their enforcement.

Established in 1979, with the Chief Justice of the Supreme Court of Pakistan as the head of its Board of Governors, the LJCP has a broad mandate. This includes reviewing legislative instruments, harmonizing federal and provincial laws, promoting legal literacy, and ensuring access to justice. In line with this mandate, the LJCP has compiled this volume to provide a comprehensive understanding of legislation specifically related to women that is currently in effect in Pakistan.

This collection brings together a wide range of laws aimed at promoting women's rights in various areas. It covers legislation on gender-based violence and discrimination, as well as laws that support economic empowerment and political participation. It places particular emphasis on ensuring inheritance rights are upheld, reflecting our shared commitment to breaking down barriers that hinder women's advancement and creating environments that foster their overall development.

The key themes are organized to provide stakeholders with a structured overview. The document contains detailed information on federal laws such as the Anti-Rape Act, the Enforcement of Women's Property Rights Act, and the Protection Against Harassment of Women at Workplace Act. It also includes provincial laws from Punjab, Sindh, Khyber Pakhtunkhwa, and Balochistan, offering a comprehensive legal landscape that addresses regional specificities and enhances the understanding of localized legal protections for women.

The legal provisions emphasize the importance of recognizing women as equal stakeholders in society. They are entitled to dignity, respect, and equitable opportunities. We aim to challenge entrenched patriarchal norms and empower women to realize their full potential as individuals and contributors to the socio-economic fabric of their communities and the nation at large.

As we celebrate the progress in advancing women's rights, it's important to remember that there is still work to be done. Despite the progress, women still face various challenges, including systemic discrimination and cultural barriers. It's crucial to enforce existing laws, ensure they are effectively

implemented, and fill in any gaps in legal protections to improve the law and guarantee the full realization of women's rights.

I extend my heartfelt gratitude to the legislators, policymakers, advocates, and stakeholders whose contributions have shaped the pro-women legislation in this compendium. Your dedication to gender equality inspires us all and reinforces our commitment to building a more just and equitable world for women.

This compendium would not have been possible without the dedicated efforts of Ms. Tanveer Badar Jajja, Section Officer (Law), and Mr. Muhammad Ramzan, Assistant Private Secretary, whose unwavering commitment facilitated its compilation and composition.

I am confident that this compendium will serve as a valuable resource for policymakers, legal practitioners, researchers, and advocates. It will promote a deeper understanding of the mechanisms for implementing laws aimed at promoting gender equality and empowering women. Together, let us persist in our endeavors towards a future where women's rights are not merely enshrined in law, but fully realized in practice.



Secretary

Law and Justice Commission of Pakistan

Federal Laws

THE ANTI-RAPE (INVESTIGATION AND TRIAL) ACT, 2021

ACT NO. XXX OF 2021

CONTENTS

Section	Headings
1.	Short title, extent, and commencement
2.	Definitions
3.	Establishment of Special Courts, etc.
4.	Anti-rape crisis cells
5.	Power, duties and functions etc. of the Anti-Rape Crisis Cell
6.	Legal assistance
7.	Prosecutor general and special prosecutors
8.	Victim and witness protection
9.	Investigation in respect of scheduled offences
10.	Independent support advisers
11.	Independent support advisers
12.	In-camera trial
13.	Evidence and guidelines
14.	Statement under section 164 of the Code
15.	Special Committee
16.	Trial
17.	Compensation to the victim
18.	Appeal
19.	Rules
20.	Fund
21.	Preventive action by police
22.	False Investigation or complaint
23.	Jurisdiction and transfer of cases, etc.
24.	Register of sex offenders
25.	Public reporting mechanism
26.	Non-disclosure of identity of victims, etc.
27.	Act not to derogate from other law
28.	Overriding effect
29.	Application of Code
30.	Amendment in the Schedule.
31.	Removal of difficulties
SCHEDULE-I	
SCHEDULE-II	

THE ANTI-RAPE (INVESTIGATION AND TRIAL) ACT, 2021

ACT NO. XXX OF 2021

[1st December, 2021]

An Act to ensure expeditious redressal of rape and sexual abuse crimes in respect of women and children through special investigation teams and special Courts providing for efficacious procedures, speedy trial, evidence and matters connected therewith or incidental thereto;

It is hereby enacted as follows: —

1. Short title, extent, and commencement. — (1) This Act may be called the Anti-Rape (Investigation and Trial) Act, 2021.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may appoint.

2. Definitions.— (1) In this Act, unless there is anything repugnant in the subject or context,—

- (a) “anti-rape crisis cell” is a cell appointed under section 4 of this Act;
- (b) “child” means any male or female, who has not attained the age of eighteen years;
- (c) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (d) “Government” means the Federal Government;
- (e) “independent support adviser” means a person appointed, enlisted or recognized as such under section 11 of this Act;
- (f) “Schedule” means a Schedule annexed to this Act; and
- (g) “scheduled offences” means offences as set out in the Schedules against a “victim” or a “child” as defined in this Act;
- (h) “sex offender” means and includes any person convicted under sections 292A, 292B, 292C, 371A, 371B, 375, 375A, 376, 377, 377A, 377B of the Pakistan Penal Code, 1860 (XLV of 1860) or sections 21 and 22 of the Prevention of Electronic Crimes Act, 2016 (Act XL of 2016);
- (i) “special committee” means the Committee set up under section 15 of this Act;
- (j) “Special Court” means the Court established under section 3 of this Act;

(k) “victim” means a woman or child who has been subjected to scheduled offences;

Explanation.— It is clarified that where the Scheduled offences are committed against persons who do not qualify to be categorized as “victim” or “child” as defined under this Act, the offences shall be tried through procedure, rules of evidence and courts, functioning prior to this Act coming into effect.

(2) All other terms and expressions used but not defined in this Act shall have the same meanings as are assigned thereto in the Pakistan Penal Code, 1860 (Act XLV of 1860) or in the Code of Criminal Procedure, 1898 (Act V of 1898), or the Qanoon-e-Shahadat Order, 1980 (P.O. No. 10 of 1984).

3. Establishment of Special Courts, etc.— (1) The Federal Government, in consultation with the Chief Justice of the High Court concerned, shall establish as many Special Courts throughout the country, as it may deem necessary, to try the scheduled offences.

(2) The Federal Government, in consultation with the Chief Justice of the High Court concerned, shall appoint any person as a Judge of the Special Court, who is or has been a Sessions Judge or Additional Sessions Judge, or has been an advocate of the High Court for a period of not less than ten years, and is not more than sixty-eight years of age at the time of appointment.

(3) In addition to or in lieu of the establishment of Special Courts under sub-section (1), the Federal Government may, in consultation with the Chief Justice of the High Court concerned, designate, throughout the country, as many Courts of Additional Sessions Judges or such other courts as Special Courts, as it may deem fit:

Provided that where gender-based violence (GBV) courts or juvenile courts or child protection courts have already been designated, they shall be deemed to be the Special Courts under this Act:

Provided further that where more than one Special Court is designated or established in one jurisdiction, the concerned Courts of Sessions shall allocate the case.

(4) A Judge of the Special Court shall have the same powers and jurisdiction as are vested in the Court of Sessions under the Code.

(5) A Judge of the Special Court shall be appointed for a period of three years on such terms and conditions as may be determined by the Federal Government.

(6) A Judge of a Special Court shall only be removable before the expiry of his tenure if he is found guilty of misconduct.

(7) The disciplinary proceedings against a Judge of a Special Court shall be conducted in the same manner and under the same legal provisions and rules as prescribed for a District and Sessions Judge.

(8) During his tenure, a Judge of a Special Court may be transferred to another Special Court within the same Province, by the Chief Justice of the High Court concerned, for reasons to be recorded in writing.

(9) The trial of scheduled offences shall ordinarily be conducted in the Special Court within whose territorial jurisdiction the offences are committed.

4. Anti-rape crisis cells. — (1) The secretary, ministry of law and justice, in consultation with the chief secretary of the province or the chief commissioner of the Islamabad Capital Territory (ICT), as the case may be, shall establish or designate as many anti-rape crisis cells throughout the country in relation to offences mentioned in Schedule-II, in such public hospitals with adequate medical facilities, as he may deem fit.

(2) The anti-rape crisis cells shall be headed by the concerned commissioner or deputy commissioner of the area, as deemed fit by the secretary, ministry of law and justice, in consultation with the chief secretary of the province, or the chief commissioner ICT, as the case may be, and shall also comprise the medical superintendent of the public hospital designated under sub-section (1), preferably one independent support adviser, a police officer as deemed fit by the secretary, ministry of law and justice, in consultation with the chief secretary of the province, or the chief commissioner ICT, as the case may be:

Provided that at least one member of the anti-rape crisis cell shall preferably be a woman.

5. Power, duties and functions etc. of the Anti-Rape Crisis Cell. — (1) As soon as an anti-rape crisis cell receives information from any source, on its own accord or upon application by any person, orally or in writing, of an offence mentioned in Schedule-II, it shall without any delay ensure the following, namely:-

- (a) conduct of a medico-legal examination without any delay;
- (b) securing, collection and gathering of such evidence as may be expedient;
- (c) conduct of a forensic analysis or examination;
- (d) registration of a first information report (FIR) by the police; and
- (e) performing of any other action as may be necessary.

(2) The actions mentioned in sub-section (1) may be taken without any preferred order, however, all the said actions are required to be taken up expeditiously.

(3) As soon as an officer-in-charge of a police station receives any information with regard to the commission of an offence mentioned in Schedule-II, he shall, without any delay, transmit such information to the anti-rape crisis cell.

(4) The secretary, of the ministry of law and justice, in consultation with chief secretary of

the province or the chief commissioner ICT, as the case may be from time to time, upon recommendations of the special committee, issue guidelines for the anti-rape crisis cells to efficaciously carry out their powers, duties and functions.

6. Legal assistance.— (1) The legal aid and justice authority established under the Legal Aid and Justice Authority Act, 2020 (Act XVI of 2020) shall provide legal assistance to victim of scheduled offences. In addition, the Fund established under this Act shall also be utilized for legal assistance under this Act.

(2) In addition to the legal assistance under sub-section (1), the special committee shall in consultation with the ministry of human rights, approve panels of advocates and volunteers in each district or, if necessary, in any tehsil, for the provision of legal, financial or other assistance either on *pro bona* or on fee basis, for which the Fund under this Act and under the Legal Aid and Justice Authority Act, 2020 (Act XVI of 2020) shall be utilized.

7. Prosecutor general and special prosecutors. — (1) The ministry of law and justice may designate or appoint a prosecutor general and special prosecutor in a manner as may be prescribed by rules notified by the ministry of law and justice.

(2) The prosecutor general and special prosecutors shall prosecute the scheduled offences.

8. Victim and witness protection. — (1) In addition to the existing laws, a victim and witness protection system may be established as prescribed in the rules notified by the ministry of law and justice and shall, with a view to carrying out the purposes of this Act and without generality of the aforesaid, include the following, namely:—

- (i) special security arrangements for witnesses and victims;
- (ii) concealment of identity;
- (iii) distance recording of testimonies through video-conferencing, audio-video links and by the use of modem devices;
- (iv) re-location of victims and witnesses;
- (v) provision of reasonable financial assistance;
- (vi) compensation to legal heirs of protected victims and witnesses;
- (vii) safe-houses, dar-ul-amans, etc.;
- (viii) such other measures as may be necessary and ancillary.

(2) Till such time the rules envisaged in sub-section (1) are prescribed, provincial or ICT witness protection laws as the case may be, shall be applicable to both victims and witnesses under this Act, *mutatis mutandis*.

9. Investigation in respect of scheduled offences.— (1) For the purposes of investigation under this Act, special sexual offences investigation units (SSOIUs) shall be established in every district by the provincial governments and for the purposes of the Islamabad Capital Territory by the Federal Government.

(2) The SSOIU shall comprise police officers who have received training on investigation in relation to sexual offences and preferably one member of the unit shall be a female police officer.

(3) The investigation in respect of offences mentioned under this Act shall be carried out as follows:-

- (i) for offences mentioned in Schedule-I, by the SSOIU; and
- (ii) for offences mentioned in Schedule-II, by SSOIU under the supervision of a police officer not below the rank of BPS-17.

(4) In case the complainant in relation to an offence under Schedule-II expresses dissatisfaction which is based on reasonable grounds, the investigation shall be transferred to the district head of investigation of the police.

(5) The officers of the SSOIUs shall ordinarily be from the area in which the occurrence of the offence has taken place:

Provided that in exceptional circumstances and where the dictates of fair, accurate and technical investigation warrant otherwise, officers from areas other than the area of occurrence, may be deputed in the SSOIUs.

(6) Upon completion of investigation, the SSOIU shall, through the prosecutor general or special prosecutors, submit the final report under section 173 of the Code before the Special Court.

10. Connected offences not in the Schedules.— The investigation officer or the joint investigation team (JIT), as the case may be, under section 9, may also take cognizance of offences, not listed in the schedules, committed in connection with the scheduled offences, as if those offences were scheduled offence.

11. Independent support advisers. — (1) If so determined by the anti-rape crisis cell, an independent support adviser shall accompany the victim during Court proceedings, in order to reduce the risk of duress, victimization of any nature, or any adversity afflicted or likely to be afflicted upon the victim.

(2) The special committee, in consultation with the ministry of human rights, shall prepare a list of independent support advisers at district or tehsil levels.

(3) For the purposes of sub-section (2), the special committee shall, in consultation with the

ministry of human rights, enlist a civil society or a non-governmental organization, whose members or nominees may act as independent support advisers.

(4) An independent support adviser shall be a person having skills to deal with victims of scheduled offences, who may be a psychologist, or a doctor, or a lawyer, or a para-legal, or a lady-health worker, or a social worker, or a person who is a member or nominee of a civil society or a non-governmental organization enlisted under sub-section (3).

12. In-camera trial. — (1) The trial of scheduled offences shall be conducted in-camera:

Provided that the Court, if it thinks fit, on its own or on an application made by either of parties, allow any particular person to have access to court proceedings, or remain in the Court.

(2) Notwithstanding anything contained in any other law for the time being in force, where any proceedings are held under sub-section (1), the Court may adopt appropriate measures, including holding of the trial through video-link or usage of screens, for the protection of the victims and the witnesses.

(3) Where any proceedings are held under sub-section (1), it shall not be lawful for any person to publish or broadcast any matter or information in relation to any such proceedings, except with the permission of the Court.

13. Evidence and guidelines.— (1) The two-finger virginity testing, for the purposes of medico-legal examination of a victim relating to scheduled offences, shall be strictly prohibited and no probative value shall be attached thereto.

(2) In respect of any scheduled offence, any evidence to show that the victim is generally of immoral character, shall be inadmissible:

Provided that the right of an accused to a fair trial shall not be prejudiced.

(3) The testimonies and evidence of victims, accused and witnesses in Court shall be video-recorded, preserved and reduced in writing.

14. Statement under section 164 of the Code.— (1) Notwithstanding anything contained in any other law for the time being in force, as soon as practicable, a statement of the victim shall be recorded under section 164 of the Code only once.

Explanation.— The statement under this sub-section shall be video-recorded, preserved and reduced in writing.

(2) An opportunity of cross examining the victim shall be given to the counsel for the accused and not the accused himself, or the Court may itself put questions to the victim or any questions framed by the accused may be given to the presiding officer of the Court who may put such questions, as found appropriate by him, to the victim.

15. Special Committee.— (1) The ministry of law and justice shall appoint a special committee comprising such members and in such numbers as it may deem fit on pro bono or honorary basis.

(2) Chief secretaries and the finance secretaries of the provincial governments and the ICT shall assist the special committee to ensure reasonable funding for the performance of duties under this Act. The special committee will set standards, key performance indicators and conduct performance measurement.

(3) The special committee shall take all steps, including reaching out to any Federal or provincial ministry, division, department, office, agency or authority, for the purposes of effectual compliance of this Act.

(4) The special committee may comprise individuals from any Federal or Provincial ministry, division, department, authority or office, or from members of the legal or medical profession, legislators, retired judges, serving or retired public servants, civil society or non- governmental organizations, as deemed fit by the ministry of law and justice.

(5) For the purposes of effective compliance and proper working of this Act, the special committee, from time to time, may seek information or require the performance of actions, by officers of the Federal or provincial ministries, divisions, departments, offices, agencies or authorities.

(6) If any person refuses or fails to comply with the directions issued by the special committee under this section, the special committee may refer the matter to the appropriate authority for taking disciplinary action against the person who disregards the directions.

16. Trial.— (1) The Court upon taking cognizance of a case, under this Act shall decide the case expeditiously, preferably within four months.

(2) A Special Court shall not grant more than two adjournments during the trial of a case, out of which one adjournment shall be upon payment of costs by the person seeking adjournment. Where the defense counsel does not appear after two consecutive adjournments, the Court may appoint another defense counsel with at least seven years standing in criminal matters for the defense of the accused from the panel of advocates maintained by the special committee.

(3) If, in the course of a trial, the Court is of the opinion that any of the offences which the accused is alleged to have committed is not a scheduled offence, the Court shall record such opinion and try the accused only for such offences, which are scheduled offences.

(4) A Special Court may also try offences, not listed in the schedules, committed in connection with the scheduled offences, as if those offences were scheduled offences.

Explanation.— It is clarified that sub-section (4) shall also be applicable where the provisions of the Anti-Terrorism Act, 1997 (Act XXVII of 1997) are invoked or invocable in respect of offences

under this Act.

17. Compensation to the victim. — On conclusion of the trial, the Court may order the convict to pay compensation to the victim, in addition to the penalty of fine, if any.

18. Appeal. — (1) Any person aggrieved by the final judgment of a Special Court may file an appeal to a High Court in whose jurisdiction the Special Court tendering the impugned judgment, is situated.

(2) Copies of the judgment of the Special Court shall be supplied to the accused and the prosecution, free of cost, on the day the judgment is pronounced, where after the record of the trial shall be transmitted to the concerned High Court within three days of the decision.

(3) An appeal under sub-section (1) may be preferred within thirty days of the final judgment by the Special Court.

(4) An appeal preferred under sub-section (1) shall be decided by a division bench of the High Court, as soon as practicable, preferably within six months from its institution.

(5) While hearing an appeal, the High Court shall not grant more than two consecutive adjournments.

(6) Pending appeal, the High Court shall not release a person convicted by the trial court.

19. Rules. — (1) The ministry of law and justice may prescribe rules, upon the recommendations of the special committee, for the purposes of carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide guidelines,—

- (i) for the purposes of medico-legal examination of the victims;
- (ii) in respect of the investigation and prosecution of scheduled offences; including the collection and gathering of evidence;
- (iii) in relation to the rehabilitation of the victim, offender, suspect or a member of the society;
- (iv) pertaining to gender and children sensitization and training of all relevant stakeholders, including Judges, police-officers, prosecutors, medico-legal officers and staff and other duty officers or personnel, both at the time of induction and subsequently; and
- (v) for providing special trial court rooms; or special rooms or facilities for the victims, especially children, near the trial court rooms, for a conducive environment.

(3) The special committee, in formulating its recommendations under sub-section (1), may consult any ministry, division, office, department, agency or authority in the Federal or provincial government and shall take into account modern techniques and devices, as it may consider appropriate.

20. Fund. — (1) The Prime Minister shall establish a Fund to carry out the purposes of this Act.

- (2) The purposes of the Fund shall include the meeting of any expenses—
 - (a) towards the establishment of Special Courts; or
 - (b) with regard to the exercise of any other power, duty or function mentioned in this Act; or
 - (c) in respect of anything which is ancillary or sundry for the purposes of this Act.
- (3) The Fund shall consist of the following sources, namely:—
 - (a) grants from the Federal Government and provincial governments;
 - (b) aid and assistance from local, national and international agencies;
 - (c) contributions from statutory bodies, corporations, private organizations and individuals; and
 - (d) income and earnings from moveable and immovable properties acquired or leased by the Fund.

(4) The amount credited to the Fund shall not lapse by the end of a financial year and shall be available for utilization at any time.

21. Preventive action by police.— If any police officer receives information in relation to the commission or threat of commission of a scheduled offence, he shall immediately interpose, act and take such action as may be necessary including and not limited to the exercising of powers under the Code, in particular sections 149 and 151 thereof, to prevent the commission of such offences, notwithstanding that the offence reported has been committed in an area not within the jurisdiction of such police officer.

22. False Investigation or complaint.— (1) Whoever, being a public servant, entrusted to investigate scheduled offences, fails to carry out the investigation properly or diligently or causes the conductor false investigation or fails to pursue the case in any court of law properly and in breach of duties, shall be guilty of an offence punishable with imprisonment of either description which may extend to three years and with fine.

(2) Whoever gives to any public servant any information in relation to scheduled offences which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he

will thereby cause, such public servant—

- (a) to do or omit anything which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him; or
- (b) to use the lawful power of such public servant to the injury or annoyance of any person;

shall be punished with imprisonment of either description for a term which may extend to three years and with fine.

23. Jurisdiction and transfer of cases, etc. — (1) The scheduled offences shall be exclusively triable by the Special Court.

(2) Subject to sub-section (3), upon commencement of this Act, the trial of scheduled offences pending in any court shall stand transferred to the Special Court having jurisdiction under this Act and such Court shall proceed with the case from the stage at which it was pending immediately before such transfer and it shall not be bound to recall or re-hear any witness who has given evidence and may act on the evidence and procedures already recorded and complied with, respectively.

(3) Each time when a new offence is inserted into any of the Schedules to this Act, sub-section (2) shall come into operation, *mutatis mutandis*, from the date of such insertion.

24. Register of sex offenders. — (1) The National Data-Base and Registration Authority (NADRA) shall prepare a register of sex offenders.

Explanation. — “sex offender” means a person convicted of a scheduled offence.

(2) Notwithstanding the aforesaid, the ministry of law and justice may prescribe rules, upon the recommendations of the special committee, for the release of such data of the register of sex offenders to any person, agency, authority, court of law or segment of the society in public interest and safety.

(3) The special committee may require the NADRA to prepare different categories of sex offenders in the register under this section.

(4) For the purposes of this section, the special committee may require the NADRA, the National Police Bureau and the forensic science laboratories, to prepare different categories of sex offenders in the register.

25. Public reporting mechanism.— The ministry of law and justice, upon recommendations of the special committee, frame rules for establishing a reporting mechanism for receiving information from the public about suspicious persons or those suspected to have committed the scheduled offences.

26. Non-disclosure of identity of victims, etc.— (1) No person shall disclose or reveal the identity of any victim or victim’s family in respect of the scheduled offences, without prior written

permission of the victim or victim's guardian where the victim is a minor or the victim's family, as the case may be.

(2) Any person contravening the provisions of sub-section (1) shall be guilty of an offence punishable in the same manner and to the same extent as provided under section 376A of the Pakistan Penal Code, 1860 (Act XLV of 1860).

27. Act not to derogate from other law.— In respect of offences mentioned in Schedule-I, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

28. Overriding effect. — In respect of offences mentioned in Schedule-II, the provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force.

29. Application of Code. — The provisions of the Code, to the extent not inconsistent with anything contained in this Act, shall apply *mutatis mutandis*.

30. Amendment in the Schedule.— The ministry of law and justice may, by notification in the official Gazette, amend the Schedules under this Act so as to include or exclude any offence or explanation.

31. Removal of difficulties.— Where any difficulty arises in giving effect to any of the provisions of this Act, the President may, by notification in the official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for the purpose of removing the difficulty.

SCHEDULE-I

1. Offences under sections 34, 292A, 292B, 292C, 354, 365, 365A, 368, 369, 369A, 498B, 498C, 511 of the Pakistan Penal Code, 1860 (Act XLV of 1860).
2. Offences mentioned in Chapters V and V-A of the Pakistan Penal Code, 1860 (Act XLV of 1860).
3. Offences under sections 21 and 22 of the Prevention of Electronic Crimes Act, 2016 (Act XL of 2016).
4. Offences under the Anti-Terrorism Act, 1997 (Act XXVII of 1997) which are committed along with the offences in this Schedule

Explanation.— It is clarified that offences under sections 34, 365, 365A, 368, 369, 369A, 498A, 498C and 511 of the Pakistan Penal Code, 1860 (Act XLV of 1860) and offences mentioned in items Nos. 2 and 4, above, shall only be cognizable and triable as offences falling under this Schedule, if they are connected with offences under sections 292A, 292B, 292C and 354 of the Pakistan Penal Code, 1860 (Act XLV of 1860) and offences mentioned in item No.3 above.

SCHEDULE-II

1. Offences under sections 34, 336A, 336B, 354A, 364, 364A, 365B, 366A, 366B, 367A, 371A, 371B, 375, 375A, 376, 377, 377A, 377B, 511 of the Pakistan Penal Code, 1860 (Act XLV of 1860).
2. Offences mentioned in Chapters V, V-A and XVI of the Pakistan Penal Code, 1860 (Act XLV of 1860).
3. Offences under the Anti-Terrorism Act, 1997 (Act XXVII of 1997) which are committed along with the offences in this Schedule.

Explanation. - It is clarified that offences under sections 34, 364, 364A and 511 of the Pakistan Penal Code, 1860 (Act XLV of 1860) and offences mentioned in items Nos. 2 and 3, above, shall only be cognizable and triable as offences falling under this Schedule, if they are connected with offences under sections 336A, 336B, 354A, 365B, 366A, 366B, 367A, 371A, 371B, 375, 375A, 376, 377, 377A and 377B of the Pakistan Penal Code, 1860 (Act XLV of 1860).

The Anti-Rape (Sex Offenders Register) Rules, 2023

CONTENTS

Sec	Headings
	Short title, extent and commencement
	Definitions
	Sex Offenders Register
	Information Stored in the Sex Offender Register
	Entry into the Sex Offenders Register
	Access to the Sex Offender Register
	Data Protection
	Requirement for notification
	Categories of offenders for notification
	Notification upon release from prison
	Periodic notification
	Notification of change of residence
	Notification of the intention to travel
	Notification to be recorded
	Review of notification period
	Omission of record upon acquittal
	Implementation of rules

PART-II
Statutory Notifications (S.R.O.)
Government of Pakistan
MINISTRY OF LAW AND JUSTICE
NOTIFICATION
Islamabad, the 13th September, 2023

S. R. O. 1326(1)/2023. _ In exercise of the powers conferred by sub-section (2) of section 24 of the Anti-Rape (Investigation and Trial) Act, 2021 (XXX of 2021), the Ministry of Law and Justice, upon the recommendations of the Special Committee, is pleased to make the following rules, namely:-

1. Short title and commencement. _ (1) These rules shall be called the Anti-Rape (Sex Offenders Register) Rules, 2023.

(2) These rules shall come into force at once.

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

- (a) **Act** means the Anti-Rape (Investigation and Trial) Act, 2021 (XXX of 2021);
- (b) **database** means the database maintained by NADRA that contains information relating to sex offenders as defined in section 2 (h) of the Act;
- (c) **Form** means the forms annexed to these rules;
- (d) **NADRA** means the National Database and Registration Authority established under the National Database and Registration Authority Ordinance, 2000 (VIII of 2000); and
- (e) **Sex Offenders Register** means a database that contains information relating to offenders convicted for offences mentioned under clause (h) of section 2 of the Act.

3. Sex Offenders Register.— (1) Entries in the Sex Offenders Register shall be made and information shall be retrieved for the purposes and manner as mentioned in these rules.

(2) The Sex Offenders Register shall be used for assisting in investigation and prosecution of sex offences under the Act.

(3) The Sex Offenders Register shall be maintained by NADRA in electronic form and shall not be accessed without express authorization as prescribed under these rules. NADRA shall be responsible for the storage, protection, retention and destruction of data in the Sex Offenders Register in compliance with instructions issued by the Ministry of Law and Justice developed in consultation with the National Police Bureau and NADRA.

4. Information stored in the Sex Offenders Register.- (1) The Sex Offenders Register may contain the following information related to an offender, namely:-

- (a) given name and surname;
- (b) alias, if any;
- (c) father's name;
- (d) date of birth;
- (e) gender;
- (f) recent photograph;
- (g) nationality;
- (h) computerized national identity card number, if any;
- (i) POR card number, POC number or Alien Card number, if any;
- (j) passport number, if any;
- (k) FIR No. with police station and district in which it was registered;
- (l) fingerprints;
- (m) history of DNA profiling, if available;
- (n) identifying marks; if any;
- (o) permanent and temporary address;
- (p) specific offenses for which the offender was convicted;
- (q) conviction order duly certified by the court;
- (r) acquittal order duly certified by the court;
- (s) category of offender;
- (t) description of the modus operandi of the offence; and
- (u) previous and current status of employment.

5. Entry into the Sex Offenders Register.- (1) Upon the conviction of the accused person for an offence under the Act, the special prosecutor appointed in the special court convicting the accused shall submit the completed Form A to the National Police Bureau for verification and onward submission to the NADRA.

(2) The National Police Bureau shall transmit the information received under sub-rule (1) to NADRA electronically through the prescribed application programming interface for storage of data in the Sex Offenders Register. Any agency or authority involved in this process, if and when required, may ensure the verification and timely transmission of data.

(3) Any entry in the Sex Offenders Register shall be made as early as possible but not later than fifteen days of a person being convicted of a sex offence.

6. Access to the Sex Offender Register. - (1) All requests for access to the Sex Offenders Register for the purposes of investigation and prosecution shall be made to the concerned District Public Prosecutor.

(2) If any agency or authority makes request for supply of information from the Sex Offenders Register for the purposes of investigation or prosecution, the District Public Prosecutor shall determine whether such disclosure is related to an ongoing investigation or prosecution being conducted by the agency or authority that is making the request prior to the providing the request information.

(3) If a Court requires information about any person from the Sex Offenders Register, the District Prosecutor shall provide such information within the time specified by the Court.

7. Data protection. - (1) Upon conviction by the Court the information of the offender shall be stored in the Sex Offenders Register in accordance with the provisions of the Act and these rules.

(2) The data shall only be stored in the Sex Offenders Register for the specific purpose of investigation and prosecution of sex offences.

(3) All authorities with access to and applying for the release of data on the Sex Offenders Register shall only process it for the stated purpose.

(4) Authorities with access to the Sex Offenders Register shall ensure that the data stored in the Sex Offenders Register is accurate and complete.

(5) Authorities with access to the Sex Offenders Register shall ensure that the data is processed in a manner that ensures appropriate security of the personal data including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organizational measures.

(6) All authorities shall ensure that adequate safeguards for data protection are included in the design and implementation of the Sex Offenders Register.

8. Requirement for notification. - All offenders convicted of a sex offence and placed on the Sex Offenders Register under the Act shall be subject to notification requirements upon release from prison, in the manner prescribed in these rules.

9. Categories of offenders for notification. - (1) The period for which an offender shall be subject to notification requirements shall be defined by the penalty imposed on the offender.

(2) Convicted offenders included in the Sex Offenders Register shall be categorized as follows:-

Table

S. No.	Category	Where the offender is punished with imprisonment of:	Notification period
(1)	(2)	(3)	(4)
1.	Category A	More than seven years	5 years
2.	Category B	More than three years and less than seven years	4 years
3.	Category C	Less than three years	2 years

(3) For category A and B offenders, an application for review of notification requirements may be filed after a period of three years after release from prison in the case of adults, and two years release from prison in the case of juvenile offenders.

(4) For Category C offenders, an application for review of notification requirements may be filed after a period of one year after release from prison in the case of adults, and six months after release from prison in the case of juvenile offenders.

10. Notification upon release from prison. - (1) Upon release from prison, a sex offender shall notify the officer-in-charge of the police station where the offender resides of his name, date of

birth, permanent or temporary address, date of conviction, among other details within a period of three days of release from prison to ensure that the information stored in the Sex Offenders Register is updated. The notification shall be recorded on Form B by the officer-in-charge of the police station.

(2) The officer-in-charge of the concerned police station shall submit the completed Form B to the District Police Officer for onward submission to NADRA through National Police Bureau for updating the Sex Offenders Register. The process for updating the information in the Sex Offenders Register shall be completed within fifteen days.

(3) If the offender fails to notify to the police station within three days of release, the officer-in-charge of the police station may seek an order, from a Magistrate under section 107 of the Code of Criminal Procedure, 1898 (Act IV of 1898), to execute a bond.

(4) The concerned superintendent of prison shall notify to the officer-in-charge of the police station where the offender will be residing fifteen days prior to the release of the offender.

(5) The police station receiving notification about the release of an offender from a prison shall notify to the concerned District Police Officer about the change in the status of the offender so that the Sex Offender Register can be updated.

11. Periodic notification.- (1) All offenders on the Sex Offenders Register must notify every six months their details to the police station of the area in which they reside.

(2) Offenders who are registered with 'no permanent address' shall notify to the police station of the area in which they reside fortnightly and shall notify to the police station of places they regularly visit.

12. Notification of change of residence. - (1) All offenders on the Sex Offenders Register shall notify to the concerned police station in which they reside of any change in their name or address within three days of the date of such change.

(2) The offender shall notify to the police of any address where they reside or stay for a period of seven days or longer.

13. Notification of the intention to travel. -(1) All offenders on the Sex Offenders Register shall notify to the concerned police station in which they reside not less than seven days in advance of any intended domestic travel and within thirty days in advance of any international travel. This information shall be communicated to the District Police Officer of the relevant jurisdiction where the offender plans to travel locally on Form C. In the case of foreign travel, the officer-in-charge of the concerned police station shall submit the completed Form C to the District Police Officer for onward submission to Federal Investigation Agency.

(2) The offender shall inform the concerned police station of any changes to his passport details within three days of such changes.

14. Notification to be recorded. - (1) The frequency for notification shall be entered into the Sex Offenders Register and any violation of notification requirements shall also be recorded in the information stored on the Sex Offenders Register for the offender.

(2) The period for which the offender shall notify to the police shall be determined in accordance under these rules.

15. Review of notification period. - (1) Upon the expiry of the period prescribed under these rules, an offender on the Sex Offenders Register shall be eligible to submit an application on Form D for a review of notification requirements to the officer-in-charge of the police station where he currently resides. The officer-in-charge of the police station shall submit the application to the District Police Officer for consideration.

(2) The District Police Officer shall make a determination based on the conduct of the offender post-release from prison, which shall include compliance with notification requirements or any other requirement under the Act and these rules.

(3) If the District Police Officer is satisfied that the offender meets the threshold for early release from notification requirements, he may approve the offender's application after recording reasons for granting early release in writing and shall make a corresponding entry recording release of the offender from notification requirements under these rules and shall communicate the same to the National Police Bureau for updating the Sex Offenders Register.

16. Omission of record upon acquittal. - (1) If a successful appeal is filed after the conviction, which results in an acquittal, the previous conviction shall be omitted from the Sex Offenders Register.

(2) The conviction record shall be omitted from the Sex Offenders Register upon the death of the offender.

(3) A person acquitted after having previously been included on the Sex Offenders Register shall immediately be released from notification requirements upon such acquittal being recorded by a court.

17. Implementation of the rules. - The Special Committee shall oversee the implementation of these rules and may require appropriate actions from officers of federal and provincial ministries, divisions, departments, offices, agencies or authorities to ensure the effective functioning of the Sex Offenders Register,

Form A
(See rule 5)

To be completed by the Special Prosecutor appointed under the Anti Rape (Investigation and Trial) Act, 2021 (XXX of 2021) for communication of conviction information of sex offenders to the National Police bureau as prescribed by the Anti-Rape (Sex Offenders Register) Rules, 2023 made under the Anti-Rape (Investigation and Trial) Act, 2021 (XXX of 2021).

Date:

Location:

Given name with surname	Alias. if any	Father's name	Date of birth	Gender
(1)	(2)	(3)	(4)	(5)

Recent photograph attached (yes/no)	Nationality	CNIC, if any	Passport number (if any)	FIR number (including police station and district where registered)
(6)	(7)	(8)	(9)	(10)

Fingerprints attached (yes/no)	History of DNA profiling, if available	Identifying marks, if any	Permanent address	Temporary address
(11)	(12)	(13)	(14)	(15)

Specific offences	Category of offender (A, B, C)	Description of the modus operandi of offence	Past employment status	Current employment status
(16)	(17)	(18)	(19)	(20)

Name of officer completing the Form:

Signature of officer completing the Form:

contact details of officer completing the Form:

Form B
(See rules 10 and 14)

To be completed by the officer-in-charge of the relevant police station where the convicted sex offender notifies to police following release from prison as prescribed by the Anti-Rape (Sex Offenders Register) Rules, 2023 made under the Anti-Rape (Investigation and Trial) Act, 2021 (XXX of 2021).

Date:

Location:

Given name with surname	Alias, if any	Gender	Permanent address	Temporary address	Date of birth	Date of conviction
(1)	(2)	(3)	(4)	(5)	(6)	(7)
CNIC, if any		Date of release from prison	Intent to travel (yes/no) If yes, please state destination of travel	Past employment history	Current employemnt	
(8)		(9)	(10)	(11)	(12)	

Name of officer completing the Form:

Signature of officer completing the Form:

contact details of officer completing the Form:

Form C
(See rule 13)

Form of intent to travel- to be completed by the officer-in-charge of the relevant police station where convicted sex offender resides as prescribed by the Anti-Rape (Sex Offenders Register) Rules, 2023 made under the Anti-Rape (Investigation and Trial) Act, 2021 (XXX of 2021).

Date:

Location:

Given name with surname	Date of birth	Gender	CNIC	Conviction order attached (yes/no)	Intending to travel (yes/no)
(1)	(2)	(3)	(4)	(5)	(6)

Local Travel

Destination of travel	Period of travel
(7)	(8)

International travel

Destination of travel	Period of travel	Passport number
(9)	(10)	(11)

Name of officer completing the Form:

Signature of officer completing the Form:

contact details of officer completing the Form:

Form D
(See rule 13)

Date:

Location:

Given name with surname	Date of birth	CNIC, if available	Gender	Date of release From prison	Any subsequent FIR/involvement in criminal activity (Yeas/no)
(1)	(2)	(3)	(4)	(5)	(6)

To be filed by DPO

Category of offender	Approval (Granted/denied)	Record reason
(7)	(8)	(9)

Name of officer completing the Form:

Signature of officer completing the Form:

contact details of officer completing the Form:

The Anti-Rape (Investigation) Rules, 2022

CONTENTS

Rule	Headings
NOTIFICATION	
CHAPTER-I	
Preliminary	
1.	Short title, extent and commencement
2.	Definitions
CHAPTER-II	
3.	Officer-In-charge
4.	Registration of FIR
CHAPTER-III	
Collection of Evidence	
5.	Investigation officer
6.	Collection of evidence
7.	Marketing, packaging and documenting other evidence
8.	Chain of Custody

PART-II
Statutory Notifications (S.R.O.)
Government of Pakistan
MINISTRY OF LAW AND JUSTICE
NOTIFICATION
Islamabad, the 14th February, 2023

S. R. O. 185(1)/2023. _ In exercise of the powers conferred by sub-section (1) of section 19 of the Anti-Rape (Investigation and Trial) Act, 2021 (XXX of 2021), the Ministry of Law and Justice, upon the recommendations of the Special Committee, is pleased to make the following rules, namely: _

CHAPTER-1
Preliminary

1. Short title and commencement. _ (1) These rules shall be called the Anti-Rape (Investigation) Rules, 2022.

(2) These rules shall come into force at once.

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

- (a) “Act” means the Anti-Rape (Investigation and Trial) Act, 2021 (No. XXX of 2021);
- (b) “First information (FIR)” means information recorded under section 154 of the Code;
- (c) “Investigation officer” means an officer of a law enforcement agency empowered to investigate scheduled offences; and
- (d) “SSOIU” means the special sexual offences investigation unit established under section 9 of the Act.

CHAPTER-II

Duties of Officer-in-Charge and Investigation Officer

3. Officer-In-charge.— (1) The Officer-in-charge shall be the head of the special sexual offences investigation unit (SSOIU) for the purposes of investigation under the Act and shall be a police officer so appointed in this behalf.

- (2) The duties of the officer-in-charge shall include:
- (a) to ensure FIR to be registered immediately and without unnecessary delay;
 - (b) Liaison between police investigation, prosecution, anti rape crisis cell (ARCC) and forensic department from the beginning till the end of the case.;
 - (c) to designate a female police officer, where appointed, who shall assist the investigation till its conclusion.;
 - (d) to ensure female police officer, where appointed, is present during statements taken from the victim, at the ARCC for medico-legal examination (MLE) and forensic laboratory for DNA reference sample submission;
 - (e) Cordoning off the crime scene and ensuring the safety and security of the evidence;
 - (f) to ensure timely and correct collection of evidence for each case and occasion;
 - (g) to ensure timely submission of blood and urine samples, duly signed and sealed by the medico-legal officer (MLO), of the victim to the relevant forensic laboratory along with MLO's request letter by the investigation officer; and
 - (h) to ensure that recording of statement of the survivor shall be allowed to be taken at the ARCC; and
 - (i) to maintain the chain of custody of evidence.

(3) Strict measures shall be taken against a officer-in-charge if his failure is proved to conduct proper investigation in respect of offences mentioned under the Act.

4. Registration of FIR.— (1) if and where appointed, a lady police officer shall be informed immediately who shall become available when a rape victim arrives at the police station for the registration of FIR or a lady police officer will be required to go to the relevant ARCC immediately upon being informed of the victim's presence there.

(2) The statement of victim shall be recorded in private and in the presence of person of victim's choice and such recording of statement may be permitted only if prior consent is taken from the victim.

(3) The police officer shall ask questions in clear and precise language or manner and shall not at any point, deviate from the relevant questions.

5. Investigation officer.— (1) The investigation officer shall seal crime scene and collect/ coordinate collection of all potential evidence including but not limited to recording, taking photographs, CCTV footage, samples, fiber or trace evidence.

(2) After filing of FIR, the investigation officer shall escort the victim for MLE.

(3) A family member of the victim or person of his or her choice may be present at the time of MLE.

(4) Upon collection of evidence, the investigation officer shall ensure that evidence and samples taken during MLE are secured, documented and sent to the nearest government forensic agency.

(5) The investigation officer shall ensure that recorded statements are read out to the victim before being finalized.

CHAPTER-III

Collection of Evidence

6. Collection of evidence.— (1) The investigation officer shall ensure that the relevant evidence is collected from the scene of occurrence immediately and without unnecessary delay in accordance with the standardized SOPs and guidelines for the time being in force on the subject. Due care and caution must be exercised while dealing with the evidence and attention must be given including but not limited to the following:-

- (a) location of crime; exterior or interior;
- (b) type of evidence: fragile or stable;
- (c) scene management deliberations which can alter or cause contamination of the crime scene;
- (d) weather conditions which can deteriorate or damage evidence; and
- (e) need, for specialized personal for processing of additional technical process.

(2) it is mandatory that all necessary precautions shall be duly observed to avoid the evidence from getting contaminated and all equipment's used for the crime scene management are sterile/disinfected.

7. Marketing, packaging and documenting other evidence.— (1) Evidence collected or sent for any purpose under the Act and rules shall be inventoried and packaged prior to being released and leaving the crime scene. All evidence collected shall be marked, and the evidence markers should be used for this purpose. Direct marking on the items shall include the following, namely:-

- (a) case number;
- (b) item number;
- (c) description; and
- (d) date of recovery or receiving;

8. Chain of Custody.— (1) The investigation officer and all other persons under the Act and rules involved in the process of collection, transmission, examination or otherwise of the evidence in any way shall maintain a safe chain of custody for the evidence.

(2) Every document shall mention the following details, namely:-

- (a) where evidence was received or collected;
- (b) name of investigating officer;
- (c) time and date of recovering or receiving;
- (d) list of evidence;
- (e) item number along with brief description of the item;
- (f) condition;
- (g) any unusual marketing; and
- (h) alterations noticed;

(2) For collection, preserving and marking the evidence received, all transfers shall specify date and time of transfer from one authority or agency to another.

The Anti-Rape (Trial Procedure) Rules, 2022

CONTENTS

Rule	Headings
	NOTIFICATION
	CHAPTER-I
	Preliminary
1.	Short title, extent and commencement
2.	Definitions
	CHAPTER-II
	Establishment of Anti-Rape Crises Cell
3.	Establishment of Anti-Rape Crises Cell
4.	Composition of workforce at the ARCC
	CHAPTER-III
	Treatment and Medico-Legal Examination
5.	Treatment and Medico-Legal Examination upon arrival
6.	Medico-Legal examination procedure
7.	After medico-legal examination
8.	Forensic protocols
	CHAPTER-IV
	Miscellaneous
9.	Counseling
10.	Role of police and registration of FIR
11.	Confidentiality
	Schedule-A
	Schedule-B

PART-II
Statutory Notifications (S.R.O)
Government of Pakistan
MINISTRY OF LAW AND JUSTICE
NOTIFICATION
Islamabad, the 14th February, 2023

S. R. O. 185(1)/2023. _ In exercise of the powers conferred by sub-section (1) of section 19 of the Anti-Rape (Trial and Investigation) Act, 2021 (XXX of 2021), the Ministry of Law and Justice, upon the recommendations of the Special Committee, is pleased to make the following rules, namely: _

CHAPTER.I

Preliminary

1. Short title and commencement. –(1) These rules shall be called the Anti-Rape (Trial Procedure) Rules,2022.

(2) These rules shall come into force at once.

2. Definitions. – (1) In these rules, unless there is anything repugnant in the subject or context,—

(a) "Act" shall mean the Anti-Rape (Investigation and Trial) Act, 2021 (No. XXX of 2021).

3. Scheduling of trial. - (1) After framing the charge, on the first day 'when a case is received for trial, a scheduling hearing shall be held with all parties counsel. A trial schedule shall be issued, which shall specify the dates for each stage of the trial. The counsel of victim and accused and the special prosecutor shall be taken on board while scheduling the trial.

(2) For convenience, days may be earmarked for lawyers when scheduling a trial. The Judge exercising jurisdiction of the concerned Special Court shall issue a trial scheduling certificate.

(3) The original trial scheduling certificate shall be placed in the case file and copies thereof shall be supplied to the victim and the defense counsels, the special prosecutor, and the Court's Information Technology (IT) wing.

(4) While meaning its diary, the Special Court concerned shall prioritize a trial case according to the dates filed and shall hear previously filed cases first.

(5) A Special Court having jurisdiction to try cases of scheduled offences shall not schedule more than three cases for trial at a time.

(6) The special prosecutor shall confirm to the Special Court concerned availability of witnesses, evidence and expert reports three days before commencement of the trial.

Chapter -II

Conduct of Trial in Special Courts

4. First hearing.— (1) In the first hearing, the Special Court shall—

- (a) issue the trial schedule certificate;
- (b) hear and preferably settle all technical and legal issues affecting maintainability, form and jurisdiction, etc.;
- (c) establish modalities and technicalities of how the trial shall run to reduce delays;
- (d) decide upon the modus operandi for recording evidence, whether through the ordinary procedure or via alternative ways, which may include:
 - (i) use of a screen within the courtroom so that the victim is not able to see the defendant;
 - (ii) removal of the accused from the courtroom towards an appropriate place outside the courtroom where the victim is not physically present; or
 - (iii) use of video link or similar electronic means etc.
- (e) ensure the attendance of an independent support advisor, if appointed;
- (f) assess and address the need for interpreters or any other special arrangement related to the different-ability of a victim or the fact that the victim is a child;
- (g) assess and address the need for any protection order for the victim or any vulnerable witness;
- (h) assess and address the need for any other special protection mechanism to be put in place as per law;
- (i) verify the witness availability; and
- (j) address any other pre-trial applications.

5. Procedure for trial.— (1) Upon commencement, the trial shall continue to proceed preferably on a day-to-day or weekly basis.

(2) The Court shall not grant more than two adjournments during the trial of a case, out of which one adjournment shall be upon payment of costs by the person seeking adjournments.

(3) Upon commencement of the trial, if the accused person does not have a counsel, the statement of the witnesses shall nevertheless be recorded' The accused person shall be asked if he or she wishes for a defense counsel to be appointed by the Special Court. If the accused gives consent, the Special Court shall appoint a defense counsel with at least seven years of standing in criminal matter. The Special Court may issue an order regarding the payment of the defense counsel based on the income and economic standing of the accused person.

(4) If the defense counsel does not appear after two consecutive adjournments for which there is no sufficient cause the Special Court may appoint another defense counsel with at least seven years of standing in criminal matters. In case the accused is unable to afford the fee of the advocate appointed by the Special Court, the matter may be referred to the concerned District and Sessions Judge for providing legal assistance from the funds available under the head of the relevant district free legal aid Committee.

(5) On conclusion of the trial's arguments, the judgment shall be announced immediately or not later than three working days.

6. Court environment.— (1) The Special Court shall provide a conducive trial environment. which protects all parties, including the victim from secondary victimization and takes into consideration the victim's specificities such as age, gender, mental state, different abilities.

Chapter-III **Recording of Evidence**

7. Examination of the victim or witness.— (1) The Judge of the Special Court may adopt appropriate measures for examination of victim or witness. This includes but is not limited to:

- (a) use of screens;
- (b) examination to be conducted in camera;
- (c) examination to be conducted with no one present in Special Court except the essential staff, including the accused or his representative; and
- (d) use of video-link where re victim is sitting in the video link testimony room in or outside the courtroom notified by the concerned High Court.

(2) The data regarding the video link testimonies obtained during the virtual hearings of cases, shall be transmitted to the relevant authority via an encrypted copy of the video recording of the victim's evidence, and kept as part of the Special Court's record.

(3) Transcript of the victim's oral testimony via the video-links shall be produced in Special Court, in the presence of the Judge after the evidence is recorded. The transcript shall be read over and signed by the victim on conclusion of the hearing.

(4) The Judge shall ensure that the language used throughout the trial and especially during the examination, cross-examination and re-examination of witnesses, particularly the victim, shall be gender-sensitive taking into consideration the victim's age, educational level, cultural background, physical or mental disability.

(5) The Judge shall intervene with the examination or cross- examination of the victim where scandalous questions are being asked as per Article 146 Qanun-e-Shahadat, 1984. In respect of any scheduled offence, any evidence to show that the victim is generally of immoral character, shall be inadmissible.

(6) The Judge may intervene to limit the questions asked to the victim where appropriate and direct the lawyer not to ask repetitive questions when answers have already been provided.

(7) Any objection by either party to questions being asked by the opposing lawyer and its decision shall be noted and placed on record.

(8) The whole of the evidence of the victim, including examination. cross-examination and re- examination, as far as possible to be conducted on the same day.

(9) The Court shall allow a support person of the victim's choice and upon consent that shall be documented in writing, to be present during the trial.

(10) Where the victim gives evidence from the video-link testimony room, any documents e.g., photographs, sketches, written statement, letters should be made available in the video-link.

(11) If the victim does not attend the Court on the day set for recording the victim's evidence, the case may be adjourned to another date and further summons maybe issued for the victim's attendance.

(12) If further summons is so issued, then the Judge should give directions on the manner in which the victim is to be brought to the Court, to ensure this is undertaken sensitively.

(13) If the victim does not appear in the Court to participate in the trial or give evidence, or if the victim accepts a compromise outside of the Court in a non-compoundable offence, the prosecution shall regardless still proceed with the trial.

8. Court's power to ask question, call witness etc.- Powers as provided under Article 161 Qanun-e-Shahadat, 1984 and section 540 in the Code of Criminal Procedure, 1898 shall be exercised to avoid any technical flow which may result in unnecessary cause of acquittal.

Chapter-IV **Use of Video Conferencing**

9. Recording of evidence through video conferencing. -(1) Video conferencing facilities may be used at all stages of the judicial proceedings and proceedings conducted by the Court.

(2) All proceedings conducted by a Special Court via video conferencing shall be judicial proceedings and all the courtesies and protocols applicable to a physical Court shall apply to these virtual proceedings.

(3) All relevant provisions applicable to the judicial proceedings including provisions of Qanun-e-Shahadat, 1984 (P.O 10 of 1984) shall if not inconsistent *ith the provisions of the Act apply to proceedings conducted via video conferencing.

(4) Subject to maintaining independence, impartiality and credibility of the judicial proceedings and subject to such directions as the High Court may issue, the Court may adopt such advanced technology whenever available.

(5) There shall be no recording, publishing or broadcasting in relation to any proceedings under the Act except with the permission of the Special Court.

10. Facilities recommended for video conferencing.-The following state of the art equipment and information communication technology gadgets are recommended for conducting proceedings via video conferencing at the Court Point and the Remote Point:

- (a) desktop, laptop, mobile devices with internet connectivity and printer;
- (b) device ensuring uninterrupted power supply, in case of load shedding an alternative electricity source such as UPS or generator;
- (c) camera;
- (d) microphones and speakers;
- (e) display unit;
- (f) document visualizer;
- (g) adequate seating arrangements ensuring g privacy;
- (h) adequate lighting; and
- (i) availability of a quiet and secure space.

I 1. Coordinator for video conferencing. - (I) There shall be a Coordinator physically present at the remote point from where a person is to be examined or heard.

(2) The Coordinator at the Remote Point may be any of the following:

- (a) an official of Pakistani Consulate authorized by High Commissioner or the Ambassador;
- (b) an authorized official nominated by the concerned Sessions Judge;
- (c) the concerned Jail Superintendent, office-in-charge of prison or his nominee;
- (d) medical Superintendent, officer in-charge of the Hospital or his nominee;
- (e) the Superintendent or person in-charge of that facility or his nominee; and
- (f) any person appointed by the concerned Court who is deemed fit and proper to render services as a Coordinator to ensure that the proceedings are conducted in an impartial and independent manner and according to directions issued by the Special Court in that behalf.

The Anti-Rape (Crises Cell and Medico-Legal) Rules, 2022

CONTENTS

Rule	Headings
NOTIFICATION	
CHAPTER-I	
Preliminary	
1.	Short title, extent and commencement
2.	Definitions
3.	Scheduling of trial
CHAPTER-II	
Conduct of Trial in Special Courts	
4.	First Hearing
5.	Procedure for trial
6.	Court environment
CHAPTER-III	
Recording of Evidence	
7.	Examination of the victim or witness
8.	Court's power to ask witness etc.
CHAPTER-IV	
Use of Video Conferencing	
9.	Recording of evidence through video conferencing
10.	Facilities recommended for video conferencing
11.	Coordinator for video conferencing

PART-II
Statutory Notifications (S.R.O)
Government of Pakistan
MINISTRY OF LAW AND JUSTICE
NOTIFICATION
Islamabad, the 14th February, 2023

S. R. O. 187(1)/2023. _ In exercise of the powers conferred by sub-section (1) of section 19 of the Anti-Rape (Trial and Investigation) Act, 2021 (XXX of 2021), the Ministry of Law and Justice, upon the recommendations of the Special Committee, is pleased to make the following rules, namely: _

CHAPTER. I

Preliminary

1. Short title and commencement. –(1) These rules shall be called the Anti-Rape (Crises Cell and Medico-Legal) Rules, 2022.

(2) These rules shall come into force at once.

2. Definitions. – (1) In these rules, unless there is anything repugnant in the subject or context,—

- (a) 'Act' means the Anti-Rape (investigation and Trial) Act, 2021 (No. XXX of 2021); and
- (b) "ARCC " means the anti-rape crises cell established under section 4 of the Act.

Chapter-II

Establishment of Anti-Rape Crises Cell

3. Establishment of anti-rape crises cell. –(1) An anti-rape crisis cell (ARCC) shall be established to perform functions under the Act and these rules.

(2) A dedicated ambulance shall be made available with ARCC and shall be pressed into service in case a distress call is made to the ARCC desk. In remote areas where an ambulance may not be available, any motor vehicle equipped with or containing medical equipment for urgent medical aid shall be attached-

(3) ARCC entrance shall have a reception desk with one male and one female staff. The female staff member shall be present at all times. Pamphlets/ booklets both in Urdu and English explaining the facilities available for the victim at ARCC shall be present at the reception.

(4) A duty roaster shall be maintained at the ARCC containing names, job description and contact numbers of all employees and persons in attendance.

(5) A register of records shall be maintained for all patients visiting ARCC in the format giving in Schedule "A " on computer as well as on notebook registers.

(6) Telephone at the reception desk shall be available to take distress calls. The staff shall be trained and shall be able to note down information given by the victim, guide the victim on steps to be taken, dispatch an ambulance along with one female nurse staff of ARCC in case the victim is at the scene of crime.

(7) Database of all local police stations, medico-legal officers (MLOs), special prosecutors, gynecologists, pediatricians, physiologists and relevant forensic department officers may be present and readily available at all ARCCs in computer and on register.

(8) ARCCs may be equipped with a secured E-ARCC Software which will have all information data of victims; it will enable prompt exchange of information with police/forensics department.

(9) Priority shall be given to immediate treatment of the victim and appropriate measures shall be taken to ensure privacy.

(10) New and clean clothing (free size) for women and children be available as replacement for those taken away for evidence/forensics purposes.

(11) Basic amenities such as running water, refrigerator for storage of samples, separate clean and functional bathroom for the victim and the staff along with one drying cupboard for clothes of the victim should be present in each ARCC.

(12) ARCC shall assist the victim or the person who has brought the victim to make emergency calls to the police, family or friend.

(13) For assisting minor/persons with disabilities, use of human figure dolls or other methods along with diagrams may be provided to explain an act or fact.

(14) List of sign language may be maintained in ARCC to facilitate persons with disabilities.

(15) Room for examining of minors shall be a child friendly room with brightly lit/ calming color paint on at least one of the walls toys (especially clean stuff/plush toys) for minor victims to play with.

(16) In case the victim comes at night and does not have a safe place to stay they may be allowed to stay the night at the ARCC until arrangements are made for them at dar-ul-amans or other government facilities designated in their behalf.

(17) Entry of all sorts of media/print will be banned at the ARCC. No statements by the staff of the ARCC are allowed at all times. Disclosure of identity of the victim by any staff member of ARCC will be subjected to prosecution under section 375A of the Pakistan Penal Code, 1860.

(18) Security guard shall be present at the entrance of the ARCC.

(19) No family member or friends shall be allowed to remain with the victim if there is suspicion of involvement.

4. Composition of Workforce at the ARCC.- (1) Each ARCC shall be headed by the Deputy Commissioner and shall include Medical Superintendent, and District Superintendent of Police (DSP).

(2) Each ARCC shall also include preferably a senior female doctor and female nurse having full understanding and training of the medical/legal aspects involved in cases of sexual assault/rape of women and children. Presence of a woman medical practitioner to conduct medical examination for sexual violence cases shall be ensured by the district administration and respective provincial governments.

Chapter-III

Treatment and Medico-Legal Examination

5. Treatment and medico legal examination upon arrival. (1) No victim shall be refused treatment and medico legal examination for any reason whatsoever and medico-legal examination shall be conducted as per guidelines prescribed guidelines under Schedule "B ".

(2) Victim with severe injuries will be treated for the injuries first. The victim shall be immediately sent to the emergency ward of the hospital. ARCC shall be equipped with full first aid and such other medical facilities to provide for minor to grievous injuries.

(3) For the protection/wellbeing of the victim, anti-biotics for wounds to prevent infections, tetanus booster, medication to relief anxiety/pain be administered, also blood tests for sexually transmitted infections be taken and incase of the result being positive medications be prescribed. Basic HIV testing should also be done. HIV PEP medications should be administered if the victim has come within seventy-two hours of being raped or assaulted. If the HIV result is positive, referrals on the basis of confidentiality shall be made by ARCC. Pregnancy test shall also be taken, Emergency contraceptive pills (ECPS) may be administered if rape victim has come within 72 hours from the commission of crime.

(4) After the medico-legal examination, the victim be allowed to shower/wash up using toiletries present at ARCC.

(5) A fresh set of free size clothes be given to the victim for recording of statement and counseling after undergoing medico-legal examination.

6. Medico-legal examination procedure. - (1) The medico-legal examination procedure will be headed preferably by a female medico-legal officer (MLO), nominated and designated by Medical Superintendent in this behalf.

(2) A manual of medico-legal examination shall be present at every ARCC providing step by step instructions for the MLO as provided in Schedule-B of these Rules.

(3) Each MLO should be assisted with preferably at one (trained in examination of sexual assault) female nurse, available twenty-four hours 3 shifts.

(4) The MLO should be able record of emotional state of the victim such as shaking/signing of emotional shock at the beginning of the exam. The MLO should be able to conduct a speedy and through examination of the victim so that humiliation due to repetitions be avoided.

(5) The examination of the victim shall be conducted immediately after registration of F IR and no later than four to six hours ordinarily.

7. After medico-legal examination. - (1) MLO should prepare the official medico-legal report based on facts and findings of the examination and should not take more than two to three days.

(2) The medico-legal report shall be prepared without any delay after obtaining all tests results such as x-rays, pregnancy, ultrasound etc.

(3) Copy of the medico-legal report be provided to the investigation officer from special sexual offences investigation unit (SSOIU) and the victim.

8. Forensic protocols. –(1) At least twenty, sexual assault kits shall be present at each ARCC. Each sexual assault kit will have written and detailed instructions with diagrams on how to use the sexual assault kit for the examiner, printed in Urdu and English. The sexual assault kit will have two Forms for documentation purposes which shall include details of the procedure conducted, time, injuries sustained and details of all evidence obtained.

(2) The Sexual Assault Kits shall have the following: ample sterile swabs for collection of biological data, tubes and containers for blood and urine samples, two disposable tweezers, two large paper bags for collection of clothes and other such physical evidences, a large sheet of white paper on which the victim will stand and undress for collection of hair/fibers, non-powered gloves and face masks for the examiner, dental floss and wooden sticks for finger nail scrapings and combs, distilled water ampules, saline for sample taking, envelopes and box along with relevant labels for each stages of the conducting of the exam.

(3) All electronic as well as physical record shall be present at the relevant forensic laboratory of all sexual assault kits for improvement of quick identification, criminal mapping and better case investigation.

Chapter-IV

Miscellaneous

9. Counseling. - In case of need for counseling prior to the recording of statement, the special prosecutor or psychologist or both will introduce themselves in a professional and courteous manner

so that the victim may be able to come out of any fear and understand the need to make a statement of truth. No coercion shall be used against victim for making of a statement at the ARCC.

10. Role of police and registration of FIR. (1) The ARCC shall inform the concerned police station for registration of FIR and subsequent intimation to SSOIU. in order to initiate investigation.

(2) The Police shall ensure timely registration of the FIR. The FIR is to be lodged immediately upon complaint. Upon receipt, one copy will be provided to the victim and one to the ARCC.

(3) Police will not refuse registering of FIR if the crime scene is not within their jurisdiction. After filing of the FIR, police of the relevant jurisdiction will be contacted by the police who will be made to register the same FIR and proceed accordingly.

11. Confidentiality. - (1) Only expressly authorized persons will be allowed where investigation, physical/medical examination or statement of the victim is being conducted.

(2) No information regarding the incident or the statement shall be leaked or shared with the media or any third party by anyone possessing it.

(3) Any person of ARCC or those of the stakeholders involved in mishandling of the case shall be subject to initiation of appropriate disciplinary proceedings alongside imposition of criminal liability.

Schedule-A

Case #	Name	Age	Address	Contact No.	Brought by	PS/FIR #	Nature of injuries	Attended by		
								MLE Doctor	Lawyer	Police

Schedule-B

General Guideline for Conducting Medico-Legal Examination

Step 1 - Introduction: Greet the victim by their preferred name and make the victim your central focus. introduce yourself to the victim and tell them your designation, i.e. Medico-Legal Officer. Have a calm demeanor, maintain eye contact as much as the victim is comfortable. Be empathetic and non-judgmental.

Step 2 - Preparing the Victim: Provide the victim with necessary assurances and explain to them that you are there to listen and help. Ask the victim if they have any questions and answer their questions calmly.

Step 3 - Obtaining Informed Consent: Use simple terms to inform the victim of the purpose of the examination, outline the various steps involved in the examination for the victim to understand. The information should be communicated in a non-threatening and non-intimidating manner. Explain to the victim that they have the right to refuse examination. Also explain that if they decide to file FIR against the perpetrator, the medical examination report will be used in trial. Once you are satisfied that the victim has sufficient information to provide informed consent, ask them to sign or mark the consent form.

Please Note: There can be no blanket consent regarding medical examination, the victim has to be explained each step involved in the medical examination in order to obtain consent.

Step 4 - General Medical History: After obtaining consent, record the victim's medical history. The medical history would record any known health problems (including allergies), immunization status and medications. Useful questions could be:

- Have you seen a nurse or doctor lately?
- Have you been diagnosed with any illnesses?
- Have you had any operations?
- Do you suffer from any infectious diseases?

- e. Do you have any allergies?
- f. Do you take tablets given to you by a health worker?

Step 5 - Gynecological History: After obtaining the victim's consent and their trust, in cases of sexual assault, it is important to take note of the victim's gynecological history. Questions that could be asked include:

- a. When was the first day of your last menstrual period?
- b. Have you had any sexual relationship prior to this event?
- c. Have you had any pregnancies? How many and how were they delivered?
- d. How many children do you have?
- e. Were there any complications during delivery?
- f. Do you use contraception? What type?
- g. Do you have a current sexual partner?
- h. When did you last have intercourse that you agreed to? (Details may be required if DNA analysis is to be performed.)

Step 6 - Details of the Rape Incident: In an empathetic tone and demeanor, ask the victim details of the sexual assault or rape. Do not ask too many questions or interrupt the victim. Give them space to speak and do not indulge in any kind of victim blaming. Important information regarding the assault could include the following:

- a. The date, time and location of the assault, including a description of the type of surface on which the assault occurred;
- b. The name, identity and number of assailants;
- c. The nature of the physical contacts and detailed account of violence inflicted;
- d. Use of weapons and restraints;
- e. Use of medications/drugs /alcohol/inhaled substances;
- f. How clothing was removed.

Finally, note details of any symptoms that have developed since the assault; these may include:

- a. Genital bleeding, discharge, itching, sores or pain;
- b. Urinary symptoms;
- c. Anal pain or bleeding;
- d. Abdominal pain.

Step 7 - Preparing for Physical examination: Before starting the physical examination, take time to explain all the procedures to the victim and why they are necessary. Give the victim a chance to ask any questions. Throughout the physical examination inform the victim what you plan to do next and ask permission. Always let the victim know when and where touching will occur. Show and

explain instruments and collection materials. Try to provide as much privacy as possible to the victim during examination. The following universal precautions should be observed at all times during the examination:

- a. Wear gloves whenever in contact with blood or other body fluids;
- b. Change gloves between victims; it may sometimes be necessary to change gloves during the examination in order to prevent contamination;
- c. Wash hands with soap and water after any exposure to body fluids or blood, between clients, and after removing gloves;
- d. Wear protective eye-wear, masks or face shields if there is a possibility of splashing blood or body fluids into your eyes, face or mouth;
- e. Do not recap used needles;
- f. Do not bend or break needles after use;
- g. Dispose of used needles in special impermeable sharps containers immediately after use.

Step 8 - Physical Examination: Start the physical examination of the victim to record your findings. The following steps should be followed to thoroughly document the injuries/wounds on the victim's body:

- a. Note the victim's general appearance and demeanour. Start with the victim's hands; this will reassure the victim. Take the vital signs, i.e. pulse, blood pressure, respiration and temperature. Inspect both sides of both hands for injuries. Observe the wrists for signs of ligature marks. Inspect the forearms for any injuries which may include bruising, abrasions, lacerations or incised wounds. Check for tenderness and swelling is of great significance.
- b. The inner surfaces of the upper arms and the armpit need to be carefully observed for signs of bruising. Inspect the face. Black eyes can also be subtle. Look in the nose for signs of bleeding. Inspect the ears, not forgetting the area behind the ears, for evidence of shadow bruising; shadow bruising develops when the ear has been struck onto the scalp.
- c. Gentle palpation of the scalp may reveal tenderness and swelling, suggestive of hematomas. Hair loss due to hair pulling during the assault may cause large amounts of loose hair to be collected in the gloved hands of the examiner; alternatively, a gentle combing may recover any loose hair.

- d. The neck area is of great forensic interest. Bruising on the neck can indicate a life-threatening assault. Imprint bruising may be seen from necklaces and other items of jewelry on the ears and on the neck.
- e. The victim can then be reclined for an abdominal examination, that is to say an inspection for bruising, abrasions, lacerations and trace evidence. Abdominal palpation should be performed to exclude any internal trauma.
- f. With the victim still in reclined position, the legs can be examined in turn, commencing with the front of the legs. Check any abrasions to the knee as well as the feet. The soles of the feet should also be examined.

Step 9 - Medical Examination for Rape: Inspect the genitals- pelvic region and surrounding areas for markings, scratches, lesions etc. A swab of the external area should be taken before further examination to collect traces of blood, saliva or semen. Examine the pelvic region as well to note any lacerations due to penetration or attempted penetration as well as traces of bodily fluids. After taking a swab of the external area, examine and collect swabs and samples of the internal area of penetration.

Step 10 - Report of Examination of Victim: As per section 164,4 of the Code of Criminal Procedure 1898, female victims should be examined by a female registered medical practitioner, immediately after commission the offence. The female victim should also be escorted by a female police officer or a family member from her place of convenience to the place of medical examination-

In the report of the examination include the following information:

- a. Name and address of the victim and of the person by whom she was escorted;
- b. Age of the victim;
- c. Description of materials taken from body of the victim for DNA profiling;
- d. Mark of injuries on the body of the victim;
- e. General mental condition of the victim;
- f. Particulars of any other materials, in reasonable detail, taken from the victim;
- g. The report should state precisely the reasons for each conclusion;
- h. The report should specifically record the consent of the victim or his or her guardian for the medical examination;
- i. The report should document exact time of commencement and completion of the examination.
- j. After completing the examination report, without any delay, send the examination report to the Investigating Officer to be forwarded to the Magistrate.

Step 11 - Medical Treatment: Victims of sexual violence may contract a sexually transmitted infection (STI) as a direct result of the assault. Therefore, it is important to test victims for STIs and

provide them with the necessary treatment. Counseling should also be provided to cope with the trauma of the incident.

Step 12 - Examination of Arrested Person: Under section 53A of Code of Criminal Procedure, 1898, it is lawful for a registered medical practitioner employed in a hospital run by the Government to make an examination of the arrested person in such cases.

Step 13 - Report of Examination of Arrested Person: In the report of the examination of the arrested person make sure to include the following information:

- a. Name and address of the arrested person and of the person by whom he was brought for medical examination;
- b. Age of the arrested person;
- c. Marks of injury, if any, on the arrested person;
- d. Description of material taken from the arrested person for DNA profiling;
- e. Particulars of any other materials, in reasonable detail, taken from the arrested person;
- f. The report should state precisely the reasons for each conclusion;
- g. The report should document exact time of commencement and completion of the examination.
- h. After completing the examination report, without any delay, send the examination report to the Investigating Officer to be forwarded to the Magistrate.

Important Information: As per section 1648 Cr.PC, DNA samples are to be collected for evidence.

Step 14 - Forensic evidence Collection and Submission: All the samples or contents collected during examination should be sent for laboratory or chemical examination. Submit the report to Investigation Officer and make sure that the report is signed and dated. Make sure to include your opinions on the wounds and injuries in the medical report before filing the report to Court for further proceedings.

THE ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT, 2020

ACT NO. XII OF 2020

CONTENTS

Section	Heading
1.	Short title, extent and commencement
2.	Definitions
3.	Powers of the Ombudsman
4.	Complaint to the Ombudsman in case no proceedings in a court of law are pending
5.	Delivery of possession and transfer of ownership of property to women etc
6.	Reference to court
7.	Complaint to the Ombudsman in case proceedings in a court of law are pending
8.	Loss of rent
9.	Execution of orders
10.	Appointment of officers, etc
11.	Bar of jurisdiction
12.	Power to make rules

THE ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT, 2020

[20th February, 2020]

ACT NO. XII OF 2020

An Act to protect and secure the rights of ownership of women in the property

WHEREAS it is expedient to provide for the protection of the rights of ownership and possession of properties owned by women, ensuring that such rights are not violated by means of harassment, coercion, force or fraud;

It is hereby enacted as follows: -

1. Short title, extent and commencement.— (1) This Act shall be called the Enforcement of Women's Property Rights Act, 2020.

(2) It shall extend to the whole of the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.— In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them: -

(a) 'complainant' means a woman who files a complaint or for whom proceedings are initiated in respect of the title or possession of her property;

(b) 'Government' means the Federal Government;

(c) 'Ombudsman' means the Ombudsman appointed under section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010);

(d) 'prescribed' means prescribed by rules;

(e) 'property' includes any moveable and immoveable property; and

(f) 'rules' mean rules made under this Act.

3. Powers of the Ombudsman.—In addition to the powers, functions and authority under this Act and rules made hereunder, the Ombudsman, for the purpose of this Act, shall have the same powers, functions and authority as are vested in the Ombudsman for the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

4. Complaint to the Ombudsman in case no proceedings in a court of law are pending.— (1) Any woman deprived of ownership or possession of her property, by any means, may file a complaint to the Ombudsman if no proceedings in a court of law are pending regarding that property:

Provided that the Ombudsman, on its own motion or on a complaint filed by any person

including a non-governmental organization, may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, if no proceedings are pending in a court in respect of that property.

(2) The Ombudsman shall make a preliminary assessment of the complaint filed under sub-section (1) where after he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsman.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsman may, after calling any record, if deemed necessary, pass orders under section 5.

(4) The Ombudsman upon receiving the report under sub-section (2), may further conduct such summary enquiry and call for such record as he may deem fit.

(5) The Ombudsman after confronting the report of the concerned Deputy Commissioner and the conclusion and findings of his own enquiry, shall call upon the complainant and her adversaries to submit objections, where after he may conduct a hearing, and pass orders under section 5, preferably within sixty days of receipt of the complaint under sub-section (1).

5. Delivery of possession and transfer of ownership of property to women etc.— (1) On conclusion of the proceedings under section 4, if the Ombudsman finds that the complainant has been illegally deprived of ownership or possession of her property, he shall direct the Deputy Commissioner or a state functionary or any private person to take steps so as to restore or confer possession or title of the property to the complainant, including measures to perfect such title.

(2) The Ombudsman may, where deemed fit, direct the officer-in-charge of a police station for such assistance as may be required for the purposes of implementing the orders passed under sub-section (1).

(3) The concerned Deputy Commissioner shall submit a compliance report within seven days to the Ombudsman in respect of implementation of his orders.

¹[(4) Any person aggrieved by a decision of Ombudsman under sub-section (1), may, within thirty days of decision, make a representation to the President, who may pass such order thereon as he may deem fit.]

6. Reference to court.—(1) Notwithstanding anything contained in sections 4 and 5, if upon preliminary assessment, or upon receiving the report of the Deputy Commissioner or upon conducting further summary enquiries by the Ombudsman himself, he comes to the conclusion that the matter requires in-depth enquiry, investigation or detailed recording of evidence or intricate adjudication, he shall formulate a reference along with all the reports and material collected and submit the same to the concerned Civil Court preferably within sixty days of receipt of the complaint under sub-section (1) of section 4.

¹ Ins. by Act X of 2021, s.2

(2) Notwithstanding anything contained in any other law, the Civil Court shall entertain the reference under sub-section (1), as a civil suit and proceed further in terms of the Code of Civil Procedure, 1908 (Act V of 1908) and the relevant rules.

7. Complaint to the Ombudsman in case proceedings in a court of law are pending.— (1) Where proceedings in a court of law are pending in relation to the ownership or possession of any property claimed to be owned by a woman, she may file a complaint under this sub-section to the Ombudsman:

Provided that the Ombudsman, on its own motion or on a complaint filed by any person including a non-governmental organization may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, even if proceedings are pending in a court in respect of that property.

(2) The Ombudsman shall make a preliminary assessment of the complaint under sub-section (1), where after he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsman.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsman may, after calling any record, if deemed necessary, may file a report in the court of law, in which the case is pending, recommending that the proceedings in the court may be terminated or put in abeyance unconditionally or subject to any court order and the Ombudsman be permitted by the court to take further proceedings under this Act.

(4) Before filing of the report under sub-section (3), the Ombudsman shall call upon the complainant and her adversaries to submit objections, and conduct a hearing and pass orders, preferably within thirty days of the hearing, as to whether the Ombudsman will or will not file a report under sub-section (3).

(5) In case the Ombudsman passes an order of not filing a report under sub-section (3), he may advise the complainant to pursue the proceedings in the court of law and terminate the complaint.

(6) The Ombudsman upon receiving the report under sub-section (2), may further conduct such summary inquiry and call for such record as he may deem fit.

8. Loss of rent. — On culmination of proceedings under section 5, the Ombudsman may also direct the complainant to be paid by the person depriving the said complainant of the use of the property, the amount equivalent to the rent that the property would fetch at the prevalent market rate, for the duration for which the complainant was deprived of the use of such property.

9. Execution of orders.— The Ombudsman may direct any executive state functionary including the relevant Deputy Commissioner where the property of the Complainant is situated, to execute the orders in letter and spirit.

10. Appointment of officers, etc.— For carrying out the object and purpose of this Act, the

Federal Government shall appoint such officers as may be required, on such terms and conditions as prescribed.

11. Bar of jurisdiction.— No court or other authority shall have jurisdiction-

- (a) to question the validity of any action taken, or intended to be taken, or order made, or anything or purporting to have been taken, made or done under this Act; or
- (b) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsman.

12. Power to make rules.—The Federal Government may make rules to carry out the purpose of this Act.

THE HINDU MARRIAGE ACT, 2017
Act No. VII of 2017

CONTENTS

Section	Heading
1.	Short title, extent, Application and commencement
2.	Definitions
3.	Overriding effect of Act
4.	Conditions for a Hindu marriage
5.	Ceremonies for Hindu marriage
6.	Registration of Hindu marriages
7.	Appointment and functions of marriage registrar
8.	Restitution of conjugal rights
9.	Judicial separation
10.	Void marriage
11.	Voidable marriage
12.	Termination of Hindu marriage
13.	Financial security of wife and children
14.	Alternate relief in termination of marriage proceeding.
15.	Termination of Hindu marriage by mutual consent
16.	Separated person may marry again
17.	Hindu widows are entitled to remarry
18.	Legitimacy of child born out of void and voidable Hindu marriage
19.	Validation of marriages
20.	Punishment of bigamy
21.	Punishment for contravention of certain other conditions for Hindu marriage
22.	Court to which petition shall be presented
23.	Penalty for violating the provision of this Act
24.	Cognizance of offence under this Act
25.	Power to make rules
SCHEDULE. SHAADIPARAT	

HINDU MARRIAGE ACT, 2017 ACT NO VII OF 2017

Act No. VII of 2017

[17th March, 2017]

An Act to provide for solemnization of marriages by Hindu families and for matters ancillary and incidental thereto

WHEREAS it is constitutional obligation that the state shall protect the marriage, the family, the mother and the child and also safeguard the legitimate, rights and interests of minorities;

AND WHEREAS it is expedient to have a consolidated law providing for solemnization of marriages by Hindu families and the matters connected therewith and incidental thereto;

AND WHEREAS the Provincial Assemblies of Balochistan, Khyber Pakhtunkhwa and Punjab have passed Resolutions under Article 144 of the Constitution of the Islamic Republic of Pakistan to the effect that Majlise Shoora (Parliament) may, by law, regulate solemnization of marriages by Hindu families and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

1. Short title, extent, application and commencement.— (1) This Act may be called the Hindu Marriage Act, 2017.

(2) It extends to the Islamabad Capital Territory and the Provinces of Balochistan, Khyber Pakhtunkhwa and Punjab.

(3) Subject to sub-section (2), it shall apply to those citizens of Pakistan who profess Hindu religion in any of its forms.

(4) It shall come into force at once.

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

- (a) "Court" means a Family Court as defined under the West Pakistan Family Courts Act, 1964 (W.P. Act XXV of 1964);
- (b) "customs" and "customary rites" mean any tradition which is not unlawful and the same has been continuously and uniformly observed for a long time among Hindus in any local area, tribe, community, group or family;
- (c) "degrees of prohibited relationship" means any prohibited relationship as per laws, religion and customs having force of law relating to Hindu persons;
- (d) "Government" means the Federal Government or the Provincial Government as the case may be;
- (e) "Hindu marriage" means the union of Hindu male and Hindu female solemnized under this Act and includes the marriage solemnized before commencement of

this Act in accordance with the law, religion and customs having force of law relating to Hindu persons;

- (f) "marriage register" means register of marriages maintained by marriage registrar as may be prescribed;
- (g) "marriage registrar" means a person authorized and appointed by the Government to register Hindu marriages under this Act;
- (h) "prescribed" means prescribed by rules made under this Act; and
- (i) "*shaadiparat*" means certificate of marriage issued by the marriage registrar, which certifies the solemnization of Hindu marriage.

3. Overriding effect of Act. — The provisions of this Act shall have effect notwithstanding any other law or custom or usage for the time being in force.

4. Conditions for a Hindu marriage. — A Hindu marriage shall be solemnized, if the following conditions are fulfilled, namely:-

- (a) at the time of marriage, the parties are of sound mind and capable of giving a valid consent;
- (b) both the parties are not below the age of eighteen years;
- (c) the parties to the marriage are not within the degrees of prohibited relationship; and
- (d) neither party has a spouse living at the time of marriage:

Provided that condition in clause (d) shall not apply where a living female spouse cannot conceive a child and medically declared to be so.

5. Ceremonies for Hindu marriage.— A Hindu marriage may be solemnized in accordance with the customary rites, rituals and ceremonies of either party thereto.

6. Registration of Hindu marriages.— (1) The solemnization of every Hindu marriage shall be registered in accordance with the provisions of this Act. Such registration shall take place within a period of fifteen days of solemnization of Hindu marriage.

(2) The marriage register shall be open for inspection and shall be admissible as evidence of the contents contained therein or certified extracts there from shall, on application, be given by the marriage registrar on payment of such fee, as may be prescribed.

7. Appointment and functions of marriage registrar.— (1) The Government shall, by notification in official Gazette, appoint one or such numbers of marriage registrars in the territory of a district or such other areas as would be convenient for Hindu population living in the said district or such other areas.

(2) For the purposes of registration of Hindu marriage, the marriage registrar or person duly authorized by him from amongst the local Hindu community in the manners as may be prescribed,

shall be responsible to register the marriage. The parties to Hindu marriage shall give their particular to the respective registrar or his authorized person for the purpose of entry thereof in *shaadiparat*.

(3) The form of *shaadiparat*, the record to be preserved and maintained by the marriage registrar shall be such as may be prescribed. Until the rules are made, the *shaadiparat* annexed as Schedule A of this Act shall be used as *shaadiparat*.

(4) The marriage registrar shall prepare such number of copies as may be prescribed and unless the rules are made, he shall prepare three copies thereof. One copy each shall be given to the respective parties to marriage and one copy shall be kept in the office of marriage registrar as a public record.

8. Restitution of conjugal rights.— When either a husband or a wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may, by a petition to the Court, apply for restitution of conjugal rights and the Court, on being satisfied of truth of statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights:

Explanation.— Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.

9. Judicial separation.— (1) Either party to Hindu marriage, whether solemnized before or after commencement of this Act, may present a petition to the Court praying for a decree of judicial separation on any of the ground specified in sub-section (1) of section 12 and in the case of a wife also on any of the grounds specified in sub-section (2) thereof.

(2) Where a decree of judicial separation has been passed, the Court may, on the application of both the parties and on being satisfied of truth of statements made in such petition, rescind the decree if it considers it just and reasonable to do so.

10. Void marriage.— Any Hindu marriage solemnized after commencement of this Act may, on a petition. to the Court presented by either party to the marriage or their real parents, be declared null and void on the conditions specified in clauses (c) and (d) of section 4.

11. Voidable marriage.— (1) Any Hindu marriage solemnized, whether before or after commencement of this Act, may be declared voidable and may be subsequently annulled by a decree of nullity passed by the Court if—

- (a) the marriage has not been consummated owing to impotence of the respondent; or
 - (b) the marriage has been solemnized in contravention of the condition specified in clause (b) of section 4; or
 - (c) consent of the petitioner was obtained by force, coercion or by fraud as to the nature of the ceremony or, as to any material fact or circumstance concerning the respondent; or
 - (d) the respondent was at the time of marriage pregnant by some person other than the petitioner.
- (2) Notwithstanding anything contained in sub-section (1), no petition for annulling a

marriage,—

- (A) on the ground specified in clause (c) of sub-section (1), shall be entertained, if—
 - (i) the petition is presented more than one year after the force or coercion had ceased to operate or, as the case may be, the fraud had been discovered; or
 - (ii) the petitioner has, with his or her full consent, confirmed to live with the other party to the marriage as husband or wife after the force had ceased to operate, or, as the case may be, the fraud has been discovered; and
- (B) on the ground specified in clause (d) of sub-section (1) shall be entertained unless the Court is satisfied that—
 - (iii) the petitioner was, at the time of marriage, ignorant of the facts alleged; and
 - (iv) the proceedings have been instituted, in the case of marriage solemnized—
 - (a) before the commencement of this Act within one year of such commencement; and
 - (b) after such commencement, within one year from the date of the marriage.

12. Termination of Hindu marriage.— (1) Any Hindu marriage solemnized whether before or after commencement of this Act may, on a petition presented to the Court by either a husband or a wife, be terminated by decree of termination of marriage on the ground—

- (a) that the other party —
 - (i) has, after the solemnization of the marriage, treated the petitioner with cruelty; or
 - (ii) has deserted the petitioner for continuous period of not less than two years immediately preceding the presentation of the petition:

Explanation.— In this clause, the expression "desertion" means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party and includes the willful neglect of the petitioner by the other party to the Marriage; or

- (iii) has ceased to be Hindu by conversion to another religion; or
- (iv) has been incurably of unsound mind or has been suffering continuously or intermittently from mental disorder of such a kind and to such an extent that the petitioner cannot reasonably be expected to live with the respondent;

Explanation.— In this clause, the expression "mental disorder" means mental other disorder or disability of mind including schizophrenia and the expression "psychopathic disorder" means a persistent disorder or disability of mind (whether illness, arrested or incomplete development of mind,

psychopathic disorder or any or not including subnormality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the other party and whether or not it requires or is susceptible to medical treatment; or

- (v) has been suffering from a virulent and incurable form of leprosy; or
 - (vi) has been suffering from venereal disease in a communicable form or HIV Aids; or
 - (vii) has renounced the world by entering any religious order; or
- (b) that there has been no resumption of cohabitation as between the parties to the marriage for a period of more than one year after the passing of decree for judicial separation or order of restitution of conjugal rights passed by the Court.

(2) A wife may also present a petition for termination of her marriage on the grounds,—

- (a) in the case of any marriage solemnized before commencement of this Act, that the husband had married again before such commencement or that another wife of the husband married before such commencement was alive at the time of the solemnization of the marriage of the petitioner:

Provided that in either case the other wife is alive at the time of the presentation of the petition; or

- (b) that the husband has neglected or has failed to provide for her maintenance for a period of two years;
- (c) that the husband has been sentenced to imprisonment for a period of four years or upwards; or
- (d) that her marriage, whether consummated or not, was solemnized before she attained the age of eighteen years and she has repudiated the marriage before attaining that age;

Explanation.— This clause applies whether the marriage was solemnized before or after commencement of this Act.

13. Financial security of wife and children.—(1) If a wife is respondent in a petition for termination of the marriage by decree of termination, she may oppose the grant of decree on the ground that the termination of the marriage may result in grave financial hardship for her unless arrangements have been made to the satisfaction of the Court to eliminate such hardship:

Provided that nothing contained in this Act shall affect any right which she may have to her dower or any part thereof on the termination of marriage.

(2) The Court shall not pass a decree of termination unless the Court is satisfied that adequate provisions for the maintenance of children born out of the marriage has been made in commensuration with the financial capacity of the parties to the marriage.

14. Alternate relief in termination of marriage proceeding.— In any proceeding under this Act, on a petition for termination of marriage by decree of termination, except in so far as the

petition is found on the ground mentioned in sub-clauses (i), (ii), (iv) and (vii) of clause (a) and clause (b) of sub-section (1) of section 12, the Court may, if it considers it just so to do having regard to the circumstances of the case, pass, a decree for judicial separation instead of decree for termination of marriage.

15. Termination of Hindu marriage by mutual consent.— (1) Subject to the provisions of this Act, a petition for termination of marriage by decree of termination may be presented to the Court by both the parties to a marriage together, whether such marriage was solemnized before or after commencement of this Act, on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and they have mutually agreed that the marriage should be terminated.

(2) On the decision by both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months after the said date, the Court shall, on being satisfied after hearing the parties and after making such inquiry as it thinks fit that a marriage has been solemnized and that the averments in the petition are true, pass a decree of termination declaring the marriage to be terminated with effect from the date of the decree.

16. Separated person may marry again.— When a Hindu marriage has been annulled or terminated by a decree of nullity or decree of termination, as the case may be and the time for appeal has expired or an appeal has been preferred but has been dismissed, it shall be lawful for either party to the marriage so terminated to marry again after expiry of six months from final decision.

17. Hindu widows are entitled to remarry.— A Hindu widow shall have right to remarry of her own will and consent after the death of her husband provided a period of six months has lapsed after the husband's death.

18. Legitimacy of child born out of void and voidable Hindu marriage.— (1) Notwithstanding that a Hindu marriage is null and void under section 10, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such child is born before or after commencement of this Act and whether or not a decree of nullity is granted in respect of that marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act.

(2) Where a decree of nullity is granted in respect of a voidable Hindu marriage under section 11, any child begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage if at the date of the decree it had been terminated instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

19. Validation of marriages.— All Hindu marriages solemnized before commencement of this Act shall be deemed valid.

20. Punishment of bigamy.— Any Hindu marriage solemnized after commencement of this Act is void if at the date of such marriage either party had a spouse living and the provisions of section 494 and 495 of the Pakistan Penal Code, 1860 (Act XLV of 1860) shall apply accordingly.

21. Punishment for contravention of certain other conditions for Hindu marriage. Every person who get his or her marriage solemnized under this Act in contravention of the conditions specified in clauses (b) or (c) of section (4) shall be punishable with simple imprisonment which may

extend to six months but not less than three months, or with fine which may extend to five thousand rupees; or with both.

22. Court to which petition shall be presented.— Every petition under this Act shall be presented to the Family Court and the provision of—

- (a) the West Pakistan Family Courts Act, 1964 (WP XXXV of 1964) except proviso of sub-section (4) of section 10, sub-section (2) of section 14 and section 21 and 23 thereof; and
- (b) the West Pakistan Family Court Rules, 1965, except proviso to clause (b) of rule (6) thereof;

shall *mutatis mutandis* apply to the proceedings under this Act.

23. Penalty for violating the provision of this Act.— (1) Any person who contravenes the provision of this Act or rules made there under regarding registration of Hindu marriage shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

(2) Any person who make statement or give particulars to be entered in the *shaadiparat*, which is false or has reason to believe to be false, shall be punished with a simple imprisonment which may extend to six months but not less than one month of a fine which may extend up to one hundred thousand or with both.

25. Cognizance of offence under this Act.— Notwithstanding anything contained in the Code of Criminal Procedure 1898 (Act V of 1898), all offences under this Act shall be non-cognizable and non-compoundable and the same shall be triable by a Magistrate First Class on a complaint in writing by a marriage registrar.

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

Schedule

SHAADIPARAT [See Section 7(3)]

1. Date of Marriage: -----
2. Name of Union Council, Tehsil, Town, District: _____
3. Particulars of Groom:
 - i. Full Name: _____ CNIC No. . _____
 - ii. Father's Name: _____ CNIC. No. _____
 - iii. Mother's Name: _____ CNIC No. _____
 - iv. Date of Birth: _____
 - v. Temporary Address: _____
 - vi. Permanent Address: _____
 - vii. Matrimonial Status ☐ Single ☐ Married ☐ Divorced ☐ Widower ☐
 - viii. Number of Dependent's: _____
4. Particular of Bride:
 - i. Full Name: _____ CNIC No. _____
 - ii. Father's Name: _____ CNIC No. _____
 - iii. Mother's Name: _____ CNIC No. _____
 - iv. Date of Birth: _____
 - v. Temporary Address: _____
 - vi. Permanent Address: _____
 - vii. Matrimonial Status: ☐ Single ☐ Married ☐ Divorced ☐ Widow ☐
 - viii. Number of Dependents: _____
5. Date of Solemnization of Marriage: _____ Place: _____
6. Signature of Bride: _____
7. Signature of Groom: _____
8. Signature of Witnesses: 1. _____ CNIC No. _____ 2. _____ CNIC No. _____
9. Signature of Registrar: _____

THE NATIONAL COMMISSION ON THE STATUS OF WOMEN ACT, 2012

ACT NO. VIII OF 2012

CONTENTS

Section	Heading
Chapter-I PRELIMINARY	
1.	Short title, extent and commencement
2.	Definition
CHAPTER-II ESTABLISHMENT OF THE COMMISSION	
3.	Establishment of the commission
4.	Appointment of chairperson
5.	Appointment of members
6.	Term of Office of Chairperson and of Members
7.	Removal of Chairperson and Members
8.	Acting Chairperson
9.	Terms and Conditions as applicable to members
10.	Secretariat of the Commission
CHAPTER-III FUNCTIONS AND POWERS OF THE COMMISSION	
11.	Functions and powers of the commission
12.	Meetings of the commission
13.	Appointment of Committees of the Commission
CHAPTER-IV FUNDS AND FINANCIAL CONTROL	
14.	Fund
15.	Accounts and Audit
CHAPTER-V MISCELLANEOUS	
16.	Annual Report of the Commission
17.	Assistance to the Commission
18.	Indemnity
19.	Members and officers to be public servants
20.	Power to make Rules
21.	Delegation of powers
22.	Power to remove difficulties
23.	Repeal

THE NATIONAL COMMISSION ON THE STATUS OF WOMEN ACT, 2012

ACT NO. VIII OF 2012

[8th March, 2012]

An Act to provide for the setting up of National Commission on the status of Women

WHEREAS it is expedient to set up a National Commission on the Status of Women for the promotion of social, economic, political and legal rights of women, as provided in the Constitution of the Islamic Republic of Pakistan and in accordance with international declarations, Conventions, treaties, Covenants and Agreements relating to women, including the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

CHAPTER-I PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the National Commission on the Status of Women Act, 2012.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) "Chairperson" means the Chairperson of the Commission as appointed under section 4, and includes acting chairperson appointed under section 7;
- (b) "Commission" means the National Commission on the status of Women established under section 3;
- (c) "girl" means a female human being under the age of eighteen years;
- (d) "Member" means the Member of the Commission;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "Secretary" means the Secretary of the Commission appointed under section 9; and
- (g) "women" means a female human being of eighteen years or above.

CHAPTER-II ESTABLISHMENT OF THE COMMISSION

3. Establishment of the Commission.—(1) The Federal Government shall constitute a Commission to be known as the National Commission on the Status of Women (NCSW), to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of,—

- (a) a Chairperson, who shall be a woman with experience of working on issues related to women's rights for more than fifteen years, and is committed to the cause of women's empowerment;
- (b) two members from each Province of whom at least one member shall be a woman, one-woman member each from Federally Administered Tribal Areas, Azad Jammu and Kashmir, Gilgit-Baltistan, the Islamabad Capital Territory and from minorities;
- (c) five *ex-officio* members who shall be representatives of the Ministries of Law, Finance, Foreign Affairs and Interior and the Ministry concerned with the subject of women's rights not below BPS-20, and who shall not have the right to vote;
- (d) Chairperson or a designated member of each Provincial Commission on the Women's rights, set up under provincial laws; and
- (e) Secretary of the Commission, who shall not have the right to vote.

(3) A member appointed under Paragraph (b) of sub-section (2), shall not be less than thirty years of age, with experience of working on issues related to women's rights and is committed to the cause of women's empowerment.

(4) The headquarter of the Commission shall be at Islamabad.

(5) The Commission shall be a body corporate having perpetual succession and a common seal with powers, among others to acquire, hold and dispose of any property and shall sue and be sued by the said name.

4. Appointment of Chairperson. — (1) The Federal Government shall through public notice, invite suggestions for suitable persons for appointment as Chairperson and, after proper scrutiny, shall submit a list of those persons to the Prime Minister and the Leader of the Opposition in the National Assembly.

(2) The Prime Minister shall in consultation with the Leader of the Opposition in the National Assembly forward three names for Chairperson to a Parliamentary Committee for hearing and confirmation of any one person:

Provided that in case there is no consensus between the Prime Minister and the Leader of the Opposition, each shall forward separate list to the Parliamentary Committee.

(3) The Parliamentary Committee shall be constituted by the Speaker of the National Assembly and shall comprise fifty per cent members from the treasury benches and fifty per cent from

the opposition parties, based on their strength in Majlis-e-Shoora (Parliament), to be nominated by the respective Parliamentary Leaders:

Provided that the total strength of the Parliamentary Committee shall not exceed twelve members out of which one-third shall be from the Senate.

(4) The Parliamentary Committee shall regulate its own procedure.

(5) The Parliamentary Committee shall forward the name of the nominee confirmed by it to the Prime Minister, who shall appoint the Chairperson accordingly.

¹ [(6) A vacancy of Chairperson shall be filled in as provided in this Act within thirty days of occurrence of the vacancy.]

5. Appointment of members.— (1) The members, including *ex-officio* members, shall be appointed by the Prime Minister from amongst the names recommended under sub-section (2).

(2) The Federal Government shall, after consultation with relevant stake-holders, recommend to the Prime Minister three names for each Member who fulfill the qualifications laid down in section 3.

(3) A vacancy of a Member shall be filled as provided in sub-sections (1) and (2) within thirty days of the occurrence of the vacancy.

6. Term of Office of Chairperson and of Members.— (1) A person appointed as the Chairperson and Member shall hold office for a term of three years from the date on which he or she enters upon his or her office. ²[*****]

(2) The Chairperson or a Member may resign his or her office in writing under his or her hand addressed to Prime Minister of the Islamic Republic of Pakistan and on acceptance of such resignation, such vacancy shall be filled within thirty days for the unexpired term of the member.

7. Removal of Chairperson and Members.—The Chairperson and Members may be removed from office by the Prime Minister if he or she, as the case may be,—

(a) is, after proper inquiry, found guilty of misconduct:

Provided that in the case of the Chairperson, such finding shall be submitted to the Parliamentary Committee for confirmation;

(b) is adjudged an insolvent;

(c) is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority; and

(d) has, on conviction of any offence involving moral turpitude been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his or her release.

¹ Added by the National Commission on the Status of Women (Amendment) Act, 2018 (II of 2018), s. 2

² Omitted by the National Commission on the Status of Women (Amendment) Act, 2021 (XIX of 2021), s. 2.

8. Acting Chairperson.— By reason of a vacancy in the office of Chairperson due to death, illness, resignation or otherwise, the Prime Minister shall appoint a woman from amongst the members of the Commission to act as Chairperson for a period of not exceeding thirty days ³[*****].

9. Terms and Conditions as applicable to members.— (1) The traveling and daily allowance and other allowances payable to and terms and conditions as applicable to members, other than *ex-officio* members, shall be such as may be prescribed.

(2) The salary and allowances payable to and terms and conditions applicable to the Chairperson, shall be such as prescribed by the Federal Government.

(3) The Chairperson of the Commission shall be full time, shall have the status equivalent to a Minister of State of the Federal Government. The executive and financial authority and responsibility of the Commission shall vest in the Chairperson who shall be the overall in-charge of the Commission.

(4) A member of the Commission shall have status equivalent to BPS-21 of the Federal Government.

10. Secretariat of the Commission.— (1) There shall be a Secretariat of the Commission headed by the Secretary with complement of officers and support staff as may be prescribed.

(2) The Secretary on the instructions of the Commission will prepare a draft three year strategic plan, the Annual Work Plan and budget.

(3) The Secretary shall be appointed in the manner as may be prescribed.

(4) The appointment and terms and conditions of the employees of the Commission shall be such as may be prescribed.

CHAPTER-III FUNCTIONS AND POWERS OF THE COMMISSION

11. Functions and Powers of the Commission.—The Commission,—

- (a) shall examine the policy, programs and other measures taken by the Federal government for gender equality, women's empowerment, political participation, representation, assessment and implementation and make suitable recommendations to the concerned authorities;
- (b) shall review all Federal laws, rules and regulations affecting the status and rights of women and suggest repeal, amendment or new legislation essential to eliminate discrimination, safeguard and promote the interest of women and achieve gender equality before law in accordance with the Constitution and obligations under international covenants and commitments;
- (c) shall sponsor, steer, encourage research to generate information, analysis and studies and maintain a database relating to women and gender issues to provide

³ Omitted by the National Commission on the Status of Women (Amendment) Act, 2018 (II of 2018), s. 3

knowledge and awareness for national policy and strategic action for women empowerment;

- (d) shall develop and maintain interaction and dialogue with non-governmental organizations, experts and individuals in society and an active association with similar commissions and institutions in other countries for collaboration and action to achieve gender equality at the national, regional and international level;
- (e) mobilize grants from domestic and international, including multi and bilateral agencies, approved by the Federal Government, for meeting any of its obligations or performing its functions;
- (f) shall facilitate and monitor implementation of international instruments and obligations affecting women and girls to which Pakistan is a signatory, and advise the Federal Government before accession to any such proposed international instrument, protocol or treaty;
- (g) shall recommend to the Federal Government the signing or ratifying of international instruments (conventions, treaties and covenants) affecting rights of women and girls;
- (h) may seek and receive information, data and documents from any Federal source or entity in the course of performance of its functions;
- (i) while inquiring into complaints of violations of women's rights may call for information or report from the Federal Government civil society organizations and autonomous or concerned bodies; and in this regard the Commission shall have the powers vested in a civil Court under the Code of Civil Procedure, 1908 (Act V of 1908) for enforcing the attendance of any person and compelling the production of documents;
- (j) may in accordance with relevant laws and rules and prior permission of the provincial government concerned inspect any jail, sub-jail or other places of custody where women and girls are kept and to make appropriate recommendations to the authorities concerned;
- (k) may act for advocacy, lobbying, coalition building, networking and as a catalyst for promotion of cause of women to facilitate their participation in all spheres of life including legal, economic, social and political empowerment;
- (l) liaise with the Provincial Commissions set up under provincial laws and other concerned provincial organizations;
- (m) shall monitor the mechanism and institutional procedure for redressal of violation of women's rights; and
- (n) may perform any other functions which may be assigned to it by the Federal Government.

12. Meetings of the Commission.— (1) A meeting of the Commission shall be held in each quarter of the year at such times and at such place as the Chairperson may decide. The

Chairperson may call additional meetings if and when required.

(2) All meetings shall be chaired by the Chairperson.

(3) The Commission will consider, approve and monitor implementation of the Strategic Plan and the Annual Budget.

(4) The Commission shall, with the approval of Executive Committee, fix an honorarium or remuneration of advisors, consultants and experts as may be prescribed.

(5) The meeting of the Commission shall be conducted in accordance with the procedure as may be prescribed.

(6) All decisions of the Commission shall be authenticated by the signature of the Chairperson or any person authorized in this behalf by the Chairperson.

(7) The quorum for the meeting of the Commission shall not be less than one half of the total strength of the Commission.

(8) The decisions of the Commission shall be taken by the majority of the members present. In case of a tie, the Chairperson of the meeting shall have the casting vote.

(9) No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Commission.

13. Appointment of Committees of the Commission.— (1) There shall be an Executive Committee of the Commission consisting of the Chairperson and three other members to be appointed by the Commission which shall be responsible to oversee the implementation of the decisions and recommendations of the Commission.

(2) The Commission may establish such other Committees from amongst its members as it deems fit and may refer to them any matter for consideration and report. The Commission may, if it considers necessary, co-opt to a Committee any person possessing special knowledge and expertise on the relevant subject.

(3) All Committees except the executive Committee will be time bound.

CHAPTER-IV FUNDS AND FINANCIAL CONTROL

14. Fund.—(1) There shall be established by the Federal Government a Fund to be known as the National Commission on the Status of Women Fund, which shall vest in the Commission and shall be used by the Commission to meet charges in connection with its functions under this Act.

(2) Source of the Fund amongst other moneys may be the following,—

(a) such fund as the Federal Government shall allocate each year as a non-lapsable grant in the annual budget;

(b) donations, if any, made by private individuals, national and international agencies;

- (c) income from investment by the Commission, as may be prescribed;
- (d) all funds held by the Federal Government under the title of 'National Commission's Fund; and
- (e) all other sums or properties or assets which may in any manner become payable to or vest in, the Commission in respect of any matter.

(3) The Commission whilst performing its functions and exercising its powers under this Act, shall ensure the highest sense of prudence in respect of expenditures incurred.

(4) The Fund shall be expended for the purpose of,—

- (a) performing functions of the Commission;
- (b) the establishment charges, including its members, employees, consultants, legal and other fees and costs; and
- (c) such other activities which fall within the purview of the Commission.

(5) The Commission may invest its Fund in accordance with the instructions of the Federal Government.

(6) The Chairperson shall be the Principal Accounting Officer of the Commission.

15. Accounts and Audit.—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Federal Government in consultation with the Auditor-General of Pakistan.

(2) The accounts of the Commission shall be audited by the Auditor-General at such intervals as may be specified by him or her.

(3) The Auditor-General and any other person appointed by him or her in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Auditor-General generally has in connection with the audit of Federal Government accounts and in particular shall have rights to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Auditor-General or any other person appointed by him or her in this behalf, together with the Audit Report, thereon shall be forwarded annually to the Federal Government by the Commission and the Federal Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER-V MISCELLANEOUS

16. Annual Report of the Commission.— (1) The Commission shall prepare its Annual Report and shall be presented to the Prime Minister and concerned Ministry. The Annual report shall include an account of its performance and utilization of funds.

(2) The Annual Report of the Commission shall be laid and discussed in the Parliament.

17. Assistance to the Commission.— All Federal executive authorities shall assist the Commission in the performance of its functions.

18. Indemnity.— No suit, prosecution or legal proceedings shall lie against the Commission, the Chairperson or any Member, officer, employees, advisors or consultants of the Commission in respect of anything done in good faith or intended to be done under this Act or the Rules made there under or order made, or publication by or under the authority of the Federal Government, a Provincial Government, Commission or any report, paper or proceedings.

19. Members and officers to be public servants.— Every member of the Commission and every officer appointed or authorized by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

20. Power to make Rules.— (1) The Federal Government in consultation with the Commission and by notification in the official Gazette, make Rules for the purpose of giving effect to the provisions of this Act.

(2) The rules of the Commission shall be made within ninety days of the commencement of this Act.

21. Delegation of powers.—The Commission may subject to such conditions, as it may specify, delegate any of its powers under this Act to the Executive Committee or member and to other such committees formed by the Commission.

22. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may by order published in the official gazette make such provisions not inconsistent with the provisions of this Act as appears to it, be necessary or expedient for removing the difficulty:

Provided that this power shall be available for a period of one year from the date of commencement of this Act.

23. Repeal.—(1) The National Commission on the Status of Women Ordinance, 2000 (XXVI of 2000), hereinafter called as the repealed Ordinance, is hereby repealed.

(2) Notwithstanding the repeal of Ordinance referred to in sub-section (1).—

(a) any notification, rule, regulation, bye-law, order or exemption issued, made or granted under the repealed Ordinance shall have effect as if it had been issued, made or granted under the corresponding provision of this Act;

- (b) any official appointed and any body elected or constituted under the repealed Ordinance shall continue and shall be deemed to have been appointed, elected or constituted, as the case may be, under the corresponding provision of this Act;
- (c) any document referring to the repealed Ordinance shall be constructed as referring, as far as may be, to this Act, or to the corresponding provision of this Act.

(3) The provisions of the General Clauses Act, 1897 (X of 1897), in general, and sections 6,8 and 24 thereof, in particular, shall apply to the repeal and re-enactment of the repealed Ordinance.

THE NATIONAL COMMISSION ON THE STATUS OF WOMEN RULES, 2014

CONTENTS

Rule	Headings
NOTIFICATION	
1.	Short title, extent and commencement
2.	Definitions
3.	Terms and Conditions of the Chairperson and members of the Commission
4.	Review of the member's performance
5.	Leave of absence of the members
6.	Meetings of the Commission
7.	Custody of the record
8.	Appointment of consultants, experts and advisors
9.	Procedure for appointing or hiring consultants, experts or advisers, etc
SCHEDULE	
PART-I	
PART-II	
Part-III	
PART-IV	

Islamabad, the 24th September, 2014.

NOTIFICATION

No.F.2(10)/2014-DD(IC)- In exercise of the powers conferred by section 20 of the National Commission on the Status of Women Act, 2012 (VIII of 2012), the Federal Government, in constitution with the National Commission on the Status of Women, is pleased to make the following rules, namely: -

1. Short title and Commencement. - (1) These rules may be called the National commission on the Status of Women Rules, 2014.

(2) They shall come into force at once.

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

(a) “Act” means the National Commission on the Status of Women Act, 2012 (VIII of 2012);

(b) “appointing authority” means a person authorized to make appointment to a post or position;

(c) “Schedule” means a schedule to these rules; and

(d) “Selection committee” means a committee constituted by the Chairperson for the purpose of recommending to the appointing authority any person for appointment to a post or position on regular basis, on contract or otherwise in the Commission.

3. Terms and Conditions of the Chairperson and members of the Commission.— (1) subject to sub-section 9 of the Act, the Chairperson shall be entitled to draw such salary, allowances, emoluments and other benefits as are admissible to a person in MP-I scale.

(2) A member or co-opted member of the Commission while traveling to attend a meeting of the Commission or any business thereof within Pakistan or abroad shall be entitled to the traveling allowance, daily allowance, etc., as are admissible to a civil servant in BPS-21 of the Federal Government.

(3) All members shall be available full time in the meetings of the Commission, its committees and sub-committees.

4. Review of the member’s performance.— Member’s performance shall be assessed by the commission on the basis of the established criteria i.e. attendance at meetings, expertise in terms of inputs and outputs and strict regulation regarding the use and misuse of powers.

5. Leave of absence of the members.— (1) The Chairperson shall be competent to sanction leave to members of the Commission.

(2) Members shall inform in writing to the Chairperson in advance with regard to their absence from meetings of the Commission or sessions thereof. The members of the Committees, sub-committees shall inform in advance convener of the relevant committees or the Secretary of the Commission.

(3) Any member, except ex-officio, of the Commission who absents himself from two consecutive meetings of the Commission without prior intimation, shall be deemed to have committed misconduct for the purpose of clause (a) of section 7 of the Act.

6. Meetings of the Commission.— (1) The Chairperson shall call meetings of the Commission.

(2) Where a written notice for holding an extra ordinary meeting of the Commission is given by not less than one-fourth of the total members, the Chairperson shall call the meeting to be held within seven days at such place and time as the Chairperson may decide.

(3) The Secretary shall issue to members, at least seven days before the meeting, notice of meeting along with agenda indicating date and place of the meeting.

(4) Notwithstanding anything contained in sub-rule (3), an emergency meeting of the commission may be called by the Secretary with prior approval of the Chairperson, on a short notice and agenda may be distributed during the meeting.

(5) Meetings of the Commission shall be presided over by the Chairperson and in absence of the Chairperson, by a member designed for the purpose.

(6) Minutes of every meeting of the Commission shall be recorded and prepared by the secretary and approved by the Chairperson or the Presiding member and circulated among the members within two weeks after the meeting.

7. Custody of the record.— (1) All Proceedings of the Commission, committees, sub-committees and relevant record shall be kept in safe custody in the Secretariat of the commission.

(2) The Secretary shall be responsible for maintenance, safety and confidentiality, if any, of all documents and record of proceedings of the Commission and its secretariat.

8. Appointment of consultants, experts and advisors.— (1) The Commission may appoint, or hire services of, any suitable person as consultant, expert or advisor, etc, for writing special report or paper or to do any work, which may be required on urgent basis and pay him a suitable remuneration on recommendations of its Executive Committee and approval by the Chairperson.

(2) The Chairperson, with approval of its executive committee, shall decide the need for appointing or hiring consultants, experts and advisers, etc, on the basis of non-availability of suitable in house expertise.

(3) The appointment or hiring of consultant, expert or adviser etc, shall always be assignment specific and time bound.

(4) The following information shall be placed before Executive Committee for appointing or hiring consultants, experts or advisers, etc, namely:-

- (a) terms of reference or specific tasks to be accomplished by the consultant. Expert or adviser, etc;
- (b) details of the outputs required to be given by the consultant expert or adviser, etc;
- (c) anticipated benefits from the proposed assignment;
- (d) professional expertise and experience required for the task to be undertaken;
- (e) approximate time required for completion of the job; and
- (f) cost estimates.

(5) The information under sub-rule (4) shall be the basis of Executive Committee's approval for acquiring consultancy services.

9. Procedure for appointing or hiring consultants, experts or advisers, etc._ (1) After approval for appointing or hiring consultants, experts or advisers, etc, the following procedure shall be followed by the Secretary of the Commission, namely:-

- (a) Consultancy should be widely advertised thorough electronic and print media including its uploading on official website of the Commission indicating the requirements specified under sub-rule (4) of rule8.
- (b) Advertisement of consultancy shall indicate the range of compensation package, including various facilities, depending on nature of the work involved and the applicants shall be short listed and prioritized by an in-house committee of the Commission.
- (c) Selection committee shall recommend a panel of at least three candidates in order of merit for consideration of the executive committee. The selection committee shall also recommend the compensation package for the consultants, experts or advisers, etc. placed on the panel based on experience, qualification and rates of most recent consultancy; and

- (d) financial sanction for appointing or hiring of a consultant, expert or adviser, etc. on the terms and conditions recommended by the selection committee shall be obtained from the executive committee.

(2) Final approval for appointments or hiring of consultants, experts or advisers, etc. Shall be accorded by the Chairperson recommendation of the executive committee.

(3) While making an offer of appointment or hiring of a consultant, expert or adviser, etc, the contract or agreement thereof shall include:-

- (a) statement of objectives of the assignment;
- (b) responsibilities of the consultant, expert or adviser, etc, stating particulars of the outputs required to be given by him;
- (c) any deviation or departure of the prescribed guidelines shall be dealt with seriously and the defaulting officers shall be proceeded against, under disciplinary rules of the commission; and
- (d) a uniform proforma as set out in the Schedule shall be devised containing all essential particulars and details and invariably placed before the selection committee and the appointing authority before appointing or hiring consultant, expert or adviser, etc.

SCHEDULE
[see rule 9(5) (d)]

**PROFORMA SHOWING ESSENTIAL PARTICULARS AND DETAILS REQUIRED TO BE
PLACED BEFORE SELECTION COMMITTEE AND APPOINTING AUTHORITY FOR
APPOINTMENT OF CONSULTANTS, EXPERTS OR ADVISERS, ETC.**

PART-I

- (1) Area of consultancy _____
- (2) Duration of consultancy _____
- (3) Date of advertisement _____
- (4) Date of Advertisement (copy may be enclosed) _____
- (5) Number of applications received for the position _____
- (6) Number of candidates short-listed (Prioritized list may be enclosed) _____

PART-II

- (1) Justification for appointment or hiring the consultant, expert or adviser, etc. ____
- (2) Terms of reference (TORs) of the assignment _____
- (3) Major activities to be performed under the TORs with date of completion in respect of each activity _____
- (4) Qualification, professional experience and other specifications considered necessary for the job _____
- (5) Cost of appointment or hiring the consultant, expert or adviser, ect:-
 - (a) remuneration to be paid _____
 - (b) cost of supporting staff _____
 - (c) cost of equipment / material _____
 - (d) others _____

Part-III

(To be filled when the case is submitted for consideration of the appointing authority)

- (1) Names of candidates in order of merit, recommended by the selection committee, broadly giving reasons for such selection _____
- (2) Compensation package for the consultants, experts or advisers, etc. recommended by the selection committee _____

PART-IV

(1) A profile of each candidate covering the following, may be enclosed along with detailed curriculum vitae (CV)”—

- (a) name of the Candidate _____
 - (b) age with date of birth _____
 - (c) qualification and experience relevant to the assignment _____
 - (d) other factors which support individual's suitability for the job _____
- (2) Draft contract agreement may be enclosed, in respect of —

- (a) candidates short listed when the case is submitted for consideration of the selection committee; and
- (b) panel of candidates recommended by the selection committee when the case is submitted for consideration of the appointing authority.

**THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT,
2010**

ACT IV OF 2010

CONTENTS

Section	Heading
1.	Short title, extent, Application and commencement
2.	Definitions
3.	Inquiry Committee.
4.	Procedure for holding inquiry
5.	Powers of the Inquiry Committee
6.	Appeal against minor and major penalties
7.	Ombudsperson
8.	Ombudsperson to enquire into complaint
9.	Representation to President or Governor
10.	Powers of the Ombudsperson
11.	Responsibility of employer
12.	Provisions of the Act in addition to and not in derogation of any other law
13.	Power to make rules
SCHEDULE	

PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE ACT, 2010

ACT IV OF 2010

[6th March, 2010]

An Act to make provisions for the protection against harassment of women at the workplace

WHEREAS the Constitution of the Islamic Republic of Pakistan recognizes the fundamental right of citizens to dignity of person;

AND WHEREAS it is expedient to make this provision for the protection of women from harassment at the workplace;

It is hereby enacted as follows:-

1. Short title, extent and commencement.—(1) This Act may be called the Protection against Harassment of women at the Workplace Act, 2010.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) “accused” means an employee or employer of an organization against whom complaint has been made under this Act;

(b) “CBA” means Collective Bargaining Agent as provided in the Industrial Relations Act, 2008 (IV of 2008) or any other law for the time being in force;

(c) “Code” means the Code of Conduct as mentioned in the Schedule to this Act;

(d) “Competent Authority” means the authority as may be designated by the management for the purposes of this Act;

(e) “complainant” means ¹[any person] who has made a complaint to the ¹[Ombudsperson] or to the Inquiry Committee on being aggrieved by an act of harassment ¹[and shall include a former employee who has been removed or dismissed from service or has resigned, and a parent or guardian where the complainant is a minor];

¹[(f) “employee” includes a regular, contractual, piece-rate, gig, temporary, part-time, freelance employee whether employed through express or implied contract on daily, weekly, monthly or hourly basis, and shall include a student, a performer, an artist, a sportsperson, an intern, trainee, a domestic worker, a home-based worker or an apprentice whether working for remuneration or not, or whether

¹ Subs. and Ins. by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), s. 2

working on a voluntary basis or otherwise;]

- (g) “employer” in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whosoever and includes—
- (i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;
 - (ii) any person responsible for the direction, administration, management and control of the management;
 - (iii) the authority, in relation of an organization or a group of organizations run by or under the authority of any Ministry or department of the Federal Government or a Provincial Government, appointed in this behalf or, where no authority is appointed, the head of the Ministry or department as the case may be;
 - (iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;
 - (v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof;
 - (vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; ²[*]
 - (vii) office bearers of a department or a Division of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;
 - ²[(viii) person discharging any contractual obligations with respect to his employees and expressly or impliedly procures the services or labour of persons whether as freelancers or part-time employees;
 - (ix) a person who owns or manages an online or customer to customer or business to customer or any other virtual or remote business; and
 - (x) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of home-based workers, irrespective of the number, time period or type of such worker employed,

² Omitted and Subs. by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), s. 2

or the nature of the employment or activities performed by the home-based worker;]

³ [(h) “harassment” means:—

- (i) any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; or
- (ii) discrimination on basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind set or notion, resulting in discriminatory behavior on basis of gender against the complainant;]

(i) “Inquiry Committee” means the Inquiry Committee established under subsection (1) of section 3;

(j) “management” means a person or body of persons responsible for the management of the affairs of an organization and includes an employer;

⁴[(k) “Ombudsperson” means the Ombudsperson appointed under section 7;]

(l) “organization” means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semi autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the ¹[Companies Act, 2017 (Act No. XIX of 2017)] and includes any other registered private sector organization or institution ¹[or online business];

(m) “Schedule” means Schedule annexed to this Act; and

⁴[(n) “workplace” means the place of work or any place where services are rendered or performed by professionals, including educational institutions, gigs, concerts, studios, performance facilities, courts, highways, sporting facilities and gymnasiums, and shall include any building, factory, open area or a larger geographical area, where the activities of the organization or of employer are carried out and includes any situation that is linked to work or activity outside the office.]

3. Inquiry Committee.— (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

³ Added by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), s. 2

⁴ Subs. and Ins. by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), s. 2

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority.

4. Procedure for holding inquiry.—(1) The Inquiry Committee, within three days of receipt of a written complaint, shall—

- (a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;
- (b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed *ex-parte*; and
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting ⁵[and, where applicable, apply appropriate child-sensitive procedures.]

(3) The following provisions *inter alia* shall be followed by the Committee in relation to inquiry:

- (a) the statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) an officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (c) both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;
- (d) adverse action shall not be taken against the complainant or the witnesses;
- (e) the Inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and

⁵ Subs. by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), s. 3

- (f) the Inquiry Committee shall give its findings in writing by recording reasons thereof.

(4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties ⁶[, as applicable]:

(i) Minor penalties:

- (a) censure;
- (b) withholding, for a specific period, promotion or increment;
- (c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and
- (d) recovery of the compensation payable to the complainant from pay or any other source of the accused;

(ii) Major penalties:

- (a) reduction to a lower post or time-scale, or to a lower stage in a time- scale;
- (b) compulsory retirement;
- (c) removal from service;
- (d) dismissal from service;⁶ [*]
- ⁶[(da) suspension or cancellation of a professional license; and]
- (e) Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.

(5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee.

(6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.

(7) In case the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee.—(1) The Inquiry Committee shall have power—

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any ⁷[documentary, audio or video evidence];

⁶ Ins. and Omission by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), s. 3

⁷ Subs. by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), ss. 2 and 4

- (c) to receive evidence on affidavits; and
- (d) to record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to ⁸[Ombudsperson] for appropriate action against the complainant if allegations leveled against the accused found to be false and made with *mala fide* intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

6. Appeal against minor and major penalties.— (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an ⁸[Ombudsperson] established under section 7.

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the ⁸[Ombudsperson].

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(4) Until such a time that the ⁸[Ombudsperson] is appointed the District Court shall have the jurisdiction to hear appeals against the decisions of Competent Authority and the provisions of sub-sections (1) to (3) shall *mutatis mutandis* apply.

(5) On the appointment of ⁸[Ombudsperson] all appeals pending before the District Court shall stand transferred to ⁸[Ombudsperson] who may proceed with the case from the stage at which it was pending immediately before such transfer.

7. ⁸[Ombudsperson].— (1) The respective Governments shall appoint an ⁸[Ombudsperson] at the Federal and Provincial levels.

(2) A person shall be qualified to be appointed as an ⁸[Ombudsperson] who has been a judge of High Court or qualified to be appointed as a judge of High Court. The ⁸[Ombudsperson] may recruit such staff as required to achieve the purposes of this Act and the finances will be provided by the respective Governments.

8. ⁸[Ombudsperson] to enquire into complaint.—(1) Any ⁸[complainant] shall have the option to prefer a complaint either to the ⁸[Ombudsperson] or the Inquiry Committee.

(2) The ⁸[Ombudsperson] shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused, after the receipt of written notice, shall submit written

⁸ Subs. and added by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022)

defense to the ⁹[Ombudsperson] within five days and his failure to do so without reasonable cause the ⁹[Ombudsperson] may precede *ex-parte*. Both the parties can represent themselves before the ⁹[Ombudsperson].

(3) The ⁹[Ombudsperson] shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the ⁹[Ombudsperson] deems proper.

(4) For the purposes of an investigation under this Act, the ⁹[Ombudsperson] may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the ⁹[Ombudsperson] is relevant and helpful in the conduct of the investigation.

(5) The ⁹[Ombudsperson] shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

⁹ [(6) The Ombudsperson shall decide a case or appeal, as the case may be, within a period of ninety days.]

9. Representation to President or Governor.— Any person aggrieved by a decision of ⁹[Ombudsperson] under sub-section (5) of section 8, may, within thirty days of decision, make a representation to the President or Governor as the case may be, who may pass such order thereon as he may deem fit ⁹[the President or the Governor, as the case may be, shall decide such representation within ninety days.]

10. Powers of the Error! Bookmark not defined.[Ombudsperson].— The ⁹[Ombudsperson] shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:—

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) compelling the production of evidence;
- (iii) receiving evidence on affidavits;
- (iv) issuing commission for the examination of witnesses;
- (v) entering any premises for the purpose of making any inspection or investigation, enter any premises where the ⁹[Ombudsperson] has a reason to believe that any information relevant to the case may be found; and
- (vi) the ⁹[Ombudsperson] shall have the same powers as the High Court has to punish any person for its contempt.

(2) ⁹[Ombudsperson] shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub-section (4) of section 4.

⁹ Subs. and Added. by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022)

11. Responsibility of employer.—(1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection against harassment at the workplace as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a Competent Authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the workplace within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file a petition before the District Court and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

12. Provisions of the Act in addition to and not in derogation of any other law.— The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13.- Power to make rules.— The Federal Government may make rules to carryout the purposes of this Act.

SCHEDULE
[See sections 2(c) and 11]

**CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN
AT THE WORKPLACE**

Whereas it is expedient to make the Code of Conduct at the workplace etc. to provide protection and safety to women against harassment it is hereby provided as under:-

- (i) the Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;

¹⁰ [(ii) “harassment” means.—

- (a) any unwelcome sexual advance, request for sexual favours, stalking or cyber stalking or other verbal, visual or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, including any gestures or expression conveying derogatory connotation causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment; or
- (b) discrimination on basis of gender, which may or may not be sexual in nature, but which may embody discriminatory and prejudicial mind-set or notion, resulting in discriminatory behavior on basis of gender against the complainant:

Provided that a single incident having the effect of making a person uncomfortable or creating a sense of fear or panic at the workplace is also harassment.]

Explanation.— There are three significant manifestations of harassment in the work environment:-

(a) **Abuse of authority**

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job, itself.

¹⁰ [(b) **Creating a hostile environment**

Any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature, which interferes with an individual’s work performance or creates an intimidating, hostile, abusive or offensive work environment; or any discrimination on basis of gender, which may or may not be sexual in nature, but which may embody a discriminatory and prejudicial mind-set or notion resulting in discriminatory behavior on basis of gender.

The typical “hostile environment” claim, in general, requires finding of a pattern

¹⁰ Subs. by Protection against Harassment of women at the Workplace (Amendment) Act, 2022 (V of 2022), s. 7

of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact or gender-based discrimination, a single offensive incident will constitute a violation.]

(c) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) an informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (iv) a complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (v) if the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) if the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (vii) a complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (viii) the complainant may make formal complaint through her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (ix) assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) the employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required:

- (xi) retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side.¹[Filing counter-blast suits for defamation etc. are also retaliation. The Ombudsperson or Inquiry Committee, as the case may be, should take notice of this in his or its proceedings.]
- (xii) the harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xiii) the Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc. but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

THE WEST PAKISTAN FAMILY COURTS ACT, 1964 (W. P. ACT NO. XXXV OF 1964)

CONTENTS

Section	Heading
1.	Short title, extent, Application and commencement
2.	Definitions
3.	Establishment of Family Courts
4.	Qualifications of Judges
5.	Jurisdiction
6.	Place of sitting
7.	Institution of suits
8.	Intimation of defendants
9.	Written statement
10.	Pre-trial proceedings
11.	Recording of evidence
12.	Conclusion of trial
13.	Enforcement of decrees
14.	Appeals
15.	Power of Family Court to summon witnesses
16.	Contempt of Family Courts
17.	Provisions of Evidence Act and Code of Civil Procedure not to apply
18.	Appearance through agents
19.	Court fees
20.	Investment powers of Magistrates or of Judges
21.	Provisions of Muslim Family Laws Ordinance 1961, not affected
22.	Bar on the issue of injunctions by Family Court
23.	Validity of marriages registered under the Muslim Family Laws Ordinance, 1961, not to be questioned by Family Courts
24.	Family Courts to inform Union councils of cases not registered under the Muslim Family Laws Ordinance, 1961
25.	Family Court deemed to be a District Court for purposes of Guardians and Wards Act, 1890
25-A.	Transfer of cases
25-B.	Stay of proceedings by the High Court and District Courts
26.	Power to make rules
SCHEDULE	

1THE WEST PAKISTAN FAMILY COURTS ACT, 1964

(W.P. Act XXXV of 1964)

[18th July, 1964]

An Act to make provision for the establishment of Family Courts.

WHEREAS it is expedient to make provision for the establishment of Family Courts for the expeditious settlement and disposal of disputes relating to marriage and family affairs and for matters connected therewith;

It is hereby enacted as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the ²[* * *] Family Courts Act, 1964.

(2) It shall extend to whole of the ³[Pakistan].

(3) It shall come into force in such area or areas and on such date or dates as Government may, by notification in the official Gazette, specify in this behalf.

⁴(4) Nothing in this Act shall apply to any suit or any application under the Guardians and Wards Act, 1890, pending for trial or hearing in any Court immediately before the coming into force of this Act, and all such suits and applications shall be heard and disposed of as if this Act was not in force.

(5) Any suit, or any application under the Guardians and Wards Act, 1890, which was pending for trial or hearing in any Court immediately before the coming into force of this Act, and which has been dismissed solely on the ground that such suit or application is to be tried by a Family Court established under this Act, shall, notwithstanding anything to the contrary contained in any law, on petition made to it in that behalf by any party to the suit or application, be tried and heard by such Court from the stage at which such suit or application had reached at the time of its dismissal.]

2. Definitions.— ⁵[(1)] In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a) “Arbitration Council” and “Chairman” shall have the meanings respectively assigned to them in the Muslim Family Laws Ordinance, 1961;
- (b) “Family Court” means a Court constituted under this Act;
- (c) “Government” means ⁶[the Provincial Government];
- (d) “party” shall include any person whose presence as such is considered

¹ For statement of objects and reasons see Gazette of West Pakistan (Extraordinary), dated 6th April, 1964, pages 1153-P to 1155-W. This Act was passed by the West Pakistan Assembly on 30th June, 1964; assented to by the Governor of West Pakistan on 14th July, 1964; and, published in the West Pakistan Gazette (Extraordinary), dated 18th July, 1964, pages 2427-34.

² Omitted by Act No. X of 1996, s.2

³ Subs. by P.O. 4 of 1975, for “the Province of West Pakistan except the Tribal Areas”.

⁴ Added by W.P. ord. X of 1966

⁵ Section 2 re-numbered as sub-section (1) of that section and a new sub-section (2) added by W.P.Ord. X of 1966

⁶ Subs. by P.O.4 of 1975, for “the Government of West Pakistan”.

necessary for a proper decision of the dispute and whom the Family Court adds as a party to such dispute;

(e) “prescribed” means prescribed by rules made under this Act.

⁷ [(2) Words and expressions used in this Act but not herein defined, shall have the meanings respectively assigned to them in the Code of Civil Procedure, 1908.]

⁸ **[3. Establishment of Family Courts.—** (1) Government shall establish one or more Family Courts in each District or at such other place or places as it may deem necessary and appoint a Judge for each of such Court:

Provided that at least one Family Court in each District, shall be presided over by a woman Judge to be appointed within a period of six months or within such period as the Federal Government may, on the request of Provincial Government, extend:

(2) A woman Judge may be appointed for more than one District and in such cases the woman Judge may sit for the disposal of cases at such place or places in either District, as the Provincial Government may specify.

(3) Government shall, in consultation with the High Court, appoint as many woman Judges as may be necessary for the purposes of sub-section (1).]

⁹ **[4. Qualifications of Judge.—**No person shall be appointed as a Judge of a Family Court unless he is or has been ⁸[or is qualified to be appointed as] a District Judge, an Additional District Judge, ¹⁰[a Civil Judge or a Qazi appointed under the Dastur-ul-Amal Diwani, Riasat Kalat].

5. Jurisdiction.— ¹¹[1] Subject to the provisions of the Muslim Family Laws Ordinance, 1961, and the Conciliation Courts Ordinance, 1961, the Family Courts shall have exclusive jurisdiction to entertain, hear and adjudicate upon matters specified in ¹¹[Part I of the Schedule].

¹² [(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Family Court shall have jurisdiction to try the offences specified in Part II of the Schedule, where one of the spouses is victim of an offence committed by the other.

(3) The High Court may with the approval of the Government, amend the Schedule so as to alter, delete or add any entry thereto.]

6. Place of sittings.—Subject to any general or special orders of Government in this behalf a Family Court shall hold its sittings at such place or places within ¹³[the District or area for which it is established] as may be specified by the District Judge.

7. Institution of suits.— (1) Every suit before a Family Court shall be instituted by the presentation of a plaint or in such other manner and in such Court as may be prescribed.

⁷ Section 2 re-numbered as sub-section (1) of that section and a new sub-section (2) added by W.P.Ord. X of 1966

⁸ Subs. and ins. by Act XXI of 1994,ss. 2& 3.

⁹ Subs. by W.P. ord. X of 1966.

¹⁰ Subs. by W.P.Act I of 1969, for “ a Civil Judge”

¹¹ Renumbered and subs. by Ord.55 of 02,s.2

¹² Added by Ord. 55 of 02,s.2

¹³ Subs. By W.P. Ord. X of 1966, for “the Districts”

(2) The plaint shall contain all ¹⁴[material] facts relating to the dispute and shall contain a Schedule giving the number of witnesses intended to be produced in support of the plaint, the names and addresses of the witnesses and brief summary of the facts to which they would depose:

¹⁵ [Provided that a plaint for dissolution of marriage may contain all claims relating to dowry, maintenance, dower, personal property and belongings of wife, custody of children and visitation rights of parents to meet their children.]

Provided ¹⁵[further] that parties may, with the permission of the Court, call any witness at any later stage, if the Court considers such evidence expedient in the interest of justice.

¹⁶ [(3)(i) Where a plaintiff sues or relies upon a document in his possession or power, he shall produce it in court when the plaint is presented, and shall at the same time, deliver the document or a copy thereof to be filed with the plaint.

(ii) Where he relies on any other document not in his possession or power, as evidence in support of his claim, he shall enter such documents in a list to be appended to the plaint ²[giving reasons of relevancy of these documents to the claim in the plaint.]

(4) The plaint shall be accompanied by as many duplicate copies thereof including the Schedule and the lists of documents referred to in sub-section (3), as there are defendants in the suit, for service upon the defendants.

[8. Intimation to defendants.—(1) When a plaint is presented to a Family Court, it—

(a) ¹⁷ [shall]fix a date ¹⁷[* * *] of not more than thirty days for the appearance of the defendant;

(b) shall issue summons to the defendant to appear on a date specified therein;

¹⁸ [(c) shall, within three days of the presentation of the plaint, send to each defendant, by registered post, acknowledgment due, ¹⁷[or by courier service or by both] a notice of the suit, together with a copy of the plaint, a copy of the Schedule referred to in sub-section (2) of section 7 and copies of the documents and a list of documents referred to in sub-section (3) of the said section].

(2) Every summons issued under clause (b) of sub-section (1) shall be accompanied by a copy of the plaint, a copy of the Schedule referred to in sub-section (2) of section 7, and copies of the documents and list of documents referred to in sub-section (3) of the said section.

(3) [Deleted by Pb. Ord. XXIV of XXIV of 1971].

(4) Service of the plaint and its accompaniments in the manner provided in clause (b) or clause (c) of sub-section (1) shall be deemed to be due service of the plaint upon the defendant.

14 Ins. by Ord. X of 1966

15 Ins, added and subs. by Ord.55 of 02,ss. 3-4

16 Subs. by W.P. Act I of 1969.

17 Ins, added and subs. by Ord.55 of 02,ss. 3-4

18 Subs. by Pb Ord. XXIV of 1971.

(5) Every notice and its accompaniments under clause (c) of sub-section (1) shall be served at the expense of the plaintiff. The postal charges for such service shall be deposited by the plaintiff at the time of filing the plaint.

(6) Summons issued under clause (b) of sub-section (1) shall be served in the manner provided in the Code of Civil Procedure, 1908, Order V, Rules 9, 10, 11, 16, 17, 18, 19, ¹⁹[20,] 21, 23, 24, 26, 27, 28 and 29. The cost of such summons shall be assessed and paid as for summons issued under the Code of Civil Procedure, 1908.

Explanation— [Deleted by Pb. Ord. XXIV of 1971.]

²⁰**[9. Written statement.]—** (1) On the date fixed under clause (a) of sub-section (1) of section 8, the plaintiff and the defendant shall appear before the Family Court and the defendant shall file his written statement, and attach therewith a list of his witnesses along with a precis of the evidence that each witness is expected to give.

²¹ [(1a) A defendant husband may, where no earlier suit for restitution of conjugal rights is pending, claim for a decree of restitution of conjugal rights in his written statement to a suit for dissolution of marriage or maintenance, which shall be deemed as a plaint and no separate suit shall lie for it.

(1b) A defendant wife may, in the written statement to a suit for restitution of conjugal rights, make a claim for dissolution of marriage including khula which shall be deemed as a plaint and no separate suit shall lie for it:

Provided that the proviso to sub-section (4) of Section 10 shall apply where the decree for dissolution of marriage is to be passed on the ground of *khula*.]

(2) Where a defendant relies upon a document in his possession or power, he shall produce it or copy thereof in the Court along with the written statement.

(3) Where he relies on any other document, not in his possession or power, as evidence in support of his written statement, he shall enter such documents in a list to be appended to the written statement ³[giving reasons of relevancy of these documents to the defence in the written statement].

(4) Copies of the written statement, list of witnesses and precis of evidence referred to in sub-section (1) and the documents referred to in sub-section (2) shall be given to the plaintiff, his agent or advocate present in the Court.

(5) If the defendant fails to appear on the date fixed by the Family Court for his appearance, then—

- (a) if it is proved that the summons or notice was duly served on the defendant, the Family Court may proceed *ex parte*; provided that where the Family Court has adjourned the hearing of the suit *ex parte*, and defendant at or before such hearing appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Family

¹⁹ Ins. and subs. by Ord. 55 of 02, ss. 4-5.

²⁰ Subs. by Act I of 1969.

²¹ Ins. and subs. by Ord. 55 of 02, ss. 4-5

Court directs, be heard in answer to the suit as if he had appeared on the day fixed for his appearance; and

- (b) if it is not proved that the defendant was duly served as provided in sub-section (4) of section 8, the Family Court shall issue fresh summons and notices to the defendant and cause the same to be served in the manner provided in clauses (b) and (c) of sub-section (1) of section 8.

(6) In any case in which a decree is passed *ex parte* against a defendant under this Act, he may apply within ²²[thirty days of the service of notice under sub-section(7) of the passing of the decree] to the Family Court by which the decree was passed for an order to set it aside, and if he satisfies the Family Court that he was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was heard or called for hearing, the Family Court shall, after service of notice on the plaintiff, and on such terms as to costs as it deems fit, make an order for setting aside the decree as against him, and shall appoint a day for proceeding with the suit; provided that where the decree is of such a nature that it cannot be set aside as against such defendant only, it may be set aside against all or any of the other defendants also.]

²²[(7) The notice of passing of the *ex-parte* decree referred to in sub-section (6) shall be sent to the defendant by the Family Court together with a certified copy of the decree within three days of the passing of the decree, through process server or by registered post, acknowledgement due, or through courier service or any other mode or manner as it may deem fit.

(8) Service of notice and its accompaniment in the manner provided in sub-section (7) shall be deemed to be due service of the notice and decree on the defendant.]

10. Pre-trial proceedings.—²³[(1) When the written statement is filed, the Court shall fix an early date for a pre-trial hearing of the case.]

(2) On the date so fixed, the Court shall examine the plaint, the written statement (if any) and the precis of evidence and documents filed by the parties and shall also, if it so deems fit, hear the parties and their counsel.

(3) At the pre-trial, the Court shall ascertain the points at issue between the parties and attempt to effect a compromise or reconciliation between the parties, if this be possible.

(4) If no compromise or reconciliation is possible the Court shall frame the issues in the case and fix a date for ²⁴[recording] of evidence [:]²⁵

²⁵[Provided that notwithstanding any decision or judgement of any court or tribunal, the Family Court in a suit for dissolution of marriage, if reconciliation fails, shall pass decree for dissolution of marriage forthwith and shall also restore to the husband the Haq Mehr received by the wife in consideration of marriage at the time of marriage.]

11. Recording of evidence.—(1) On the date fixed for ²⁶[recording of the evidence]

²² Subs and added by Ord.55 of 02,s.5.

²³ Subs. by W.P. Act I of 1969.

²⁴ Subs. by W.P. Act.I of 1969, for “the hearing of”

²⁵ Subs and added by Ord. 55 of 02,ss. 6.

²⁶ Subs. by W.P. Act I of 1969, for “the hearing of the evidence”.

the Family Court shall examine the witnesses produced by the parties in such order as it deems fit.

(2) The Court shall not issue any summons for the appearance of any witness unless, within three days of the framing of issues, any party intimates the Court that it desires a witness to be summoned through the Court and the Court is satisfied that it is not possible or practicable for such party to produce the witness.

27 [(3) The witnesses shall give their evidence in their own words:

Provided that the parties or their counsel may further examine, cross-examine or re-examine the witnesses:

Provided further that the Family Court may forbid any question which it regards as indecent, scandalous or frivolous or which appears to it to be intended to insult or annoy or needlessly offensive in form.]

28 [(3A) The Family Court may, if it so deems fit, put any question to any witness for the purposes of elucidation of any point which it considers material in the case.]

(4) The Family Court may permit the evidence of any witness to be given by means of an affidavit:

Provided that if the Court deems fit it may call such witness for the purpose of examination in accordance with sub-section (3).

12. Conclusion of trial.— (1) After the close of evidence of both sides, the Family Court shall make another effort to effect a compromise or reconciliation between the parties 29[within a period not exceeding fifteen days].

(2) If such compromise or reconciliation is not possible, the Family Court shall announce its judgement and give a decree.

30 [12A. **Cases to be disposed of within a specified period.**— A Family Court shall dispose of a case, including a suit for dissolution of marriage, within a period of six months from the date of institution:

Provided that where a case is not disposed of within six months either party shall have a right to make an application to the High Court for necessary direction as the High Court may deem fit.]

13. Enforcement of decrees.— (1) The Family Court shall pass a decree in such form and in such manner as may be prescribed, and shall enter its particulars in the prescribed register.

(2) If any money is paid or any property is delivered in the presence of the Family Court, in satisfaction of the decree, it shall enter the fact of payment ³¹[or] the delivery of property, as

27 Subs. by W.P. Act I of 1969

28 Add. Ibid.

29 Subs by Ord. 55 of 02, s.7

30 Subs. and ins. by Ord. 55 of 02, ss.8-9

31 Subs., for the word “and”, by W.P. Ord.X of 1966

the case may be, in the aforesaid register.

(3) Where a decree relates to the payment of money and the decretal amount is not paid within time specified by the Court ³²[not exceeding thirty days], the same shall, if the Court so directs be recovered as arrears of land revenue, and on recovery shall be paid to the decree-holder.

(4) The decree shall be executed by the Court, passing it or by such other Civil Court as the District Judge may, by special or general order, direct.

(5) A Family Court may, if it so deems fit, direct that any money to be paid under a decree passed by it be paid in such installments as it deems fit.

14. Appeals.—³³(1) Notwithstanding anything provided in any other law for the time being in force, a decision given or a decree passed by a Family Court shall be appealable—

(a) to the High Court, where the Family Court is presided over by a District Judge, an Additional District Judge or a person notified by Government to be of the rank and status of a District Judge or an Additional District Judge; and

(b) to the District Court, in any other case.]

(2) No appeal shall lie from a decree passed by Family Court—

(a) for dissolution of marriage, except in the case of dissolution for reasons specified in clause (a) of item (viii) of section 2 of the Dissolution of Muslim Marriages Act, 1939;

(b) for dower ³⁴[or dowry] not exceeding rupees ³⁴[thirty thousand];

(c) for maintenance of rupees ³⁴[one thousand] or less per month.

³⁴ [(3) No appeal or revision shall lie against an interim order passed by a Family Court.

(4) The appellate Court referred to in sub-section (1) shall dispose of the appeal within a period of four months.]

15. Power of Family Court to summon witnesses.— (1) A Family Court may issue summons to any person to appear and give evidence, or to produce or cause the production of any document:

Provided that —

(a) no person who is exempt from personal appearance in a Court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person;

(b) a Family Court may refuse to summon a witness or to enforce a summons

³² added by Ord. 55 of 02, s.7

³³ Subs. by W.P. Ord.X of 1966

³⁴ Ins., subs., and added by Ord. 55 of 02, ss. 10-11.

already issued against a witness when, in the opinion of the Court, the attendance of the witness cannot be procured without such delay, expense or inconvenience as in the circumstances would be unreasonable.

(2) If any person to whom a Family Court has issued summons to appear and give evidence or to cause the production of any document before it, wilfully disobeys such summons, the Family Court may take cognizance of such disobedience, and after giving such opportunity to explain, sentence him to a fine not exceeding one ²[thousand] rupees.

16. Contempt of Family Courts.— A person shall be guilty of contempt of the Family Court if he without lawful excuse—

- (a) offers any insult to the Family Court; or
- (b) causes an interruption in the work of the Family Court; or
- ³⁵ [(bb) misbehaves with any person in the Court premises or uses abusive language; threats or uses physical force or intimidates in any form; or]
- (c) refuses to answer any question put by the Family Court, which he is bound to answer; or
- (d) refuses to take oath to state the truth or to sign any statement made by him in the Family Court;

and the Family Court may forthwith try such persons for such contempt and sentence him to a fine not exceeding rupees ³⁵[two thousand].

17. Provisions of Evidence Act and Code of Civil Procedure not to apply.— (1) Save as otherwise expressly provided by or under this Act, the provisions of the ³⁵[Qanun-e-Shahdat, 1984 (P.O. No. 10 of 1984)], and the Code of Civil Procedure, 1908, ³⁶[except sections 10 and 11,] shall not apply to proceedings before any Family Court ³⁵[in respect of Part 1 of Schedule].

(2) Sections 8 to 11 of the Oaths Act, 1872, shall apply to all proceedings before the Family Courts.

37 [17A. Interim order for maintenance.— At any stage of proceedings in a suit for maintenance, the Family court may pass an interim order for maintenance, whereunder the payment shall be made by the fourteenth of each month, failing which the Court may strike off the defence of the defendant and decree the suit.

17B. Power of the Court to issue Commission.— Subject to such conditions and limitations as may be prescribed, the Court may issue a Commission to,—

- (a) examine any person;
- (b) make a local investigation; and
- (c) inspect any property or document.]

³⁵ Ins., subs., and added by Ord. 55 of 02, ss. 12-13.

³⁶ Ins. by W.P. Ord. XV of 1967.

³⁷ Ins. and subs. by Ord. 55 of 02, ss.14-17

18. Appearance through agents.— If a person required under this Act to appear before a Family Court, otherwise than as a witness, is a *pardah nashin* lady, the Family Court may permit her to be represented by a duly authorised agent.

³⁸**[19. Court fee.**— Notwithstanding anything contained in the Court Fees Act, 1870 (VII of 1870), the Court fee to be paid on any plaint or memorandum of appeal shall be rupees fifteen for any kind of suit or appeal under this Act.

20. Family Court to exercise the powers of the Judicial Magistrate.— A Family Court shall have and exercise all the powers of a Judicial Magistrate of the First Class under the Code of Criminal Procedure, 1898 (Act V of 1898).]

³⁹**[21. Provisions of Muslim Family Laws Ordinance, 1961 not affected.**—Nothing in this Act shall be deemed to affect any of the provisions of Muslims Family Laws Ordinance, 1961, or the rules made thereunder.

⁴⁰ **[21A. Interim order pending suit.**— The Family Court may pass an interim order to preserve and protect any property in dispute in a suit and any other property of a party to the suit, the preservation of which is considered necessary for satisfaction of the decree, if and when passed.]

22. Bar on the issue of injunctions by Family Court.— A Family Court shall not have the power to issue an injunction to, or stay any proceedings pending before, a Chairman or an Arbitration Council.

23. Validity of marriages registered under the Muslim Family Laws Ordinance, 1961, not to be questioned by Family Courts.— A Family Court shall not question the validity of any marriage registered in accordance with the provisions of the Muslim Family Laws Ordinance, 1961, nor shall any evidence in regard thereto be admissible before such Court.

24. Family Courts to inform Union Councils of cases not registered under the Muslim Family Laws Ordinance, 1961.— If in any proceedings before a Family Court it is brought to the notice of the Court that a marriage solemnized under the Muslim Law after the coming into force of the Muslim Family Laws Ordinance, 1961, has not been registered in accordance with the provisions of the said Ordinance and the rules framed thereunder, the Court shall communicate such fact in writing to the Union Council for the area where the marriage was solemnized.

25. Family Court deemed to be a District Court for purposes of Guardians and Wards Act, 1890.—A Family Court shall be deemed to be a District Court for the purposes of the Guardians and Wards Act, 1890, and notwithstanding anything contained in this Act, shall, in dealing with matters specified in that Act, follow the procedure prescribed in that Act.

⁴¹ **[25-A. Transfer of cases.**—(1) Notwithstanding anything contained in any law the High Court may, either on the application of any party or of its own accord, by an order in writing—

38 Ins. and subs. by Ord. 55 of 02, ss.14-17

39 Subs. by W.P. Family Courts (Punjab amdt.) Ord. XXIV of 1971

40 Ins. by Ord. 55 of 2002, s.17

41 Add. By Pb Ord. XXIV of 1971

- (a) transfer any suit or proceeding under this Act from one Family Court to another Family Court in the same district or from a Family Court of one district to a Family Court of another district; and
- (b) transfer any appeal or proceeding under this Act, from the District Court of one district to the District Court of another district.

(2) A District Court may, either on the application of any party or of its own accord, by an order in writing, transfer any suit or proceeding under this Act from one Family Court to another Family Court in a district or to itself and dispose it of as a Family Court.

42 [(2a) Where a Family Court remains vacant or the presiding officer remains on leave or absent for any reason, except due to vacations, for more than thirty days, a District Court may, either on the application of any party or of its own accord, by order in writing, transfer any suit or proceeding from such Family Court to another Family Court in a District or to itself and dispose it of as a Family Court.

(2b) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the Supreme Court may at any stage transfer any suit, appeal or other proceedings under this Act pending before a Court in one Province to a Court in another Province, competent to try or dispose of the same.]

(3) Any Court to which a suit, appeal or proceeding is transferred under the preceding sub-sections, shall, notwithstanding anything contained in this Act, have the jurisdiction to dispose it of in the manner as if it were instituted or filed before it:

Provided that on the transfer of a suit, it shall not be necessary to commence the proceedings before the succeeding Judge *de novo* unless the Judge, for reasons to be recorded in writing directs otherwise.

25-B. Stay of proceedings by the High Court and District Courts.— Any suit, appeal or proceeding under this Act, may be stayed—

- (a) by the District Court, if the suit or proceeding is pending before a Family Court within its jurisdiction; and
- (b) by the High Court, in the case of any suit, appeal or proceeding. [:]43

43[Provided that the stay application shall be finally decided by the District Court or the High Court, as the case may be, within thirty days failing which the interim stay order shall cease to be operative.]

26. Power to make rules.— (1) Government may, by notification in the official Gazette, make rules to carry into effect the provisions of this Act.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the rules so made may, among other matters, provide for the procedure, which shall not be inconsistent with the provisions of this Act, to be followed by the Family Courts.

42 Ins., by Ord. 55 of 2002, s.18.

43 Subs. and added by Ord. 55 of 02, s. 19.

SCHEDULE

[see section 5]

⁴⁴ **[PART I]**

1. Dissolution of marriage ¹[including Khula].
2. Dower.
3. Maintenance.
4. Restitution of conjugal rights.
5. Custody of children ¹[, and the visitation rights of parents to meet them].
6. Guardianship.
- ⁴⁵ [7. Jactitation of marriage.]
- ⁴⁶ [8. Dowry.]
- ⁴⁴[9. Personal property and belongings of a wife.]

PART II

Offences and aid and abetment thereof under Section 337A (i), 337F (i), 341, 342, 343, 344, 345, 346, 352 and 509 of the Pakistan Penal Code (Act XLV of 1860)]

⁴⁴ Ins. and added by Ord. 55 of 02, s.20.

⁴⁵ Add. by W.P. Act I of 1969

⁴⁶ Added by Act VII of 1997, s.2

The West Pakistan Family Courts Rules, 1965

No. Intg. 10-31/64 (ii)- In exercise of the powers conferred by section 26 of the West Pakistan Family Courts Act, 1964 (Act No. XXXV of 1964), the Governor of West Pakistan is pleased to make the following rules, namely:-

1. These rules may be called the West Pakistan Family Courts Rules, 1965.
2. In these rules, unless there is anything repugnant in the subject or context,—
 - (a) Act means the West Pakistan Family Court established under the Act (XXXV of 1964;
 - (b) Court⁴⁷ means the family court established under the Act, XXXV of 1964;
 - (c) form means a form appended to these rules,
 - (d) section means a section of the Act; and
 - (e) suit includes an application for the custody of children or guardianship under the Guardians and Ward Act, 1890.
3. The court of the District Judge, the Additional District Judge, the Civil Judge, the President of the Majlis-e-Shoora, Kalat and the Qazi appointed under the Dastur-ul- Amal Diwani, Riasat Kalat, shall be the Family Courts for purposes of the Act.
4. (1) A plaint under sub-section (1) of section 7 shall be in writing, signed and verified by the plaintiff and shall be presented to the Court having jurisdiction under rule 5 of these Rules by the plaintiff or through a counsel, and where the plaintiff is a female, by her agent.
 - (2) The plaint under sub-rule (1) shall also contain the following particulars:-
 - (a) name of the Court in which the suit is brought and the facts showing that it has jurisdiction;
 - (b) the name, description and place of residence of the residence of the plaintiff;
 - (c) the name, description and place of residence of the defendant so far as can be ascertained;
 - (d) where the plaintiff or the defendant is a minor or a person of unsound mind a statement to that effect;
 - (e) the facts constituting the cause of action and the place where and date when it arose; and
 - (f) the nature of the claim and valuation of the claim with particulars in brief and the relief claimed.

5. Where a plaint is presented to a court not having jurisdiction—
- (a) the plaint shall be returned to be presented to the Court to which it should have been presented;
 - (b) the Court returning the plaint shall endorse thereon the date of its presentation to it and its return, the name of the party presenting it, and a brief statement of the reasons thereof.
6. The Court shall have jurisdiction to try a suit will be that within the local limits of which—
- (a) the cause of action wholly or in part has arisen, or
 - (b) where the parties reside or last resided together:

Provided that in suits for dissolution of marriage or dower, the Court within the local limits of which the wife ordinarily resides shall also have jurisdiction.

7. (1) Suits triable under the Act shall be instituted in and be heard and tried by the Court of the Civil Judge having jurisdiction as provided in rule 6, and where in any District there is no such Court, such shall be instituted in, and tried by the Court of the District Judge or the Additional District Judge.

(2) Notwithstanding anything contained in sub-rule (1), the Court of the District Judge may send for the record and proceedings of any suit pending for trial in any court in the District and hear and try the suit itself or refer it for trial to any other Court within the District, and thereupon the Court of District Judge or the court to which such suit is so transferred, as the case may be, shall have jurisdiction to hear and try the suit.

8. The Court of the District Judge may, for reasons to be recorded in writing, stay the proceedings of any suit pending in the court of the Senior Civil Judge, Civil Judge, First Class or Civil Judge, First Class (Additional).

9. On transfer of a case from one court to another it shall be not be necessary to commence the proceedings before the succeeding Judge de novo unless the Judge, for reasons to be recorded in writing directs otherwise.

10. (1) The Court may, where it deems fit, direct that the whole or any part of the proceedings under the Act be held in camera.

(2) Where both the parties to the suit request the Court to hold the proceedings in camera, the Court shall do so.

10-A. (1) The evidence of each witness shall be taken down in writing, in the language of the Court by the Presiding Officer of the Court, or in his presence and hearing and under his personal direction and superintendence and shall be signed by the presiding officer of the Court.

(2) When the evidence of a witness is given in English, the presiding officer of the Court may take it down in that language with his own hand and unless the parties request the Court otherwise, and authenticated translation of such evidence in the language of the Court shall form part of the record.

(3) When the evidence of a witness is given in any other language, not being English, or the language of the Court, the presiding officer of the Court may take it down in that language with his own hand, or cause it to be taken down in that language in his presence and hearing and under his personal direction and superintendence, and an authenticated translation of such evidence in the language of the Court or in English shall form part of the record.

(4) In cases in which the evidence is not taken down in writing by the presiding officer of the Court, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by the presiding officer of the Court with his own hand, and shall form part of the record.

(5) As the evidence of each witness taken down is completed, it shall be read over to him, and shall, if necessary, be corrected.

(6) If the witness denies the correctness of any part of evidence when the same is read over to him, the presiding officer of the Court may, instead of correcting the evidence, make a memorandum thereon of the objections made to it by the witness, and shall add such remarks as he thinks necessary.

(7) If the evidence is taken down in a language different from that in which it has been given and the witness does not understand the language in which it is taken down, the evidence so taken down shall be interpreted to him in the language in which it was given, or in a language which he understands.

(8) When the Court has recorded the evidence of a witness, it shall also record such remarks (if necessary) as it thinks material respecting the demeanour of such witness whilst under examination.]

11. Where the parties agree to a compromise or conciliation effected between them under subsection (3) of section 10 or subsection (1) of section 12, the Court shall pass a decree or give decision in the suit in terms of the compromise or conciliation agreed to between the parties, as the case may be. .

12. (1) Where the plaintiff or his pleader, makes default in appearing before the Court, the suit may be dismissed in default.

(2) The Court may restore a suit dismissed in default on sufficient cause shown, on application made to it within thirty days of the dismissal in default.

13. Ex parte decree or proceedings may, for sufficient cause shown, be set aside by the Court on application made to it within thirty days of the passing of the decree or decision.

14. (1) Every judgment or order shall be written by the presiding Judge or from the dictation of such Judge in the language of the Court, or in English and shall be dated and signed by the Judge in open Court at the time of pronouncing it.

(2) Judgments and orders which are appealable shall contain the point or points for determination, the decision thereon and the reasons in brief for the decision.

REGISTERS OF CASES, DECREES, ORDERS, ETC.

15. When a plaint has been filed, its particulars shall be entered in a register to be kept in the form prescribed for Civil Suits under the Code of Civil Procedure, 1908.

16. In every suit, on passing the judgment, a decree shall be drawn up in Form I and shall be signed by the presiding Judge. The decree shall bear the seal of the Court.

17. The Court shall maintain a register of decrees and orders in the form prescribed for decrees and orders under the Code of Civil Procedure, 1908.

18. Whenever any fine is paid under section 15 or section 16 or money or property is deposited with or realized by the Court under the Act or these rules, a receipt shall be given in Form II which shall be serially numbered and the counterfoil thereof shall be kept in the Court.

19. All fines, monies, or property deposited or realized and disbursed by the Court shall be entered in a register in Form III.

20. Where the Court receives any amount payable to a party it shall cause a notice thereof to be served on the party entitled to receive it and shall pay it to the party concerned within four days, so far as may be of his applying therefor.

21. The records of the Court; including its registers, shall be preserved for such period as is provided under the rules of the High Court applicable to Civil Courts.

APPEALS

22. (1) An appeal under section 14 against the decree or decision passed by the Court shall be preferred to the High Court within thirty days of the passing of the decree or decision, excluding the time requisite for obtaining copies thereof; Provided that the High Court may, for sufficient cause, extend the said period.]

(2) The appeal shall be in writing, shall set out the grounds on which the appellant seeks to challenge the decree or decision, shall contain the names, description and addresses of the parties, and shall bear the signature of the appellant or his counsel.

(3) A certified copy of the decree and decision of the Court where a decree is passed, and a copy of the decision where only an order is passed shall be attached with the appeal.

(4) Any order passed by the High Court on appeal shall, as soon as may be, be communicated to the Court concerned and the Court shall modify or amend the decree or decision accordingly and shall also make necessary entries to that effect in the appropriate column of the register of decrees.]

RECORDS AND THEIR INSPECTION

23. (1) The Court shall, on the application of any party to a dispute, allow inspection of the records of the Court relating to the dispute on payment of a fee of fifty paise.

(2) On the application of any party to a suit, certified copies of the decree or decision or other proceedings or entry in any register maintained under these rules or of any portion thereof shall be supplied on payment of a fee calculated at the rate of 25 paisa for two hundred words or part thereof.

24.- (1) There shall be kept in the office of every Court a seal of the Court which shall be circular in shape and shall have thereon the inscription 'Family Court' and the name of the District.

(2) The seal of the Court shall be used on all summonses, orders, decrees, copies and other documents issued under the Act or these rules.

FORM I**(See Rule 16)**
Form of Decree

In the Family Court ----- 1. Case No. -----

2. -----Petitioner/Plaintiff
Versus -----Defendant/Respondent
3. Claim for-----This suit coming this day for final disposal before this
Family Court, it is hereby ordered that-----
Date----- Seal of Court.

FORM II**(See Rule 18)**

1. Name of the Family Court-----
2. Name of the payer----- 3. Amount of fine, money or
property paid ----- 4. Particulars of the case and purpose of payment-----
---- 5. Date of payment-----
(Steal)----- Signature of the Judge Family Court-----

FORM III**(See Rule 16)****Register of Receipts and Disbursement****FAMILY COURT OF-----**

1. Serial No.
2. Name and address of the payer.
3. Amount or property paid, realized or deposited.
4. Particulars of the case.
5. Date of receipt.
6. No. of receipt in Form II.
7. Signature of the Judge, Family Court.
8. Date of disbursement with the name of the person to whom the money or property is paid or delivered.
9. REMARKS.

THE MUSLIM FAMILY LAWS ORDINANCE, 1961

CONTENTS

Section	Heading
1.	Short title, extent, Application and commencement
2.	Definitions
3.	Ordinance to override other laws etc
4.	Succession
5.	Registration of marriages
6.	Polygamy
7.	Talaq
8.	Dissolution of marriage otherwise than by talaq
9.	Maintenance
10.	Dower
11.	Power to make rule
12.	Omitted
13.	Omitted

THE MUSLIM FAMILY LAWS ORDINANCE, 1961
ORDINANCE NO. VIII OF 1961

[2nd March, 1961]

An Ordinance to give effect to certain recommendations of the Commission on Marriage and Family Laws

WHEREAS it is expedient to give effect to certain recommendations of the Commission on Marriage and Family Laws;

Now, **THEREFORE**, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

1. Short title, extent, application and commencement.—(1) This Ordinance may be called the Muslim Family Laws Ordinance, 1961.

(2) It extends to the whole of Pakistan, and applies to all Muslim citizens of Pakistan, wherever they may be.

(3) It shall come into force on such date ¹as the ²[Federal Government] may, by notification in the official Gazette, appoint in this behalf.

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

(a) “Arbitration Council” means a body consisting of the Chairman ³[* * * *] and a representative of each of the parties to a matter dealt with in this Ordinance ⁴[:]

⁵ [Provided that where any party fails to nominate a representative within the prescribed time, the body formed without such representative shall be the Arbitration Council;]

⁶[(b) ‘Chairman’ means the Chairman of the Union Council or a person appointed by the ⁷[²[Federal Government] in the Cantonment areas, or by the Provincial Government in other areas,] or by an officer authorized in that behalf by any such Government, to discharge the functions of Chairman under this Ordinance:

Provided that where the Chairman of the Union Council is a non-Muslim, or he himself wishes to make an application to the Arbitration Council, or is, owing to illness or any other reason, unable to discharge the functions of Chairman, the Council shall elect one of its Muslim members as Chairman for the purposes of this Ordinance;]

¹ The 15th day of July, 1961, see Gaz. of P., S.R.O. 56 (R), 1961, Ext., p. 1128.a.

² Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government”.

³ The words “of the Union Council” omitted by the Muslim Family Laws (Amdt.) Ordinance, 1961 (XXI of 1961), s. 2.

⁴ Subs., ibid, for semi-colon.

⁵ Proviso added, ibid.

⁶ Subs. ibid, for the original clause (b).

⁷ Subs. by A.O., 1964, Art. 2 and Sch., for “Central or a Provincial Government”.

- (c) “Prescribed” means prescribed by rules made under section 11;
- (d) “Union Council” means the Union Council or the Town or Union Committee constituted under the Basic Democracies Order, 1959, and ⁸[having in the matter jurisdiction as prescribed];
- (e) “Ward” means a ward within a Union or Town as defined in the aforesaid Order.

3. Ordinance to override other laws, etc.— (1) The provisions of this Ordinance shall have effect notwithstanding any law, custom or usage, and the registration of Muslim marriages shall take place only in accordance with those provisions.

(2) For the removal of doubt, it is hereby declared that the provisions of the Arbitration Act, 1940 (X of 1940), the Code of Civil Procedure 1908 (Act V of 1908), and any other law regulating the procedure of courts shall not apply to any Arbitration Council.

4. Succession.—⁹ [(1)] In the event of the death of any son or daughter of the *propositus* before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall *per stripes* receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive.

¹⁰[(2) If a Muslim male from *Ahl-e-Teshih* dies, the share of a widow in the immovable property left behind by her deceased husband shall be as follows:-

- (a) one-fourth share of the fixed price or value of the property, if there is no child left behind the deceased husband; and
- (b) one-eighth share, if there is child left behind.

(2) If there are two or more widows, the share, as mentioned in sub-section (2), shall be divided equally among them.

(3) The price or value of the property shall be the price or value existing at the time of payment and not the price or value which existed at the time of death of the husband:

Provided that if the legal heirs of the deceased do not give the widow her share in the above terms, she shall become entitled to her due share in the corpus of immovable property.

(4) A widow is entitled to her share in the corpus of movable property of her deceased husband provided that the provisions of sub-sections (2) and (3) shall *mutatis mutandis* apply.

(5) *Fiqah-e-Jafri* recognizes right of a husband to get his share from the property left by his deceased wife, either movable or immovable, as follows:

⁸ Subs. by the Muslim Family Laws (Amdt.) Ordinance, 1961 (XXI of 1961), s. 2, for “having jurisdiction in the area concerned”.

⁹ Renumbered as sub-section (1) and added new sub-sections from (2) to (8) by Act, XXVIII of 2021, s. 2.

¹⁰ Renumbered as sub-section (1) and added new sub-sections from (2) to (8) by Act, XXVIII of 2021, s. 2.

- (a) one-half share, if there is no child left behind; and
- (b) one-fourth share of the property, if there is child left behind.

(6) In case of dispute, the parties or any of the parties may have recourse to a court of competent jurisdiction or by approaching the *Mujtahid-e-Alam* from the panel maintained by the Council of Islamic Ideology. The decision of *Mujtahid-e-Alam* shall have a status of an award and the same shall be dealt with in accordance with the provisions of the Arbitration Act, 1940 (X of 1940).

Explanation.—The expression “*Mujtahid-e-Alam (Faqih-e-Azam)*” means a juris-consult, religious scholar or doctor of *Shia* school of thought well versed with *Shariah* having international repute and of such recognition. The Council of Islamic Ideology shall maintain a panel of *Mujtahid-e-Alam* having aforesaid qualifications.

(7) As enshrined in Article 227 of the Constitution of the Islamic Republic of Pakistan, the inheritance rights of *Ahl-e-Tashih* and matters connected therewith or ancillary thereto shall be decided according to their personal law interpreted by *Fiqah-e-Jafria* (*Shia* school of thought).]

5. Registration of marriages.— (1) Every marriage solemnized under Muslim Law shall be registered in accordance with the provisions of this Ordinance.

(2) For the purpose of registration of marriages under this Ordinance, the Union Council shall grant licences to one or more persons, to be called Nikah Registrars, but in no case shall more than one Nikah Registrar be licensed for any one Ward.

(3) Every marriage not solemnized by the Nikah Registrar shall, for the purpose of registration under this Ordinance, be reported to him by the person who has solemnized such marriage.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(5) The form of *nikah nama*, the registers to be maintained by Nikah Registrars, the records to be preserved by Union Councils, the manner in which marriages shall be registered and copies of *nikah nama* shall be supplied to the parties and the fees to be charged thereof, shall be such as may be prescribed.

(6) Any person may, on payment of the prescribed fee, if any, inspect at the office of the Union Council the record preserved under sub-section (5), or obtain a copy of any entry therein.

6. Polygamy.— (1) No man, during the subsistence of an existing marriage, shall, except with the previous permission in writing of the Arbitration Council, contract another marriage, nor shall any such marriage contracted without such permission be registered under this Ordinance.

(2) An application for permission under sub-section (1) shall be submitted to the Chairman in the prescribed manner, together with the prescribed fee, and shall state reasons for the proposed marriage, and whether the consent of the existing wife or wives has been obtained thereto.

(3) On receipt of the application under sub-section (2), the Chairman shall ask the applicant and his existing wife or wives each to nominate a representative, and the Arbitration Council so constituted may, if satisfied that the proposed marriage is necessary and just, grant, subject to such conditions, if any, as may be deemed fit, the permission applied for.

(4) In deciding the application, the Arbitration Council shall record its reasons for the decision, and any party may, in the prescribed manner, within the prescribed period, and on payment of the prescribed fee, prefer an application for revision, ¹¹[to the Collector] concerned and his decision shall be final and shall not be called in question in any Court.

(5) Any man who contracts another marriage without the permission of the Arbitration Council shall—

- (a) pay immediately the entire amount of the dower, whether prompt or deferred, due to the existing wife or wives, which amount, if not so paid, shall be recoverable as arrears of land revenue; and
- (b) on conviction upon complaint be punishable with simple imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

7. Talaq.—(1) Any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of *talaq* in any form whatsoever, give the Chairman notice in writing of his having done so, and shall supply a copy thereof to the wife ¹²[:]

¹²[Provided that where the parties belong to *Fiqah-e-Jafria*,—

- (a) the man may voluntarily and with his free will pronounce himself or through duly authorized attorney (Vakil) Talaq uttering in literal Arabic words (seegha) in the physical presence of at least two witnesses qualifying the requirements of clause (1) of Article 17 of the Qanun-e-Shahadat, 1984 (P.O. No. 1 of 1984);
- (b) the pronouncement of Talaq shall be ineffective if it is done jokingly or under anger, intoxication, insanity, duress or coercion of any kind and from any corner whatsoever; and
- (c) in case of dispute, with reference to clauses (a) or (b) arising due to difference of opinion, the parties or any of the parties may have recourse to a court of competent jurisdiction or by approaching the “*Mujtahid-e-Alam*” and the decision of *Mujtahid-e-Alam* shall have a status of an award and the same shall be dealt with in accordance with the provisions of the Arbitration Act, 1940 (X of 1940).

Explanation.— The expression “*Mujtahid-e-Alam (Faqih-e-Azam)*” means a juris-consult, religious scholar or doctor of *Shia* school of thought well versed with *Shariah* having international repute and of such recognition. The Council of Islamic Ideology shall maintain a panel of *Mujtahid-e-Alam* having aforesaid qualifications.]

¹¹ Subs. by F.A.O., 1975, Art. 2 & Sch., for certain words

¹² Subs. and ins. by the Muslim Family Law (Second Amendment) Act, 2021 (XXIX of 2021), s. 2.

¹³ [(1A) As enshrined in Article 227 of the Constitution of the Islamic Republic of Pakistan, the divorce and matters connected therewith or ancillary thereto shall be decided according to the personal law interpreted by *Fiqah-e-Jafria* (Shia school of thought).]

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to one year or with fine which may extend to five thousand rupees or with both.

(3) Save as provided in sub-section (5), a *talaq* unless revoked earlier, expressly or otherwise shall not be effective until the expiration of ninety days from the day on which notice under sub-section (1) is delivered to the Chairman.

(4) Within thirty days of the receipt of notice under sub-section (1), the Chairman shall constitute an Arbitration Council for the purpose of bringing about a reconciliation between the parties, and the Arbitration Council shall take all steps necessary to bring about such reconciliation.

(5) If the wife be pregnant at the time *talaq* is pronounced, *talaq* shall not be effective until the period mentioned in sub-section ¹⁴[(3)] or the pregnancy, whichever be later, ends.

(6) Nothing shall debar a wife whose marriage has been terminated by *talaq* effective under this section from re-marrying the same husband, without an intervening marriage with a third person unless such termination is for the third time so effective.

8. Dissolution of marriage otherwise than by *talaq*.— Where the right to divorce has been duly delegated to the wife and she wishes to exercise that right, or where any of the parties to a marriage wishes to dissolve the marriage otherwise than by *talaq*, the provisions of section 7 shall, *mutatis mutandis* and so far as applicable, apply.

9. Maintenance.— (1) If any husband fails to maintain his wife adequately, or where there are more wives than one, fails to maintain them equitably, the wife, or all or any of the wives, may in addition to seeking, any other legal remedy available apply to the Chairman who shall constitute an Arbitration Council to determine the matter, and the Arbitration Council may issue a certificate specifying the amount which shall be paid as maintenance by the husband.

(2) A husband or wife may, in the prescribed manner, within the prescribed period, and on payment of the prescribed fee, prefer an application for revision of the certificate, ¹⁵[to the Collector] concerned and his decision shall be final and shall not be called in question in any Court.

(3) Any amount payable under sub-section (1) or (2), if not paid in due time, shall be recoverable as arrears of land revenue.

10. Dower.— Where no details about the mode of payment of dower are specified in the *nikah nama*, or the marriage contract, the entire amount of the dower shall be prescribed to be payable on demand.

11. Power to make rules.— (1) The ¹⁶[¹⁷ [Federal Government]] in respect of the

¹³ Ins. new sub-section (1A) by the Muslim Family Law (Second Amendment) Act, 2021 (XXIX of 2021), s. 2.

¹⁴ Subs. by the Muslim Family Law (Second Amendment) Ordinance, 1961 (XXX of 1961), s. 2 for “(2)”.

¹⁵ Subs. by F.A.O., 1975, Art., 2 and Sch., for certain words.

¹⁶ Subs. by A.O., 1964, Art. 2 and Sch., for “Provincial Government”.

¹⁷ Subs. by F.A.O., 1975, Art., 2 and Table, for “Central Government”.

Cantonment areas and the Provincial Government in respect of other areas] may make rules to carry into effect the purposes of this Ordinance.

(2) In making rules under this section, the ¹⁸[such Government] may provide that a breach of any of the rules shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(3) Rules made under this section shall be published in the official Gazette, and shall thereupon have effect as if enacted in this Ordinance.

12. *[Amendment of Child Marriage Restraint Act, 1929 (XIX of 1929).] Omitted by the Federal Laws (Revision and declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II.*

13. *[Amendment of the Dissolution of Muslim Marriages Act, 1939 (VIII of 1939)]. Omitted by the Federal Laws (Revision and declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and Sch., II.*

¹⁸ Subs. by A.O., 1964, Art. 2 and Sch., for "Provincial Government".

**THE HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND
MAINTENANCE ACT, 1946**

CONTENTS

Section	Heading
1.	Short title and extent
2.	Grounds for claiming separate residence and maintenance
3.	Amount of maintenance

**THE HINDU MARRIED WOMEN'S RIGHT TO SEPARATE RESIDENCE AND
MAINTENANCE ACT, 1946.**

1ACT No. XIX OF 1946

[23rd April, 1946]

An Act to give Hindu married women a right to separate residence and maintenance under certain circumstances.

WHEREAS it is expedient to provide for the right to separate residence and maintenance under certain circumstances in the case of Hindu married women; It is hereby enacted as follows:-

1. Short title and extent.—(1) This Act may be called the Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946.

2[(2) It extends to the whole of Pakistan.]

2. Grounds for claiming separate residence and maintenance.— Notwithstanding any custom or law to the contrary a Hindu married woman shall be entitled to separate residence and maintenance from her husband on one or more of the following grounds, namely:-

- (1) if he is suffering from any loathsome disease not contracted from her;
- (2) if he is guilty of such cruelty towards her as renders it unsafe or undesirable for her to live with him;
- (3) if he is guilty of desertion, that is to say, of abandoning her without her consent or against her wish;
- (4) if he marries again ;
- (5) if he ceases to be a Hindu by conversion to another religion;
- (6) if he keeps a concubine in the house or habitually resides with a concubine;
- (7) for any other justifiable cause:

Provided that a Hindu married woman shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by change to another religion or fails without sufficient cause to comply with a decree of a competent Court for the restitution of conjugal rights.

3. Amount of maintenance.— When allowing a claim for separate residence and maintenance under section 2, the Court shall determine the amount to be paid by the husband to the wife therefore, and in so doing shall have regard to the social standing of the parties and the extent of the husband's means.

¹ For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, p. 94; and for Report of Select Committee, see *ibid.*, pp. 140-142. This Act has been applied to Baluchistan, see Notification No. 336/B.P.G., dated the 26th November, 1946, Gazette of India, 1946, Pt. I, p. 1675. It has been extended to the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950).

² Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for the original sub-section (2), as amended by A. O., 1949.

THE HINDU WOMEN S RIGHTS TO PROPERTY ACT, 1937

CONTENTS

Section	Heading
1.	Short title and extent
2.	Application
3.	Devolution of property
4.	Savings
5.	Meaning of expression "die intestate"

THE HINDU WOMEN RIGHTS TO PROPERTY ACT, 1937.

¹ACT NO. XVIII OF 1937

[14th April, 1937]

An Act to amend the Hindu Law governing Hindu Women's Rights to Property.

WHEREAS it is expedient to amend the Hindu Law to give better rights to women in respect of property ; It is hereby enacted as follows:-

1. Short title and extent.— (1) This Act may be called the Hindu Women's Rights to Property Act, 1937.

²[(2) It extends to the whole of Pakistan.]

2. Application.— Notwithstanding any rule of Hindu Law or custom to the contrary, the provisions of section 3 shall apply where a Hindu dies intestate leaving a widow.

³ **[3. Devolution of property.**— (1) When a Hindu governed by the Dayabhag School of Hindu Law dies intestate leaving any property, and when a Hindu governed by any other school of Hindu Law or by customary law dies intestate leaving separate property, his widow, or if there is more than one widow all his widows together, shall, subject to the provisions of sub-section (3), be entitled in respect of property in respect of which he dies intestate to the same share as a son:]

Provided that the widow of a predeceased son shall inherit in like manner as a son if there is no son surviving of such predeceased son, and shall inherit in like manner as a son's son if there is surviving a son or son's son of such predeceased son:

Provided further that the same provision shall apply *mutatis mutandis* to the widow of a predeceased son of a predeceased son.

(2) When a Hindu governed by any school of Hindu Law other than the Dayabhag School or by customary law dies⁴* having at the time of his death an interest in a Hindu joint family property, his widow shall, subject to the provisions of sub-section (3), have in the property the same interest as he himself had.

(3) Any interest devolving on a Hindu widow under the provisions of this section shall be the limited interest known as a Hindu woman's estate, provided however that she shall have the same right of claiming partition as a male owner.

(4) The provisions of this section shall not apply to an estate which by a customary or other rule of succession ⁵[or by the terms of the grant applicable thereto] descends to a single heir

1 For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 131; and for Report of Select Committee, see *ibid.*, 1937, Pt. V, p. 8. The Act has been applied to Balochistan, see Gazette of India, 1938, Pt. I, p. 1371. In the application of this Act to the N.W.F.P., Sindh the term "Property" in the Act shall include and shall be deemed always to have included agricultural land subject to certain conditions, see the North West Frontier Province Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942 (Governor's Act VI of 1942), s. 2, the Hindu Women's Rights to Property, (Sindh Extension to Agricultural Land) Act, 1943 (Sindh Act 9 of 1943), s. 2, respectively.

2 Subs. by the Central Laws (Statute Reform) Ordinance, 1960, (21 of 1960), s. 3 and 2nd Sch.. (with effect from the 14th October, 1955), for the original sub-section (2), as amended by A. O., 1949 and the Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Second Schedule.

3 Subs. by the Hindu Women's Rights to Property (Amdt.) Act, 1938 (11 of 1938), s. 3, for the paragraph preceding the first proviso in sub-section (1).

4 The word "intestate" omitted. by the Hindu Women's Rights to Property (Amdt.), Act, 1938, (11 of 1938), s. 3.

5 Ins. *ibid*

or to any property to which the Succession Act, 1925 ([XXXIX of 1925](#)), applies.

4. Savings.— Nothing in this Act shall apply to the property of any Hindu dying intestate before the commencement of this Act.

⁶**[5. Meaning of expression “die intestate”.—** For the purposes of this Act, a person shall be deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.]

⁶ Section 5 *ins. ibid. s. 4.*

THE CHILD MARRIAGE RESTRAINT ACT, 1929

CONTENTS

Section	Heading
1.	Short title, extent and commencement
2.	Definitions
3.	[Omitted]
4.	Punishment for male adult above twenty-One years of age marrying a child
5.	Punishment for solemnizing a Child marriage
6.	Punishment for parent or guardian concerned in a child marriage
7.	Imprisonment not to be awarded for offences under section 3
8.	Jurisdiction under this Act
9.	Mode of taking cognizance of offences
10.	Preliminary inquiries into offences under this Act
11.	[Omitted]
12.	Power to issue injunction prohibiting marriage in contravention of this Act

THE CHILD MARRIAGE RESTRAINT ACT 1929

¹ACT NO. XIX OF 1929

[1st October, 1929]

An Act to restrain the solemnisation of child marriages

WHEREAS it is expedient to restrain the solemnization of child marriages;

It is hereby enacted as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Child Marriage Restraint Act,² [1929].

³[(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan wherever they may be.]

(3) It shall come into force on the 1st day of April, 1930.

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

(a) “child” means a person who, if a male, is under 18 years of age, and if a female, is under ⁴[sixteen] years of age;

(b) “child marriage” means a marriage to which either of the contracting parties is a child;

(c) “contracting party” to a marriage means either of the parties whose marriage is ⁵[or is about to be] thereby solemnized; *

(d) “minor” means a person of either sex who is under eighteen years of age [;]

⁶[(e) “Union Council” means Union Council or Town Committee constituted under the law relating to local government for the time being in force.]

3. ⁷Omitted

1 For Statement of Objects and Reasons, see Gazette of India, 1927, Pt.v, p.28; for Reports of Select Committees, see *ibid.* 1928, Pt.v, pp.111 and 165.

The Act has been applied to phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., and extended to the Excluded Area of Upper Tanawal (N.W.F.P) other than phulera with effect from such date and subject to such modifications, as may be notified, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950. It has also been extended to the Leased Areas of Baluchistan, see the leased Areas (Laws) Order, 1950 (G.G.O.3 of 1950), and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt.I, p.1499.

2 Subs. by the Repealing and Amending Act, 1930 (8 of 1930), s.2 and 1st Sch., for “1928”

3 Subs. by the Central Laws (Statute Reforms) Ordinance No. XXI of 1960, s.3 and 2nd Sch. (with effect from the 14th October, 1955).

4 Sub. and Omitted by the Muslim Family Laws Ordinance No. VIII of 1961, s.12 (with effect from the 15th July, 1961), applicable to all Muslim citizens of Pakistan wherever they may be.

5 Ins. by Act No. XIX of 1938, s.2.

6 Subs. by the Federal Laws (Revision and Declaration) Ordinance No. XXVII of 1981, s.3 and Sch.,II.

7 Omitted by the Muslim Family Laws Ordinance No. VIII of 1961

4. Punishment for male adult below twenty-one years of age marrying a child.— Whoever, being a male above ⁸[eighteen] years of age, contracts a child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

5. Punishment for Solemnising a child marriage.— Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both, unless he proves that he had reason to believe that the marriage was not a child marriage.

6. Punishment for parent or guardian concerned in a child carriage.— (1) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnised, or negligently fails to prevent it from being solemnised, shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnised.

7. Imprisonment not to be awarded for offences under section 3.— Notwithstanding anything contained in section 25 of the General Clauses Act, 1897 (X of 1897), or section 64 of the Pakistan Penal Code 1860 (XLV of 1860), a Court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment.

8. Jurisdiction under this Act.— Notwithstanding anything contained in section 190 of the Code of Criminal Procedure 1898 (V of 1898), no Court other than that of ⁹ * * * a ¹⁰ [Magistrate of the first class] shall take cognizance of, or try, any offence under this Act.

¹¹**9. Mode of taking cognizance of offences.—** No Court shall take cognizance of any offence under this Act, ¹²[except on a complaint made by the Union Council, or if there is no Union Council in the area, by such authority as the Provincial Government may in this behalf prescribed, and such cognizance shall in no case be taken] after the expiry of one year from the date on which the offence is alleged to have been committed.]

10. Preliminary inquiries into offences under this Act.— The Court taking cognizance of an offence under this Act shall, unless it dismisses the complaint under section 203 of the Code of Criminal Procedure, 1898 (V of 1898), either itself make an inquiry under section 202 of that Code, or direct a Magistrate of the first class subordinate to it to make such inquiry.

¹³**11. [Omitted]**

8 Subs. by Ord.8 of 1961, s.12, for "Twentyone". (with effect from 15th July, 1961).

9 The words "a Presidency Magistrate or" omitted by A.O., 1949.

10 Subs. by the Child Marriage Restraint (Second Amdt.) Act, 1938 (19 of 1938), s.3, for "District Magistrate".

11 Subs. *ibid.*, s.4, for original s.9.

12 Ins. by the Muslim Family Laws Ordinance, 1961 (8 of 1961), s.12, (with effect from 15th July, 1961).

13 The section, in so far as it applies to the Muslim citizens of Pakistan, has been omitted by the Muslim Family Laws Ordinance, 1961 (8 of 1961), s.12 (with effect from the 15th July, 1961).

¹⁴[12. Power to issue injunction Prohibiting marriage in contravention of this Act.—

(1) Notwithstanding anything to the contrary contained in this Act, the Court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnised, issue an injunction against any of the persons mentioned in sections 3, 4, 5, and 6 of this Act prohibiting such marriage.

(2) No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction.

(3) The Court may either on its own motion or on the application of any person aggrieved rescind or alter any order made under sub-section (1).

(4) Where such an application is received, the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(5) Whoever knowing that an injunction has been issued against him under sub-section (1) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.]

¹⁴ Subs. by the Child Marriage Restraint (Second Amdt.) Act, 1938 (XIX of 1938), s.5, for the original subsection (1).

THE GUARDIANS AND WARDS ACT, 1890

CONTENTS

Section	Heading
1.	Title, extent and commencement
2.	[Repealed.]
3.	Saving of jurisdiction of Courts of Wards and Chartered High Courts.
4.	Definitions
4A	Power to confer jurisdiction on subordinate judicial officers and to transfer proceedings to such officers
CHAPTER II APPOINTMENT AND DECLARATION OF GUARDIANS	
5.	[Omitted.]
6.	Saving of power to appoint in other cases
7.	Power of the Court to make order as to guardianship
8.	Persons entitled to apply for order
9.	Court having jurisdiction to entertain application
10.	Form of application
11.	Procedure on admission of application.
12.	Power to make interlocutory order of production of minor and interim protection of person and property.
13.	Hearing of evidence before making of order
14.	Simultaneous proceedings in different Court
15.	Appointment or declaration of several guardians
16.	Appointment or declaration of guardian for property beyond jurisdiction of the Court
17.	Matters to be considered by the Court in appointing guardian
18.	Appointment or declaration of Collector in virtue of office
19.	Guardian not to be appointed by the Court in certain cases
CHAPTER III DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS	
20.	Fiduciary relation of guardian to ward
21.	Capacity of minors to act as guardians
22.	Remuneration of guardian
23.	Control of Collector as guardian.
Guardian of the Person	
24.	Duties of Guardian of the Person.
25.	Title of guardian to custody of ward
26.	Removal of ward from jurisdiction
27.	Duties of Guardian of Property

28.	Powers of testamentary guardian
29.	Limitation of powers of guardian of property appointed or declared by the Court
30.	Voidability of transfers made in contravention of section 28 or section 29
31.	Practice with respect to permitting transfers under section 29
32.	Variation of powers of guardian of property appointed or declared by the Court
33.	Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward
34.	Obligations on guardian of property appointed or declared by the Court
34A	Power to award remuneration for auditing accounts
35.	Suit against guardian where administration bond was taken
36.	Suit against guardian where administration bond was not taken
37.	General liability of guardian as trustee
Termination of Guardianship	
38.	Right of survivorship among joint guardians
39.	Removal of guardian
40.	Discharge of guardian
41.	Cessation of authority of guardian
42.	Appointment of successor to guardian dead, discharged or removed
CHAPTER IV SUPPLEMENTAL PROVISIONS	
43.	Orders for regulating conduct or proceedings of guardians, and enforcement of those orders
44.	Penalty for removal of ward from jurisdiction
45.	Penalty for contumacy
46.	Reports by Collectors and Subordinate Courts
47.	Orders appealable
48.	Finality of other orders
49.	Costs
50.	Power of High Court to make rules
51.	[Omitted.]
52.	Repealed
53.	Repealed
THE SCHEDULE. [Repealed]	

THE GUARDIANS AND WARDS ACT, 1890

Act No. VIII of 1890

[21st March, 1890]

An Act to consolidate and amend the law relating to Guardian and Ward

WHEREAS it is expedient to consolidate and amend the law relating to guardian and ward; It is hereby enacted as follows: —

CHAPTER I PRELIMINARY

1. Title, extent and commencement.— (1) This Act may be called the Guardians and Wards Act, 1890.

¹ [(2) It extends to the whole of Pakistan;] and

(3) It shall come into force on the first day of July, 1890.

2. [Repeal.] Rep. by the Repealing Act, 1938 (I of 1938), s.2 and Schedule.

3. Saving of jurisdiction of Courts of Wards and Chartered High Courts.— This Act shall be read subject to every enactment heretofore or hereafter passed relating to any Court of Wards by ²[any competent legislature, authority or person] in ³[Pakistan], and nothing in this Act shall be construed to affect, or in any way derogate from, the jurisdiction or authority of any Court of Wards, or to take away any power possessed by ⁴[any High Court ⁵[* *]].

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

(1) “minor” means a person who, under the provisions of the Majority Act, 1875 (IX of 1875), is to be deemed not to have attained his majority:

(2) “guardian” means a person having the care of the person of a minor or of his property, or of both his person and property:

(3) “ward” means a minor for whose person or property, or both, there is a guardian:

(4) “District Court” has the meaning assigned to that expression in the ⁶[Code of

¹ Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for the existing sub-section (2), which was amended by the Burma Laws Act, 1898 (13 of 1898), s. 18 and Sch. V, A.O., 1949, Arts. 3 (2) and 4, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8.

² Subs. by A.O., 1937, for “the G. G. in C. or by a Governor or Lieutenant-Governor in Council”.

³ Subs. by Ord. 21 of 1960, s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for “the Provinces and the Capital of the Federation”, which had been subs. by A.O., 1949, Arts. 3(2) and 4, for “British India.”

⁴ Subs. by A.O., 1937, for “any High Court established under the Statute 24 and 25 Vict, c. 104 (an Act for establishing High Courts of Judicature in India)”.

⁵ The words “established in [the Provinces and the Capital of the Federation] by Letters Patent” omitted by Ord. 21 of 1960, s. 3 and 2nd Sch. (with effect from the 14th October, 1955). The words in crotchets were subs. by A. O., 1949, Arts. 3(2) and 4, for “British India.”

⁶ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., for “Code of Civil Procedure”.

Civil Procedure, 1908] (Act V of 1908) and includes a High Court in the exercise of its ordinary original civil jurisdiction:

⁷[(5) “the Court” means:—

- (a) the District Court having jurisdiction to entertain an application under this Act for an order appointing or declaring a person to be a guardian; or
- (b) where a guardian has been appointed or declared in pursuance of any such application—
 - (i) the Court which, or the Court of the Officer who, appointed or declared the guardian or is under this Act deemed to have appointed or declared the guardian; or
 - (ii) in any matter relating to the person of the ward the District Court having jurisdiction in the place where the ward for the time being ordinarily resides; or
- (c) in respect of any proceeding transferred under section 4A, the Court of the officer to whom such proceeding has been transferred.]

(6) “Collector” means the chief officer in charge of the revenue-administration of a district, and includes any officer whom the ⁸[Provincial Government], by notification in the official Gazette, may, by name or in virtue of his Office, appoint to be a Collector in any local area, or with respect to any class of persons, for all or any of the purposes of this Act:

⁹[7*****]

(8) “prescribed” means prescribed by rules made by the High Court under this Act.

¹⁰ [4A. Power to confer jurisdiction on subordinate judicial officers and to transfer proceedings to such officers.— (1) The High Court may, by general or special order, empower any officer exercising original civil jurisdiction sub-ordinate to a District Court, or authorise the Judge of any District Court to empower any such officer subordinate to him, to dispose of any proceedings under this Act transferred to such officer under the provisions of this section.

(2) The Judge of a District Court may, by order in writing, transfer at any stage any proceeding under this Act pending in his Court for disposal to any officer subordinate to him empowered under sub-section (1).

(3) The Judge of a District Court may at any stage transfer to his own Court or to any officer subordinate to him empowered under sub-section (1) any proceeding under this Act pending in the Court of any other such officer.

⁷ Subs. by the Guardians and Wards (Amdt.) Act, 1926 (4 of 1926), s. 3, for the original cl. (5).

⁸ Subs. by A.O., 1937, for “L.G.”.

⁹ Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

¹⁰ S. 4A ins. by the Guardians and Wards (Amdt.) Act, 1926 (4 of 1926), s. 2.

(4) When any proceedings are transferred under this section in any case in which a guardian has been appointed or declared, the Judge of the District Court may, by order in writing, declare that the Court of the Judge or officer to whom they are transferred shall, for all or any of the purposes of this Act, be deemed to be the Court which appointed or declared the guardian.]

CHAPTER II

APPOINTMENT AND DECLARATION OF GUARDIANS

5. [Power of parents to appoint in case of European British subjects.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

6. Saving of power to appoint in other cases.— In the case of a minor who is not an European British subject, nothing in this Act shall be construed to take away or derogate from any power to appoint a guardian of his person or property, or both, which is valid by the law to which the minor is subject.

7. Power of the Court to make order as to guardianship.—(1) Where the Court is satisfied that it is for the welfare of a minor that an order should be made—

- (a) appointing a guardian of his person or property, or both, or
- (b) declaring a person to be such a guardian, the Court may make an order accordingly.

(2) An order under this section shall imply the removal of any guardian who has not been appointed by will or other instrument or appointed or declared by the Court.

(3) Where a guardian has been appointed by will or other instrument or appointed or declared by the Court, an order under this section appointing or declaring another person to be guardian in his stead shall not be made until the powers of the guardian appointed or declared as aforesaid have ceased under the provisions of this Act.

8. Persons entitled to apply for order.— An order shall not be made under the last foregoing section except on the application of—

- (a) the person desirous of being, or claiming to be, the guardian of the minor, or
- (b) any relative or friend of the minor, or
- (c) the Collector of the district or other local area within which the minor ordinarily resides or in which he has property, or
- (d) the Collector having authority with respect to the class to which the minor belongs.

9. Court having jurisdiction to entertain application.—(1) If the application is with respect to the guardianship of the person of the minor, it shall be made to the District Court

having jurisdiction in the place where the minor ordinarily resides.

(2) If the application is with respect to the guardianship of the property of the minor, it may be made either to the District Court having jurisdiction in the place where the minor ordinarily resides or to a District Court having jurisdiction in a place where he has property.

(3) If an application with respect to the guardianship of the property of a minor is made to a District Court other than that having jurisdiction in the place where the minor ordinarily resides, the Court may return the application if in its opinion the application would be disposed of more justly or conveniently by any other District Court having jurisdiction.

10. Form of application.—(1) If the application is not made by the Collector, it shall be by petition signed and verified in manner prescribed by the ¹¹[Code of Civil Procedure, 1908] (Act V of 1908) for the signing and verification of a plaint, and stating, so far as can be ascertained,—

- (a) the name, sex, religion, date of birth and ordinary residence of the minor;
- (b) where the minor is a female, whether she is married, and, if so, the name and age of her husband;
- (c) the nature, situation and approximate value of the property, if any, of the minor;
- (d) the name and residence of the person having the custody or possession of the person or property of the minor;
- (e) what near relations the minor has, and where they reside;
- (f) whether a guardian of the person or property, or both, of the minor has been appointed by any person entitled or claiming to be entitled by the law to which the minor is subject to make such an appointment;
- (g) whether an application has at any time been made to the Court or to any other Court with respect to the guardianship of the person or property, or both, of the minor, and, if so, when, to what Court and with what result;
- (h) whether the application is for the appointment or declaration of a guardian of the person of the minor, or of his property, or of both;
- (i) where the application is to appoint a guardian, the qualifications of the proposed guardian;
- (j) where the application is to declare a person to be a guardian, the grounds on which that person claims;

¹¹ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch. for "Code of Civil Procedure."

- (k) the causes which have led to the making of the application; and
- (l) such other particulars, if any, as may be prescribed or as the nature of the application renders it necessary to state.

(2) If the application is made by the Collector, it shall be by letter addressed to the Court and forwarded by post or in such other manner as may be found convenient, and shall state as far as possible the particulars mentioned in sub-section (1).

(3) The application must be accompanied by a declaration of the willingness of the proposed guardian to act and the declaration must be signed by him and attested by at least two witnesses.

11. Procedure on admission of application.—(1) If the Court is satisfied that there is ground for proceeding on the application, it shall fix a day for the hearing thereof and cause notice of the application and of the date fixed for the hearing—

- (a) to be served in the manner directed in the ¹²[Code of Civil Procedure, 1908], (Act V of 1908) on—
 - (i) the parents of the minor if they are residing in ¹³[Pakistan],
 - (ii) the person, if any, named in the petition or letter as having the custody or possession of the person or property of the minor,
 - (iii) the person proposed in the application letter to be appointed or declared guardian, unless that person is himself the applicant, and
 - (iv) any other person to whom, in the opinion of the Court, special notice of the application should be given; and
- (b) to be posted on some conspicuous part of the courthouse, and of the residence of the minor, and otherwise published in such manner as the Court, subject to any rules made by the High Court under this Act, thinks fit.

(2) The ¹⁴[Provincial Government] may, by general or special order, require that, when any part of the property described in a petition under section 10, sub-section (1), is land of which a Court of Wards could assume the superintendence, the Court shall also cause a notice as aforesaid to be served on the Collector in whose district the minor ordinarily resides, and on every Collector in whose district any portion of the land is situate, and the Collector may cause the notice to be published in any manner he deems fit.

(3) No charge shall be made by the Court or the Collector for the service or publication of any notice served or published under sub-section (2).

¹² Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs. by A. O., 1949, Arts. 3 (2) and 4, for "British India".

¹³ Subs. by A.O., 1937, for "L.G.".

¹⁴ Subs. by A.O., 1937, for "L.G.".

12. Power to make interlocutory order of production of minor and interim protection of person and property — (1) The Court may direct that the person, if any, having the custody of the minor shall produce him or cause him to be produced at such place and time and before such person as it appoints, and may make such order for the temporary custody and protection of the person or property of the minor as it thinks proper.

(2) If the minor is a female who ought not to be compelled to appear in public, the direction under sub-section (1) for her production shall require her to be produced in accordance with the customs and manners of the country.

(3) Nothing in this section shall authorise—

- (a) the Court to place a female minor in the temporary custody of a person claiming to be her guardian on the ground of his being her husband, unless she is already in his custody with the consent of her parents, if any,
- (b) any person to whom the temporary custody and protection of the property of a minor is entrusted to dispossess otherwise than by due course of law any person in possession of any of the property.

13. Hearing of evidence before making of order.— On the day fixed for the hearing of the application, or as soon afterwards as may be, the Court shall hear such evidence as may be adduced in support of or in opposition to the application.

14. Simultaneous proceedings in different Court.— (1) If proceedings for the appointment or declaration of a guardian of a minor are taken in more Courts than one, each of those Courts shall, on being apprised of the proceedings in the other Court or Courts, stay the proceedings before itself.

(2) If the Courts are both or all subordinate to the same High Court, they shall report the case to the High Court, and the High Court shall determine in which of the Courts the proceedings with respect to the appointment or declaration of a guardian of the minor shall be had.

¹⁵[(3) In any other case in which proceedings are stayed under sub-section (1), the Courts shall report the case to, and be guided by such orders as they may receive from, their respective Provincial Governments.]

15. Appointment or declaration of several guardians.— (1) If the law to which the minor is subject admits of his having two or more joint guardians of his person or property, or both, the Court may, if it thinks fit, appoint or declare them.

¹⁶ [2 *****]

(3) Separate guardians may be appointed or declared of the person and of the property of a minor.

(4) If a minor has several properties, Court may, if it thinks fit, appoint or declare

¹⁵ Subs. by A.O., 1937, for the original sub-section (3).

¹⁶ Omitted by the Federal Laws (Revision and Declaration) Ordinance 1981 (27 of 1981), s. 3 and 2nd Sch.

a separate guardian for any one or more of the properties.

16. Appointment or declaration of guardian for property beyond jurisdiction of the Court. If the Court appoints or declares a guardian for any property situate beyond the local limits of its jurisdiction, the Court having jurisdiction in the place where the property is situate shall, on production of a certified copy of the order appointing or declaring the guardian, accept him as duly appointed or declared and give effect to the order.

17. Matters to be considered by the Court in appointing guardian.—(1) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor.

(2) In considering what will be for the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of a deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property.

(3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.

¹⁷(4) *****

(5) The Court shall not appoint or declare any person to be a guardian against his will.

18. Appointment or declaration of Collector in virtue of office.— Where a Collector is appointed or declared by the Court in virtue of his office to be guardian of the person or property, or both, of a minor, the order appointing or declaring him shall be deemed to authorise and require the person for the time being holding the office to act as guardian of the minor with respect to his person or property, or both, as the case may be.

19. Guardian not to be appointed by the Court in certain cases.— Nothing in this Chapter shall authorise the Court to appoint or declare a guardian of the property of a minor whose property is under the superintendence of a Court of Wards, or to appoint or declare a guardian of the person—

- (a) of a minor who is a married female and whose husband is not, in the opinion of the Court, unfit to be guardian of her person, or
- (b) *** of a minor whose father is living and is not, in the opinion of the Court, unfit to be guardian of the person of the minor, or
- (c) of a minor whose property is under the superintendence of a Court of Wards competent to appoint a guardian of the person of the minor.

¹⁷ Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch

CHAPTER III DUTIES, RIGHTS AND LIABILITIES OF GUARDIANS

General

20. Fiduciary relation of guardian to ward.— (1) A guardian stands in a fiduciary relation to his ward, and, save as provided by the will or other instrument, if any, by which he was appointed, or by this Act, he must not make any profit out of his office.

(2) The fiduciary relation of a guardian to his ward extends to and affects purchases by the guardian of the property of the ward, and by the ward of the property of the guardian, immediately or soon after the ward has ceased to be a minor, and generally all transactions between them while the influence of the guardian still lasts or is recent.

21. Capacity of minors to act as guardians.— A minor is incompetent to act as guardian of any minor except his own wife or child or, where he is the managing member of an undivided Hindu family, the wife or child of another minor member of that family.

22. Remuneration of guardian.—(1) A guardian appointed or declared by the Court shall be entitled to such allowance, if any, as the Court thinks fit for his care and pains in the execution of his duties.

(2) When an officer of Government, as such officer, is so appointed or declared to be guardian, such fees shall be paid to the Government out of the property of the ward as the ¹⁸[provincial Government], by general or special order, directs.

23. Control of Collector as guardian.— A Collector appointed or declared by the Court to be guardian of the person or property, or both, of a minor shall, in all matters connected with the guardianship of his ward, be subject to the control of the ¹⁹[provincial Government] or of such authority as that Government, by ²notification in the official Gazette, appoints in this behalf.

Guardian of the Person

24. Duties of guardian of the person.— A guardian of the person of a ward is charged with the custody of the ward and must look to his support, health and education and such other matters as the law to which the ward is subject requires.

25. Title of guardian to custody of ward.— (1) If a ward leaves or is removed from the custody of a guardian of his person, the Court, if it is of opinion that it will be for the welfare of the ward to return to the custody of his guardian, may make an order for his return, and for the purpose of enforcing the order may cause the ward to be arrested and to be delivered into the custody of the guardian.

(2) For the purpose of arresting the ward, the Court may exercise the power conferred on a Magistrate of the first class by section 100 of the ²⁰[Code of Criminal Procedure, 1898] (Act V of 1898).

¹⁸ Subs. by A.O., 1937, for "L. G.".

¹⁹ Subs. by A.O., 1937, for "L. G.".

²⁰ For notification appointing authorities to whose control collectors appointed under the act shall be subject, see different local R & O.

(3) The residence of a ward against the will of his guardian with a person who is not his guardian does not of itself terminate the guardianship.

26. Removal of ward from jurisdiction.—(1) A guardian of the person appointed or declared by the Court, unless he is the Collector or is a guardian appointed by will or other instrument, shall not, without the leave of the Court by which he was appointed or declared, remove the ward from the limits of its jurisdiction except for such purposes as may be prescribed.

(2) The leave granted by the Court under sub-section (1) may be special or general, and may be defined by the order granting it.

Guardian of Property

27. Duties of guardian of property.— A guardian of the property of a ward is bound to deal therewith as carefully as a man of ordinary prudence would deal with it if it were his own, and, subject to the provisions of this Chapter, he may do all acts which are reasonable and proper for the realisation, protection or benefit of the property.

28. Powers of testamentary guardian.— Where a guardian has been appointed by will or other instrument, his power to mortgage or charge, or transfer by sale, gift, exchange or otherwise, immoveable property belonging to his ward is subject to any restriction which may be imposed by the instrument, unless he has under this Act been declared guardian and the Court which made the declaration permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

29. Limitation of powers of guardian of property appointed or declared by the Court.— Where a person other than a Collector, or than a guardian appointed by will or other instrument, has been appointed or declared by the Court to be guardian of the property of a ward, he shall not, without the previous permission of the Court,—

- (a) mortgage or charge, or transfer by sale, gift, exchange or otherwise, any part of the immoveable property of his ward, or
- (b) lease any part of that property for a term exceeding five years or for any term extending more than one year beyond the date on which the ward will cease to be a minor.

30. Voidability of transfers made in contravention of section 28 or section 29. A disposal of immoveable property by a guardian in contravention of either of the two last foregoing sections is voidable at the instance of any other person affected thereby.

31. Practice with respect to permitting transfers under section 29.—(1) Permission to the guardian to do any of the acts mentioned in section 29 shall not be granted by the Court except in case of necessity or for an evident advantage to the ward.

(2) The order granting the permission shall recite the necessity or advantage, as the case may be, describe the property with respect to which the act permitted is to be done, and specify such conditions, if any, as the Court may see fit to attach to the permission; and

it shall be recorded, dated and signed by the Judge of the Court with his own hand, or when from any cause he is prevented from recording the order with his own hand, shall be taken down in writing from his dictation and be dated and signed by him.

(3) The Court may in its discretion attach to the permission the following among other conditions, namely:-

- (a) that a sale shall not be completed without the sanction of the Court;
- (b) that a sale shall be made to the highest bidder by public auction, before the Court or some person specially appointed by the Court for that purpose, at a time and place to be specified by the Court, after such proclamation of the intended sale as the Court, subject to any rules made under this Act by the High Court, directs;
- (c) that a lease shall not be made in consideration of a premium or shall be made for such term of years and subject to such rents and covenants as the Court directs;
- (d) that the whole or any part of the proceeds of the act permitted shall be paid into the Court by the guardian, to be disbursed therefrom or to be invested by the Court on prescribed securities or to be otherwise disposed of as the Court directs.

(4) Before granting permission to a guardian to do an act mentioned in section 29, the Court may cause notice of the application for the permission to be given to any relative or friend of the ward who should, in its opinion, receive notice thereof, and shall hear and record the statement of any person who appears in opposition to the application.

32. Variation of powers of guardian of property appointed or declared by the Court.— Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, the Court may, from time to time, by order, define, restrict or extend his powers with respect to the property of the ward in such manner and to such extent as it may consider to be for the advantage of the ward and consistent with the law to which the ward is subject.

33. Right of guardian so appointed or declared to apply to the Court for opinion in management of property of ward.— (1) A guardian appointed or declared by the Court may apply by petition to the Court which appointed or declared him for its opinion, advice or direction on any present question respecting the management or administration of the property of his ward.

(2) If the Court considers the question to be proper for summary disposal, it shall cause a copy of the petition to be served on, and the hearing thereof may be attended by, such of the persons interested in the application as the Court thinks fit.

(3) The guardian stating in good faith the facts in the petition and acting upon the opinion, advice or direction given by the Court shall be deemed, so far as regards his own responsibility, to have performed his duty as guardian in the subject matter of the application.

34. Obligations on guardian of property appointed or declared by the Court.—

Where a guardian of the property of a ward has been appointed or declared by the Court and such guardian is not the Collector, he shall,—

- (a) if so required by the Court, give a bond, as nearly as may be in the prescribed form, to the Judge of the Court to ensure for the benefit of the Judge for the time being, with or without sureties, as may be prescribed, engaging duly to account for what he may receive in respect of the property of the ward;
- (b) if so required by the Court, deliver to the Court, within six months from the date of his appointment or declaration by the Court or within such other time as the Court directs, a statement of the immovable property belonging to the ward, of the money and other moveable property which he has received on behalf of the ward up to the date of delivering the statement, and of the debts due on that date to or from the ward;
- (c) if so required by the Court, exhibit his accounts in the Court at such times and in such form as the Court from time to time directs;
- (d) if so required by the Court, pay into the Court at such time as the Court directs the balance due from him on those accounts, or so much thereof as the Court directs; and
- (e) apply for the maintenance, education and advancement of the ward and of such persons as are dependent on him, and for the celebration of ceremonies to which the ward or any of those persons may be a party, such portion of the income of the property of the ward as the Court from time to time directs, and, if the Court so directs, the whole or any part of that property.

²¹[**34A. Power to award remuneration for auditing accounts.—** When accounts are exhibited by a guardian of the property of a ward in pursuance of a requisition made under clause (c) of section 34 or otherwise, the Court may appoint a person to audit the accounts, and may direct that remuneration for the work be paid out of the income of the property.]

35. Suit against guardian where administration bond was taken.— Where a guardian appointed or declared by the Court has given a bond duly to account for what he may receive in respect of the property of his ward, the Court may, on application made by petition and on being satisfied that the engagement of the bond has not been kept, and upon such terms as to security, or providing that any money received be paid into the Court, or otherwise as the Court thinks fit, assign the bond to some proper person, who shall thereupon be entitled to sue on the bond in his own name as if the bond had been originally given to him instead of to the Judge of the Court and shall be entitled to recover thereon as trustee for the ward, in respect of any breach thereof.

36. Suit against guardian where administration bond was not taken.— (1) Where a guardian appointed or declared by the Court has not given a bond as aforesaid, any

²¹ S. 34A ins. by the Guardians and Wards (Amdt.) Act, 1929 (17 of 1929), s. 2.

person, with the leave of the Court, may, as next friend, at any time during the continuance of the minority of the ward, and upon such terms as aforesaid, institute a suit against the guardian, or, in case of his death, against his representative, for an account of what the guardian has received in respect of the property of the ward, and may recover in the suit, as trustee for the ward, such amount as may be found to be payable by the guardian or his representative, as the case may be.

22*****

37. General liability of guardian as trustee.— Nothing in either of the two last foregoing sections shall be construed to deprive a ward or his representative of any remedy against his guardian, or the representative of the guardian, which, not being expressly provided in either of those sections, any other beneficiary or his representative would have against his trustee or the representative of the trustee.

Termination of Guardianship

38. Right of survivorship among joint guardians.— On the death of one of two or more joint guardians, the guardianship continues to the survivor or survivors until a further appointment is made by the Court.

39. Removal of guardian.— The Court may, on the application of any person interested, or of its own motion, remove a guardian appointed or declared by the Court, or a guardian appointed by will or other instrument, for any of the following causes, namely:-

- (a) for abuse of his trust;
- (b) for continued failure to perform the duties of his trust;
- (c) for incapacity to perform the duties of his trust;
- (d) for ill treatment, or neglect to take proper care, of his ward;
- (e) for contumacious disregard of any provision of this Act or of any order of the Court;
- (f) for conviction of an offence implying, in the opinion of the Court, a defect of character which unfits him to be the guardian of his ward;
- (g) for having an interest adverse to the faithful performance of his duties;
- (h) for ceasing to reside within the local limits of the jurisdiction of the Court;
- (i) in the case of a guardian of the property, for bankruptcy or insolvency;
- (j) by reason of the guardianship of the guardian ceasing, or being liable to cease, under the law to which the minor is subject:

Provided that a guardian appointed by will or other instrument, whether he has been

22 Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

declared under this Act or not, shall not be removed—

- (a) for the cause mentioned in clause (g) unless the adverse interest accrued after the death of the person who appointed him, or it is shown that that person made and maintained the appointment in ignorance of the existence of the adverse interest, or
- (b) for the cause mentioned in clause (h) unless such guardian has taken up such a residence as, in the opinion of the Court, renders it impracticable for him to discharge the functions of guardian.

40. Discharge of guardian.— (1) If a guardian appointed or declared by the Court desires to resign his office, he may apply to the Court to be discharged.

(2) If the Court finds that there is sufficient reason for the application, it shall discharge him, and if the guardian the application is the Collector and the ²³[Provincial Government] approves of is applying to be discharged, the Court shall in any case discharge him.

41. Cessation of authority of guardian. —(1) The powers of a guardian of the person cease —

- (a) by his death, removal or discharge;
- (b) by the Court of Wards assuming superintendence of the person of the ward;
- (c) by the ward ceasing to be a minor;
- (d) in the case of a female ward, by her marriage to a husband who is not unfit to be guardian of her person or, if the guardian was appointed or declared by the Court, by her marriage to a husband who is not, in the opinion of the Court, so unfit; or,
- (e) in the case of a ward whose father was unfit to be guardian of the person of the ward, by the father ceasing to be so or, if the father was deemed by the Court to be so unfit, by his ceasing to be so in the opinion of the Court.

(2) The powers of a guardian of the property cease —

- (a) by his death, removal or discharge;
- (b) by the Court of Wards assuming superintendence of the property of the ward; or
- (c) by the ward ceasing to be a minor.

(3) When for any cause the powers of a guardian cease, the Court may require

²³ Subs. by A.O., 1937, for “L. G.”.

him or, if he is dead, his representative to deliver as it directs any property in his possession or control belonging to the ward or any accounts in his possession or control relating to any past or present property of the ward.

(4) When he has delivered the property or accounts as required by the Court, the Court may declare him to be discharged from his liabilities save as regards any fraud which may subsequently be discovered.

42. Appointment of successor to guardian dead, discharged or removed.— When a guardian appointed or declared by the Court is discharged, or, under the law to which the ward is subject, ceases to be entitled to act, or when any such guardian or a guardian appointed by will or other instrument is removed or dies, the Court, of its own motion or on application under Chapter II, may, if the ward is still a minor, appoint or declare another guardian of his person or property, or both, as the case may be.

CHAPTER IV SUPPLEMENTAL PROVISIONS

43. Orders for regulating conduct or proceedings of guardians, and enforcement of those orders.—(1) The Court may, on the application of any person interested or of its own motion, make an order regulating the conduct or proceedings of any guardian appointed or declared by the Court.

(2) Where there are more guardians than one of a ward, and they are unable to agree upon a question affecting his welfare, any of them may apply to the Court for its direction, and the Court may make such order respecting the matter in difference as it thinks fit.

(3) Except where it appears that the object of making an order under sub-section (1) or sub-section (2) would be defeated by the delay, the Court shall, before making the order, direct notice of the application therefor or of the intention of the Court to make it, as the case may be, to be given, in a case under sub-section (1), to the guardian or, in a case under sub-section (2), to the guardian who has not made the application.

(4) In case of disobedience to an order made under sub-section (1) or sub-section (2), the order may be enforced in the same manner as an injunction granted under ²⁴[rules 1 and 2 of order XXXIX of the First Schedule to the Code of Civil Procedure, 1908] (Act V of 1908) in a case under sub-section (1), as if the ward were the plaintiff and the guardian were the defendant or, in a case under sub-section (2), as if the guardian who made the application were the plaintiff and the other guardian were the defendant.

(5) Except in a case under sub-section (2), nothing in this section shall apply to a Collector who is, as such, a guardian.

44. Penalty for removal of ward from jurisdiction.— If, for the purpose or with the effect of preventing the Court from exercising its authority with respect to award, a guardian appointed or declared by the Court removes the ward from the limits of the jurisdiction of the Court in contravention of the provisions of section 26, he shall be liable, by order of the Court, to fine not exceeding one thousand rupees, or to imprisonment in the civil jail for a

²⁴ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., for certain words.

term which may extend to six months.

45. Penalty for contumacy.— (1) In the following cases, namely:-

- (a) if a person having the custody of a minor fails to produce him or cause him to be produced in compliance with a direction under section 12, sub-section (1), or to do his utmost to compel the minor to return to the custody of his guardian in obedience to an order under section 25, sub-section (1), or
- (b) if a guardian appointed or declared by the Court fails to deliver to the Court, within the time allowed by or under clause (b) of section 34, a statement required under that clause, or to exhibit accounts in compliance with a requisition under clause (c) of that section, or to pay into the Court the balance due from him on those accounts in compliance with a requisition under clause (d) of that section, or
- (c) if a person who has ceased to be a guardian, or the representative of such a person, fails to deliver any property or accounts in compliance with a requisition under section 41, sub-section (3),

the person, guardian or representative, as the case may be, shall be liable, by order of the Court, to fine not exceeding one hundred rupees, and in case of recusancy to further fine not exceeding ten rupees for each day after the first during which the default continues, and not exceeding five hundred rupees in the aggregate, and to detention in the civil jail until he undertakes to produce the minor or cause him to be produced, or to compel his return, or to deliver the statement or to exhibit the accounts, or to pay the balance, or to deliver the property or accounts, as the case may be.

(2) If a person who has been released from detention on giving an undertaking under sub-section (1) fails to carry out the undertaking within the time allowed by the Court, the Court may cause him to be arrested and re-committed to the civil jail.

46. Reports by Collectors and Subordinate Courts.— (1) The Court may call upon the Collector, or upon any Court subordinate to the Court, for a report on any matter arising in any proceeding under this Act and treat the report as evidence.

(2) For the purpose of preparing the report the Collector or the Judge of the Subordinate Court, as the case may be, shall make such inquiry as he deems necessary, and may for the purposes of the inquiry exercise any power of compelling the attendance of a witness to give evidence or produce a document which is conferred on a Court by the ²⁵[Code of Civil Procedure, 1908] (Act V of 1908).

47. Orders appealable.— An appeal shall lie to the High Court from an order made by a ²⁶* court—

- (a) under section 7, appointing or declaring or refusing to appoint or declare a guardian; or

²⁵ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981, s. 3 and 2nd Sch., for “Code of Civil Procedure”.

²⁶ The word “District” rep. by s. 4 of the Guardians and Wards (Amdt.) Act, 1926 (4 of 1926).

- (b) under section 9, sub-section (3), returning an application ; or,
- (c) under section 25, making or refusing to make an order for the return of a ward to the custody of his guardian; or,
- (d) under section 26, refusing leave for the removal of a ward from the limits of the jurisdiction of the Court, or imposing conditions with respect thereto; or,
- (e) under section 28 or section 29, refusing permission to a guardian to do an act referred to in the section; or,
- (f) under section 32, defining, restricting or extending the powers of a guardian; or,
- (g) under section 39, removing a guardian; or,
- (h) under section 40, refusing to discharge a guardian; or,
- (i) under section 43 regulating the conduct or proceedings of a guardian or settling a matter in difference between joint guardians, or enforcing the order;
- (j) under section 44 or section 45, imposing a penalty ²⁷[:]

[provided that, where the order from which an appeal is preferred is passed by an officer subordinate to a District Court, the appeal shall lie to the District Court.]

48. Finality of other orders.— Save as provided by the last foregoing section and by ²⁸[section 115 of the Code of Civil Procedure, 1908] (Act V of 1908) an order made under the Act shall be final and shall not be liable to be contested by suit or otherwise.

49. Costs.— The costs of any proceeding under this Act, including the costs of maintaining a guardian or other person in the civil jail, shall, subject to any rules made by the High Court under this Act, be in the discretion of the Court in which the proceeding is had.

50. Power of High Court to make rules.—(1) In addition to any other power to make rules conferred expressly or impliedly by this Act, the High Court may from time to time make rules consistent with this Act—

- (a) as to the matters respecting which, and the time at which, reports should be called for from Collectors and Subordinate Courts;
- (b) as to the allowances to be granted to, and the security to be required from, guardians, and the cases in which such allowances should be granted;
- (c) as to the procedure to be followed with respect to applications of

²⁷ Subs. and added by the Guardians and Wards (Amdt.) Ordinance, 1980 (11 of 1980), s. 2.

²⁸ Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981, (27 of 1981), s. 3 and 2nd Sch., for “section 622 of the Code of Civil Procedure”.

guardians for permission to do acts referred to in sections 28 and 29;

- (d) as to the circumstances in which such requisitions as are mentioned in clauses (a), (b), (c) and (d) of section 34 should be made;
- (e) as to the preservation of statements and accounts delivered and exhibited by guardians;
- (f) as to the inspection of those statements and accounts by persons interested;
- ²⁹[(ff) as to the audit of accounts under section 34A, the class of persons who should be appointed to audit accounts, and the scales of remuneration to be granted to them;]
- (g) as to the custody of money, and securities for money, belonging to wards;
- (h) as to the securities on which money belonging to wards may be invested;
- (i) as to the education of wards for whom guardians, not being Collectors, have been appointed or declared by the Court; and,
- (j) generally, for the guidance of the Courts in carrying out the purposes of this Act.

(2) Rules under clauses (a) and (i) of sub-section (1) shall not have effect until they have been approved by the ³⁰[provincial Government], nor shall any rule under this section have effect until it has been published in the official Gazette.

51. [Applicability of Act to guardians already appointed by Court.]— Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II.

52. [Amendment of Indian Majority Act.]— Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.

53. [Amendment of Chapter XXXI of the Code of Civil Procedure.]— Rep. by the Code of Civil Procedure, 1908 (V of 1908), s. 156 and Schedule V.

THE SCHEDULE. — [ENACTMENTS REPEALED.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.

²⁹ Clause (ff) ins. by the Guardians and Wards (Amdt.) Act, 1929 (17 of 1929), s. 3.
³⁰ Subs. by A.O., 1937, for "L. G."

THE CHRISTIAN MARRIAGE ACT, 1872

Contents

Section	Heading
PRELIMINARY	
1.	Short title, extent
2.	[<i>Enactments Repealed</i>]
3.	Interpretation- clause
PART I	
THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED	
4.	Marriages to be solemnized according to Act
5.	Persons by whom marriages may be solemnized
6.	Grant and revocation of licenses to solemnize marriage
7.	Marriage Registrars. senior Marriage Registrar. Magistrate when to be Marriage Registrar
8.	[Omitted]
9.	Licensing of persons to grant certificates of marriage between Native Christians
PART II	
TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED	
10.	Time for solemnizing marriage. Exceptions
11.	Place for solemnizing marriage. Fee for special license
PART III	
MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT	
12.	Notice of intended marriage
13.	Publication of such notice. Return or transfer of notice
14.	Notice of intended marriage in private dwelling
15.	Sending copy of notice to Marriage Registrar when one party is a minor
16.	Procedure on receipt of notice
17.	Issue of certificate of notice given and declaration made. Proviso
18.	Declaration before issue of certificate
19.	Consent of father, or guardian, or mother
20.	Power to prohibit by notice issue of certificate
21.	Procedure on receipt of notice
22.	Issue of certificate in case of minority
23.	Issue of certificate to Native Christians
24.	Form of certificate.
25.	Solemnization of marriage
26.	Certificate void if marriage not solemnized within two months
27.	Marriages when to be registered

28.	Registration of marriages solemnized by Clergymen of Church of England
29.	Quarterly returns to Archdeaconry. Contents of returns
30.	Registration and returns of marriages solemnized by Clergymen of Church of Rome
31.	Registration and returns of marriages solemnized by Clergymen of Church of Scotland
32.	Certain marriages to be registered in duplicate
33.	Entries of such marriages to be signed and attested
34.	Certificate to be forwarded to Marriage Registrar, copied and sent to Registrar General
35.	Copies of certificates to be entered and numbered
36.	Registrar to add number of entry to certificate, and send to Registrar General
37.	Registration of Marriages between Native Christians by persons referred to in clauses (1), (2) and (3) of section 5. Custody and disposal of register- book
PART V MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR	
38.	Notice of intended marriage before Marriage Registrar.
39.	Publication of notice
40.	Notice to be filed and copy entered in Marriage Notice Book.
41.	Certificate of notice given and oath made. proviso
42.	Oath before issue of certificate
43.	[Omitted]
44.	Consent of father or guardian Protest against issue of certificate. Effect of protest
45.	Petition where person whose consent is necessary is insane or unjustly withholds consent. Procedure on petition.
46.	Petition when Marriage Registrar refuses certificate. procedure on petition
47.	[Omitted.]
48.	Petition when registrar doubts authority of person forbidding. Procedure on petition. Reference when Marriage Registrar in Acceding State doubts authority of person forbidding Procedure on reference
49.	Liability for frivolous protest against issue of certificate.
50.	Form of certificate
51.	Solemnization of marriage after issue of certificate.
52.	When marriage not had within two months after notice, new notice required
53.	Marriage Registrar may ask for particulars to be registered.
54.	Registration of marriage solemnized under part v.
55.	Certificates to be sent monthly to Registrar General. custody of register-book
56.	[Omitted.]
57.	Registrars to ascertain that notice and certificate are understood by Native Christians
58.	Native Christians to be made to understand declarations
59.	Registration of marriages between Native Christians

PART VI MARRIAGE OF NATIVE CHRISTIANS	
60.	On what conditions marriages of Native Christians may be certified.
61.	Grant of certificate
62.	Keeping of register- book and deposit of extracts therefrom with Registrar General
63.	Searches in register- book and copies of entries
64.	Books in which marriages of Native Christians under part I or part III are registered
65.	Part VI not to apply to Roman Catholics. Saving of certain marriages
PART VII PENALTIES	
66.	False oath, declaration, notice or certificate for procuring marriage
67.	Forbidding, by false personation, issue of certificate by Marriage Registrar
68.	Solemnizing marriage without due authority
69.	Solemnizing marriage out of proper time, or without witnesses. Saving of marriages solemnized under special license.
70.	Solemnizing without notice or within fourteen days after notice, marriage with minor
71.	Issuing certificate, or marrying without publication of notice; marrying after expiry of notice; solemnizing marriage with minor within fourteen days without authority of court, or without sending copy of notice;
72.	Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition.
73.	Persons authorized to solemnize marriage (other than Clergy of Churches Of England, Scotland Or Rome); issuing Certificate or marrying, without publishing notice, or after expiry of certificate ; issuing Certificate for, or Solemnizing, marriage
74.	Unlicensed person granting certificate pretending to be licensed
75.	Destroying or falsifying register- books
76.	Limitation of prosecutions under Act
PART VIII MISCELLANEOUS	
77.	What matters need not be proved in respect of marriage in accordance with Act
78.	Correction of errors
79.	Searches and copies of entries
80.	Certified copy of entry in marriage register, etc., to be evidence
81.	Certificates of certain marriages for Federal Government
82.	Provincial Government to prescribe fees
83.	Power to make rules
84.	[Omitted.]
85.	Power to declare who shall be District Judge
86.	[Omitted.]
87.	Saving of Consular marriages

SCHEDULE I. NOTICE OF MARRIAGE
SCHEDULE II. CERTIFICATE OF RECEIPT OF NOTICE
SCHEDULE III. FORM OF REGISTER OF MARRIAGES
SCHEDULE IV. MARRIAGE REGISTER-BOOK. CERTIFICATE OF MARRIAGE
SCHEDULE V. [Repealed.]

THE CHRISTIAN MARRIAGE ACT, 1872

Act No. XV OF ¹1872

[18th July, 1872]

*An Act to consolidate and amend the law relating to the solemnization² * * of the marriages of Christians.*

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the solemnization of the marriages of persons professing the Christian religion; It is hereby enacted as follows:

PRELIMINARY

1. Short title. This Act may be called the ³* Christian Marriage Act, 1872.

Extent. It extends to [the whole of Pakistan] ³* * *

4* * * * *

2. [Enactments repealed.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Sch.*

3. Interpretation-clause. In this Act, unless there is something repugnant in the subject or context,—

“Church of England” and “Anglican” mean and apply to the Church of England as by law established; “Church of Scotland” means the Church of Scotland as by law established;

“Church of Rome” and “Roman Catholic” mean and apply to the Church which regards the Pope of Rome as its spiritual head;

“Church” includes any chapel or other building generally used for public Christian worship;

“minor” means a person who has not completed the age of twenty-one years and who is not a widower or a widow;

5* * * * *

the expression “Christians” means persons professing the Christian religion;

and the expression “Native Christians” includes the Christian descendants of Natives of⁶ [Indo-Pakistan subcontinent] converted to Christianity, as well as such converts;

¹ This Act has been declared to be in force in Balochistan by the British Balochistan Laws Regulation, 1913 (2 of 1913), s. 3. The words “in India” omitted by A.O., 1949, Sch

² Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), “for all the Provinces and the Capital of the Federation” which had been subs. by A.O., 1949, Arts. 3(2) and 4, for “the whole of British India”.

³ Certain words omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

⁴ The commencement clause was rep. by the Repealing Act, 1874 (16 of 1874).

⁵ The definition of “Native State” which read “Native State means the territories of any Native Prince or State in alliance with Her Majesty” was rep. by A.O., 1937.

⁶ Subs. by A. O., 1949, Sch., for “India”.

⁷ [“Registrar General of Births, Deaths and Marriages” means a Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886 ([VI of 1886](#))]

PART I

THE PERSONS BY WHOM MARRIAGES MAY BE SOLEMNIZED

4. Marriages to be solemnized according to Act.— Every marriage between persons, one or both of whom is⁸ [or are] a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

5. Persons by whom marriages may be solemnized.— Marriages may be solemnized in⁹ [Pakistan].

- (1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which he is a Minister;
- (2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland;
- (3) by any Minister of Religion licensed under this Act to solemnize marriages;
- (4) by, or in the presence of, a Marriage Registrar appointed under this Act;
- (5) by any person licensed under this Act to grant certificates of marriage between Native Christians.

¹⁰ **[6. Grant and revocation of licenses to solemnize marriage.**— The Provincial Government may, by notification in the official Gazette, grant licences to Ministers of Religion to solemnize marriages, and may, by a like notification, revoke such licences].

7. Marriage Registrars.— The ¹¹[Provincial Government] may appoint one or more Christians, either by name or as holding any office for the time being, to be the Marriage Registrar or Marriage Registrars for any district subject to its administration.

Senior Marriage Registrar. Where there are more Marriage Registrars than one in any district, the [Provincial Government] shall appoint one of them to be the Senior Marriage Registrar.

Magistrate when to be Marriage Registrar. When there is only one Marriage

⁷ ns. by the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), s. 30.

⁸ Ins. by the Amending Act, 1891 (12 of 1891), s. 2 and Sch. II.

⁹ Subs. by A. O., 1949, Sch., for “India”.

¹⁰ Section 6 previously amended by various enactments have been subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., to read as above.

¹¹ Subs. by A. O., 1937, for “L.G.”.

Registrar in a district, and such Registrar is absent from such district, or ill, or when his office is temporarily vacant, the Magistrate of the district shall act as, and be, Marriage Registrar thereof during such absence, illness or temporary vacancy.

8. ¹² [*Marriage Registrars in Acceding States.*] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and 2nd Sch.

9. **Licensing of persons to grant certificates of marriage between Native Christians.**— The¹³ [Provincial Government]¹⁴ * * * may grant a license to any Christian, either by name or as holding any office for the time being, authorizing him to grant certificate of marriage between Native Christians.

Any such license may be revoked by the authority by which it was granted, and every such grant or revocation shall be notified in the official Gazette.

PART II

TIME AND PLACE AT WHICH MARRIAGES MAY BE SOLEMNIZED

10. **Time for solemnizing marriage.**— Every marriage under this Act shall be solemnized between the hours of six in the morning and seven in the evening:

Exceptions. Provided that nothing in this section shall apply to-

- (1) a Clergyman of the Church of England solemnizing a marriage under a special license permitting him to do so at any hour other than between six in the morning and seven in the evening, under the hand and seal of the Anglican Bishop of the Diocese or his Commissary, or
- (2) a Clergyman of the Church of Rome solemnizing a marriage between the hours of seven in the evening and six in the morning, when he has received a general or special license in that behalf from the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is so solemnized, or from such person as the same Bishop has authorized to grant such license,¹⁵ or
- (3) a Clergyman of the Church of Scotland solemnizing a marriage according to the rules, rites, ceremonies and customs of the Church of Scotland.]

11. **Place for solemnizing marriage.**— No Clergyman of the Church of England shall solemnize a marriage in any place other than a church¹⁶ [where worship is generally held according to the forms of the Church of England],

unless there is no [such] church within five miles distance by the shortest road from such

¹² This section was previously amended by A. O., 1937, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and IIIrd Sch.

¹³ Subs. by A. O., 1937, for "L. G."

¹⁴ Certain words previously amended by various enactments have been omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

¹⁵ Ins. by the Indian Christian Marriage Act (1872) Amdt. Act, 1891 (2 of 1891), s. 2.

¹⁶ Ins. by the Indian Christian Marriage Act (1872) Amdt. Act, 1891 (2 of 1891), s. 3.

place, or

unless he has received a special license authorizing him to do so under the hand and seal of the Anglican Bishop of the Diocese or his Commissary.

Fee for special license. For such special license, the Registrar of the Diocese may charge such additional fee as the said Bishop from time to time authorizes.

PART III

MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION LICENSED UNDER THIS ACT

12. Notice of intended marriage.— Whenever a marriage is intended to be solemnized by a Minister of Religion licensed to solemnize marriages under this Act—

one of the persons intending marriage shall give notice in writing, according to the form contained in the first schedule hereto annexed, or to the like effect, to the Minister of Religion whom he or she desire to solemnize the marriage, and shall state therein—

- (a) the name and surname, and the profession or condition, of each of the person intending marriage,
- (b) the dwelling place of each of them,
- (c) the time during which each has dwelt there, and
- (d) the church or private dwelling in which the marriage is to be solemnized:

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

13. Publication of such notice.— If the persons intending marriage desire it to be solemnized in a particular church, and if the Minister of Religion to whom such notice has been delivered be entitled to officiate therein, he shall cause the notice to be affixed in some conspicuous part of such church.

Return or transfer of notice. But if he is not entitled to officiate as a Minister in such church, he shall, at his option, either return the notice to the person who delivered it to him, or deliver it to some other Minister entitled to officiate therein, who shall thereupon cause the notice to be affixed as aforesaid.

14. Notice of intended marriage in private dwelling.— If it be intended that the marriage shall be solemnized in a private dwelling, the Minister of Religion, on receiving the notice prescribed in section 12, shall forward it to the Marriage Registrar of the district, who shall affix the same to some conspicuous place in his own office.

15. Sending copy of notice to Marriage Registrar when one party is a minor.—

When one of the persons intending marriage is a minor, every Minister receiving such notice shall, unless within twenty-four hours after its receipt he returns the same under the provisions of section 13, send by the post or otherwise a copy of such notice to the Marriage Registrar of the district, or, if there be more than one Registrar of such district, to the Senior Marriage Registrar.

16. Procedure on receipt of notice.— The Marriage Registrar or Senior Marriage Registrar, as the case may be, on receiving any such notice, shall affix it to some conspicuous place in his own office, and the latter shall further cause a copy of the said notice to be sent to each of the other Marriage Registrars in the same district, who shall likewise publish the same in the manner above directed.

17. Issue of certificate of notice given and declaration made.— Any Minister of Religion consenting or intending to solemnize any such marriage as aforesaid, shall, on being required so to do by or on behalf of the person by whom the notice was given, and upon one of the persons intending marriage making the declaration hereinafter required, issue under his hand a certificate of such notice having been given and of such declaration having been made :

Provided- **Proviso.**

- (1) that no such certificate shall be issued until the expiration of four days after the date of the receipt of the notice by such Minister ;
- (2) that no lawful impediment be shown to his satisfaction why such certificate should not issue; and
- (3) that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf.

18. Declaration before issue of certificate.— The certificate mentioned in section 17 shall not be issued until one of the persons intending marriage has appeared personally before the Minister and made a solemn declaration—

- (a) that he or she believes that there is not any impediment of kindred or affinity or other lawful hindrance to the said marriage,

and, when either or both of the parties is or are a minor or minors,

- (b) that the consent or consents required by law has or have been obtained thereto, or that there is no person resident in ¹⁷[Pakistan] having authority to give such consent, as the case may be.

19. Consent of father, or guardian, or mother.— The father, if living, of any minor, or, if the father be dead, the guardian of the person of such minor, and, in case there be no such guardian, then the mother of such minor, may give consent to the minor's marriage,

and such consent is hereby required for the same marriage, unless no person

¹⁷ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and 3rd Sch., for "India".

authorized to give such consent be resident in ¹⁸[Pakistan].

20. Power to prohibit by notice issue of certificate.— Every person whose consent to a marriage is required under section 19 is hereby authorized to prohibit the issue of the certificate by any Minister, at any time before the issue of the same, by notice in writing to such Minister, subscribed by the person so authorised with his or her name and place of abode and position with respect to either of the person intending marriage, by reason of which he or she is so authorized as aforesaid.

21. Procedure on receipt of notice.— If any such notice be received by such Minister, he shall not issue his certificate and shall not solemnize the said marriage until he has examined into the matter of the said prohibition, and is satisfied that the person prohibiting the marriage has no lawful authority for such prohibition,

or until the said notice is withdrawn by the person who gave it.

22. Issue of certificate in case of minority.— When either of the persons intending marriage is a minor, and the Minister is not satisfied that the consent of the person whose consent to such marriage is required by section 19 has been obtained, such Minister shall not issue such certificate until the expiration of fourteen days after the receipt by him of the notice of marriage.

23. Issue of certificate to Native Christians.— When any Native Christian about to be married takes a notice of Marriage to a Minister of Religion, or applies for a certificate from such Minister under section 17, such Minister shall, before issuing the certificate, ascertain whether such Native Christian is cognizant of the purport and effect of the said notice or certificate, as the case may be, and, if not, shall translate or cause to be translated the notice or certificate to such Native Christian into some language which he understands.

24. Form of certificate.— The certificate to be issued by such Minister shall be in the form contained in the second schedule hereto annexed, or to the like effect.

25. Solemnization of marriage.— After the issue of the certificate by the Minister, marriage may be solemnized between the persons therein described according to such form or ceremony as the Minister thinks fit to adopt:

Provided that the marriage be solemnized in the presence of at least two witnesses besides the Minister.

26. Certificate void if marriage not solemnized within two months.— Whenever a marriage is not solemnized within two months after the date of the certificate issued by such Minister as aforesaid, such certificate and all proceedings (if any) thereon shall be void,

and no person shall proceed to solemnize the said marriage until new notice has been given and a certificate thereof issued in manner aforesaid.

¹⁸ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and 3rd Sch. for "India".

PART IV

REGISTRATION OF MARRIAGES SOLEMNIZED BY MINISTERS OF RELIGION

27. Marriages when to be registered.— All marriages hereafter solemnized in¹⁹ [Pakistan] between persons one or both of whom professes or profess the Christian religion, except marriages solemnized under Part V or Part VI of this Act, shall be registered²⁰ in manner hereinafter prescribed.

28. Registration of marriages solemnized by Clergymen of Church of England.— Every Clergyman of the Church of England shall keep a register of marriages and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act.

29. Quarterly returns to Archdeaconry.— Every Clergyman of the Church of England shall send four times in every year returns in duplicate, authenticated by his signature, of the entries in the register of marriages solemnized at any place where he has any spiritual charge, to the Registrar of the Archdeaconry to which he is subject, or within the limits of which such place is situate.

Contents of returns. Such quarterly returns shall contain all the entries of marriages contained in the said register from the first day of January to the thirty-first day of March, from the first day of April to the thirtieth day of June, from the first day of July to the thirtieth day of September, and from the first day of October to the thirty-first day of December, of each year respectively, and shall be sent by such Clergyman within two weeks from the expiration of each of the quarters above specified.

The said Registrar upon receiving the said returns shall send one copy thereof to the ²¹[Registrar General of Births, Deaths and Marriages.]

30. Registration and returns of marriages solemnized by Clergymen of Church of Rome.— Every marriage solemnized by a Clergyman of the Church of Rome shall be registered by the person and according to the form directed in that behalf by the Roman Catholic Bishop of the Diocese or Vicariate in which such marriage is solemnized,

and such person shall forward quarterly to the [Registrar General of Births, Deaths and Marriages] returns of the entries of all marriages registered by him during the three months next preceding.

31. Registration and returns of marriages solemnized by Clergymen of Church of Scotland.— Every Clergyman of the Church of Scotland shall keep a register of marriages,

¹⁹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and 3rd Sch., for "India".

²⁰ As to the establishment of general registry offices of births, deaths and marriages, see the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), Ch. II.

²¹ Subs. by Act 6 of 1886, s. 30 (b), for "Secretary to the L.G.".

and shall register therein, according to the tabular form set forth in the third schedule hereto annexed, every marriage which he solemnizes under this Act,

and shall forward quarterly to the [Registrar General of Births, Deaths and Marriages], through the Senior Chaplain of the Church of Scotland, returns, similar to those prescribed in section 29, of all such marriages.

32. Certain marriages to be registered in duplicate.— Every marriage solemnized by any person who has received episcopal ordination, but who is not a Clergyman of the Church of England, or of the Church of Rome, or by any Minister of Religion licensed under this Act to solemnize marriages, shall, immediately after the solemnization thereof, be registered in duplicate by the person solemnizing the same; (that is to say) in a marriage -register -book to be kept by him for that purpose, according to the form contained in the fourth schedule hereto annexed, and also in a certificate attached to the marriage -register -book as a counterfoil.

33. Entries of such marriages to be signed and attested.— The entry of such marriage in both the certificate and marriage -register -book shall be signed by the person solemnizing the marriage, and also by the persons married, and shall be attested by two credible witnesses, other than the person solemnizing the marriage, present at its solemnization.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

34. Certificate to be forwarded to Marriage Registrar, copied and sent to Registrar General.— The person solemnizing the marriage shall forthwith separate the certificate from the marriage-register-book and send it, within one month from the time of the solemnization, to the Marriage Registrar of the district in which the marriage was solemnized, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar,

who shall cause such certificate to be copied into a book to be kept by him for that purpose,

and shall send all the certificates which he has received during the month, with such number and signature or initials added thereto as are hereinafter required, to the ²²[Registrar General of Births, Deaths and Marriages].

35. Copies of certificates to be entered and numbered.— Such copies shall be entered in order from the beginning to the end of the said book, and shall bear both the number of the certificate as copied, and also a number to be entered by the Marriage Registrar, indicating the number of the entry of the said copy in the said book according to the order in which he receives each certificate.

36. Registrar to add number of entry to certificate, and send to Registrar General.— The Marriage Registrar shall also add such last-mentioned number of the entry of the copy in the book to the certificate, with his signature or initials, and shall, at the end of every month, send the same to the [Registrar General of Births, Deaths and Marriages].

²² Subs. by the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), s. 30 (b), for the words "Secretary to the L.G.".

37. Registration of marriages between Native Christians by persons referred to in clauses (1), (2) and (3) of section 5.— When any marriage between Native Christians is solemnized ²³[by any such person, Clergyman or Minister of Religion as is referred to in clause (1), clause (2) or clause (3) of section 5], the person solemnizing the same shall, instead of proceeding in the manner provided by sections 28 to 36, both inclusive, register the marriage in a separate register-book, and shall keep it safely until it is filled, or, if he leave the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

Custody and disposal of register-book. Whoever has the control of the book at the time when it is filled, shall send it to the Marriage Registrar of the district, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar, who shall send it to the ²⁴Registrar General of Births, Deaths and Marriages], to be kept by him with the records of his office.

PART V

MARRIAGES SOLEMNIZED BY, OR IN THE PRESENCE OF, A MARRIAGE REGISTRAR.

38. Notice of intended marriage before Marriage Registrar.— When a marriage is intended to be solemnized by, or in the presence of, a Marriage Registrar, one of the parties to such marriage shall give notice in writing, in the form contained in the first schedule hereto annexed, or to the like effect, to any Marriage Registrar of the District within which the parties have dwelt ;

or, if the parties dwell in different districts, shall give the like notice to a Marriage Registrar of each district,

and shall state therein the name and surname, and the profession or condition, of each of the parties intending marriage, the dwelling-place of each of them, the time during which each has dwelt therein, and the place at which the marriage is to be solemnized:

Provided that, if either party has dwelt in the place stated in the notice for more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

39. Publication of notice.— Every Marriage Registrar shall, on receiving any such notice, cause a copy thereof to be affixed in some conspicuous place in his office.

When one of the parties intending marriage is a minor, every Marriage Registrar shall, within twenty- four hours after the receipt by him of the notice of such marriage, send, by post or otherwise, a copy of such notice to each of the other Marriage Registrars (if any) in the same district, who shall likewise affix the copy in some conspicuous place in his own office.

40. Notice to be filed and copy entered in Marriage Notice Book.— The

²³ Subs. by the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), s. 30 (b), for “Secretary to the L.G.”.

²⁴ Subs. by the Repealing and Amending Act, 1928 (18 of 1928), s. 2 and Sch. I, for “under Part I or Part III of this Act”.

Marriage Registrar shall file all such notices and keep them with the records of his office,

and shall also forthwith enter a true copy of all such notices in a book to be furnished to him for that purpose by the ²⁵[Provincial Government] and to be called the “Marriage Notice Book”;

and the Marriage Notice Book shall be open at all reasonable times, without fee, to all persons desirous of inspecting the same.

41. Certificate of notice given and oath made.— If the party by whom the notice was given requests the Marriage Registrar to issue the certificate next hereinafter mentioned, and if one of the parties intending marriage has made oath as hereinafter required, the Marriage Registrar shall issue under his hand a certificate of such notice having been given and of such oath having been made:

Provided— **Proviso.**

that no lawful impediment be shown to his satisfaction why such certificate should not issue;

that the issue of such certificate has not been forbidden, in manner hereinafter mentioned, by any person authorized in that behalf by this Act ;

that four days after the receipt of the notice have expired ; and further,

that where, by such oath, it appears that one of the parties intending marriage is a minor, fourteen days after the entry of such notice have expired.

42. Oath before issue of certificate.— The certificate mentioned in section 41 shall not be issued by any Marriage Registrar, until one of the parties intending marriage appears personally before such Marriage Registrar, and makes oath²⁶—

- (a) that he or she believes that there is not any impediment of kindred or affinity, or other lawful hindrance, to the said marriage, and
- (b) that both the parties have, or (where they have dwelt in the districts of different Marriage Registrars) that the party making such oath has, had their, his or her usual place of abode within the district of such Marriage Registrar,

and, where either or each of the parties is a minor,—

- (c) that the consent or consents to such marriage required by law has or have been obtained thereto, or that there is no person resident in [Pakistan] authorized to give such consent, as the case may be.

43. [*Petition to High Court to order certificate in less than fourteen days.*]
Omitted by A.O. 1949, Schedule.

²⁵ Subs. by A. O., 1937, for “L. G.”. ²⁶As to meaning of “oath” see s. 3, cl. (36) and s. 4 of the General Clauses Act, 1897 (10 of 1897).

²⁶ Subs. by A. O., 1949, Sch. for “India”.

44. Consent of father or guardian.— The provisions of section 19 apply to every marriage under this Part, either of the parties to which is a minor ;

Protest against issue of certificate. and any person whose consent to such marriage would be required thereunder may enter a protest against the issue of the Marriage Registrar's certificate, by writing, at any time before the issue of such certificate, the word "for bidden" opposite to the entry of the notice of such intended marriage in the Marriage Notice Book, and by subscribing thereto his or her name and place of abode, and his or her position with respect to either of the parties, by reason of which he or she is so authorized.

Effect of protest. When such protest has been entered, no certificate shall issue until the Marriage Registrar has examined into the matter of the protest, and is satisfied that it ought not to obstruct the issue of the certificate for the said marriage, or until the protest be withdrawn by the person who entered it.

45. Petition where person whose consent is necessary is insane, or unjustly withholds consent.— If any person whose consent is necessary to any marriage under this Part is of unsound mind,

or if any such person (other than the father) without just cause withholds his consent to the marriage, the parties intending marriage may apply by petition²⁷ * * * to the District Judge:

Procedure on petition. And the said ²⁸* * * District Judge ²⁹* * * may examine the allegations of the petition in a summary way:

And, if upon examination such marriage appears proper, such ³⁰* * * District Judge ³¹* * * shall declare the marriage to be a proper marriage.

Such declaration shall be as effectual as if the person whose consent was needed had consented to the marriage ;

and, if he has forbidden the issue of Marriage Registrar's certificate, such certificate shall be issued and the like proceedings may be had under this Part in relation to the marriage as if the issue of such certificate had not been forbidden.

46. Petition where Marriage Registrar refuses certificate.— Whenever a Marriage Registrar refuses to issue a certificate under this Part, either of the parties intending marriage may apply by petition * * * to the District Judge.

Procedure of petition. The said ²* * * District Judge ³* * * may examine the allegations of the petition in a summary way, and shall decide thereon.

²⁷ The words "where the person whose consent is necessary is resident within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if he is not resident within any of the said towns, then" omitted by A. O, 1949, Sch.

²⁸ The words "Judges of the High Court, or" omitted, *ibid*.

²⁹ The words and commas, " , as the case may be," omitted by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October 1955).

³⁰ The words "where the district of such Registrar is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or if such district is not within any of the said towns, then" omitted by A.O., 1949, Sch.

³¹ The words "Judges of the High Court", or omitted, *ibid*.

The decision of such ⁴* * * District Judge³* * * shall be final, and the Marriage Registrar to whom the application for the issue of a certificate was originally made shall proceed in accordance therewith.

47. ³²[*Petition when Marriage Registrar in Acceding State refuses certificate.*] *Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981) s. 3 and IInd Sch.*

48. Petition when Registrar doubts authority of person forbidding.— Whenever a Marriage Registrar, acting under the provisions of section 44, is not satisfied that the person forbidding the issue of the certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, ³³* * * to the District Judge.

Procedure on petition. The said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same,

and the said ³⁴* * * District Judge³⁵* * * shall examine into the allegations of the petition and the circumstances of the case ;

and, if upon such examination, it appears, that the person forbidding the issue of such certificate is not authorized by law so to do, such ³⁶* * * District Judge ³⁷* * * shall declare that the person forbidding the issue of such certificate is not authorized as aforesaid,

and thereupon such certificate shall be issued, and the like proceedings may be had in relation to such marriage as if the issue had not been forbidden.

³⁸* * * * *

49. Liability for frivolous protest against issue of certificate.— Every person entering a protest with the Marriage Registrar, under this Part, against the issue of any certificate, on grounds which such Marriage Registrar, under section 44³⁹* * * or the District Judge, under section 45 or 46, declares to be frivolous and such as ought not to obstruct the issue of the certificate, shall be liable for the costs of all proceedings in relation thereto and for damages to be recovered by suit by the person against whose marriage such protest was entered.

50. Form of certificate.— The certificate to be issued by the Marriage Registrar under the provisions of section 41 shall be in the form contained in the second schedule to this Act annexed or to the like effect,

and the ⁴⁰[Provincial Government] shall furnish to every Marriage Registrar a

³² This section was previously amended by A. O., 1937, F.A.O., 1975, Art. 2 and Table and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and 3rd Sch.

³³ The words "where his district is within any of the towns of Calcutta, Madras and Bombay, to a Judge of the High Court, or, if such district be not within any of the said towns, then" omitted by A. O., 1949, Sch.

³⁴ The words and commas, "as the case may be," omitted by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch., (with effect from the 14th October, 1955).

³⁵ The words "Judge of the High Court, or" omitted by A. O., 1949), Sch.

³⁶ The words "Judge of the High Court, or" omitted by A. O., 1949, Sch.

³⁷ The words and commas, "as the case may be," omitted by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch., (with effect from the 14th October, 1955).

³⁸ Paragraphs 6, 7 and 8 previously amended by various laws have been omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

³⁹ The words "or a Judge of the High Court" omitted by A. O., 1949 Sch.

⁴⁰ Subs. by A.O., 1937, for "L.G."

sufficient number of forms of certificate.

51. Solemnization of marriage after issue of certificate.— After the issue of the certificate of the Marriage Registrar,

or, where notice is required to be given under this Act to the Marriage Registrar for different districts, after the issue of the certificates of the Marriage Registrars for such districts,

marriage may, if there be no lawful impediment to the marriage of the parties described in such certificate or certificates, be solemnized between them, according to such form and ceremony as they think fit to adopt.

But every such marriage shall be solemnized in the presence of some Marriage Registrar (to whom shall be delivered such certificate or certificates as aforesaid), and of two or more credible witnesses besides the Marriage Registrar.

And in some part of the ceremony each of the parties shall declare as follows, or to the like effect:-

“I do solemnly declare that I know not of any lawful impediment why I, *A. B.*, may not be joined in matrimony to *C.D.*.”

And each of the parties shall say to the other as follows or to the like effect:

"I call upon these persons here present to witness that I, *A. B.*, do take the, *C.D.*, to be my lawful wedded wife [*or husband*].”

52. When marriage not had within two months after notice, new notice required.—Whenever a marriage is not solemnized within two months after the copy of the notice has been entered by the Marriage Registrar, as required by section 40, the notice and the certificate, if any, issued thereupon, and all other proceedings thereupon, shall be void;

and no person shall proceed to solemnize the marriage, nor shall any Marriage Registrar enter the same, until new notice has been given, and entry made, and certificate thereof given, at the time and in the manner aforesaid.

53. Marriage Registrar may ask for particulars to be registered.— A Marriage Registrar before whom any marriage is solemnized under this Part may ask of the persons to be married the several particulars required to be registered touching such marriage.

54. Registration of marriage solemnized under Part V.— After the solemnization of any marriage under this Part, the Marriage Registrar present at such solemnization shall forthwith register the marriage in duplicate; that is to say, in a marriage-register-book, according to the form of the fourth schedule hereto annexed, and also in a certificate attached to the marriage-register-book as a counterfoil.

The entry of such marriage in both the certificate and the marriage-register-book shall be signed by the person by or before whom the marriage has been solemnized, if there be any such person, and by the Marriage Registrar present at such marriage, whether or not it is solemnized by him, and also by the parties married, and attested by two credible witnesses other than the marriage Registrar and person solemnizing the marriage.

Every such entry shall be made in order from the beginning to the end of the book, and the number of the certificate shall correspond with that of the entry in the marriage-register-book.

55. Certificates to be sent monthly to Registrar General.— The Marriage Registrar shall forthwith separate the certificate from the marriage-register-book and send it, at the end of every month, to the ⁴¹[Registrar General of Births, Deaths and Marriages].

Custody of register-book. The Marriage Registrar shall keep safely the said register-book until it is filled, and shall then send it to the ¹[Registrar General of Births, Deaths and Marriages], to be kept by him with the records of his office.

56. ⁴²[*Officers to whom Registrars in Acceding States shall send certificates.*] *Omitted by the Federal Laws. (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and IIInd Sch.*

57. Registrars to ascertain that notice and certificate are understood by Native Christians.— When any Native Christian about to be married gives a notice of marriage, or applies for a certificate from a Marriage Registrar, such Marriage Registrar shall ascertain whether the said Native Christian understands the English language, and, if he does not, the Marriage Registrar shall translate, or cause to be translated, such notice or certificate, or both of them, as the case may be, to such Native Christian into a language which he understands ;

or the Marriage Registrar shall otherwise ascertain whether the Native Christian is cognizant of the purport and effect of the said notice and certificate.

58. Native Christians to be made to understand declarations.— When any Native Christian is married under the provisions of this Part, the person solemnizing the marriage shall ascertain whether such Native Christian understands the English language, and, if he does not, the person solemnizing the marriage shall, at the time of the solemnization, translate, or cause to be translated, to such Native Christian, into a language which he understands, the declarations made at such marriage in accordance with the provisions of this Act.

59. Registration of marriages between Native Christians.— The registration of marriages between Native Christians under this Part shall be made in conformity with the rules laid down in section 37 (so far as they are applicable), and not otherwise.

⁴¹ Subs. by the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), s. 30 (b) for "Secretary to the L.G".

⁴² This section was previously amended by Act 6 of 1886, s.30, A. O., 1937 and Act 26 of 1951, s. 4 and 3rd Sch

PART VI

MARRIAGE OF NATIVE CHRISTIANS

60. On what conditions marriages of Native Christians may be certified.— Every marriage between Native Christians applying for a certificate shall, without the preliminary notice required under Part III, be certified under this Part, ~~if~~ the following conditions be fulfilled, and not otherwise:-

- (1) the age of the man intending to be married shall exceed sixteen years, and the age of the woman intending to be married shall exceed thirteen years ;
- (2) neither of the persons intending to be married shall have a wife or husband still living;
- (3) in the presence of a person licensed under section 9, and of at least two credible witnesses other than such person, each of the parties shall say to the other—

“I call upon these persons here present to witness that I, *A. B.*, in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, *C.D.*, to be my lawful wedded wife [*or* husband]” or words to the like effect:

Provided that no marriage shall be certified under this Part when either of the parties intending to be married has not completed his or her eighteenth year, unless such consent as is mentioned in section 19 has been given to the intended marriage, or unless it appears that there is no person living authorized to give such consent.

61. Grant of certificate.— When, in respect to any marriage solemnized under this Part, the conditions prescribed in section 60 have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has been made, shall, on the application of either of the parties to such marriage, and on the payment of a fee of four annas, grant a certificate of the marriage.

The certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage as conclusive proof of its having been performed.

⁴³**[62. Keeping of register-book and deposit of extracts therefrom with Registrar.—** (1) General Every person licensed under section 9 shall keep in English, or in the vernacular language in ordinary use in the district⁴⁴ * in which the marriage was solemnized, and in such form as the ⁴⁵[Provincial Government] by which he was licensed may from time to time prescribe⁴⁶ a register-book of all marriages

⁴³ Subs. by the Indian Christian Marriage Act (1872) Amdt. Act, 1891(2 of 1891), s. 4, for the original s. 62.

⁴⁴ The words "or State" omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

⁴⁵ Subs. by A.O., 1937, for "L. G.".

⁴⁶ For notifications

63. Searches in register-book and copies of entries.— Every person licensed under this Act to grant certificates of marriage, and keeping a marriage-register-book under section 62, shall at all reasonable times, allow search to be made in such book, and shall, on payment of the proper fee, give a copy, certified under his hand, of an entry therein.

64. Books in which marriages of Native Christians under Part I or Part III are registered.— The provisions of sections 62 and 63, as to the form of the register-book, depositing extracts therefrom, allowing searches thereof, and giving copies of the entries therein, shall, *mutatis mutandis*, apply to the books kept under section 37.

65. Part VI not to apply to Roman Catholics. Saving of certain marriages.— This Part of this Act, except so much of sections 62 and 63 as are referred to in section 64, shall not apply to marriages between Roman Catholics. But nothing herein contained shall invalidate any marriage celebrated between Roman Catholics under the provisions of Part V of Act No. XXV of 1864, previous to the twenty-third day of February, 1865.

PART VII PENALTIES

⁴⁸**66. False oath, declaration, notice or certificate for procuring marriage.**— Whoever, for the purpose of procuring a marriage or license of marriage, intentionally,—

- (a) where an oath or declaration is required by this Act, or by any rule or custom of a Church according to the rites and ceremonies of which a marriage is intended to be solemnized, such Church being the Church of England or of Scotland or of Rome, makes a false oath or declaration, or,
- (b) where a notice or certificate is required by this Act, signs a false notice or certificate,

shall be deemed to have committed the offence punishable under section 193 of the Pakistan Penal Code(XLV of 1860) with imprisonment of either description for a term which may extend to three years and, at the discretion of the Court, with fine.]

67. Forbidding, by false personation issue of certificate by Marriage Registrar.— Whoever forbids the issue, by a Marriage Registrar, of a certificate, by falsely representing himself to be a person whose consent to the marriage is required by law, knowing or believing such representation to be false, or not having reason to believe it to be true, shall be deemed guilty of the offence described in section 205 of the Pakistan Penal Code (XLV of 1860).

⁴⁹ **68. Solemnizing marriage without due authority.**— Whoever, not being authorised by section 5 to solemnize marriages, solemnizes or professes to solemnize in the

⁴⁷ issued by different Governments, see the different Local R. and O.

⁴⁸ Subs. by the Indian Christian Marriage Act (1872) Amdt. Act 1891 (2 of 1891), s. 5, for the original s. 66

⁴⁹ Section 68 as amended by the Indian Christian Marriage Act, (1872) Amdt. Act, 1891 (2 of 1891), s.6, A. O., 1961, Art. 2 and Sch. (w.e.f. 23-3-1956), has been subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch., to read as above.

absence of a Marriage Registrar of the district in which the ceremony takes place, a marriage between persons one or both of whom is or are a Christian or Christians, shall be punished with imprisonment which may extend to ten years, and shall also be liable to fine.]

69. Solemnizing marriage out of proper time, or without witnesses.— Whoever knowingly and wilfully solemnizes a marriage between persons one or both of whom is or are a Christian or Christians, at any time other than between the hours of six in the morning and seven in the evening, or in the absence of at least two credible witnesses other than the person solemnizing the marriage, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

Saving of marriages solemnized under special license. This section does not apply to marriages solemnized under special licenses granted by the Anglican Bishop of the Diocese or by his Commissary, nor to marriages performed between the hours of seven in the evening and six in the morning by a Clergyman of the Church of Rome, when he has received the general or special license in that behalf mentioned in section 10.

⁵⁰ [Nor does this section apply to marriages solemnized by a Clergyman of the Church of Scotland according to the rules, rites, ceremonies, and customs of the Church of Scotland.]

70. Solemnizing without notice or within fourteen days after notice, marriage with minor.— Any Minister of Religion licensed to solemnize marriages under this Act, who, without a notice in writing, or, when one of the parties to the marriage is a minor, and the required consent of the parents or guardians to such marriage has not been obtained. within fourteen days after the receipt by him of notice of such marriage, knowingly and willfully solemnizes a marriage under Part III, shall be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine.

71. Issuing certificate, or marrying without publication of notice; marrying after expiry of notice; solemnizing marriage with minor within fourteen days without authority of Court, or without sending copy of notice ; issuing certificate against authorized prohibition.— A Marriage Registrar under this Act, who commits any of the following offences:-

- (1) knowingly and willfully issues any certificate for marriage, or solemnizes any marriage, without publishing the notice of such marriage as directed by this Act;
- ⁵¹ [(2) after the expiration of two months after the copy of the notice has been entered as required by section 40 in respect of any marriage, solemnizes such marriage;]
- (3) solemnizes, without any order of a competent Court authorizing him to do so, any marriage, when one of the parties is a minor, before the expiration of fourteen days after the receipt of the notice of such marriage or without sending by the post or otherwise, a copy of such notice to the Senior Marriage

⁵⁰ Ins. by s. 7 of Act 2 of 18

⁵¹ Subs. by the Indian Christian Marriage Act (1872) Amdt. Act, 1891 (2 of 1891) s. 8 (1), for the original clause (2).

Registrar of the district if there be more Marriage Registrars of the district than one, and if he himself be not the Senior Marriage Registrar;

- (4) issues any certificate the issue of which has been prohibited, as in this Act provided, by any person authorized to prohibit the issue thereof,

shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

72. Issuing certificate after expiry of notice, or, in case of minor, within fourteen days after notice, or against authorized prohibition.— Any Marriage Registrar knowingly and willfully issuing any certificate for marriage after the expiration of ⁵²[two months] after the notice has been entered by him as aforesaid,

or knowingly and willfully issuing, without the order of a competent Court authorizing him so to do, any certificate for marriage, where one of the parties intending marriage is a minor, before the expiration of fourteen days after the entry of such notice, or any certificate the issue of which has been forbidden as aforesaid by any person authorized in this behalf,

shall be deemed to have committed an offence under section 166 of the Pakistan Penal Code ([XLV of 1860](#)).

73. Persons authorized to solemnize marriage (other than Clergy of Churches of England, Scotland or Rome).— Whoever, being authorized under this Act to solemnize a marriage,

and not being a Clergyman of the Church of England, solemnizing a marriage after due publication of banns, or under a license from the Anglican Bishop of the Diocese or a Surrogate duly authorized in that behalf,

or, not being a Clergyman of the Church of Scotland, solemnizing a marriage according to the rules, rites, ceremonies and customs of that church,

or, not being a Clergyman of the Church of Rome, solemnizing a marriage according to the rites, rules, ceremonies and customs of that church,

Issuing certificate or marrying, without publishing notice, or after expiry of certificate; knowingly and willfully issues any certificate for marriage under this Act, or solemnizes any marriage between such persons as aforesaid, without publishing, or causing to be affixed, the notice of such marriage as directed in Part III of this Act, or after the expiration of two months after the certificate has been issued by him ;

Issuing certificate for, or solemnizing, marriage with minor, within fourteen days after notice; or knowingly and willfully issues any certificate for marriage, or solemnizes a marriage between such persons when one of the persons intending marriage is a minor, before

⁵² Subt. *ibid.* s. 8 (2), for “three months”.

the expiration of fourteen days after the receipt of notice of such marriage, or without sending, by the post or otherwise, a copy of such notice to the Marriage Registrar, or, if there be more Marriage Registrars than one, to the Senior Marriage Registrar of the district ;

Issuing certificate authorized forbidden ; or knowingly and willfully issues any certificate the issue of which has been forbidden under this Act, by any person authorized to forbid the issue;

Solemnizing marriage authorizedly forbidden; or knowingly and willfully solemnizes any marriage forbidden by any person authorized to forbid the same ;

shall be punished with imprisonment for a term which may extend to four years, and shall also be liable to fine.

74. Unlicensed person granting certificate pretending to be licensed.— Whoever, not being licensed to grant a certificate of marriage under Part VI of this Act, grants such certificate intending thereby to make it appear that he is so licensed, shall be punished with imprisonment for a term which may extend to five years, and shall also be liable to fine.

⁵³ [Whoever, being licensed to grant certificates of marriage under Part VI of this Act, without just cause refuses, or willfully neglects or omits, to perform any of the duties imposed upon him by that Part shall be punished with fine which may extend to one hundred rupees.]

75. Destroying or falsifying register-books.— Whoever, by himself or another, willfully destroys or injures any register book or the counterfoil certificates thereof, or any part thereof, or any authenticated extract therefrom,

or falsely makes or counterfeits any part of such register book or counterfoil certificates,

or willfully inserts any false entry in any such register book or counterfoil certificate or authenticated extract,

shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

76. Limitation of prosecutions under Act.— The prosecution for every offence punishable under this Act shall be commenced within two years after the offence is committed.

PART VIII MISCELLANEOUS

77. What matters need not be proved in respect of marriage in accordance with Act.— Whenever any marriage has been solemnized in accordance with the provisions of sections 4 and 5, it shall not be void merely on account of any irregularity in respect of any of the following matters, namely:-

⁵³ Ins. by the Indian Christian Marriage Act (1872) Amdt. Act, 1891 (2 or 1891), s. 9.

- (1) any statement made in regard to the dwelling of the persons married, or to the consent of any person whose consent to such marriage is required by law:
- (2) the notice of the marriage:
- (3) the certificate or translation thereof:
- (4) the time and place at which the marriage has been solemnized:
- (5) the registration of the marriage.

78. Correction of errors.— Every person charged with the duty of registering any marriage, who discovers any error in the form or substance of any such entry, may, within one month next after the discovery of such error, in the presence of the persons married, or, in case of their death or absence, in the presence of two other credible witnesses, correct the error, by entry in the margin, without any alteration of the original entry, and shall sign the marginal entry, and add thereto the date of such correction, and such person shall make the like marginal entry in the certificate thereof.

And every entry made under this section shall be attested by the witnesses in whose presence it was made.

And in case such certificate has been already sent to the ⁵⁴[Registrar General of Births, Deaths and Marriages], such person shall make and send in like manner a separate certificate of the original erroneous entry, and of the marginal correction therein made.

79. Searches and copies of entries.— Every person solemnizing a marriage under this Act, and hereby required to register the same,

and every Marriage Registrar or ⁵⁴[Registrar General of Births, Deaths and Marriages] having the custody for the time being of any register of marriages, or of any certificate, or duplicate or copies of certificate, under this Act,

shall, on payment of the proper fees, at all reasonable times, allow searches to be made in such register, or for such certificate, or duplicate, or copies, and give a copy under his hand of any entry in the same.

80. Certified copy of entry in marriage-register, etc., to be evidence.— Every certified copy, purporting to be signed by the person entrusted under this Act with the custody of any marriage register or certificate, or duplicate, required to be kept or delivered under this Act, of an entry of a marriage in such register, or of any such certificate or duplicate, shall be received as evidence of the marriage purporting to be so entered, or of the facts purporting to be so certified therein, without further proof of such register or certificate or duplicate, or of

⁵⁴ Subs. by the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), s. 30 (b), for “Secretary to the L. G.” and “Secretary to a L. G.”, respectively.

any entry therein, respectively, or of such copy.

⁵⁵ [81. **Certificates of certain marriages for Federal Government.**— The Registrar General of Birth, Deaths and Marriages ⁵⁶* * * shall, at the end of every quarter in each year, select, from the certificates of marriages forwarded to ⁵⁷[him] during such quarter, the certificates of the marriages of which ⁵⁸[the Government by whom he was appointed] may desire that evidence shall be transmitted to England, and shall send the same certificates, signed by ⁵⁹[him], to the ⁶⁰[Federal Government].

82. Provincial Government to prescribe fees.— Fees shall be chargeable under this Act for—

receiving and publishing notices of marriages;

issuing ⁶¹[certificates for marriage] by Marriage Registrars, and registering marriages by the same;

entering protests against, or prohibitions of, the issue of [certificates for marriage] by the said Registrar;

searching register-books or certificates, or duplicates of copies thereof;

giving copies of entries in the same under sections 63 and 79.

The ⁶²[Provincial Government] shall fix the amount of such fees respectively,

and may from time to time vary or remit them either generally or in special cases, as to it may seem fit.

83. Power to make rules.— The ⁶³[Provincial Government] may make rules ⁶⁴in regard to the disposal of the fees mentioned in section 82, the supply of register books, and the preparation and submission of returns of marriages solemnized under this Act.

84. ⁶⁵[*Power to prescribe fees and rules for Acceding States.*] *Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and IIInd Sch.*

⁵⁵ Subs. by the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886), s. 30 (b), for “Secretary to the L.G.” and “Secretary to a L.G.”, respectively.

⁵⁶ Subs. by the Indian Christian Marriage (Amdt.) Act, 1911 (13 of 1911), s. 2, for the original s. 81.

⁵⁷ The words and figure “and the officers appointed under section 56” omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and 2nd Sch.

⁵⁸ Subs. *ibid.*, for “them, respectively”.

⁵⁹ Subs. by A. O., 1937, for “the G.G. in C.”.

⁶⁰ Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government” which was subs. by A.O., 1949, Sch., for “Secretary of State for India”.

⁶¹ Subs. *ibid.*, for “marriage certificates” .

⁶² Subs. by A. O., 1937, for “ L. G.”.

⁶³ For rules made under s. 83 by different Govts. see the different Local Rules and Orders.

⁶⁴ This section was amended by A. O., 1937 and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and 3rd Sch.

⁶⁵ This section was amended by A. O., 1937, Act 38 of 1920 and Act 26 of 1951.

83. Power to declare who shall be District Judge.— The ¹[provincial Government] may, by notification in the official Gazette, declare who shall, in any place to which this Act applies, be deemed to be the District Judge.

86. ⁶⁶ [*Powers and functions exercisable as regards Acceding States.*] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and IInd Sch.

87. Saving of Consular marriages.— Nothing in this Act applies to any marriage performed by any Minister, Consul or Consular Agent between subjects of the State which he represents and according to the laws of such State.

88. Non-validation of marriages within prohibited degrees.— Nothing in this Act shall be deemed to validate any marriage which the personal law applicable to either of the parties forbids him or her to enter into.

⁶⁶ This section was amended by A. O., 1937, Act 38 of 1920 and Act 26 of 1951

SCHEDULE I

(See sections 12 and 38)

NOTICE OF MARRIAGE

To

a Minister [or Registrar] of

I hereby give you notice that a marriage is intended to be had, within three calendar months from the date thereof, between me and the other party herein named and described (that is to say) :-

Names.	Condition.	Rank or profession.	Age.	Dwelling place.	Length of residence.	Church, chapel or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
<i>James Smith.</i>	<i>Widower.</i>	<i>Carpenter.</i>	<i>Of full age.</i>	<i>16, Clive Street.</i>	<i>23 days.</i>	Free Church of Scotland Church, Calcutta.	
<i>Martha Green.</i>	<i>Spinster.</i>	<i>...</i>	<i>Minor</i>	<i>20, Hastings Street.</i>	<i>More than a month.</i>		

Witness my hand, this day of *seventy-two*.

(Signed) **JAMES SMITH**

[The *italics* in this schedule are to be filled up, as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

SCHEDULE II

(See sections 24 and 50)

CERTIFICATE OF RECEIPT OF NOTICE

I, -----do hereby certify that, on the----- day of, -----*notice*,

was duly entered in my Marriage Notice Book of the marriage intended between the parties therein named and described, delivered under the hand of one of the parties (that is to say) :

Names.	Condition.	Rank OR profession.	Age	Dwellin gplace	Length of residence.	Church, chapel or place of worship in which the marriage is to be solemnized.	District in which the other party resides, when the parties dwell in different districts.
<i>James Smith.</i>	<i>Widower.</i>	<i>Carpenter.</i>	<i>Of full age.</i>	<i>16, Clive Street.</i>	<i>23 days.</i>	Free Church of Scotland Church, Calcutta.	
<i>Martha Green.</i>	<i>Spinster.</i>	<i>...</i>	<i>Minor</i>	<i>20, Hastings Street.</i>	<i>More than a month</i>		

and that the declaration, ¹[or oath] required by section 17 or 41 of the Christian Marriage Act, 1872 ([XV of 1872](#)) has been duly made by the said (*James Smith*).

Date of notice entered} The issue of this certificate has not been prohibited by any person authorized to forbid the issue thereof.

Date of certificate given}

Witness my hand, this day -----of -----*seventy-two*

(*Signed*)-----

This certificate will be void, unless the marriage is solemnized on or before the-----day of

[The *italics* in the schedule are to be filled up, as the case may be, and the blank division thereof is only to be filled up when one of the parties lives in another district.]

¹ Ins. by the Repealing and Amending Act, 1903 (1 of 1903), s.3.

¹SCHEDULE III
(See sections 28 and 311)
FORM OF REGISTER OF MARRIAGES
Quarterly Returns of
MARRIAGES

for

The Archdeaconry of ²* * *

I,____, Registrar of the Archdeaconry of ²* * * do hereby certify that the annexed are correct copies of the originals and Official Quarterly Returns of Marriage within the Archdeaconry of ²* * * as made and transmitted to me for the quarter commencing the day of ending the day of in the year of Our Lord

[Signature of Registrar]

Registrar of the Archdeaconry of ²* * * MARRIAGES solemnized at ²* * *

When Married			Names of Parties		A ge	Condi tion.	Rank of profes sion.	Resid ence at the time of marri age.	Fath er's name and surna me.	By ban ns or lice nse.	Signat ures of the partie s.	Signat ures of two or more witne sses prese nt.	Signat ure of the person solemn izing the marria ge.
Ye ar.	Mon th.	Day .	Chris tian.	Surn ame.	.								

¹ Subs. by the Second Schedule of the Amending Act, 1891 (12 of 1891), for the original reference.

² Names of certain cities (Indian) omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s.3 and 2nd Sch.

SCHEDULE IV

(See sections 32 and 54)

MARRIAGE REGISTER BOOK

Number.	When Married.			Names of parties.		Age	Conditio n.	Rank or professio n.	Residence at the time of marriage.	Father's name.
				Christian name.	Surname.					
1	Day.	Month.	Year.							
				James Martha	White Duncan	26 year s 17 year s	Widowe r Spinster	Carpente r ...	AgraAgra	Willia m White John Dunca n

Married in the

This marriage was solemnized between us {*James White, Martha Duncan.*} in the presence
of us {*JohnGreen. John Smith.*}

CERTIFICATE OF MARRIAGE

Number.	When Married.	Names of parties.				Age.	Condition	Rank or profession.	Residence at the time of marriage.	Father's name and surname.
		Christian name.		Surname.						
1	Day	Month	Year							
				James Martha	White Duncan	26 years 17 years	Widower Spinster	Carpenter ...	Agra	William White John Duncan

Married in the

This marriage was solemnized between us {*James White, Martha Duncan.*} in the presence of us {*John Green. John Smith.*}

SCHEDULE V
[ENACTMENTS REPEALED.]
Rep. by the Repealing Act, 1938 (*I of 1938*), s.2 and
Sch.

THE DIVORCE ACT, 1869

CONTENTS

Section	Heading
I.-PRELIMINARY	
1.	Short title Commencement of Act
2.	Extent of Act, Extent of power to grant relief generally and to make decree of dissolution, or of nullity
3.	Interpretation- clause
II.-JURISDICTION	
4.	[Omitted]
5.	[Omitted]
6.	[Omitted]
7.	[Omitted]
8.	[Omitted]
9.	[Omitted]
III.-DISSOLUTION OF MARRIAGE	
10.	When husband may petition for dissolution. When wife may petition for dissolution. Contents of petition
11.	Adulterer to be co- respondent
12.	Court to be satisfied of absence of collusion
13.	Dismissal of petition
1.	Power to Court to pronounce decree for dissolving marriage. Condonation
2.	Relief in case of opposition on certain grounds
3.	[Omitted]
4.	[Omitted]
17A	[Omitted]
IV.-NULLITY OF MARRIAGE	
5.	Petition for decree of nullity
6.	Grounds of decrees
7.	[Omitted]
8.	Children of annulled marriage
V.-JUDICIAL SEPARATION	
9.	Bar to decree for divorce a mensa et toro; but judicial separation obtainable by husband or wife
10.	Application for separation made by petition
11.	Separated wife deemed spinster with respect to after acquired property.

12.	Separated wife deemed spinster for purposes of contract and suing
REVERSAL OF DECREE OF SEPARATION	
13.	Decree of separation obtained during absence of husband or wife may be reversed
VI.-PROTECTION-ORDERS	
14.	Deserted wife may apply to Court for protection
15.	Court may grant protection- order
16.	Discharge or variation of orders
17.	Liability of husband seizing wife's property after notice of order
18.	Wife's legal position during continuance of order
VII.-RESTITUTION OF CONJUGAL RIGHTS	
19.	Petition for restitution of conjugal rights.
20.	Answer to petition
VIII.-DAMAGES AND COSTS	
21.	Husband may claim damages from adulterer.
22.	Power to order adulterer to pay costs. Power to order litigious intervene or to pay costs.
IX.-ALIMONY	
23.	Alimony pendente lite.
24.	Power to order permanent alimony. Power to order monthly or weekly payments
25.	Court may direct payment of alimony to wife or to her trustee
X.-SETTLEMENTS	
26.	Power to order settlement of wife's property for benefit of husband and children. Settlements of damages.
27.	Inquiry into existence of ante -nuptial or post nuptial settlements
XI.-CUSTODY OF CHILDREN	
28.	Power to make orders as to custody of children in suit for separation.
29.	Power to make such orders after decree
30.	Power to make orders as to custody of children in suits for dissolution or nullity.
31.	Power to make such orders after decree
XII.-PROCEDURE	
32.	Code of Civil Procedure to apply
33.	Forms of petitions and statements
34.	Stamp on petition. Petition to state absence of collusion. Statements to be verified
35.	Suits on behalf of lunatics.
36.	Suits by minors
37.	Service of petition

38.	Mode of taking evidence
39.	Competence of husband and wife to give evidence as to cruelty or desertion.
40.	Power to close doors.
41.	Power to adjourn
42.	Enforcement of and appeals from orders and decrees. No appeals as to costs.
43.	[Omitted].
XIII.-RE-MARRIAGE	
44.	Liberty to parties to marry again.
45.	English clergyman not compelled to solemnize marriages of person divorced for adultery
46.	English minister refusing to perform ceremony to permit use of his church
XIV.-MISCELLANEOUS	
47.	Decree for separation or protection order valid as to persons dealing with wife before reversal. indemnity of persons making payment to wife without notice of reversal of decree or protection- order.
48.	Bar of suit for criminal conversation.
49.	Power to make rules
SCHEDULE OF FORMS	

THE DIVORCE ACT

¹ACT No. IV OF 1869

[26th February, 1869]

An Act to amend the law relating to Divorce and Matrimonial Causes^{2*} *.

Preamble. WHEREAS it is expedient to amend the law relating to the divorce of persons professing the Christian religion, and to confer upon certain Courts jurisdiction in matters matrimonial; It is hereby enacted as follows:

I.—RELIMINARY

1. Short title. Commencement of Act.— This Act may be called the^{3*} Divorce Act, and shall come into operation on the first day of April, 1869.

2. Extent of Act. ⁴[This Act extends to the whole of Pakistan.]

Extent of power to grant relief generally, and to make decrees of dissolution, or of nullity.— ⁵[Nothing hereinafter contained shall authorize any Court to grant any relief under this Act except where the petitioner⁶ [or respondent] professes the Christian religion,

or to make decrees of dissolution of marriage except where the parties to the marriage are domiciled in⁷ [Pakistan] at the time when the petition is presented,

⁸ [or to make decrees of nullity of marriage except where the marriage if solemnized before the 15th day of August, 1947, has been solemnized in India and if solemnized on or after that date has been solemnized in Pakistan and the petitioner is resident in Pakistan at the time of presenting the petition,]

or to grant any relief under this Act, other than a decree of dissolution of marriage or of

¹ For Statement of Objects and Reasons, see Calcutta Gazette, 1863, p. 173; for Report of Select Committee, see Gazette of India, 1869, p. 192; for Proceedings in Council, see Calcutta Gazette, 1862, Supplement, p. 463, *ibid.*, 1863, Supplement, p. 43, and Gazette of India, 1869, Supplement, p. 291. The Act extends to Pakistan the principal provisions of the Matrimonial Causes Act, 1857 (20 & 21 Vict., c. 85), as amended by the Matrimonial Causes Act, 1859 (22 & 23 Vict., c. 61), the Matrimonial Causes Act, 1860 (23 & 24 Vict., c. 144), and the Matrimonial Causes Act, 1866 (29 & 30 Vict, c. 32). It also embodies many rulings of Sir Cresswell and Lord Penzance. Provision was made by the Indian Divorces (Validity) Act (11 & 12 Geo., 5, ch. 18) with respect to the validity of certain decrees granted in India for the dissolution of the marriage of persons domiciled in the United Kingdom. The Limitation Act does not apply to suits under this Act, see the Limitation Act, 1908 (9 of 1908), s. 29 (2). It has been declared to be in force in Baluchistan by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s. 3. It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.W.F.P., subject to certain modifications, and extended to the Excluded Area of Upper Tanawal (N.W.F.P.) other than Phulera with effect from such date and subject to such modifications as may be notified, see N.W.F.P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950. It has also been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950) ; and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937, Pt. I, p. 1499.

² The words "in India" omitted by A. O., 1949, Sch.

³ The word "Indian" omitted, *ibid.*

⁴ The original paragraph has successively been amended by A. O., 1949, and the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), to read as above.

⁵ Subs. by the Divorce (Amendment) Act, 1926 (25 of 1926), for the original paragraph.

⁶ Ins. by the Divorce (Second Amendment) Act, 1927 (30 of 1927), s. 2.

⁷ Subs. by A.O., 1949, Sch., for "India".

⁸ Subs. by the Divorce (Amendment) Act, 1950 (57 of 1950), s. 2, for the original sub-paragraph.

nullity of marriage, except where the petitioner resides in ⁹[Pakistan] at the time of presenting the petition.]

3. Interpretation-clause.— In this Act, unless there be something repugnant in the subject or context,

“High Court.”¹⁰ [11* * * * *]

(2) **"Court of Civil Judge"** “Court of Civil Judge” means, in the case of any petition under this Act, the Court of the Civil Judge within the local limits of whose ordinary jurisdiction the husband and wife resided or last reside together;

(3) **"Court".** “Court” means the High Court, the District Court or the Court of Civil Judge, *as the case may be*;

(4) **"Minor children."** “minor children” means, in the case of sons of ⁷[Pakistani] fathers, boys who have not completed the age of sixteen years, and, in the case of daughters of ¹²[Pakistani] fathers, girls who have not completed the age of thirteen years : in other cases it means unmarried children who have not completed the age of eighteen years :

(5) **"Incestuous adultery."** “incestuous adultery” means adultery committed by a husband with a woman with whom, if his wife were dead, he could not lawfully contract marriage by reason of her being within the prohibited degrees of consanguinity (whether natural or legal) or affinity :

(6) **"Bigamy with adultery."** “bigamy with adultery” means adultery with the same woman with whom the bigamy was committed :

(7) **"Marriage with another woman."** “marriage with another woman” means marriage of any person, being married, to any other person, during the life of the former wife, whether the second marriage shall have taken place within ¹³[Pakistan] or elsewhere :

(8) **"Desertion."** “desertion” implies an abandonment against the wish of the person charging it : and

(9) **"Property."** “property” includes, in the case of a wife, any property to which she is entitled

for an estate in remainder or reversion, or as a trustee, executrix or administratrix ; and the date of the death of the testator or intestate shall be deemed to be the time at which any such wife becomes entitled as executrix or administratrix.

I. JURISDICTION

⁹ The original clauses (1), (2), (3), and (4), successively amended by Acts 18 of 1919, 32 of 1925, 8 of 1935, A. O. 1937, A. O. 1949, Sch. Act 26 of 1951 Ord. 21 of 1960, and A. O. 1961 have been subs. by the Divorce (Amendment) Act, 1975 (4 of 1976), s. 2, to read as above.

¹⁰ ⁵The original clauses (1), (2), (3), and (4), successively amended by Acts 18 of 1919, 32 of 1925, 8 of 1935, A. O. 1937, A. O. 1949, Sch. Act 26 of 1951 Ord. 21 of 1960, and A. O. 1961 have been subs. by the Divorce (Amendment) Act, 1975 (4 of 1976), s. 2, to read as above.

¹¹ Clause (1) omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and II nd Sch

¹² 7 Subs. by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 2, for “Native”

¹³ Subs. by A.O., 1961, Art. 2 and Sch., for “the Dominions of Her Majesty”, (w.e.f. 23-3-56)

4. [Matrimonial Jurisdiction of High Courts to be exercised subject to Act.] Omitted by the Divorce (Amdt.) Act, 1975 (IV of 1976), s. 3.
5. [Enforcement of decrees or orders made heretofore by Supreme or High Court.] Omitted by the Divorce (Amdt.) Act, 1975 (IV of 1976) s. 4.
6. [Pending suits.] Omitted by the Divorce (Amdt.) Act, 1975 (IV of 1976), s. 4.
7. [Court to act on principles of English Divorce Court.] Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXVII of 1981), s. 3 and II Ind Sch.
8. [Extraordinary Jurisdiction of High Court.] Omitted by the Divorce (Amdt.) Act, 1975 (IV of 1976), s. 6.
9. [Reference to High Court.] Omitted by the Divorce (Amdt.) Act, 1975 (IV of 1976), s. 7.

II. DISSOLUTION OF MARRIAGE

10. When husband may petition for dissolution.— Any husband may present a petition to the ¹⁴[Court of Civil Judge] praying that his marriage may be dissolved on the ground that this wife has, since the solemnization thereof, been guilty of adultery.

When wife may petition for dissolution. Any wife may present a petition to the ¹[Court of Civil Judge] praying that her marriage may be dissolved on the ground that, since the solemnization thereof, her husband has exchanged his profession of Christianity for the profession of some other religion, and gone through a form of marriage with another woman ;

or has been guilty of incestuous adultery, or of bigamy with adultery.

or of marriage with another woman with adultery, or of rape, sodomy or bestiality.

or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensa et toro*.

or of adultery coupled with desertion, without reasonable excuse, for two years or upwards.

Contents of petition. Every such petition shall state, as distinctly as the nature of the case permits, the facts on which the claim to have such marriage dissolved is founded.

11. Adulterer to be co-respondent.— Upon any such petition presented by a husband, the petitioner shall make the alleged adulterer a co-respondent to the said petition, unless he is excused from so doing on one of the following grounds, to be allowed by the Court:

- (1) that the respondent is leading the life of a prostitute, and that the petitioner

¹⁴ Subs. by the Divorce (Amdt.) Act, 1975 (4 of 1976), s

knows of no person with whom the adultery has been committed ;

- (2) that the name of the alleged adulterer is unknown to the petitioner although he has made due efforts to discover it ;
- (3) that the alleged adulterer is dead.

12. Court to be satisfied of absence of collusion.— Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also inquire into any countercharge which may be made against the petitioner.

13. Dismissal of petition.— In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner's case has not been proved, or is not satisfied that the alleged adultery has been committed,

or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents

then and in any of the said cases the Court shall dismiss the petition.

15* * * * *

14. Power to Court to pronounce decree for dissolving marriage. In case the Court is satisfied on the evidence that the case of the petitioner has been proved,

and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of,

or that the petition is presented or prosecuted in collusion with either of the respondents.

the Court shall pronounce a decree declaring such marriage to be dissolved¹⁶* * *:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery,

or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in

¹⁵ Omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 9.

¹⁶ Omitted *ibid.*, s.10.

presenting or prosecuting such petition,

or of cruelty towards the other party to the marriage,

or of having deserted or willfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse,

or of such willful neglect or misconduct of or towards the other party as has conduced to the adultery.

Condonation. No adultery shall be deemed to have been condoned within the meaning of this Act unless where conjugal cohabitation has been resumed or continued.

15. Relief in case of opposition on certain grounds.— In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty or desertion without reasonable excuse, or, in case of such a suit instituted by a wife, on the ground of her adultery and cruelty, the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to such cruelty or desertion.

16. [*Decrees for dissolution to be nisi.*] Omitted by the Divorce (Amdt.) Act, 1975 (IV of 1976), s. 11.

17. [*Confirmation of decree for dissolution by District Judge.*] Omitted by the Divorce (Amdt.) Act 1975 (IV of 1976), s. 11.

17A. [*Appointment of officer to exercise duties of King's Proctor.*] Omitted by the Divorce(Amdt.) Act. 1975 (IV of 1976), s. 11.

III. — NULLITY OF MARRIAGE

18. Petition for decree of nullity.— Any husband or wife may present a petition to the ¹⁷[Court of Civil Judge], praying that his or her marriage may be declared null and void.

19. Grounds of decrees.— Such decree may be made on any of the following grounds:-

- (1) that the respondent was impotent at the time of the marriage and at the time of the institution of the suit ;
- (2) that the parties are within the prohibited degrees of consanguinity (whether natural or legal) or affinity ;
- (3) that either party was a lunatic or idiot at the time of the marriage ;

¹⁷ Subs., by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 12, for "District Court or to the High Court."

- (4) that the former husband or wife of either party was living at the time of the marriage, and the marriage with such former husband or wife was then in force.

Nothing in this section shall affect the jurisdiction of the ¹⁸[Court] to make decrees of nullity of marriage on the ground that the consent of either party was obtained by force or fraud.

20. [*Confirmation of District Judge's decree.*] Omitted by the Divorce (Amdt.) Act, 1975. (IV of 1976), s. 14.

21. Children of annulled marriage.— Where a marriage is annulled on the ground that a former husband or wife was living, and it is adjudged that the subsequent marriage was contracted in good faith and with the full belief of the parties that the former husband or wife was dead, or when a marriage is annulled on the ground of insanity, children begotten before the decree is made shall be specified in the decree, and shall be entitled to succeed, in the same manner as legitimate children, to the estate of the parent who at the time of the marriage was competent to contract.

V. JUDICIAL SEPARATION

22. Bar to decree for divorce a *mensa et toro* but judicial separation obtainable by husband or wife.— No decree shall hereafter be made for a divorce a *mensa et toro*, but the husband or wife may obtain a decree of judicial separation, on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards, and such decree shall have the effect of a divorce a *mensa et toro* under the existing law, and such other legal effect as hereinafter mentioned.

23. Application for separation made by petition.— Application for judicial separation on any one of the grounds aforesaid may be made by either husband or wife by petition to the ¹⁹[Court of Civil Judge] and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree judicial separation accordingly.

24. Separated wife deemed spinster with respect to after-acquired property.— In every case of a judicial separation under this Act, the wife shall, from the date of the sentence, and whilst the separation continues, be considered as unmarried with respect to property of every description which she may acquire, or which may come to or devolve upon her.

Such property may be disposed of by her in all respects as an unmarried woman, and on her decease the same shall, in case she dies intestate, go as the same would have gone if her husband had been then dead:

Provided that, if any such wife again cohabits with her husband, all such property as she

¹⁸ Subs. *ibid.* s. 13, for “High Court”.

¹⁹ ¹Subs. by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 15., for “District Court or the High Court”

may be entitled to when such cohabitation takes place shall be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

25. Separated wife deemed spinster for purposes of contract and suing.— In every case of a judicial separation under this Act, the wife shall whilst so separated, be considered as an unmarried woman for the purposes of contract, and wrongs and injuries, and suing and being sued in any civil proceeding ; and her husband shall not be liable in respect of any contract, act or costs entered into, done, omitted or incurred by her during the separation:

Provided that where, upon any such judicial separation, alimony has been decreed or ordered to be paid to the wife, and the same is not duly paid by the husband, he shall be liable for necessities supplied for her use:

Provided also that nothing shall prevent the wife from joining, at any time during such separation, in the exercise of any joint power given to herself and her husband.

REVERSAL OF DECREE OF SEPARATION

26. Decree of separation obtained during absence of husband or wife may be reversed.— Any husband or wife, upon the application of whose wife or husband, as the case may be, a decree of judicial separation has been pronounced, may, at any time thereafter, present a petition to the Court by which the decree was pronounced, praying for a reversal of such decree, on the ground that it was obtained in his or her absence, and that there was reasonable excuse for the alleged desertion, where desertion was the ground of such decree.

The Court may, on being satisfied of the truth of the allegations of such petition, reverse the decree accordingly ; but such reversal shall not prejudice or affect the rights or remedies which any other person would have had, in case it had not been decreed, in respect of any debts, contracts or acts of the wife incurred, entered into or done between the times of the sentence of separation and of the reversal thereof.

VI. PROTECTION-ORDERS

27. Deserted wife may apply to Court for protection.— Any wife to whom section 4 of the Indian Succession Act, 1865²⁰ (X of 1865), does not apply, may, when deserted by her husband, present a petition to the ²¹[Court of Civil Judge] at any time after such desertion, for an order to protect any property which she may have acquired or may acquire, and any property of which she may have become possessed or may become possessed after such desertion, against her husband or his creditors, or any person claiming under him.

28. Court may grant protection-order.— The Court, if satisfied of the fact of such desertion, and that the same was without reasonable excuse, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and other property from her husband and all creditors and persons claiming under him. Every such order shall state the time at which the desertion commenced, and shall, as regards all persons dealing with the wife in reliance thereon, be conclusive as to such time.

²⁰ See now the Succession Act, 1925 (39 of 1925).

²¹ Subs. by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 15, for “District Court or the High Court”.

29. Discharge or variation of orders.— The husband or any creditor of, or person claiming under him, may apply to the Court by which such order was made for the discharge or variation thereof, and the Court, if the desertion has ceased, or if for any other reason it think fit so to do, may discharge or vary the order accordingly.

30. Liability of husband seizing wife's property after notice of order.— If the husband, or any creditor of, or person claiming under, the husband, seizes or continues to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife (which she is hereby empowered to bring), to return or deliver to her the specific property, and also to pay her a sum equal to double its value.

31. Wife's legal position during continuance of order.— So long as any such order of protection remains in force the wife shall be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.

VII. RESTITUTION OF CONJUGAL RIGHTS

32. Petition for restitution of conjugal rights.— When either the husband or the wife has, without reasonable excuse withdrawn from the society of the other, either wife or husband may apply, by petition to the ²² [Court of Civil Judge], for restitution of conjugal rights, and the Court, on being satisfied of the truth of the statements made in such petition, and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

33. Answer to petition.— Nothing shall be pleaded in answer to a petition for restitution of conjugal rights which would not be ground for a suit for judicial separation or for a decree of nullity of marriage.

VIII. DAMAGES AND COSTS

34. Husband may claim damages from adulterer.— Any husband may, either in a petition for dissolution of marriage or for judicial separation, or in a petition to the ²³[Court of Civil Judge] limited to such object only, claim damages from any person on the ground of his having committed adultery with the wife of such petitioner.

Such petition shall be served on the alleged adulterer and the wife unless the Court dispenses with such service, or directs some other service to be substituted.

The damages to be recovered on any such petition shall be ascertained by the said Court, although the respondents or either of them may not appear.

After the decision has been given, the Court may direct in what manner such damages shall be paid or applied.

²² Subs. by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 15 for "District Court or the High Court" .

²³ Omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 16.

35. Power to order adulterer to pay costs.— Whenever in any petition presented by a husband, the alleged adulterer has been made a correspondent, and the adultery has been established, the Court may order the correspondent to pay the whole or any part of the cost of the proceedings:

Provided that the correspondent shall not be ordered to pay the petitioner's cost,—

- (1) if the respondent was, at the time of the adultery, living apart from her husband and leading the life of a prostitute, or
- (2) if the co-respondent had not, at the time of the adultery, reason to believe the respondent to be a married woman.

1* * * * * *

IX ALIMONY

36. Alimony *pen dente lite*.— In any suit under this Act, whether it be instituted by a husband or a wife, and whether or not she has obtained an order of protection, the wife may present a petition for alimony pending the suit.

Such petition shall be served on the husband ; and the Court, on being satisfied of the truth of the statements therein contained, may make such order on the husband for payment to the wife of alimony pending the suit as it may deem just :

Provided that alimony pending the suit shall in no case exceed one fifth of the husband's average net income for the three years next preceding the date of the order, and shall continue, in case of a decree for dissolution of marriage or of nullity of marriage, until the decree is made absolute or is confirmed, as the case may be.

37. Power to order permanent alimony. ²⁴* * * *

²⁵ [The Court may, if it thinks fit, on any decree declaring a marriage to be dissolved or on any decree of judicial separation obtained by the wife, order] that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum of money, or such annual sum of money for any term not exceeding her own life, as having regard to her fortune (if any), to the ability of the husband, and to the conduct of the parties, it thinks reasonable, and for that purpose may cause a proper instrument to be executed by all necessary parties.

Power to order monthly or weekly payments.— In every such case the Court may make an order on the husband for payment to the wife of such monthly or weekly sums for her maintenance and support as the Court may think reasonable:

Provided that if the husband afterwards from any cause becomes unable to make such payments, it shall be lawful for the Court to discharge or modify the order, or temporarily to suspend the same as to the whole or any part of the money so ordered to be paid, and again

²⁴ Omitted *ibid.*, s. 17(a).

²⁵ Subs. *ibid.*, s. 17 (b), for "order".

to revive the same order wholly or in part, as to the Court seems fit.

38. Court may direct payment of alimony to wife or to her trustee.— In all cases in which the Court makes any decree or order for alimony it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court seem expedient, and may from time to time appoint a new trustee, if it appears to the Court expedient so to do.

X. SETTLEMENT

39. Power to order settlement of wife's property for benefit of husband and children.— Whenever the Court pronounces a decree of dissolution of marriage or judicial separation for adultery of the wife, if it is made to appear to the Court that the wife is entitled to any property, the Court may, if it think fit, order such settlement as it thinks reasonable to be made of such property or any part thereof, for the benefit of the husband, or of the children of the marriage, or of both.

Any instrument executed pursuant to any order of the Court at the time of or after the pronouncing of a decree of dissolution of marriage or judicial separation shall be deemed valid notwithstanding the existence of the disability of coverture at the time of the execution thereof.

Settlement of damages. The Court may direct that the whole or any part of the damages recovered under section 34 shall be settled for the benefit of the children of the marriage, or as a provision for the maintenance of the wife.

40. INQUIRY INTO EXISTENCE OF ANTE-NUPTIAL OR POST NUPTIAL SETTLEMENTS.—

26* * * * * * *

²⁷ [The Court, after making a decree for dissolution of marriage or a decree of nullity of marriage, may] inquire into the existence of ante nuptial or post nuptial settlements made on the parties whose marriage is the subject of the decree, and may make such orders, with reference to the application of the whole or a portion of the property settled, whether for the benefit of the husband or the wife, or of the children (if any) of the marriage, or of both children and parents, as to the Court seems fit:

Provided that the Court shall not make any order for the benefit of the parents or either of them at the expense of the children.

XI. CUSTODY OF CHILDREN

41. Power to make orders as to custody of children in suit for separation.— In any suit for obtaining a judicial separation the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of such suit, and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the said Court.

26 Omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 18 (a).

27 Subs. *ibid.*, s. 18 (b), for “may

42. Power to make such orders after decree.— The Court, after a decree of judicial separation, may upon application (by petition) for this purpose make, from time to time, all such orders and provision, with respect to custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the decree, or for placing such children under the protection of the said Court, as might have been made by such decree or by interim orders in case the proceedings for obtaining such decree were still pending.

²⁸**43. Power to make orders as to custody of children in suits for dissolution or nullity.**— In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage, the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit; and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the Court.].

44. Power to make such orders after decree.— ²⁹[The Court, after a decree for dissolution of marriage or a decree of nullity of marriage, may, upon application by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the Court, as might have been made by such decree or by such interim orders as aforesaid.]

XII. PROCEDURE

45. Code of Civil Procedure to apply.— Subject to the provisions herein contained, all proceedings under this Act between party and party shall be regulated by the Code of Civil Procedure.

46. Forms of petitions and statements.— The forms set forth in the Schedule to this Act, with such variation as the circumstances of each case require, may be used for the respective purposes mentioned in such schedule.

47. Stamp on petition. Petition to state absence of collusion.— Every petition under this Act for a decree of dissolution of marriage or of nullity of marriage, or of judicial separation ³⁰ * * shall * * * state that there is not any collusion or connivance between the petitioner and the other party to the marriage ;

Statements to be verified. the statements contained in every petition under this Act shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints, and may at the hearing be referred to as evidence.

48. Suits on behalf of lunatics.— When the husband or wife is a lunatic or idiot, any suit under this Act (other than a suit for restitution of conjugal rights) may be brought on his or her behalf by the committee or other person entitled to his or her custody.

²⁸ Subs. by the Divorce (Amdt.) Act, 1975 (4 of 1976), ss.1920.

²⁹ See now the Code of Civil Procedure, 1908 (5 of 1908).

³⁰ The words “or of reversal of judicial separation, or for restitution of conjugal rights, or for damages, shall bear a stamp of five rupees, and,” and the words “in the first, second, and third cases mentioned in this section,” rep. by the Court Fee Act, 1870 (7 of 1870). For court fee, see now Art. 7 of Sch. II to that Act.

49. Suits by minors.— Where the petitioner is a minor, he or she shall sue by his or her next friend to be approved by the Court ; and no petition presented by a minor under this Act shall be filed until the next friend has undertaken in writing to be answerable for costs.

Such undertaking ³¹* * * shall be filed in Court, and the next friend shall thereupon be liable in the same manner and to the same extent as if he were a plaintiff in an ordinary suit.

50. Service of petition.— Every petition under this Act shall be served on the party to be affected thereby, either within or without ³²[Pakistan], in such manner as the High Court by general or special order from time to time directs:

Provided that the Court may dispense with such service altogether in case it seems necessary or expedient so to do.

51. Mode of taking evidence.— The witnesses in all proceedings before the Court, where their attendance can be had, shall be examined orally, and any party may offer himself or herself as a witness, and shall be examined and may be cross -examined and re-examined, like any other witness:

Provided that the parties shall be at liberty to verify their respective cases in whole or in part by affidavit, but so that the deponent in every such affidavit shall, on the application of the opposite party, or by direction of the Court, be subject to be cross-examined by or on behalf of the opposite party orally, and after such cross-examination may be re-examined orally as aforesaid by or on behalf of the party by whom such affidavit was filed.

52. Competence of husband and wife to give evidence as to cruelty or desertion.— On any petition presented by a wife, praying that her marriage may be dissolved by reason of her husband having been guilty of adultery coupled with cruelty, or of adultery coupled with desertion without reasonable excuse, the husband and wife respectively shall be competent and compellable to give evidence of or relating to such cruelty or desertion.

53. Power to close doors.— The whole or any part of any proceeding under this Act may be heard, if the Court thinks fit, with closed doors.

54. Power to adjourn.— The Court may from time to time adjourn the hearing of any petition under this Act, and may require further evidence thereon if it sees fit so to do.

55. Enforcement of and appeal from orders and decrees.— All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced and may be appealed³³ from, in the like manner as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from under the laws, rules and orders for the time being in force:

³¹ The words "shall bear a stamp of eight annas and" rep. *ibid.*

³² Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2nd Sch. (with effect from the 14th October, 1955), for "the Provinces and the Capital of the Federation" which was subs. for "British India" by A.O., 1949, Arts. 3(2) and 4.

³³ For courtfee of memorandum of appeal, see now Art. 7 of Sch. II to the Court Fees Act, 1870 (7 of 1870).

34* * * * *

No appeals as to costs. Provided^{35*} that there shall be no appeal on the subject of costs only.

56. [*Appeal to Supreme Court.*] *Omitted by the Divorce (Amdt.) Act, 1975 (IV of 1976), s. 22.*

XIII. RE-MARRIAGE

³**[57. Liberty to parties to marry again.—** After the expiry of six months from the date of a decree for the dissolution of a marriage, or, where an appeal has been presented against any such decree, after the dismissal of such appeal or the declaration of the marriage as dissolved as a result of such appeal, but not sooner, it shall be lawful for the parties to the marriage to marry again as if the prior marriage had been dissolved by death].

58. English clergyman not compelled to solemnize marriages of persons divorced for adultery.— No clergyman in Holy Orders of the ^{36*} Church of England ^{37*} * shall be compelled to solemnize the marriage of any person whose former marriage has been dissolved on the ground of his or her adultery, or shall be liable to any suit, penalty or censure for solemnizing or refusing to solemnize the marriage of any such person.

59. English minister refusing to perform ceremony to permit use of his church.— When any minister of any church or chapel of the said ^{1*} Church refuses to perform such marriage service between any persons who, but for such refusal would be entitled to have the same service performed in such church or chapel, such minister shall permit any other minister in Holy Orders of the said Church entitled to officiate within the diocese in which such church or chapel is situate, to perform such marriage service in such church or chapel.

XIV. MISCELLANEOUS

60. Decree for separation or protection order valid as to persons dealing with wife before reversal.— Every decree for judicial separation or order to protect property obtained by a wife under this Act shall, until reversed or discharged, be deemed valid, so far as necessary, for the protection of any person dealing with the wife.

No reversal, discharge or variation of such decree or order shall affect any rights or remedies which any person would otherwise have had in respect of any contracts or acts of the wife entered into or done between the dates of such decree or order and of the reversal, discharge or variation thereof.

Indemnity of persons making payment to wife without notice of reversal of decree or protection order. All persons who in reliance on any such decree or order make any payment to, or permit any transfer or act to be made or done by, the wife who has obtained the

34 Proviso and the word "also" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.21.

35 Subs. *ibid.*, s. 23.

36 The word "United" rep. by the Repealing Act, 1873 (12 of 1873).

37 The words "and Ireland" rep., *ibid.*

same shall, notwithstanding such decree or order may then have been reversed, discharged or varied, or the separation of the wife from her husband may have ceased, or at some time since the making of the decree or order been discontinued, be protected and indemnified as if, at the time of such payment, transfer or other act, such decree or order were valid and still subsisting without variation, and the separation had not ceased or been discontinued,

unless, at the time of the payment, transfer or other act, such persons had notice of the reversal, discharge or variation of the decree or order or of the cessation or discontinuance of the separation.

61. Bar of suit for criminal conversation.- After this Act comes into operation, no person competent for criminal to present a petition under sections 2 and 10 shall maintain a suit for criminal conversation with his wife.

62. Power to make rules.- The High Court shall make such rules under this Act as it may from time to time consider expedient, and may from time to time alter and add to the same :

Provided that such rules, alterations and additions are consistent with the provisions of this Act and the Code of Civil Procedure³⁸.

All such rules, alterations and additions shall be published in the ³⁹[official Gazette].

V. SCHEDULE OF FORMS

No. 1.— PETITION BY HUSBAND FOR A DISSOLUTION OF MARRIAGE WITH DAMAGES AGAINST CO-RESPONDENT, BY REASON OF ADULTERY.

(See sections 10 and 34)

In the⁴⁰ *Court of

41** * * * *

SHEWETH, The day of The petition of *A.B.*, of

1. That your petitioner was on the day of, one thousand eight hundred and, lawfully⁴² married to *C.B.*, then *C. D.*, spinster, at
2. That from his said marriage, your petitioner lived and cohabited with his said wife at and at, in, and lastly at in, and that your petitioner and his said wife have had issue of their said marriage, *five* children, of whom *two* sons only survive, aged respectively *twelve* and *fourteen* years.
3. That during the *three* years immediately preceding the day of one thousand eight hundred and, *X. Y.* was constantly, with few exceptions, residing in the house of your petitioner at aforesaid, and that on divers occasions during the said period, the dates of which are unknown to your petitioner, the said *C.B.* in your petitioner's said house

38 See now the Code of Civil Procedure, 1908 (Act 5 of 1908).

39 Subs. by A. O., 1937, for "local official Gazette".

40 The word "(High)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

41 The words "To the Hon'ble Mr. Justice [or to the Judge of]" omitted *ibid.* .

42 If the marriage was solemnized out of Pakistan the adultery must be shown to have been committed in Pakistan.

committed adultery with the said X. Y.

4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this ^{43*} Court will decree a dissolution of the said marriage, and that the said X. Y. do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this ^{44*} Court seems fit.

(Signed)

A.B.²

Form of Verification

I, A.B., the petitioner name in the above petition, do declare that what is stated therein is true to the best of my information and belief your petitioner, therefore, prays that this ^{45*} Court will decree a dissolution of the said marriage, and that the said X. Y. do pay the sum of rupees 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this ^{1*} Court seems fit.

(Signed) A.B.²

Form of Verification

I, A.B., the petitioner name in the above petition, do declare that what is stated therein is true to the best of my information and belief.

No. 2. RESPONDENT'S STATEMENT IN ANSWER TO No.1.

In the Court of the day of between A.B., petitioner, C.B., respondent, and X.Y., co-respondent. C. B., the respondent, by D.E., her attorney [or vakil], in answer to the petition of A.B., says that she denies that she has on divers or any occasions committed adultery with X. Y., as alleged in the third paragraph of the said petition.

Wherefore the respondent prays that this ^{46*} Court will reject the said petition.

(Signed)

C.B.

NO. 3 CO-RESPONDENT'S STATEMENT IN ANSWER TO No

In the ^{47*} Court of

43 The word "(Hon'ble)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 24.

44 The word "(Hon'ble)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 24.

45 The word "(Hon'ble)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 24.

46 The petition must be signed by the petitioner.

47 The word "(High)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 24

The day of

Between *A.B.*, petitioner, *C.B.*, respondent, and *X. Y.*, co-respondent.

X. Y., the co-respondent, in answer to the petition filed in this cause, said that he denies that he committed adultery with the said *C. B.*, as alleged in the said petition.

Wherefore the said *X. Y.*, prays that this ^{48*} Court will reject the prayer of the said petitioner and order him to pay the costs of and incident to the said petition.

(Signed)

X.Y.

NO. 4 PETITION FOR DECREE OF NULLITY OF MARRIAGE

(See section 18)

In the ^{49*} Court of ^{50*} * * * * * The day of, 186. The petition of *A.B.*, falsely called *A.D.*

SHEWETH,

1. That on the, day of, one thousand eight hundred and, your petitioner, then a spinster, eighteen years of age, was married in fact, though not in law, to *C.D.*, then a bachelor of about thirty years of age, at [*some place in* ⁵¹*Pakistan*]].
2. That from the said day of, one thousand eight hundred and, until the month of, one thousand eight hundred and, your petitioner lived and cohabited with the said *C.D.*, at divers places, and particularly at aforesaid.
3. That the said *C. D.*, has never consummated the said pretended marriage by carnal copulation.
4. That at the time of the celebration of your petitioner's said pretended marriage, the said *C.D.* was, by reason of his impotency or malformation, legally incompetent to enter into the contract of marriage.
5. That there is no collusion or connivance between her and the said *C.D.* with respect to the subject of this suit.

Your petitioner therefore prays that this ^{52*} Court will declare that the said marriage is null and void.

(Signed)

A.B

NO. 5 PETITION BY WIFE FOR JUDICIAL SEPARATION ON THE GROUND OF HER HUSBAND'S ADULTERY

(See section 22)

⁴⁸ The word “(Hon'ble)” omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 24.

⁴⁹ The word “(High)” omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

⁵⁰ The words “To the Hon'ble Mr. Justice [or to the Judge of-]” omitted *ibid*.

⁵¹ Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch. (with effect from the 14th October, 1955), for “India

⁵² The word “(Hon'ble)” omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s. 24.

That on the day of, one thousand eight hundred and *sixty* , your petitioner, then *C.D.*, was lawfully married to *A.B.*, at In the ^{53*} Court of ^{54*} * * * * *The day of 186. The petition of *C.B.*, of, the wife of *A.B*

SHEWETH,

1. the Church of, in the .
2. That after her said marriage your petitioner cohabited with the said *A.B.* at and at, and that your petitioner and her said husband have issue living of their said marriage, *three* children, to wit, *etc.*, *etc.*⁵⁵
3. That on divers occasions in or about the months of *August, September* and *October*, one thousand eight hundred and *sixty*, the said *A. B.*, at aforesaid, committed adultery with *E.F.*, who was then living in the service of the said *A. B.* and your petitioner at their said residence aforesaid.
4. That on divers occasions in the months of *October, November* and *December*, one thousand eight hundred and *sixty*, the said *A. B.*, at aforesaid, committed adultery with *G. H.*, who was then living in the service of the said *A. B.* and your petitioner at their said residence aforesaid.
5. That no collusion or connivance exists between your petitioner and the said *A. B.* with respect to the subject of the present suit.

Your petitioner therefore prays that this ^{56*} Court will decree a judicial separation to your petitioner from her said husband by reason of his aforesaid adultery.

(Signed)

*C. B.*⁵⁷

No.6 STATEMENT IN ANSWER TO No.5

In the ^{58*} Court of * * * * *The day of 186. The petition of *C.B.*, of, the wife of *A.B*

B. against *B*

The day of

The respondent, *A.B.*, by *W. Y.*, his attorney [*or vakil*]

SHEWETH,

1. That he denies that he committed adultery with *E.F.*, as in the third paragraph of the petition alleged.
2. That the petitioner condoned the said adultery with *E.F.*, if any.
3. That he denies that he committed adultery with *G.H.*, as in the fourth paragraph of the petition alleged.
4. That the petitioner condoned the said adultery with *G. H.*, if any.

⁵³ The word “(High)” omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

⁵⁴ The words “To the Hon’ble Mr. Justice [or to the Judge of-]” omitted *ibid*.

⁵⁵ State the respective ages of the children.

⁵⁶ The word “(Hon’ble)” omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

⁵⁷ The petition must be signed by the petitioner

⁵⁸ ¹The word “(High)” omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

Wherefore this respondent prays that this ⁵⁹* Court, will reject the prayer of the said petition.

(Signed)

A.B

No. 7 STATEMENT IN REPLY TO No.6

In the * Court of * * * * * The day of 186. The petition of *C.B.*,
of, the wife of *A.B*

B. against *B*

The day of

The respondent, *A.B.*, by *W. Y.*, his attorney [*or* *vakil*]

1. That she denies that she condoned the said adultery of the respondent with *E. F.*,
as in thesecond paragraph of the statement in answer alleged.

2. That even if she had condoned the said adultery, the same has been revived by the
subsequentadultery, of the respondent with *G. H.*, as set forth in the fourth paragraph of the
petition.

(Signed)

C.B.

No. 8 PETITION FOR A JUDICIAL SEPARATION BY REASON OF CRUELTY

(*See section 22*)

In the ⁶⁰* Court of ⁶¹* * * * *
The day of , 186 .The petition of *A. B.* (wife of *C. B.*) of

SHEWETH,

1. That on the day of, one thousand eight hundred and, your petitioner, then *A. D.*, spinster,
was lawfully married to *C. B.*, at
2. That from her said marriage, your petitioner lived and cohabited with her said husband at
until the day of, one thousand eight hundred and, when your petitioner separated from
her said husband as hereinafter more particularly mentioned, and that your petitioner and
her said husband have had no issue of their said marriage.
3. That from and shortly after your petitioner's said marriage, the said *C. B.*, habitually
conducted himself towards your petitioner with great harshness and cruelty, frequently
abusing her in the coarsest and most insulting language, and beating her with his fists, with
a cane, or with some other weapon.
4. That on an evening in or about the month of one thousand eight hundred and, the said *C.*
B., in the highway and opposite to the house in which your petitioner and the said *C. B.*
were then residing at aforesaid, endeavoured to knock your petitioner down, and was only

⁵⁹ The word ("Hon'ble") omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

⁶⁰ The word "(High)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24

⁶¹ The words "To the Hon'ble Mr. Justice [or to the Judge of-]" omitted *ibid*.

prevented from so doing by the interference of *F. D.*, your petitioner's brother.

5. That subsequently on the same evening, the said *C. B.*, in his said house aforesaid, struck your petitioner with his clenched fist a violent blow on her face.
6. That on one Friday night in the month of, one thousand eight hundred and, the said *C. B.*, in , without provocation, threw a knife at your petitioner, thereby inflicting a severe wound on her right hand.
7. That on the afternoon of the day of, one thousand eight hundred and, your petitioner, by reason of the great and continued cruelty practiced towards her by her said husband, with assistance withdrew from the house of her said husband to the house of her father at, that from and after the said day of, one thousand eight hundred and, your petitioner hath lived separate and apart from her said husband, and hath never returned to his house or to cohabitation with him.
8. That there is no collusion or connivance between your petitioner and her said husband with respect to the subject of the present suit.

Your petitioner, therefore, prays that this ⁶²*Court will decree a judicial separation between your petitioner and the said *C. B.*, and also order that the said *C.B.* do pay the costs of and incident to these proceedings.

(Signed)

A. B.

No. 9.— STATEMENT IN ANSWER TO No.8

In the ⁶³*Court
of The day of .

Between *A. B.*, petitioner, and *C. B.*, respondent

C.B., the respondent, in answer to the petition filed in this cause, by *W. J.*, his attorney [or vakil], said that he denies that he has been guilty of cruelty towards the said *A. B.* as alleged in the said petition.

(Signed)

C.B.

No. 10.— PETITION FOR REVERSAL OF DECREE OF SEPARATION (See section 24)

In the ⁶⁴* Court of

⁶⁵* * * * *

The day of , 186 .

⁶² ¹The word "(High)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

⁶³ ²The words "To the Hon'ble Mr. Justice [or to the Judge of-]" omitted *ibid.*

⁶⁴ The words "To the Hon'ble Mr. Justice [or to the Judge of-]" omitted *ibid.*

⁶⁵ The petitioner should state her husband's income as accurately as possible

The petition of *A. B.*, of .

SHEWETH,

1. That your petitioner was on the day of lawfully married to .
2. That on the day of, this ⁶⁶* Court, at the petition of, pronounced a decree affecting the petitioner to the effect following, to wit,—

[Here set out the decree.]

3. That such decree was obtained in the absence of your petitioner, who was then residing at

[State facts tending to show that the petitioner did not know of the proceedings ; and, further, that had he known he might have offered a sufficient defence].

or

That there was reasonable ground for your petitioner leaving his said wife, for that his said wife.*[Here state any legal grounds justifying the petitioner's separation from his wife.]*
Your petitioner, therefore, prays that this *Court will reverse the said decree.

(Signed) *A.B.*

No. 11. PETITION FOR PROTECTION-ORDER

⁶⁶ The word “(High)” omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24

(See section 27)

In the *Court of *****

The day of , 186 .The petition of C. B., of the wife of A. B

SHEWETH,

That on the day of she was lawfully married to A. B. at.

That she lived and cohabited with the said A. B. for years at, and also at, and had had children, issue of her said marriage, of whom are now living with the applicant, and wholly dependent upon her earnings.

That on or about, the said A. B., without any reasonable cause, deserted the applicant, and hath ever since remained separate and apart from her.

That since the desertion of her said husband, the applicant hath maintained herself by her own industry [or on her own property, *as the case may be*], and hath thereby and otherwise acquired certain property consisting of [*here state generally the nature of the property*].

Wherefore she prays an order for the protection of her earnings and property acquired since the said day of, from the said A. B., and from all creditors and persons claiming under him.

(Signed) C.B.

No. 12 PETITION FOR ALIMONY PENDING THE SUIT

(See section 36)

In the ⁶⁷*

Court of B. against B

⁶⁸* * * * *

The day of , 186

The petition of C. B., the lawful wife of A. B.

SHEWETH,

1. That the said A. B. has for some years carried on the business of, at, and from such business derives the net annual income of from Rs. 4,000 to 5,000.
2. That the said A. B. is possessed of plate, furniture, linen and other effects at his said house aforesaid, all of which he acquired in right of your petitioner as his wife, or purchased with money he acquired through her, of the value of Rs. 10,000.

⁶⁷ The word "(High)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24

⁶⁸ The words "To the Hon'ble Mr. Justice [or to the Judge of-]" omitted *ibid*.

3. That the said *A. B.* is entitled, under the will of his father, subject to the life interest of his mother therein, to property of the value of Rs. 5,000 or some other considerable amount⁶⁹

Your petitioner, therefore, prays that this ^{70*} Court will decree such sum or sums of money by way of alimony, pending the suit, as to this ^{71*} Court may seem meet.

(Signed) *C.B.*

Form of Verification : see No. 1

⁶⁹ The petitioner should state her husband's income as accurately as possible.

⁷⁰ The word ("Hon'ble") omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24

⁷¹ The word ("Hon'ble") omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24

No. 13. STATEMENT IN ANSWER TO No. 12

In the ^{72*} Court of

B. against B.

A. B., of , the above named respondent, in answer to the petition for alimony, pending the suit of C. B., says

1. In answer to the first paragraph of the said petition, I say that I have for the last *three* years carried on the business of, at , and that, from such business, I have derived a net annual income of Rs. 900, but less than Rs. 1,000.

2. In answer to the second paragraph of the said petition, I say that I am possessed of plate, furniture, linen and other chattels and effects at my said house aforesaid, of the value of Rs. 7,000, but as I verily believe of no larger value. And I say that a portion of the said plate, furniture and other chattels and effects of the value of Rs. 1,500, belonged to my said wife before our marriage, but the remaining portions thereof I have since purchased with my own moneys. And I say that, save as hereinbefore set forth, I am not possessed of the plate and other effects as alleged in the said paragraph in the said petition, and that I did not acquire the same as in the said petition also mentioned.

3. I admit that I am entitled under the will of my father, subject to the life-interest of my mother therein, to property of the value of Rs. 5,000, that is to say, I shall be entitled under my said father's will, upon the death of my mother, to a legacy of Rs. 7,000, out of which I shall have to pay to my father's executors the sum of Rs. 2,000, the amount of a debt owing by me to his estate, and upon which debt I am now paying interest at the rate of five per cent. per annum.

4. And, in further answer to the said petition, I say that I have no income whatever except that derived from my aforesaid business, that such income, since my said wife left me, which she did on the day of last, has been considerably diminished, and that such diminution is likely to continue. And I say that out of my said income, I have to pay the annual sum of Rs. 100 for such interest as aforesaid to my late father's executors' and also to support myself and my two eldest children.

5. And, in further answer to the said petition, I say that, when my wife left my dwelling-house on the day of last, she took with her, and has ever since withheld and still withholds from me, plate, watches and other effects in the second paragraph of this my answer mentioned, of the value of, as I verily believe, Rs. 800 at the least ; and I also say that, within five days of her departure from my house as aforesaid, my said wife received bills due to me from certain lodgers of mine, amounting in the aggregate to Rs., and that she has ever since withheld and still withholds from me the same sum.

⁷² The word "(High)" omitted by the Divorce (Amdt.) Act, 1975 (4 of 1976), s.24.

(Signed)
A. B.

**NO. 14. UNDERTAKING BY MINOR'S NEXT FRIEND TO BE ANSWERABLE FOR
RESPONDENT'S COSTS.**

(See section 49)

In the Court of

I, the undersigned, *A. B.*, of, being the next friend of *C. D.*, who is a minor, and who is desirous of filing a petition in this Court, under the Indian Divorce Act, against *D. D.* of, hereby undertake to be responsible for the costs of the said *D. D.* in such suit, and that, if the said *C. D.* fail to pay to the said *D. D.* when and in such manner as the Court shall order all such costs of such suit as the Court shall direct him (*or her*) to pay to the said *D. D.*, I will forthwith pay the same to the proper officer of this Court.

Dated this day of, 186

Signed)

A. B.,

THE HINDU WIDOWS' RE-MARRIAGE ACT, 1856

CONTENTS

Section	Headings
1.	Marriage of Hindu widows legalize
2.	Rights of widow in deceased husband's property to cease on her remarriage
3.	Guardianship of children of deceased husband on the remarriage of his widow
4.	Nothing in this Act to render any childless widow capable of inheriting
5.	Saving of rights of widow marrying, except as provided in sections 2 to 4
6.	Ceremonies constituting valid marriage to have same effect on widow's marriage
7.	Consent to remarriage of minor widow
8.	Punishment for abetting marriage made contrary to this section
9.	Effect of such marriage Proviso

¹ [THE HINDU WIDOWS' RE-MARRIAGE ACT, 1856]
ACT No. XV OF 1856

[25th July, 1856]

An Act to remove all legal obstacles to the marriage of Hindu Widows.

Preamble. WHEREAS it is known that, by the law as administered in the Civil Courts established in the territories in the possession and under the Government of the East India Company, Hindu widows with certain exceptions are held to be, by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property;

AND WHEREAS many Hindus believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the civil law administered by the Courts of Justice shall no longer prevent those Hindus who may be so minded from adopting a different custom, in accordance with the dictates of their own conscience;

AND WHEREAS it is just to relieve all such Hindus from this legal incapacity of which they complain, and the removal of all legal obstacles to the marriage of Hindu widows will tend to the promotion of good morals and to the public welfare ; it is enacted as follows:-

1. Marriage of Hindu widows legalized.— No marriage contracted between Hindus shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.

2. Rights of widow in deceased husband's property to cease on her re-marriage.—All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to remarry, only a limited interest in such property, with no power of alienating the same, shall upon her remarriage cease and determine as if she had then died ; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

3. Guardianship of children of deceased husband on the re-marriage of his widow.— On the remarriage of a Hindu widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband the guardian of his children the father or paternal grandfather or the mother of paternal grandmother,

¹ Short title given by the Short Titles Act, 1897 (14 of 1897).

This Act has been declared to be in force in all the Provinces and the Capital of the Federation, except the Scheduled Districts, by the Law Local Extent Act, 1874 (15 of 1874), s. 3. It has been declared, by notification under s. 3 (a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in the following Scheduled Districts, namely—
Sind See Gazette of India, 1880, Pt. I, p. 672.

The District of Hazara, Peshawar, Kohat, Bannu, Dera Ismail Khan and Dera Ghazi Khan. [Portions of the Districts of Hazara, Bannu, Dera Ismail Khan and Dera Ghazi Khan and the Districts of Peshawar and Kohat now form the N.W.F.P., see Gazette of India, 1901, Pt. I, p. 857, and *ibid.*, 1902, Pt. I, p. 575; but its application to that part of the Hazara District known as Upper Tanawal has been barred by the Hazara (Upper Tanawal) Regulation, 1900 (2 of 1900)] see Gazette of India, 1886, Pt. I, p. 48.

of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court,

if it shall think fit, to appoint such guardian, who when appointed shall be entitled to have the care and custody of the said children, or of any of them during their minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be by the laws and rules in force touching the guardianship of children who have neither father nor mother:

Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

4. Nothing in this Act to render any childless widow capable of inheriting.— Nothing in this Act contained shall be construed to render any widow who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow.

5. Saving of rights of widow marrying, except as provided in sections 2 to 4.— Except as in the three preceding sections is provided, a widow shall not, by reason of her re-marriage forfeit any property or any right to which she would otherwise be entitled ; and every widow who has remarried shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

6. Ceremonies constituting valid marriage to have same effect on widow's marriage.— Whatever words spoken, ceremonies performed or engagements made on the marriage of a Hindu female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect if spoken, performed or made on the marriage of a Hindu widow ; and no marriage shall be declared invalid on the ground that such words, ceremonies or engagements are inapplicable to the case of a widow.

7. Consent to re-marriage of minor widow.— If the widow remarrying is a minor whose marriage has not been consummated, she shall not remarry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or, failing all these, of her elder brother, or failing also brothers, of her next male relative.

Punishment for abetting marriage made contrary to this section. All persons knowingly abetting a marriage made contrary to the provisions of this section shall be liable to imprisonment for any term not exceeding one year or to fine or to both.

Effect of such marriage. Proviso. And all marriages made contrary to the provisions of this section may be declared void by a Court of law: Provided, that in any question regarding the validity of a marriage made contrary to the provisions of this section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated.

Consent to remarriage of major widow. In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Pakistan Penal Code, 1860 (XLV of 1860) and Code of Criminal Procedure, 1898 (V of 1898) (provisions with regard to women rights)

Pakistan Penal Code, 1860 (XLV of 1860)

Section 55

55. Commutation of sentence of imprisonment for life.— In every case in which sentence of ¹[imprisonment] for life shall have been passed, ²[the Provincial Government of the Province] within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years ³[:]

³[Provided that, in a case in which sentence of imprisonment for life shall have been passed against an offender convicted for an offence punishable under Chapter XVI, such punishment shall not be commuted without the consent of the victim or, as the case may be, of his heirs ⁴[:]].

⁴ [Provided further that in a case in which the sentence of imprisonment for life has been passed against an offender convicted for an offence punishable under sections 354A, 376, 376A, 377 or 377B, or where the principle of fasad-fil-arz is attracted, such punishment shall not be commuted.]

Section 166

166. Public servant disobeying law, with intent to cause injury to any person.— 5[(1)] Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

⁶ [(2) Whoever being a public servant entrusted with the investigation of a case fails to carry out the investigation properly or diligently or fails to pursue the case in any court of law properly and in breach of his duties shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.]

Illustration

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favour by a Court of Justice, knowingly disobeys that direction of law, with

¹ Subs. by Ord. 12 of 1972, s. 2 and Sch., for "transportation"

² 1Subs. by A.O., 1937, for "the G. of I. or the Government of the place"

³ Subs. and added by Act II of 1997, ss. 2-5

⁴ Subs. by Act XLIV of 2016, s. 2.

⁵ Renumber and added by Act XLIV of 2016, s. 3.

⁶ Renumber and added by Act XLIV of 2016, s. 3.

the knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Section 186

186. Obstructing public servant in discharge of public functions.—⁷[(1)] Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to ⁸[one year], or with fine which may extend to ⁸[fifty thousand] rupees, or with both.

⁸ [(2) Whoever intentionally hampers, misleads, jeopardizes or defeats an investigation, inquiry or prosecution or issues a false or defective report in a case under any law for the time being in force shall be punished with imprisonment for a term which may extend to three years or with fine or with both.]

Section 299(ee) and (ii)

⁹[(ee) “fasad-fil-arz” includes the past conduct of the offender or whether he has any previous conviction or the brutal or shocking manner in which the offence has been committed which is outrageous to the public conscience or if the offender is considered a potential danger to the community or if the offence has been committed in the name or on the pretext of honour;]

¹⁰[(ii) “offence committed in the name or on the pretext of honour” means an offence committed in the name or on the pretext of karo kari, siyah kari or similar other customs or practices;]

Section 302

302. Punishment of qatl-i-amd.— Whoever commits qatl-e-amd shall, subject to the provisions of this Chapter be—

- (a) punished with death as qisas;
- (b) punished with death for imprisonment for life as ta'zir having regard to the facts and circumstances of the case, if the proof in either of the forms specified in section 304 is not available; or
- (c) punished with imprisonment of either description for a term which may extend to twenty-five years, where according to the Injunctions of Islam the punishment of qisas is not applicable ¹¹[:]

⁷ Renumber, subs. and added by Act XLIV of 2016, s. 4

⁸ Renumber, subs. and added by Act XLIV of 2016, s. 4

⁹ Ins. by Act (XLIII of 2016), s. 2.

¹⁰ Ins. by Act I of 2005, s. 2.

¹¹ Subs. by Act XLIII of 2016, s.3.

¹² [Provided that nothing in clause (c) shall apply where the principle of fasad-fil-arz is attracted and in such cases only clause (a) or clause (b) shall apply.]

Section 305

305. Wali.— In case of a qatl, the wali shall be—

(a) the heirs of the victim, according to his personal law ¹³[but shall not include the accused or the convict in case of qatl-i-amd if committed in the name or on the pretext of honour]; and

(b) the Government, if there is no heir.

Section 308

308. Punishment in qatl-i-amd not liable to qisas, etc.— (1) Where an offender guilty of qatl-i-amd is not liable to qisas under section 306 or the qisas is not enforceable under clause (c) of section 307, he shall be liable to diyat :

Provided that, where the offender is minor or insane, diyat shall be payable either from his property or, by such person as may be determined by the court:

Provided further that where at the time of committing qatl-e-amd the offender being a minor, had attained sufficient maturity or being insane, had a lucid interval, so as to be able to realize the consequences of his act, he may also be punished with imprisonment of either description for a term which may extend 14[twenty-five years] as ta'zir:

Provided further that, where the qisas is not enforceable under clause (c) of section 307, the offender shall be liable to diyat only if there is any wali other than offender and if there is no wali other than the offender, he shall be punished with imprisonment of either description for a term which may extend to ¹⁴[twenty-five years] as ta'zir.

(2) Notwithstanding anything contained in sub-section (1), the court, having regard to the facts and circumstances of the case in addition to the punishment of diyat, may punish the offender with imprisonment of either description for a term which may extend to ¹⁴[twenty-five years], as ta'zir.

¹² Added. by Act XLIII of 2016, s.3.

¹³ Added by Act I of 05,s.4.

¹⁴ Subs. by Act I of 05,s.5.

Section 309

309. Waiver-Afw of qisas in qatl-i-amd.— (1) In the case of qatl-i-amd, an adult sane wali may, at any time and without any compensation, waive his right of qisas:

Provided that the right of qisas shall not be waived-

- (a) where the Government is the wali ; or
- (b) where the right of qisas vests in a minor or insane ¹⁵[:]

¹⁵[Provided further that where the principle of fasad-fil-arz is attracted, waiver of qisas shall be subject to the provisions of section 311.]

(2) Where a victim has more than one wali, anyone of them may waive his right of qisas:

Provided that the wali who does not waive the right of qisas shall be entitled to his share of diyat.

(3) Where there are more than one victim, the waiver of the right of qisas by the wali of one victim shall not affect the right of qisas of the wali of the other victim.

(4) Where there are more than one offenders, the waiver of the right of qisas against one offender shall not affect the right of qisas against the other offender.

Section 310

310. Compounding of qisas (Sulh) in qatl-i- amd.— (1) In the case of qatl-i-amd, an adult sane wali may, at any time on accepting badal-i-sulh, compound his right of qisas:

¹⁶[Provided that a female shall not be given in marriage or otherwise in badal-i-sulh]¹⁷[:]

¹⁷[Provided further that where the principle of fasad-fil-arz is attracted, compounding of the right of qisas shall be subject to the provisions of section 311.]

(2) Where a wali is a minor or an insane, the wali of such minor or insane wali may compound the right of qisas on behalf of such minor or insane wali:

Provided that the value of badal-i-sulh shall not be less than the value of diyat.

¹⁵ Subs. & added by Act XLIII of 2016, ss. 4-5.

¹⁶ Subs. by Act I of 2005, s. 6.

¹⁷ Subs. & added by Act XLIII of 2016, ss. 4-5.

(3) Where the Government is the wali, it may compound the right of qisas:

Provided that the value of badal-i-sulh shall not be less than the value of diyat.

(4) Where the badal-i-sulh is not determined or is a property or a right the value of which cannot be determined in terms of money under Shari'ah (شریعه) the right of qisas shall be deemed to have been compounded and the offender shall be liable to diyat.

(5) Badal-i-sulh may be paid or given on demand or on a deferred date as may be agreed upon between the offender and the wali.

Explanation.— In this section, Badal-i-sulh means the mutually agreed compensation according to Shari'ah to be paid or given by the offender to a wali in cash or in kind or in the form of moveable or immovable property.

Section 310A

¹⁸[**310A. Punishment for giving a female in marriage or otherwise in badla-e-sulh, wanni or swara.**— Whoever gives a female in marriage or otherwise compels her to enter into marriage, as badla-e-sulh, wanni, or swara or any other custom or practice under any name, in consideration of settling a civil dispute or a criminal liability, shall be punished with imprisonment of either description for a term which may extend to seven years but shall not be less than three years and shall also be liable to fine of five hundred thousand rupees.]

Section 311

¹⁹[**311. Ta'zir after waiver or compounding of right of qisas in qatl-i-amd.**— Where all the wali do not waive or compound the right of qisas, or if the principle of fasad-fil-arz is attracted, the court may, having regard to the facts and circumstances of the case, punish an offender against whom the right of qisas has been waived or compounded with death or imprisonment for life or imprisonment of either description for a term of which may extend to fourteen years as ta'zir:

Provided that if the offence has been committed in the name or on the pretext of honour, the punishment shall be imprisonment for life.]

Section 316

316. Punishment for qatl shibh-i-'amd.— Whoever commits qatl shibh-i-amd shall be liable to diyat and may also be punished with imprisonment of either description for a term which may extend to 20[twenty five years] as ta'zir.

¹⁸ Subs. by Act 26 of 2011, s.2

¹⁹ Subs. by Act XLIII of 2016, s. 6.

²⁰ Subs. by Act I of 2005, s. 9 for "Fourteen Years".

Section 324

324. Attempt to commit qatl-i-amd.— Whoever does any act with such intention or knowledge, and under such circumstances, that, if he by that act caused qatl, he would be guilty of qatl-i-amd, shall be punished with imprisonment for either description for a term which may extend to ten year ²¹[but shall not be less than five years if the offence has been committed in the name or on the pretext of honour] and shall also be liable to fine, and, if hurt is caused to any person by such act, the offender shall, in addition to the imprisonment and fine as aforesaid, be liable to the punishment provided for the hurt caused:

Provided that, where the punishment for the hurt is qisas which is not executable, the offender shall be liable to arsh and may also be punished with imprisonment of either description for a term which may extend to seven years.

Section 332

332. Hurt.— (1) Whoever causes pain, harm, disease, infirmity or injury to any person or impairs, disables ²²[, disfigures, defaces] or dismembers any organ of the body or part thereof of any person without causing his death, is said to cause hurt.

(2) The following are the kinds of hurt:—

- (a) Itlaf-e-udw;
- (b) Itlaf-e-Salahiyyat-e-udw;
- (c) Shajjah;
- (d) Jurh; and
- (e) all kinds of other hurts

²³ [**Explanation.**— disfigure means disfigurement of face or disfigurement or dismemberment of any organ or any part of the organ of the human body which impairs or injures or corrodes or deforms the symmetry or appearance of a person.]

Section 336A

²⁴[**336A. Hurt caused by corrosive substance.**— Whoever with the intention or knowingly causes or attempts to cause hurt by means of a corrosive substance or any

²¹ Ins. by Act I of 2005, s. 10.

²² Ins. by Act X (Second Amdt.) of 2016, s. 5.

²³ Ins. & added by Act XXV (Second Amdt.) of 2011, s.2-3.

²⁴ Ins. & added by Act XXV (Second Amdt.) of 2011, s.2-3.

substance which is deleterious to human body when it is swallowed, inhaled, comes into contact or received into human body or otherwise shall be said to cause hurt by corrosive substance:

Explanation.— In this sub-section, unless the context otherwise requires, “corrosive substance” means a substance which may destroy, cause hurt, deface or dismember any organ of the human body and includes every kind of acid, poison, explosive or explosive substance, heating substance, noxious thing, arsenic or any other chemical which has a corroding effect and which is deleterious to human body.

Section 336B

336B. Punishment for hurt by corrosive substance.— Whoever causes hurt by corrosive substance shall be punished with imprisonment for life or imprisonment of either description which shall not be less than fourteen years and a minimum fine of one million rupees.]

Section 337N

337N. Cases in which qisas for hurt shall not be enforced.— (1) The qisas for a hurt shall not be enforced in the following cases, namely :—

- (a) when the offender dies before execution of qisas ;
- (b) when the organ of the offender liable to qisas is lost before the execution of qisas:

Provided that offender shall be liable to arsh, and may also be liable to ta'zir provided for the kind of hurt caused by him;

- (c) when the victim waives the qisas or compounds the offence with badl-i-sulh; or
- (d) when the right of qisas devolves on the person who cannot claim qisas against the offender under this Chapter: Provided that the offender shall be liable to arsh, if there is any wali other than the offender, and if there is no wali other than the offender he shall be liable to ta'zir provided for the kind of hurt caused by him.

(2) Notwithstanding anything contained in this Chapter, in all cases of hurt, the court may, having regard to the kind of hurt caused by him, in addition to payment of arsh, award ta'zir to an offender who is a previous convict, habitual or hardened, desperate or dangerous criminal ²⁵[or the offence has been committed by him in the name or on the pretext

²⁵ Added, subs & ins. by Act I of 05, s.11.

of honour]²⁵[:]

Error! Bookmark not defined.[Provided that the ta'zir shall not be less than one-third of the maximum imprisonment provided for the hurt caused if the offender is a previous convict, habitual, hardened, desperate or dangerous criminal or if the offence has been committed by him in the name or on the pretext of honour.]

Section 338E

338E. Waiver or compounding of offences.— (1) Subject to the provisions of this Chapter and section 345 of the Code of Criminal Procedure, 1898 (V of 1898), all offences under this Chapter may be waived or compounded and the provisions of sections 309 ²⁶[,310 and 311] shall, mutatis mutandis, apply to the waiver or compounding of such offences:

Provided that, where an offence has been waived or compounded, the court may, in its discretion having regard to the facts and circumstances of the case, acquit or award ta'zir to the offender according to the nature of the offence ²⁷[:]

²⁷ [Provided further that where an offence under this Chapter has been committed and the principle of fasad-fil-arz is attracted, the court having regard to the facts and circumstances of the case shall punish an offender with imprisonment or fine as provided for that offence.]

(2) All questions relating to waiver or compounding of an offence or awarding of punishment under section 310, whether before or after the passing of any sentence, shall be determined by trial court:

Provided that where the sentence of qisas or any other sentence is waived or compounded during the pendency of an appeal, such questions may be determined by the appellate court.

Section 354A

²⁸[**354A. Assault or use of criminal force to woman and stripping her of her clothes.** Whoever assaults or uses criminal force to any women and strips her of her clothes and, in that condition, exposes her to the public view, shall be punished with death or with imprisonment for life, and shall also be liable to fine.]

²⁶ Subs. by Act XLIII of 2016, s. 7.

²⁷ Subs. & inst. by Act I of 05, s.12

²⁸ 2 Ins. by Ord. XXIV of 1984, s.2.

Section 375

²⁹ [³⁰**375. Rape.**— A person A is said to commit “rape” if A—

- (a) penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of another person B or makes B to do so with A or any other person; or
- (b) inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of B or makes B to do so with A or any other person; or
- (c) manipulates any part of the body of B so as to cause penetration into the vagina, urethra, anus or any part of body of B or makes B to do so with A or any other person; or
- (d) applies his mouth to the vagina, anus, urethra or penis of B or makes B to do so with A or any other person, under the circumstances falling under any of the following seven descriptions,—

firstly, against B’s will;

secondly, without B’s consent;

thirdly, with B’s consent, which has been obtained by putting B or any person in whom B is interested, in fear of death or of hurt;

fourthly, with B’s consent, when A knows that A is not B’s husband and that B’s consent is given because B believes that A is another man to whom B is or believes herself to be lawfully married;

fifthly, with B’s consent when at the time of giving such consent, by reason of un-soundness of mind or intoxication or the administration by A personally or through another of any stupefying or un-wholesome substance, B is unable to understand the nature and consequences of that to which B gives consent;

sixthly, with or without B’s consent, when B is under sixteen years of age; or
seventhly, when B is unable to communicate consent.

Explanation 1.—For the purposes of this section, “vagina” shall also include labia majora.

²⁹ 3 Ins. by Act VI of 2006, s.5.

³⁰ 2Subs. by Act LVI of 2021, s.2.

Explanation 2.— Consent means an un-equivocal voluntary agreement when B by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that if B who does not physically resists to the act of penetration, it shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Explanation 3.— In this Chapter,—

“person” means male, female or transgender, and

“rape” includes “gang rape”.

Explanation 4.— A bonafide medical procedure or intervention shall not constitute rape.

Section 376

376. Punishment for rape.— (1) Whoever commits rape shall be punished with death or imprisonment of either description for a term which shall not be less than ten years or more than twenty-five years ³¹[or for imprisonment for the remainder period of his natural life] and shall also be liable to fine.

³² [(1A) Whoever commits an offence punishable under sub-section (1) or sub-section (2) or section 377 or section 377B and in the course of such commission causes any hurt punishable as an offence under section 333, section 335, clauses (iv), (v) and (vi) of sub-section (3) of section 337, section 337C, clauses (v) and (vi) of section 337F shall be punished with death or imprisonment for life and fine.]

(2) 33[* * * * *]

³² [(3) Whoever commits rape of a minor or a person with mental or physical disability shall be punished with death or imprisonment for life and fine.

(4) Whoever being a public servant including a police officer, medical officer or jailor, taking advantage of his official position, commits rape shall be punished with death or imprisonment for life and fine.]

³¹ 1 Ins. by Act LVI of 2021, ss.3 & 4.

³² Ins. by Act XLIV of 2016, ss.5 and 6.

³³ Omitted. by Act LVI of 2021, s.4.

Section 376A

³² [376A. **Disclosure of identity of victim of rape, etc.**— (1) Whoever prints or publishes name or any matter which may make known identity of victim, against whom an offence under sections 354A, 376, 376A, 377 and 377B is alleged or found to have been committed, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

(2) Nothing in sub-section (1) extends to any printing or publication if it is—

- (a) by or under order in writing of officer-in-charge of the police station or police officer making investigation into such offence acting in good faith for the purposes of such investigation; or
- (b) by or under order of Court; or
- (c) by or with authorization in writing of the victim; or
- (d) by or with the authorization in writing of natural or legal guardian of the victim where the victim is dead or a minor or of unsound mind.

Explanation.— Printing or publication of judgment of any High Court, the Federal Shariat Court or the Supreme Court in law journals does not amount to an offence within the meaning of this section.]

Code of Criminal Procedure, 1898 (V of 1898)

Section 53A

³⁴ [53A. **Examination of person accused of rape, etc. by medical practitioner.**— (1) When a person is arrested on a charge of committing an offence of rape, unnatural offence or sexual abuse or an attempt to commit rape, unnatural offence or sexual abuse under section 376, section 377 and section 377B respectively and there are reasonable grounds for believing that an examination of the arrested person will afford evidence as to the commission of such offence, it shall be lawful for a registered medical practitioner employed in a hospital run by the Government or by a local authority to make such an examination of the arrested person and to use such force as is reasonably necessary for that purpose.

(2) The registered medical practitioner conducting examination under sub-section (1) shall, without delay, examine such person and prepare a report of his examination giving the

³⁴ Ins. by XLIV of 2016, s.7.

following particulars, namely:—

- (a) name and address of the accused and of the person by whom he was brought;
- (b) age of the accused;
- (c) marks of injury, if any, on person of the accused;
- (d) description of material taken from person of the accused for DNA profiling; and
- (e) other material particulars in reasonable detail.

(3) The report under sub-section (2) shall state precisely the reasons for each conclusion arrived at.

(4) The exact time of commencement and completion of the examination under sub-section (1) shall also be noted in the report under sub-section (2). The registered medical practitioner shall, without delay, forward the report to the investigating officer who shall forward it to the Magistrate through public prosecutor referred to in section 173 as part of the report referred to in that section.]

Section 154

154. Information in cognizable cases. Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police-station, shall be reduced to writing by him or under his direction, and be read over to the informant ; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it, and the substance thereof shall be entered in a book to be kept by such officer in such form as the 35[Provincial Government] may prescribe in this behalf [:]36

36 [Provided that if the information is given by the woman against whom an offence under section 336B, section 354, section 354A, section 376 or section 509 of the Pakistan Penal Code, 1860 (Act XLV of 1860) is alleged to have been committed or attempted, than such information shall be recorded by an investigating officer in presence of a female police officer or a female family member or any other person with consent of the complainant, as the case may be:

Provided further that if the information, given by the woman against whom an offence under section 336B, section 354, section 354A, section 376 or section 509 of the Pakistan Penal

35 Subs. by A.O., 1937, for "L.G.".

36 Added by Act XLIV of 2016,s.8.

Code, 1860 (Act XLV of 1860) is alleged to have been committed or attempted, is distressed such information shall be recorded by an investigating officer at residence of the complainant or at a convenient place of the complainant's choice in presence of a police officer or family member or any other person with consent of the complainant, as the case may be.].

Section 156A

³⁷ [156A. Investigation of offence under section 295 C, Pakistan Penal Code.— Notwithstanding anything contained in this Code, no police officer below the rank of a Superintendent of Police shall investigate the offence against any person alleged to have been committed by him under section 295 C of the Pakistan Penal Code, 1860 (Act XLV of 1860).]

Section 156B

³⁷[156B. Investigation against a woman accused of the offence of zina.— Notwithstanding anything contained in this Code, where a person is accused of offence of *zina* under the Offence of *zina* (Enforcement of *Huddood*) Ordinance, 1979 (VII of 1979), no police officer below the rank of a Superintendent of Police shall investigate such offence nor shall such accused be arrested without permission of the court.]

Section 161

161. Examination of witnesses by police.— (1) Any police-officer making an investigation under this Chapter 38[or any police-officer not below such rank as the 39[Provincial Government] may, by general or special order, prescribe in this behalf, acting on the requisition of such officer] may examine orally any person supposed to be acquainted with the facts and circumstances of the case ⁴⁰[:]

⁴⁰ [Provided that a statement of a woman against whom an offence under section 336B, section 354, section 354A, section 376 or section 509 of the Pakistan Penal Code, 1860 (Act XLV of 1860) is alleged to have been committed or attempted, shall be recorded by an investigating officer in presence of a female police officer or a female family member or other person of her choice.].

(2) Such person shall be bound to answer all questions relating to such case put to him by such officer, other than questions the answers to which would have a tendency to expose him to a criminal charge or to a penalty or forfeiture.

³⁷ 3 Ins. by Act. I of 05, s. 13.

³⁸ Ins. by the Act, 18 of 1923.

³⁹ 2Subs. by A.O., 1937, for "L.G".

⁴⁰ sub: and Added by Act XLIV of 2016,s.9.

⁴¹[(3) The police-officer may reduce into writing any statement made to him in the course of an examination under this section, and if he does so he shall make a separate record of the statement, of each such person whose statement he records.]

Section 161A

⁴² [161A. Legal representation of victim of rape, etc.— (1) Where an offence under section 354A, section 376, section 377 or section 377B of the Pakistan Penal Code, 1860 (Act XLV of 1860) has been committed or attempted to be committed, the police officer after recording the information under section 154 shall inform the victim, against whom such offences have been committed or attempted to be committed, of his right to legal representation.

(2) If the victim under sub-section (1) requires free legal aid the police officer shall provide him the list of lawyers maintained by the Provincial Bar Councils for this purpose.]

Section 164A

⁴³ [164A. Medical examination of victim of rape, etc.— (1) Where an offence of committing rape, unnatural offence or sexual abuse or attempt to commit rape, unnatural offence or sexual abuse under section 376, section 377 or section 377B respectively of the Pakistan Penal Code, 1860 (Act XLV of 1860) is under investigation, the victim shall be examined by a registered medical practitioner, in the case of female victim by a female registered medical practitioner, immediately after commission of such offence:

Provided that in all cases, where possible, the female victim shall be escorted by a female police officer or a family member from a place of her convenience to the place of medical examination.

(2) The registered medical practitioner to whom such victim is sent under sub-section (1) shall, without delay, examine the victim and prepare a report of examination giving the following particulars, namely:—

- (a) name and address of the victim and of the person by whom she was escorted;
- (b) age of the victim;
- (c) description of material taken from body of the victim for DNA profiling;
- (d) marks of injury, if any, on body of the victim;

⁴¹ 1 Sub-section (3) added by the Code of Criminal Procedure (Amdt.) Act, 1945 (2 of 1945), s. 2.

⁴² 2 Ins. by Act XLIV of 2016, s. 10.

⁴³ 1 Ins. by Act XLIV of 2016, s. 11.

(e) general mental condition of the victim; and

(f) other material particulars in reasonable detail.

(3) The report under sub-section (2) shall state precisely the reasons for each conclusion arrived at.

(4) The report under sub-section (2) shall specifically record that consent of the victim or of his or her natural or legal guardian to such examination had been obtained.

(5) The exact time of commencement and completion of the examination under sub-section (1) shall also be noted in the report.

(6) The registered medical practitioner shall, without delay, forward the report to the investigation officer who shall forward it to the Magistrate along with other requirements as specified under clause (a) of sub-section (1) of section 173.

(7) Nothing in this section shall be construed as rendering lawful any examination without consent of the victim or of any person authorized under sub-section (4).

Explanation.— In this section, “registered medical practitioner” means a medical practitioner who possesses any qualification recognized as such under the Pakistan Medical and Dental Council Ordinance, 1962 (XXXII of 1962) and whose name has accordingly been entered in the Register maintained in this behalf under the said Ordinance and has been authorized by the Government to conduct such examination.

Section 164B

⁴³**[164B. DNA test.**— (1) Where an offence under section 376, section 377 or section 377B of the Pakistan Penal Code, 1860 (XLV of 1860) is committed or attempted to have been committed or is alleged to have been committed, Deoxyribo Nucleic Acid (DNA) samples, where practicable, shall be collected from the victim with his or her consent or with the consent of his or her natural or legal guardian and the accused during the medical examination conducted under section 164A within optimal time period of receiving information relating to commission of such offence.

(2) The DNA sample collected under sub-section (1) shall at the earliest be sent for investigation to a forensic laboratory where these shall be properly examined and preserved:

Provided that confidentiality of such examination shall at all times be observed.].

Section 344A

⁴⁴ [344A. **Conclusion of trial.**— The Court shall, upon taking cognizance of a case under sections 354A, 376, 377 and 377B of the Pakistan Penal Code, 1860 (Act XLV of 1860), decide the case within three months failing which the matter shall be brought by the Court to the notice of the Chief Justice of the High Court concerned for appropriate directions.]

Section 352

352. Courts to be open. ⁴⁵[(1)] The place in which any Criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed an open Court, to which the public generally may have access, so far as the same can conveniently contain them:

Provided that the Presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room or building used by the Court.

⁴⁵ [(2) Notwithstanding anything contained in sub-section (1), the trial of offences under sections 354A, 376, 376A, 377 and 377B of the Pakistan Penal Code, 1860 (Act XLV of 1860) shall be conducted in camera:

Provided that the Presiding Officer, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the Court.

(3) Where any proceeding are held under sub-section (2), the Government may adopt appropriate measures, including holding of the trial through video link or usage of screens, for protection of the victim and the witnesses.

(4) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish or broadcast any matter in relation to any such proceedings, except with permission of the Court.].

Section 401

⁴⁶**401. Power to suspend or remit sentences.**— (1) When any person has been

⁴⁴ Ins. by Act XLIV of 2016, s.12.

⁴⁵ Renumber, added by Act XLIV of 2016, s.13.

⁴⁶ As regards conditional release of good conduct prisoners in the Punjab, see the Good Conduct Prisoners Probationary Release Act, 1926 (Punjab Act 10 of 1926). The Chief Commissioner of Karachi shall exercise the powers conferred as a Provincial Government under this section, subject to certain conditions, see Gaz. of P, 1953, Ext., P. 861.

sentenced to punishment for an offence, ⁴⁷[* * *] the ⁴⁸[Provincial Government] may at any time without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced ⁴⁹[:]

⁴⁹ [Provided that the Provincial Government shall have no power to suspend or remit any sentence awarded to an offender under chapter XVI of the Pakistan Penal code if an offence has been committed by him in the name or on the pretext of *karo kari*, *siyah kari* or similar other customs or practices].

(2) Whenever an application is made to ⁴⁷[* * *] the ⁴⁸[Provincial Government] for the suspension or remission of a sentence, ⁴⁷[* * *] the ⁴⁸[Provincial Government] , ⁵⁰[* * *], may require the presiding Judge of the Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion ⁵¹[and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists].

(3) If any condition on which a sentence has been suspended or remitted is, in the ⁵²[opinion of] the ⁴⁸[Provincial Government], ⁵⁰[* * *], not fulfilled, ⁴⁹[* * *] the ⁴⁸[Provincial Government] may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted may, if at large, be arrested by any police-officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

53 [(4A) The provisions of the above sub-sections shall also apply to any order passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.]

(5) Nothing herein contained shall be deemed to interfere with the right of ⁵⁴[⁵⁵the President] or of the ⁵⁶[Federal Government] when such right is delegated to ⁵⁷[it]] to grant pardons, reprieves, respites or remissions of punishment.

47 The words "the G.G in C. or" rep. by A.O, 1937.

48 Subs. by A.O., 1937, for "L.G."

49 4Subs. and Ins. by Act I of 2005, s.15.

50 The words "as the case may be" rep. ibid.

51 Ins. by the Code of Criminal Procedure (Amdt.) Act, 1923 (18 of 1923), section 107.

52 Subs. by the Repealing and Amending Ordinance, 1961 (1 of 1961), section 3 and 2nd Sch., for "opinion of * * * of". The asterisks denote the omission of "G.G in C, or "which were rep. by A.O., 1937.

53 Ins. by the Code of Criminal Procedure (Amdt.) Act, 1923 (18 of 1923), s. 107

54 Subs. by the code of Criminal procedure (Amdt.) Act, 1923 (18 of 1923), for "Her Majesty".

55 Subs. by A.O, 1961, Art.2 and Sch., for "His Majesty" (with effect from the 23rd March, 1956),

56 Subs. by F.A.O., 1975, Art 2 and Table, for "Central Government" (w.e.f. 28.07.75), which was previously amended by A.O., 1937, for "Governor General".

57 Subs. ibid., for "him"

⁵³ [(5A) Where a conditional pardon is granted by ⁵⁵[the President] or, in virtue of any powers delegated to ⁵⁷[it], by the ⁵⁶[Federal Government], any condition thereby imposed, of whatever nature, shall be deemed to have been imposed by a sentence of a competent Court under this Code and shall be enforceable accordingly].

(6) The ⁵⁸[* * *] ⁵⁹[Provincial Government] may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with.

Section 417

60 [417. Appeal in case of acquittal.— (1) Subject to the provisions of sub-section (4), the Provincial Government may, in any case, direct the Public Prosecutor to present an appeal to the High Court from an original or appellate order of acquittal passed by any Court other than a High Court.

(2) If such an order of acquittal is passed in any case instituted upon complaint and the High Court, on an application made to it by the complainant in this behalf, grants special leave to appeal from the order of acquittal, the complainant may present such an appeal to the High Court.

⁶¹ [(2A) A person aggrieved by the order of acquittal passed by any court, other than a High Court, may, within thirty days, file an appeal against such order.]

⁵⁸ 6The words “G.G. in C. and the “rep. by A.O., 1937.

⁵⁹ Subs.by A.O., 1937, for “L.G”.

⁶⁰ Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., for the original section 417.

⁶¹ 7 Ins. by Act XX of 1994, S.3.

Schedule-II

¹ [166(2)]	Public servant fails to carry out the investigation properly or diligently or fails to pursue the case, and in breach of his duties.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for three years, or fine, or both.	Ditto ..
186	Obstructing public servant in discharge of his public functions.	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for ³ [one year], or fine of ³ [50,000] rupees, or both.	Ditto ..
³ [186(2)]	Public servant fails to carry out the investigation properly etc;	Ditto ..	Ditto ..	Ditto ..	Ditto ..	Imprisonment of either description for three years, or fine, or both.	Ditto];
308	Qatl-i-amd not liable to qisas.	May arrest without warrant.	warrant.	Not Bailable.	Compound - able.	Diyat, and imprisonment of either description for ¹ [twenty five years].	Court of Session.
311	Qatl-i-amd when waived compounded.	Ditto ..	Ditto ..	Ditto ..	¹ [Compound -able]	³ [Death or imprisonment for life or imprisonment of either description for a term which may extend to fourteen years as <i>ta'zir</i> , or if the offence has been committed in the name or on the pretext of honour, imprisonment for life].	Ditto .
² [336B]	Hurt caused	Ditto..	Ditto..	Ditto..	Not compound-	Life imprisonment or	Ditto..]

..	by Corrosive Substances	.	..	.	able	imprisonment of either description for not less then 14 years and a minimum fine of one one million rupees	
5 [354A	Assault or use of criminal force to women and striping her of her clothes.	Ditto..	Ditto..	Not bailable	Ditto..	Death or imprisonment for life,and fine.	Court of Session]
4[375A	Gang Rape	May arrest without warrant.	None required.	Not bailable.	Not compound-able.	Death or imprisonment for the remainder period of natural life or imprisonment for life and fine.	Court of Sessions]
[376	Rape	May arrest without warrant.	None required.	Not bailable	Not compound-able.	Death or imprisonment not less than ten years or more than twenty-five years or imprisonment for the remainder period of natural life and fine.	Court of Sessions;]
5 [376A	Disclosure of identity of the victim	Ditto..	Ditto..	Ditto..	Ditto..	Imprisonment of either description upto three years and fine.	Ditto]

Laws of the Punjab

THE PUNJAB WOMEN HOSTELS AUTHORITY ACT 2023

(Act VII of 2023)

C O N T E N T S

Section	Heading
CHAPTER I PRELIMINARY	
1.	Short title, extent and commencement.
2.	Definitions.
CHAPTER II ESTABLISHMENT OF WOMEN HOSTELS AUTHORITY	
3.	Establishment of the Authority.
4.	Composition of the Authority.
5.	Meetings.
6.	Removal of Chairperson and members.
7.	Powers and functions of the Authority.
8.	Categorization.
9.	Director General.
10.	Hostel Inspection Officer.
11.	Powers of Hostel Inspection Officer.
12.	Employees of the Authority.
CHAPTER III REGISTRATION AND ENFORCEMENT MECHANISM	
13.	Registration of hostels.
14.	Improvement notice.
15.	Dispute resolution.
CHAPTER IV OFFENCES AND PENALTIES	
16.	Failure to comply with directions.
17.	Hygiene and safety.
18.	False information.
19.	Obstructing the Inspection Officer.
20.	Hostel without registration.
21.	Appeals.
CHAPTER V FINANCE AND AUDIT	
22.	Fund.
23.	Bank accounts.
24.	Budget and accounts.
25.	Audit.

	CHAPTER VI MISCELLANEOUS
26.	Annual report.
27.	Delegation of powers.
28.	Public servants.
29.	Immunity.
30.	Bar of jurisdiction.
31.	Rules.
32.	Regulations.
33.	Power to remove difficulties.

^[62]**THE PUNJAB WOMEN HOSTELS AUTHORITY ACT 2023**

(ACT VII OF 2023)

[17th February 2023]

An Act to regulate women hostels established in the private sector.

It is necessary to establish an Authority to regulate women hostels in the Province with an aim to provide safe and standard accommodation facilities to women; and to provide the ancillary matters.

Be it enacted by Provincial Assembly of the Punjab as follows:

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement. – (1) This Act may be cited as the Punjab Women Hostels Authority Act 2023.

(2) It extends to whole of the Punjab.

(3) It shall come into force on such date as the Government may, by notification, appoint and different dates may be so appointed for different areas.

2. Definitions. – In this Act:

- (a) “Act” means the Punjab Women Hostels Authority Act 2023.
- (b) “Authority” means the Women Hostels Authority established under the Act;
- (c) “Chairperson” means the Chairperson of the Authority;
- (d) “Director General” means Director General of the Authority appointed under the Act;
- (e) “Government” means Government of the Punjab;
- (f) “hostel” means a building or premises established or used in the private sector as a women hostel;
- (g) “Hostel Inspection Officer” means a female officer appointed as Hostel Inspection Officer under the Act;
- (h) “Operator” means a person who owns, runs or operates a hostel
- (i) “prescribed” means prescribed by the rules or the regulations;
- (j) “resident” means a woman who is residing in a hostel;

⁶² This Act was passed by Provincial Assembly of the Punjab on 09 January 2023; assented to by the Governor of the Punjab on 23 January 2023; and was published in the Punjab Gazette (Extraordinary), dated 17 February 2023, Pages: 3875-80.

- (k) “regulations” means the regulations framed under the Act; and
- (l) “rules” means the rules made under the Act.

CHAPTER II

ESTABLISHMENT OF WOMEN HOSTELS AUTHORITY

3. Establishment of the Authority. – (1) The Government shall, by notification in the official Gazette, establish an Authority to be called the Women Hostels Authority.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with powers to enter into contract, acquire or dispose of property subject to sub-section (3), and may, by its name, sue or be sued.

(3) The Authority shall acquire and dispose of the property with the prior permission of the Government.

4. Composition of the Authority. – (1) The Authority shall consist of a Chairperson and the following members:

- (a) Secretary to the Government, Higher Education Department;
- (b) Secretary to the Government, Primary and Secondary Healthcare Department;
- (c) Secretary to the Government, Social Welfare and Bait-ul-Maal Department;
- (d) Secretary to the Government, Labour and Human Resource Department;
- (e) Secretary to the Government, Specialized Healthcare and Medical Education Department;
- (f) Secretary to the Government, Finance Department;
- (g) Secretary to the Government, Local Government and Community Development Department;
- (h) Secretary to the Government, Housing, Urban Development and Public Health Engineering Department;
- (i) three female members of Provincial Assembly of the Punjab, including one female member from the opposition, to be nominated by the Speaker of Provincial Assembly of the Punjab ;
- (j) one representative of Women Chamber of Commerce and Industry, Lahore;
- (k) one representative of Operators;
- (l) Director General, Women Hostels Authority Member/Secretary; and
- (m) three non-official members belonging to the relevant field.

(2) The Government shall appoint the Chairperson and the non-official members of the Authority for a renewable term of three years on such terms and conditions as may be prescribed:

Provided that the Chairperson and the non-official members shall not be appointed for more than two terms, whether consecutive or otherwise.

(3) The Chairperson or a member, other than an *ex-officio* member, may resign from his office by serving one month's notice in writing to the Government.

(4) No act or proceedings of the Authority shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the composition of the Authority.

5. Meetings.— (1) The Authority shall meet at least once in a quarter, at such place and at such time and shall observe such procedure in relation to transaction of business at its meetings as may be prescribed.

(2) The meetings of the Authority shall be presided over by the Chairperson and, in the absence of the Chairperson by a member of the Authority elected for the purpose by the members present in the meeting.

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

(4) The Secretary of the Authority may, with the prior approval of the Chairperson, call a meeting of the Authority.

(5) The Authority may, with the prior approval of the Government, co-opt any other person as a member.

(6) The official members may be represented in a meeting of the Authority through their authorized representatives.

6. Removal of Chairperson and members.— (1) The Government may remove from office, the Chairperson or a member, other than an *ex-officio* member, if he:

- (a) has been adjudicated insolvent; or
- (b) has been convicted of an offence which involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as the Chairperson or the member; or
- (d) has abused his position and rendered his continuance in the office prejudicial to public interest.

(2) The Chairperson or a member shall not be removed from office except after affording him a reasonable opportunity of hearing.

7. Powers and functions of the Authority. – (1) The Authority shall regulate and monitor the hostels to ensure provision of safe and standard residences to women.

(2) Without prejudice to the provisions of sub-section (1), the Authority, in relation to the hostels, shall have the powers to:

- (a) formulate and enforce standards, procedures, processes and guidelines on business model, category, hygiene and safety of the hostels;
- (b) to register the hostels in the prescribed manner;
- (c) determine terms and conditions of service of employees of the Authority;
- (d) collect and analyze relevant and technical data;
- (e) regulate Operators and residents to ensure safety and quality control;
- (f) organize training programs and general awareness on safety and standards;
- (g) levy fee for registration of hostels and the renewal thereof in the prescribed manner;
- (h) liaise with national and international organizations for exchange of best practices;
- (i) approve the Budget of the Authority and to re-appropriate funds;
- (j) evaluate and monitor the implementation of the decision of the Authority; and
- (k) perform such other functions as may be necessary for the discharge of its functions under the Act.

8. Categorization. – (1) The Authority may categorize the hostels based on the international best practices in such manner as may be prescribed.

(2) Upon categorization under sub-section (1), the Authority shall issue a certificate showing the category of the hostel, and the Operator shall display such certificate at a conspicuous place of the hostel premises.

9. Director General.– (1)The Government may appoint a DirectorGeneral in such manner and on such terms and conditions as may be prescribed.

(2) The Director General shall hold office during the pleasure of the Government.

(3) The Director General shall be the Secretary of the Authority.

(4) The Director General shall be responsible for accomplishing the objectives of the Act and for efficient implementation of the Act, the rules and the regulations.

(5) The Director General shall exercise such powers as are mentioned in the Act or as may be prescribed or delegated to him by the Authority.

10. Hostel Inspection Officer. – (1) The Authority may, by notification in the official Gazette, appoint such number of Hostel Inspection Officers for such areas or districts as it may deem fit.

(2) Notwithstanding anything contained in sub-section (1), the Authority may confer the powers of Hostel Inspection Officer on a Government servant.

11. Powers of Hostel Inspection Officer. – (1) A Hostel Inspection Officer may:

- (a) issue improvement notices to any hostel, which appears to him to be working in contravention of the Act, the rules or the regulations;
- (b) enter or seal any hostel which he believes is operating or carrying on business in contravention of the Act;
- (c) impose fine on an Operator;
- (d) examine any book or documents with respect to any hostel; and
- (e) demand identity card, registration certificate, or any other ancillary document from an Operator.

12. Employees of the Authority. – The Authority may appoint, determine the number, categories, rank and terms and conditions of service of employees of the Authority.

CHAPTER III

REGISTRATION AND ENFORCEMENT MECHANISM

13. Registration of hostels. – No hostel shall be operated unless it has been registered with the Authority on such form and in such manner as may be prescribed.

14. Improvement notice. – (1) If an Hostel Inspection Officer has reason to believe that any Operator has failed to comply with any provision of the Act, the rules or the regulations, he may serve an improvement notice upon such Operator:

- (a) stating the grounds for believing that the Operator has failed to comply with any provision of the Act or the rules or the regulations;
- (b) specifying the matter which constitutes non-compliance on the part of the Operator;
- (c) intimating the measures which the Operator is bound to take to ensure compliance; and
- (d) specifying the time period within which the Operator has to ensure compliance.

(2) If the Operator fails to comply with the improvement notice within the specified time, the Hostel Inspection Officer may recommend to the Director General for suspension or cancellation of registration of the hostel or taking any other action provided under the Act.

(3) On receipt of a recommendation under sub-section (2), the Director General may make an appropriate order.

15. Dispute resolution. – (1) In case any dispute arises between a resident and an Operator, the matter may be referred to the Director General, in writing, within seven days of the incidence of dispute.

(2) The Director General shall call the resident and the Operator concerned along with the relevant record within seven days of the receipt of reference.

(3) The Director General shall resolve the dispute by making an order in writing, after affording opportunity of hearing to the parties within fifteen days of the concluding hearing.

(4) The Director General may delegate his powers to any of the officers of the Authority.

CHAPTER IV

OFFENCES AND PENALTIES

16. Failure to comply with directions. – If an Operator, without reasonable cause, fails to comply with any order or notice issued by the Authority or an Hostel Inspection Officer, he shall be liable to fine which may extend to rupees fifteen thousand.

17. Hygiene and safety. – If an Operator contravenes the prescribed standards of hygiene and safety, he shall be liable to cancellation of hostel registration or fine up to rupees ten thousand.

18. False information. – If an Operator furnishes or gives false or misleading statement or information, or produces any false or misleading document before the Authority or an Inspection Officer, he may be liable to cancellation of his hostel registration or fine up to rupees twenty-five thousand.

19. Obstructing the Inspection Officer. – (1) Any person, who obstructs an Hostel Inspection Officer in the performance of her duties, shall be liable to fine up to rupees ten thousand for first contravention and up to rupees twenty thousand for every subsequent contravention.

20. Hostel without registration. – If a hostel is operating without registration, it shall be liable to be sealed and shall be de-sealed after its registration on such conditions and in such manner as may be prescribed.

21. Appeals. – (1) An appeal against an order or fine imposed by Hostel Inspection Officer may be made to the Director General within thirty days of such order, and the Director General shall decide the appeal within a period of one month.

(2) Any person aggrieved by an order of the Director General, except an order under sub-section (1), may within fifteen days of the receipt of the order, file an appeal before

the Secretary, Women Development Department of the Government, in such manner as may be prescribed, who shall decide the appeal within thirty days.

CHAPTER V

FINANCE AND AUDIT

22. Fund. – (1) There shall be established a fund to be known as Women Hostels Authority Fund to be administered and controlled by the Authority.

(2) The Fund shall consist of:

- (a) funds provided by the Government;
- (b) loans or grants by the Government;
- (c) grants and funds negotiated and raised, or otherwise obtained by the Authority with the prior approval of the Government;
- (d) fee, charges, rentals and fines collected by the Authority;
- (e) income from the lease or sale of the property; and
- (f) all other sums received by the Authority.

(3) The Authority shall meet all of its expenses from the Fund.

23. Bank accounts. – The Authority may open and maintain its accounts at the scheduled banks.

24. Budget and accounts. – (1) The Authority shall maintain proper accounts and other records relating to its financial affairs including its income and expenditures and its assets and liabilities in such form and manner as may be prescribed.

(2) After the conclusion of a financial year, the Authority, in the manner prescribed, shall cause to be prepared for the financial year, statements of account of the Authority which shall include a balance sheet and an account of income and expenditures.

(3) The Authority shall approve its annual budget for a financial year.

25. Audit. – (1) The Auditor General of Pakistan shall annually audit the accounts of the Authority.

(2) The Government, in addition to the audit under sub-section (1), may cause the accounts of the Authority annually audited by a Chartered Accountant or a firm of Chartered Accountants.

(3) The auditor appointed under sub-section (2) shall be provided such access to the books, accounts and other documents as may be considered necessary for the audit of accounts.

(4) The auditor shall submit the annual or any special audit report to the Authority, and the Authority shall take appropriate remedial measures or other action in the light of the audit report.

CHAPTER VI

MISCELLANEOUS

26. Annual report. – (1) The Authority shall, within three months of the close of a financial year, submit to the Government its annual performance report.

(2) The Government shall cause the report received under sub-section (1) lay before Provincial Assembly of the Punjab.

27. Delegation of powers. – The Authority may delegate, subject to such conditions and restrictions as may be specified in the order, any of its functions to a body, committee or an officer.

28. Public servants. – The Chairperson, the members and the employees of the Authority shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

29. Immunity. – No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairperson, a member or any employee of the Authority for anything done in good faith under the Act, the rules or the regulations.

30. Bar of jurisdiction. – No civil court shall entertain a suit or an application against any proceedings taken or order made under the Act.

31. Rules. – The Government may make rules for carrying out the purposes of the Act.

32. Regulations. – (1) Subject to the Act and the rules, the Authority may, by notification, frame regulations to give effect to the provisions of the Act.

(2) Without prejudice to the generality of sub-section (1), the regulations may provide for:

- (a) procedure for transaction of business of the Authority;
- (b) standards, categorization and guidelines in relation to any hostel;
- (c) improvement notices and prohibition orders;
- (d) registration procedures;
- (e) inspection of hostels; and
- (f) finances, accounts, budget and reporting procedures.

33. Power to remove difficulties. – If any difficulty arises in giving effect to any provision of the Act, the Government may, within two years of the commencement of the Act,

make such order not inconsistent with the provisions of the Act as may be necessary to remove the difficulty.

THE PUNJAB ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT 2021

(Act X of 2021)

C O N T E N T S

Section	Heading
1.	Short title, extent and commencement.
2.	Definitions.
3.	Powers of the Ombudsperson.
4.	Complaint to the Ombudsperson in case no proceedings in a court of law are pending.
5.	Delivery of possession and transfer of ownership of property to women.
6.	Reference to court.
7.	Complaint to the Ombudsperson in case proceedings in a court of law are pending.
8.	Loss of rent.
9.	Execution of orders.
10.	Appointment of officers, etc.
11.	Bar of Jurisdiction.
12.	Power to make rules.
13	Repeal.

¹THE PUNJAB ENFORCEMENT OF WOMEN'S PROPERTY RIGHTS ACT 2021

ACT X OF 2021

[17th May 2021]

An Act to protect and secure the rights of ownership of women in the property.

It is expedient to provide for protection of rights of ownership and possession of properties owned by women, ensuring that such rights are not violated by means of harassment, coercion, force or fraud.

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement.— (1) This Act may be cited as the Punjab Enforcement of Women's Property Rights Act, 2021.

(2) It extends to whole of the Punjab.

(3) It shall come into force at once.

2. Definitions.— In this Act:

(a) “complainant” means a woman who files a complaint or for whom proceedings are initiated in respect of the title or possession of her property;

(b) “Government” means Government of the Punjab;

(c) “Ombudsperson” means the Ombudsperson appointed under section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010);

(d) “prescribed” means prescribed by the rules;

(e) “property” includes any moveable and immoveable property; and

(f) “rules” means the rules made under this Act.

3. Powers of the Ombudsperson. In addition to the power, functions and authority under this Act and the rules, the Ombudsperson, for the purpose of this Act, shall have the same powers, functions and authority as are vested in the Ombudsperson under the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

4. Complaint to the Ombudsperson in case no proceedings in a court of law are pending.— (1) Any woman deprived of ownership or possession of her property, by any means, may

¹ [1] This Act was passed by the Punjab Assembly on 04 May 2021; assented to by the Governor of the Punjab on 11 May 2021; and was published in the Punjab Gazette (Extraordinary), dated 17 May 2021; pages 9203-05.

file a complaint to the Ombudsperson if no proceedings in a court of law are pending regarding that property:

Provided that the Ombudsperson, on its own motion or on a complaint filed by any person including a non-governmental organization, may also initiate action under subsection (1) in relation to the ownership or possession of a woman's property, if no proceedings are pending in a court in respect of that property.

(2) The Ombudsperson shall make preliminary assessment of the complaint filed under subsection (1) whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsperson.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsperson may, after calling any record, if deemed necessary, pass orders under section 5.

(4) The Ombudsperson upon receiving the report under subsection (2), may further conduct such summary enquiry and call for such record as he may deem fit.

(5) The Ombudsperson after confronting the report of the concerned Deputy Commissioner and the conclusion and findings of his own enquiry, shall call upon the complainant and her adversaries to submit objections, whereafter he may conduct a hearing, and pass orders under section 5, preferably within sixty days of receipt of the complaint under subsection (1).

5. Delivery of possession and transfer of ownership of property to women.— (1) On conclusion of the proceedings under section 4, if the Ombudsperson finds that the complainant has been illegally deprived of ownership or possession of her property, he shall direct the Deputy Commissioner or a state functionary or any private person to take steps so as to restore or confer possession or title of the property to the complainant, including measures to perfect such title.

(2) The Ombudsperson may, where deemed fit, direct the officer-in-charge of a police station for such assistance as may be required for the purposes of implementing the orders passed under subsection (1).

(3) The concerned Deputy Commissioner shall submit a compliance report within seven days to the Ombudsperson in respect of implementation of his orders.

6. Reference to court.— (1) Notwithstanding anything contained in sections 4 and 5, if upon preliminary assessment, or upon receiving the report of the Deputy Commissioner or upon conducting further summary enquiries by the Ombudsperson himself, he comes to the conclusion that matter requires in-depth enquiry, investigation or detailed recording of evidence or intricate adjudication, he shall formulate a reference along with all the reports and material collected and submit the same to the concerned Civil Court preferably within sixty days of receipt of the complaint under sub-section (1) of section 4.

(2) Notwithstanding anything contained in any other law, the Civil Court shall entertain the reference under sub-section (1), as a civil suit and proceed further in terms of the Code of Civil Procedure, 1908 (V of 1908) and the relevant rules.

7. Complaint to the Ombudsperson in case proceedings in a court of law are pending.— (1) Where proceedings in a court of law are pending in relation to the ownership or possession of any property claimed to be owned by a woman, she may file a complaint under this sub-section to the Ombudsperson:

Provided that the Ombudsperson, on its own motion or on a complaint filed by any person including a non-governmental organization may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, even if proceedings are pending in a court in respect of that property.

(2) The Ombudsperson shall make a preliminary assessment of the complaint under sub-section (1), whereafter he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant or her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsperson.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsperson may, after calling any record, if deemed necessary, file a report in the court of law, in which the case is pending, recommending that the proceedings in the court may be terminated or put in abeyance unconditionally or subject to any order of the court, and the Ombudsperson be permitted by the court to take further proceedings under this Act.

(4) Before filing of the report under sub-section (3), the Ombudsperson shall call upon the complainant and her adversaries to submit objections, and conduct a hearing and pass orders, preferably within thirty days of the hearing, as to whether the Ombudsperson shall or shall not file a report under sub-section (3).

(5) In case the Ombudsperson passes an order of not filing a report under sub-section (3), he may advise the complainant to pursue the proceedings in the court of law and terminate the complaint.

(6) The Ombudsperson upon receiving the report under sub-section (2), may further conduct such summary inquiry and call for such record as he may deem fit.

8. Loss of rent.— On culmination of proceedings under section 5, the Ombudsperson may also direct the complainant to be paid by the person depriving the said complainant of the use of the property, the amount equivalent to the rent that the property would fetch at the prevalent market rate, for the duration for which the complainant was deprived of the use of such property.

9. Execution of orders.— The Ombudsperson may direct any executive state functionary including the relevant Deputy Commissioner where the property of the Complainant is situated, to execute the orders in letter and spirit.

10. Appointment of officers, etc.— For carrying out the objects and purposes of this Act, the Government shall appoint such officers as may be required, on such terms and conditions as may be prescribed.

11. Bar of Jurisdiction.—No court or other authority shall have jurisdiction:

- (a) to question the validity of any action taken, order made or anything purported to have been done under this Act; or
- (b) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsperson.

12. Power to make rules.— The Government may make rules to carry out the purposes of this Act.

13 Repeal. – The Punjab Enforcement of Women's Property Rights Ordinance 2021 (IX of 2021) is hereby repealed.

THE PUNJAB SIKH ANAND KARAJ MARRIAGE ACT 2018

(Act VI of 2018)

C O N T E N T S

Section	Heading	Page No.
1.	Short title, extent and commencement.	
2.	Definitions.	
3.	Solemnization of Anand Karaj.	
4.	Saving of marriages.	
5.	Registration of marriages.	
6.	Dissolution of marriage.	
7.	Power to make rules.	
8.	Overriding effect.	
9.	Repeal and savings.	

THE PUNJAB SIKH ANAND KARAJ MARRIAGE ACT 2018

(Act VI of 2018)

[20 March 2018]

An Act to provide for solemnization and registration of Sikh marriages.

It is necessary to make provisions to regulate Sikh marriages commonly known as Anand Karaj;

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement. – (1) This Act may be cited as the Punjab Sikh Anand Karaj Marriage Act, 2018.

(2) It extends to whole of the Punjab.

(3) It shall come into force at once.

2. Definitions. – In this Act:

- (a) “Act” means the Punjab Sikh Anand Karaj Marriage Act 2018;
- (b) “Anand Karaj” means the lawful union of a Sikh male and a Sikh female solemnized under the Act and conducted in accordance with the practices of the Sikh religion, where the four laavaan, permitted in the Sri Guru Granth Sahib, are recited;
- (c) “Anand Karaj Certificate” means the certificate of a marriage issued by the Anand Karaj Registrar;
- (d) “Chairman” means the Chairman of a Union Council or Municipal Committee or any officer authorized by the Government to perform the functions of the Chairman under the Act;
- (e) “Government” means Government of the Punjab;
- (f) “Granthi” means a Sikh who recites the Guru Granth Sahib and solemnizes a marriage between Sikhs;
- (g) “prescribed” means prescribed by rules;
- (h) “Sikh” means a person who follows Sikh religion as a monotheistic Sikh religion and believes in the scriptures of Guru Granth Sahib and does not subscribe to any other religion; and

¹ This Act, which repealed and replaced the Anand Marriage Act, 1909 (Federal Act VII of 1909), in its application to the Province of Punjab, was moved by a private member Mr Ramesh Singh Arora, MPA; was passed by the Punjab Assembly on 14 March 2018; assented to by the Governor of the Punjab on 19 March 2018; and, was published in the Punjab Gazette (Extraordinary), dated 20 March 2018, pages 6609-11.

- (i) “Sikh religion” means the belief in Akalpurakh (One Eternal Being), the ten Gurus from Guru Nanak to Guru Gobind Singh and the acceptance of Guru Granth Sahib as the Eternal-Living Guru.

3. Solemnization of Anand Karaj.— (1) A Sikh male and a Sikh female may contract a marriage in accordance with Sikh religion, if the parties to the marriage:

- (a) are of sound mind and not below the age of eighteen years;
- (b) enter into marriage contract with their free and full consent; and
- (c) are not related to each other in any degree of consanguinity or affinity which, according to the customary law of Sikhs, renders the marriage between them unlawful.

(2) Nothing in the Act shall be deemed to validate any marriage between the persons who are related to each other in any degree of consanguinity or affinity which would, according to the customary law of Sikhs render a marriage between them illegal.

4. Saving of marriages.— Nothing in the Act shall affect the validity of any marriage duly solemnized according to any other marriage ceremony customary among the Sikhs.

5. Registration of marriages.— (1) Every marriage between Sikhs shall be registered under the Act.

(2) For purposes of the registration of the marriages under the Act, the Government, in the prescribed manner, shall grant license to one or more persons professing Sikh religion to be called Anand Karaj Registrar authorizing them to grant Anand Karaj Certificate.

(3) The bridegroom and the bride or a Granthi shall fill the Anand Karaj Form and present it, within thirty days of the marriage, to the Anand Karaj Registrar for registration of the marriage and a copy thereof shall be sent to the Chairman.

(4) The parties to the marriage or the Granthi or any other person who solemnizes Anand Karaj shall accurately fill all the columns of the Anand Karaj Form.

(5) On receipt of the Anand Karaj Form, the Anand Karaj Registrar, having been satisfied that the marriage has been duly solemnized under the Act, shall register the marriage and issue the Anand Karaj Certificate.

(6) A marriage which is not solemnized by the Anand Karaj Registrar shall, for the purpose of registration under the Act, be reported, within thirty days of the solemnization of the marriage, to him by the Granthi or the person who solemnized the marriage.

(7) The Anand Karaj Form, the register to be maintained by the Anand Karaj Registrar, the records to be preserved by a Union Council, the manner in which the Anand Karaj shall be registered, supply of the copies of Anand Karaj Certificate and the fees to be charged therefor shall be such as may be prescribed.

(8) Whoever contravenes the provisions of this section shall be punished, in the prescribed manner, with fine which may extend to ten thousand rupees.

6. Dissolution of marriage.— (1) Any party that wishes to dissolve the marriage shall give to the Chairman, notice in writing of his or her intention to do so and shall supply a copy thereof to the other party.

(2) Within thirty days of the receipt of the notice under sub-section (1), the Chairman shall constitute an Arbitration Council in the prescribed manner for the purpose of bringing about reconciliation between them and the Council shall take all steps necessary to that effect.

(3) If the reconciliation is not effected within ninety days from the date of the notice, the Chairman shall, after the lapse of the ninety days, declare the marriage to have been dissolved and issue the Certificate of the Dissolution of Marriage in the prescribed manner.

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

8. Overriding effect.— Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall have effect.

9. Repeal and savings.— (1) The Anand Marriage Act, 1909 (*VII of 1909*), in its application to the Province of Punjab, is hereby repealed.

(2) Notwithstanding the repeal of the said Act, anything done, action taken, rules or orders made under the repealed Act, shall, so far, they are not inconsistent with the provisions of the Act, be deemed to have been done, taken, made or issued under the Act and shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of the Act.

THE PUNJAB WOMEN PROTECTION AUTHORITY ACT 2017

(Act X of 2017)

C O N T E N T S

Section	Heading
1.	Short title, extent and commencement.
2.	Definitions.
3.	The Authority.
4.	Qualifications of members.
5.	Removal of non-official members.
6.	Powers and functions of the Authority.
7.	Meetings.
8.	Delegation of Powers.
9.	Director-General.
10.	Appointments.
11.	Public servants.
12.	Liability for loss.
13.	Police assistance.
14.	Powers of Additional Inspector General Women Protection.
15.	Fund.
16.	Accounts.
17.	Budget.
18.	Audit.
19.	Performance Audit.
20.	Annual report.
21.	Indemnity.
22.	Power to make rules.
23.	Power to frame regulations.
24.	Repeal.

THE PUNJAB WOMEN PROTECTION AUTHORITY ACT 2017

(Act X of 2017)

[31 May 2017]

An Act for the establishment of the Punjab Women Protection Authority.

It is necessary for the provision of a comprehensive, efficient, effective and gender equitable system for protection, relief and rehabilitation of women against all forms of violence in the Punjab; to control, monitor, and oversee that system; and, to deal with matters ancillary thereto.

Be it enacted by the Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement. – (1) This Act may be cited as the Punjab Women Protection Authority Act, 2017.

(2) It shall extend to whole of the Punjab.

(3) It shall come into force at once.

2. Definitions. – (1) In this Act:

- (a) “Act” means the Punjab Women Protection Authority Act, 2017;
- (b) “Authority” means Punjab Women Protection Authority established under the Act;
- (c) “defendant” means a person against whom relief is sought by the aggrieved person;
- (d) “Director General” means the Director General of the Authority;
- (e) “Government” means Government of the Punjab;
- (f) “member” means a member of the Authority;
- (g) “prescribed” means prescribed by rules or regulations made under the Act;
- (h) “referred Act” means the Punjab Protection of Women against Violence Act 2016 (*XVI of 2016*);
- (i) “regulations” means the regulations framed under the Act; and
- (j) “rules” means the rules made under the Act.

(2) An expression or word used but not defined in the Act shall have the same meaning as is assigned to it in the referred Act.

¹ This Act was passed by the Punjab Assembly on 24 May 2017; assented to by the Governor of the Punjab on 29 May 2017; and, was published in the Punjab Gazette (Extraordinary), dated 31 May 2017, pages 7667-7672.

3. The Authority. – (1) The Government may, by notification, establish an Authority to be called the “Punjab Women Protection Authority” to carry out the purposes of the Act.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with powers, subject to the provisions of the Act, to acquire and hold property, both movable and immovable, and may, by the said name, sue and be sued.

(3) The Authority shall not dispose of any immovable property without prior consent in writing of the Government.

(4) The Authority shall be headed by the Chairperson appointed by the Government, and shall consist of the following members:

- (a) four members, including at least two female members, of Provincial Assembly of the Punjab to be nominated by the Government;
- (b) Additional Chief Secretary or, as the case may be Secretary to the Government, Home Department;
- (c) Provincial Police Officer (Inspector General of Police) Punjab, or his representative, not below the rank of Senior Superintendent of Police;
- (d) Secretary to the Government, Social Welfare and Bait-ul-Maal Department;
- (e) Secretary to the Government, Women Development Department;
- (f) Secretary to the Government, Public Prosecution Department;
- (g) four non-official members including, at least, two women, to be nominated by the Government; and
- (h) Director General of the Authority. Member/
Secretary

(5) The ex-officio members at (b) and (d) to (f) may be represented by an officer of the concerned department not below the rank of an Additional Secretary or, if there is no Additional Secretary, by an officer BS-19 and above.

¹²¹[(5-a) The Chairperson shall receive such perks and privileges, and be subject to such conditions of service as the Government may specify.

² Inserted by the Punjab Women Protection Authority (Amendment) Act 2020 (XXIV of 2020).

(5-b) For the purpose of attending a meeting of the Authority, a member shall receive such travelling allowance as may be determined by the Authority.]

(6) The tenure of the members, other than *ex officio* members, shall be three years but the Government may extend the term by one year.

(7) No act or proceedings of the Authority shall be invalid merely by reason of any vacancy or defect in the constitution of the Authority.

4. Qualifications of members. – (1) A person shall be eligible for appointment as a member who:

- (a) is a Pakistani citizen of sound mind and not less than twenty six years of age;
- (b) has not been convicted by a court on charges of corrupt practices, moral turpitude or misuse of power or authority under any law;
- (c) is not an un-discharged insolvent;
- (d) does not have any conflict of interest with the purposes of the Authority or any financial interest in any project or scheme, directly or indirectly, launched by the Authority; and
- (e) has worked towards furtherance of the rights of women and gender equality for a minimum period of three years.

5. Removal of non-official members.– (1) The Chairperson and the members shall serve during the pleasure of the Government and the Government may remove the Chairperson or a non-official member in the prescribed manner.

(2) A non-official member may resign by tendering resignation in writing.

6. Powers and functions of the Authority.– The Authority shall have the powers to:

- (a) establish, maintain, monitor, govern, operate and construct Protection Centers in the Punjab;
- (b) initiate and maintain a continuous process of comprehensive planning for the protection system;
- (c) execute, implement and administer the protection system, relief to, and rehabilitation of, the women against violence;
- (d) control, monitor, and oversee the administration and functioning of the Committee and protection system;
- (e) execute the policies made by the Government for the provision of protection, relief and rehabilitation of women against all forms of violence;
- (f) undertake appropriate projects for purposes of the Act;
- (g) issue necessary instructions, directions or guidelines to the Committee and District Women Protection Officer or any other officer or official who is engaged in the Protection System, or to any other body for the implementation of the projects of the

Authority and for effective implementation of the provisions of the Act or the referred Act;

- (h) formulate and ensure minimum standards, code of conduct and Standard Operating Procedures to be followed by the persons engaged in the Protection System;
- (i) evaluate, assess and coordinate the execution of its policies;
- (j) conduct survey of the aggrieved persons desirous of being rehabilitated;
- (k) institute a mechanism for the periodic sensitization and awareness of the public servants and employees of the Authority on issues involving women and protection and relief of the aggrieved persons;
- (l) carry out execution of the monetary, protection or residence orders;
- (m) ensure that a case of violence registered with a police station in the Province is referred to the Protection Centre for medical examination, collection of forensics, investigation and prosecution and until the Protection Centre is established in the District to make standing arrangements for shifting of an aggrieved person, with her consent, to the nearest Protection Centre;
- (n) approve annual strategy to improve the Protection Centre and shelter homes;
- (o) enlist women volunteers and women volunteer organizations in the District and assign roles to such volunteers and organizations to assist the Protection Centers in terms of advocacy, raising awareness, mediation and referring the victims to the Protection Centers;
- (p) approve the annual report about the key performance indicators, operations of the Protection Centers and gaps in the implementation of the Protection System for submission to the Government;
- (q) accept donations such as land, vehicles, equipment, money or human resource for facilitation of the functioning of the Protection System;
- (r) acquire property, both movable and immovable undertake any works, incur any expenditure and enter into contracts to this effect;
- (s) seek assistance for the establishment of Protection Centres or for the execution and operations of all Protection Centers from a Government department, agency or person;
- (t) prepare financial statements and feasibility reports, provide administrative approvals, issue technical sanction, and initiate tendering and procurement processes for the construction and maintenance of Protection Centres and other allied works;
- (u) approve the annual budget and to re-appropriate funds;
- (v) carry out administrative functions;
- (w) monitor and evaluate establishment or construction of the standardized Protection Centres according to their capacity;

- (x) provide funding to the District Women Protection Committee to carry out its functions; and
- (y) take such other measures and perform such other functions as may be assigned to it by the Government and as are necessary for carrying out the purposes of the Act.

7. Meetings. – (1) The Authority shall meet at least once in a month, at such time and, place and shall observe such procedure in regard to transaction of its business and meetings as may be prescribed and until so prescribed as the Authority may determine.

(2) The meetings of the Authority shall be presided over by the Chairperson and in the absence of the Chairperson, by a member elected for the purpose by the members present.

(3) The quorum for a meeting of the Authority shall be one third of the total number of members.

8. Delegation of Powers. – The Authority may delegate to the Chairperson, a member, Director General or an officer of the Authority any of its powers, duties or functions, except the power to:

- (a) approve the annual budget;
- (b) approve the annual performance report;
- (c) frame regulations; and
- (d) make policy decisions.

9. Director-General. – (1) The Government shall, on such terms and conditions as it may determine, appoint the Director General.

(2) The Director General shall be the Chief Executive of the Authority and shall:

- (a) be a whole-time officer of the Authority;
- (b) perform such duties as may be prescribed or as may be assigned or delegated to him by the Authority; and
- (c) hold office for a term of three years but he shall serve during the pleasure of the Government.

(3) The Government may extend the term of office of the Director General for such period as it may determine.

(4) The Government may, by serving one month's notice or on payment of one month's salary in lieu of the notice, remove the Director General.

(5) The Director General may, by serving one month's notice or on payment of one month's salary in lieu of the notice, resign.

(6) In case the office of Director General is vacant for any reasons whatsoever, the Government may make such temporary arrangements for the discharge of functions of the Director General.

10. Appointments. – (1) The Authority may, in the prescribed manner, appoint such officers, advisors and employees as it considers necessary for efficient performance of its functions and determine the terms and conditions of service.

(2) The Authority may acquire the services of such officers, advisors and employees on deputation from any agency as it deems necessary.

11. Public servants. – All persons acting or purporting to act under the Act shall be deemed to be public servants within the meanings of section 21 of the Pakistan Penal Code, 1860 (*XLV of 1860*).

12. Liability for loss. – Any person employed by or serving under the Authority, charged with the administration of the affairs of the Authority, acting on behalf of the Authority or acting under a contract with the Authority, who is responsible for:

- (a) any loss, waste, misappropriation of any money or property belonging to the Authority; or
- (b) any act which may adversely affect an aggrieved person approaching a Protection Centre, which is a direct consequence of his negligence or misconduct in the discharge of his duties -

shall be liable to compensate the Authority as determined by it after affording reasonable opportunity of being heard.

13. Police assistance. – The Authority may seek assistance of the police in the discharge of its duties and performance of functions under the Act or under referred Act.

14. Powers of Additional Inspector General Women Protection. – (1) There shall be an Additional Inspector General Women Protection for purposes of the Act or the referred Act.

(2) The Additional Inspector General Women Protection shall be a police officer.

(3) The Authority may authorize the Additional Inspector General Women Protection to:

- (a) supervise the working of police officers posted at the Protection Centers in the Punjab;
- (b) report to the Provincial Police Officer (Inspector General Police) Punjab on a bi-weekly basis all the cases at the Protection Centres;
- (c) conduct evaluation of the police officers at the Protection Centres;
- (d) provide remedial measures to the police officers and victims of gender-based crimes;
- (e) supervise and monitor prosecution of cases under the referred Act;
- (f) oversee and monitor prosecution on gender-based crimes and performance of police officials at the Protection Centers; and

- (g) perform such other functions as may be prescribed or as the Authority may assign.

15. Fund. – (1) There shall be a Fund to be known as the Punjab Women Protection Authority Fund.

(2) The Fund shall vest in the Authority and shall be utilized by the Authority in connection with its functions under the Act including construction, maintenance, operations, procurement and the payment of salaries and other remunerations to the members, officers, servants, experts and consultants of the Authority.

(3) The Fund shall consist of:

- (a) the grants received from the Government or from other domestic or international agencies;
- (b) monetary relief payable to the Authority by the defendants under a monetary order by the court under section 9 of referred Act;
- (c) any gifts or donations received by the Authority; and
- (d) income from any other sources.

(4) The Fund shall be maintained and invested in such manner as may be prescribed.

(5) The Authority shall not obtain any loan and shall not incur any financial liability.

16. Accounts. – The Authority shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such manner and form as may be prescribed.

17. Budget. – The Authority shall prepare every year, in such form and manner and at such time as may be prescribed, a budget in respect of the next financial year showing the estimated receipts and expenditure of the Authority and shall submit it to the Government for approval.

18. Audit. – (1) The accounts of the Authority shall be audited by the Auditor General of Pakistan.

(2) In addition to the audit under sub-section (1), the Authority or the Government may appoint a firm of Chartered Accountants or any Government audit agency to audit the accounts of the Authority.

(3) The Authority shall also make such arrangements for pre-audit or concurrent audit of accounts as may be necessary.

19. Performance Audit. – The Government may, at any time, direct to have the performance audit of the Authority by a person or agency appointed by the Government.

20. Annual report. – (1) The Director General shall, within three months of the end of a financial year, submit the annual performance report to the Authority enumerating all activities, developmental initiatives undertaken, the targets achieved during the previous financial year and the future plans.

(2) The Authority shall publish the report for public information and submit it to the Government and the Government shall lay it before Provincial Assembly of the Punjab within ninety days of its receipt.

21. Indemnity. – No suit, prosecution or any other legal proceedings shall lie against the Authority, the Director General, any member, officer, servant, expert or consultant of the Authority, in respect of anything done or purported to be done in good faith under the Act.

22. Power to make rules. – The Government may, by notification in the official Gazette, make rules for carrying out the purposes of the Act.

23. Power to frame regulations. – Subject to the Act and the rules, the Authority may, frame regulations for matters not provided for in the Act or rules and for which provision is necessary or expedient for carrying out the purposes of the Act.

24. Repeal. – The Punjab Women Protection Authority Ordinance, 2017 (II of 2017) is hereby repealed.

THE PUNJAB PROTECTION OF WOMEN AGAINST VIOLENCE ACT, 2016

(Act XVI of 2016)

C O N T E N T S

Section	Heading
1.	Short title, extent and commencement.
2.	Definitions
3.	Measures for the implementation of the Act.
4.	Complaint to Court.
5.	Right to reside in house.
6.	Interim order.
7.	Protection order.
8.	Residence order.
9.	Monetary order.
10.	Duration and alteration of orders.
11.	District Women Protection Committee.
12.	Functions of the Committee.
13.	Protection Centers and shelter homes.
14.	Women Protection Officer.
15.	Power to enter.
16.	Assistance on request.
17.	Assistance to officers.
18.	Penalty for obstructing a Protection Officer.
19.	Penalty for filing false complaint.
20.	Penalty for breach of orders.
21.	Cognizance and summary trial.
22.	Appeal.

23.	Right to information.
24.	Certain persons to be public servants.
25.	Performance audit.
26.	Act not in derogation of other laws.
27.	Training.
28.	Annual report.
29.	Rules.
30.	Immunity.
31.	Power to remove difficulties.

^[1]THE PUNJAB PROTECTION OF WOMEN AGAINST VIOLENCE ACT 2016

(Act XVI of 2016)

[29 February 2016]

An Act to establish an effective system of protection, relief and rehabilitation of women against violence.

Since the Constitution of the Islamic Republic of Pakistan, while guaranteeing gender equality, enables the State to make any special provision for the protection of women, it is necessary to protect women against violence including domestic violence, to establish a protection system for effective service delivery to women victims and to create an enabling environment to encourage and facilitate women freely to play their desired role in the society, and to provide for ancillary matters;

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement. – (1) This Act may be cited as the Punjab Protection of Women against Violence Act 2016.

(2) It extends to the whole of the Punjab.

(3) It shall come into force on such date as the Government may, by notification, specify and different dates may be so specified for various areas in the Punjab.

2. Definitions. – (1) In this Act:

(a) "aggrieved person" means a female who has been subjected to violence by a defendant;

^[2](aa) "Authority" means the Punjab Women Protection Authority established under section 3 of the Punjab Women Protection Authority Act 2017 (X of 2017);]

(b) "Committee" means a District Women Protection Committee established under the Act;

(c) "Code" means the Code of Criminal Procedure, 1898 (V of 1898);

(d) "Court" means the Family Court established under the Family Courts Act, 1964 (XXXV of 1964);

(e) "dependent child" means a male child who is below the age of twelve years of age and includes any adopted, step or foster child;

(f) "^[3][Deputy Commissioner]" means the ^[4][Deputy Commissioner] of the district;

1 This Act was passed by the Punjab Assembly on 24 February 2016; assented to by the Governor of the Punjab on 26 February 2016; and, was published in the Punjab Gazette (Extraordinary), dated 29 February 2016, pages 4053-60.

2 Inserted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

3 Substituted for the words "District Coordination Officer" by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

4 Substituted for the words "District Coordination Officer" by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

- (g) “District Women Protection Officer” means the District Women Protection Officer appointed under the Act;
- (h) ^[5]“domestic violence” means the violence committed by the defendant with whom the aggrieved person is living or has lived in a house or visits the house when they are related to each other by consanguinity, marriage, adoption or in terms of employment;]
- (i) “Government” means Government of the Punjab;
- (j) “house” includes a place where the aggrieved person lives in a domestic relationship irrespective of right to ownership or possession of the aggrieved person, defendant or joint family^[6], or lives or visits such place as a domestic worker];
- (k) “prescribed” means prescribed by rules made under the Act;
- (l) “Protection Centre” means a Violence against Women Centre established ^[7][or declared] under the Act;
- (m) “protection system” means the protection system constituted under the Act and includes a Committee, a Protection Centre and a shelter home established under the Act;
- (n) "defendant" means a person against whom relief has been sought by the aggrieved person;
- (o) “resident” means a woman residing in a shelter home or a dependent child of such woman residing with her in the shelter home or a child residing in a shelter home;
- (p) “rules” means the rules made under the Act;
- ^[8][(pp) “Secretary” means Secretary to the Government, Social Welfare and Bait-ul-Maal Department;]
- (q) “shelter home” means a premises established or licensed by the Government under the Act to provide board and lodging and rehabilitation services to the aggrieved persons, other women and their children;
- (r) “violence” means any offence committed against the human body of the aggrieved person including abetment of an offence, domestic violence, sexual violence, psychological abuse, economic abuse, stalking or a cybercrime;

Explanations. - In this clause:

5 Substituted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022), for the following:

““domestic violence” means the violence committed by the defendant with whom the aggrieved is living or has lived in a house when they are related to each other by consanguinity, marriage or adoption;”

6 Inserted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

7 Inserted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

8 Inserted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

- (1) “economic abuse” means denial of food, clothing and shelter in a domestic relationship to the aggrieved person by the defendant in accordance with the defendant’s income or taking away the income of the aggrieved person without her consent by the defendant; and
- (2) “psychological violence includes psychological deterioration of aggrieved person which may result in anorexia, suicide attempt or clinically proven depression resulting from defendant’s oppressive behaviour or limiting freedom of movement of the aggrieved person and that condition is certified by a panel of psychologists appointed by District Women Protection Committee; and
- (s) “Women Protection Officer” means a Women Protection Officer appointed ¹⁹[or nominated] under the Act.

(2) A word or expression not defined in the Act shall have the same meaning as assigned to it in the Code or the Pakistan Penal Code, 1860 (XLV of 1860).

3. Measures for the implementation of the Act. – (1) The Government shall:

- (a) institute a universal toll-free dial-in-number for the aggrieved persons;
- (b) establish Protection Centers and shelter homes under a phased programme;
- (c) appoint necessary staff at a Protection Centre for mediation and reconciliation between the parties, rescue, medical examination, medical and psychological treatment and legal help of the aggrieved persons and proper investigation of offences committed against aggrieved persons;
- (d) arrange for wide publicity of this Act and the protection system in Urdu and, if necessary, in local languages;
- (e) institute a mechanism for the periodic sensitization and awareness of the concerned public servants about the issues involving women and the requirements of protection and relief of the aggrieved persons; and
- (f) take other necessary measures to accomplish the objective of the Act.

(2) The Government shall establish a data-base and software for timely service delivery and monitoring and evaluation mechanism in the prescribed manner with a view to achieving the objectives of the Act and, where necessary, shall introduce necessary reforms for the purpose.

4. Complaint to Court. – (1) An aggrieved person, or a person authorized by the aggrieved person or the Women Protection Officer may submit a complaint for obtaining a protection, residence or monetary order in favour of the aggrieved person in the Court within whose jurisdiction:

- (a) the aggrieved person resides or carries on business;
- (b) the defendant resides or carries on business; or

⁹ Inserted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

(c) the aggrieved person and the defendant last resided together.

(2) The Court shall proceed with the complaint under this Act and the Court shall fix the first date of hearing which shall not be beyond seven days from the date of the receipt of the complaint by the Court.

(3) On receipt of the complaint, the Court shall issue a notice to the defendant calling upon him to show cause within seven days of the receipt of notice as to why any order under the Act may not be made and if the defendant fails to file a reply within the specified time, the Court, subject to service of the notice on the defendant, shall assume that the defendant has no plausible defense and proceed to pass any order under this Act.

(4) The Court shall finally decide the complaint within ninety days from the date of the receipt of the complaint, as nearly as possible, under Chapter XXII of the Code relating to the summary trials.

5. Right to reside in house. - Notwithstanding anything contained in any other law, the aggrieved person, who is the victim of domestic violence:

- (a) shall not be evicted, save in accordance with law, from the house without her consent or if wrongfully evicted, the Court shall restore the position maintaining before the eviction of the aggrieved person if the aggrieved person has right, title or beneficial interest in the house; or
- (b) may choose to reside in the house, or in an alternative accommodation to be arranged by the defendant as per his financial resources, or in a shelter home.

6. Interim order. – (1) Pending proceedings under this Act, the Court may, at any stage of the complaint, pass such interim order as it deems just and proper.

(2) If the Court is satisfied that the complaint *prima facie* shows that the defendant has committed an act of violence or is likely to commit an act of violence, it may issue an order on the basis of an affidavit of the aggrieved person or any other material before the Court.

7. Protection order. – (1) If the Court is satisfied that any violence has been committed or is likely to be committed, the Court may pass a protection order in favour of the aggrieved person and direct the defendant:

- (a) not to have any communication with the aggrieved person, with or without exceptions;
- (c) stay away from the aggrieved person, with or without exceptions;
- (d) stay at such distance from the aggrieved person as may, keeping in view the peculiar facts and circumstances of the case, be determined by the Court;
- (e) wear ankle or wrist bracelet GPS tracker for any act of grave violence or likely grave violence which may endanger the life, dignity or reputation of the aggrieved person;

- (f) move out of the house in case of an act of grave violence if the life, dignity or reputation of the aggrieved person is in danger;
- (g) surrender any weapon or firearm which the defendant lawfully possesses or prohibit the defendant from purchasing a firearm or obtaining license of a firearm;
- (g) refrain from aiding or abetting an act of violence;
- (h) refrain from entering the place of employment of the aggrieved person or any other place frequently visited by the aggrieved person;
- (i) refrain from causing violence to a dependent, other relative or any person who provides assistance to the aggrieved person against violence; or
- (j) refrain from committing such other acts as may be specified in the protection order.

(2) The Court may issue one or more directions contained in sub-section (1) even if the aggrieved person has not prayed for such direction and may, keeping in view the peculiar facts and circumstances of the case, specify the period for which the protection order shall remain operative.

(3) The Court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any dependent child of the aggrieved person.

(4) The Court may require the defendant to execute a bond, with or without sureties, for preventing the commission of violence.

(5) While making an order under this section or section 8, the Court may, pass an order directing the Women Protection Officer to provide protection to the aggrieved person or to assist the aggrieved person or the person making a complaint on behalf of the aggrieved person.

(6) The Court may direct the police to assist the Women Protection Officer in the implementation of the protection or residence order.

8. Residence order. – (1) The Court, in case of domestic violence, may in addition to any order under section 7, pass a residence order directing that:

- (a) the aggrieved person shall not be evicted, save in accordance with law, from the house;
- (b) the aggrieved person has the right to stay in the house;
- (c) the aggrieved person may be relocated from the house to the shelter home for purposes of relief, protection and rehabilitation;
- (d) the defendant shall deliver the possession of any property or documents to the aggrieved person to which the aggrieved person is entitled;

- (e) the defendant or any relative of the defendant is restrained from entering the shelter home or place of employment or any other place frequently visited by the aggrieved person; or
- (f) shall arrange an alternative accommodation for the aggrieved person or to pay rent for the alternative accommodation.

(2) The Court may, keeping in view the peculiar facts and circumstances of the case, issue one or more directions contained in sub-section (1) even if the aggrieved person has not prayed for such direction and may specify the period for which the residence order shall remain in force.

(3) The Court shall have due regard to the financial needs and resources of the parties before passing any order having financial implications.

9. Monetary order. – (1) The Court may, at any stage of the trial of a case, pass an order directing the defendant to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and such relief may include:

- (a) such compensation, as the Court may determine, to the aggrieved person for suffering as a consequence of economic abuse;
- (b) loss of earning;
- (c) medical expense;
- (d) loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person to which the aggrieved person is entitled;
- (e) payment of reasonable rent and meals for shelter provided to the aggrieved person and dependent children in a shelter home if the defendant is mandated by the law to provide shelter to the aggrieved person and dependent children; and
- (f) reasonable maintenance for the aggrieved person and her dependent children, if any, in addition to an order of maintenance under family laws.

(2) The Court shall have due regard to the financial needs and resources of the parties before passing any order under sub-section (1).

(3) The defendant shall pay monetary relief to the aggrieved person within the period specified in the order made under sub-section (1).

(4) If the defendant fails to make payment within the period mentioned in the order, the Court shall direct the employer or debtor of the defendant, directly to pay the aggrieved person or to deposit with the Court a portion of the wages or debt due to or accrued to the credit of the defendant.

(5) The amount paid or deposited under sub-section (4) shall be adjusted by the employer or debtor towards payment to the defendant.

(6) The Court may direct that the monetary relief payable or paid on account of shelter being provided in the shelter home shall be credited to the protection system.

10. Duration and alteration of orders. – (1) The interim order, protection order or residence order shall remain in force during the period specified by the Court.

(2) The Court may, keeping in view the circumstances and for reasons to be recorded in writing, alter or discharge any order made under this Act.

(3) The Court shall, on an application of the aggrieved person, discharge any order passed under the Act.

(4) Nothing in this section shall prevent an aggrieved person from making a fresh application after the previous interim, protection or residence order has been discharged.

11. District Women Protection Committee. – (1) The Government shall, by notification, constitute a District Women Protection Committee for each district.

(2) The Committee shall be headed by the ¹⁰⁰[Deputy Commissioner] of the district and shall, subject to sub-section (3), consist of the following members:

- (a) ¹¹¹[Chief Executive Officer, District Health Authority];
- (b) ¹¹²[a representative of the Local Government and Community Development Department of the Government];
- (c) a representative of the head of District Police;
- (d) ¹¹³[Deputy Director] Social Welfare;
- (e) District Public Prosecutor; and
- (f) District Women Protection Officer (Secretary).

(3) The ¹¹⁴[Authority] shall nominate four non-official members of each District Women Protection Committee from amongst civil society and philanthropists who are residents of the district.

(4) A member, including a co-opted member of the Committee, shall not be entitled to any remuneration or fee or any other charges or facilities for services rendered under the Act.

(5) The ¹¹⁵[Authority] shall nominate the Vice Chairperson of the Committee from amongst the non-official members.

(6) The Committee shall hold at least one meeting in every three months and shall regulate its procedure.

10 Substituted for the words “District Coordination Officer” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

11 Substituted for the expression “Executive District Officer (Health)” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

12 Substituted for the expression “Executive District Officer (Community Development)” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

13 Substituted for the words “District Officer” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

14 Substituted for the word “Government” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

15 Substituted for the word “Government” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

(7) The ¹⁶[Authority] may, at any time, remove a non-official member on charges of misconduct, disinterest, exploitation or misuse of powers, or any other act which is detrimental to the objectives of the Act.

12. Functions of the Committee. – (1) The Committee shall:

- (a) supervise the working of the Protection Centre, shelter home and toll-free helpline and take necessary steps to improve the services;
- (b) ensure uninterrupted functioning of the toll-free dial-in-number of the Protection Centre and high-quality response and services at the Protection Centre and, for the purpose, shall arrange training for the concerned employees;
- (c) develop liaison with other departments and agencies in the district enabling the Protection Centre and shelter home best to perform the task of protection of women;
- (d) try mediation and reconciliation between the parties for resolution of disputes under this Act;
- (e) ensure that the cases of violence registered in any of police station of the district are referred to the Protection Centre for medical examination, collection of forensics and investigation and until the Protection Centre is established in the district, shall make standing arrangements for shifting of the aggrieved person, with her consent, to the nearest Protection Centre;
- (f) approve annual plan of action for the Protection Centre and shelter home;
- (g) discuss problems being faced by the Protection Centre and shelter home and find possible solution of the problems;
- (h) monitor and evaluate working of the Protection Centre and shelter home;
- (i) enlist women volunteers and women volunteer organizations in the district and assign roles under this Act to such volunteers and organizations;
- (j) suggest measures for better protection of women or improvement in the protection system to the Government;
- (k) ensure minimum standards, code of conduct and standard operating procedures to be followed by the employees of the protection system;
- (l) approve annual report about physical targets, activities and gaps of the protection system in the district for submission to the Government; and
- (m) perform such other functions as may be assigned to it by the ¹⁷[Authority] and as are ancillary to any of the above functions or necessary to accomplish the objectives of the Act.

16 Substituted for the word “Government” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

17 Substituted for the word “Government” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

(2) The Committee may accept donations such as land, vehicles, equipment or money for the facilitation of the functioning of the protection system and all such donations shall be used, maintained and disposed of by the Committee in the prescribed manner.

(3) The ¹⁸[Secretary] may delegate any of the functions of the Committee to the ¹⁹[Deputy Commissioner] subject to such terms and conditions as the Government may determine.

13. Protection Centers and shelter homes. – (1) The Government shall establish Protection Centers through a phased programme for protection of the aggrieved persons.

- (2) A Protection Centre shall:
- (a) be a converging point for all essential services to ensure justice delivery including police reporting, registration of criminal cases, medical examination, collection of forensic and other evidence;
 - (b) register the cases of violence and facilitate medical examination, collection of forensic and other evidence and proper prosecution of the cases;
 - (c) provide first aid relief to an aggrieved person;
 - (d) collect and assist to collect evidence within twenty-four hours to facilitate investigation and effective prosecution;
 - (e) provide immediate protection to an aggrieved person;
 - (f) establish an effective system for the receipt and disposal of the complaints within the time mentioned in the operating procedures;
 - (g) maintain an effective system of mediation and reconciliation for resolution of disputes under this Act;
 - (h) register information against the perpetrators of violence;
 - (i) initiate cases of state-inflicted violence, if any, against women;
 - (j) maintain audio-visual record of all actions carried out under the Act;
 - (k) provide or arrange to provide legal aid to an aggrieved person;
 - (l) provide psychological counseling to an aggrieved person;
 - (m) mediate between an aggrieved person and the defendant for resolution of disputes under the Act; and
 - (n) act as a community center to guide women in all Government related inquiries.

¹⁸ Substituted for the word “Government” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

¹⁹ Substituted for the words “District Coordination Officer” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

(3) The Government shall, through a phased programme, establish a shelter home in each district or for a local area within a district, for board and lodging of the aggrieved persons and needy women and provision of social and rehabilitative services to the residents.

(4) A shelter home shall:

- (a) provide shelter and other allied facilities to an aggrieved person or other needy women along with dependent children;
- (b) provide, with the consent of the resident, rehabilitation services to reintegrate residents with their families and society where necessary;
- (c) refer the case of a resident to the appropriate authority or body for redressal of her grievance and regularly monitor provision of services to the residents;
- (d) arrange for technical and vocational training of the residents;
- (e) provide legal, medical, emotional support, guidance and psychological counseling to the residents;
- (f) repatriate or rehabilitate the residents in the shortest possible time;
- (g) maintain discipline and regulate visitation and timings; and
- (h) perform any other prescribed function or a function assigned to it by the Committee for purposes of protection of women, children and vulnerable persons.

(5) Subject to general or special direction of the Committee, a male child who is not a dependent child shall not be admitted in the shelter home and instead may be referred to the Child Protection and Welfare Bureau for provision of shelter, board and lodging, education and training.

¹²⁰¹[(6) Where a Protection Centre or shelter home is not established under this section, the Secretary may, subject to such terms and conditions as he may determine, declare any existing Government facility, Centre or institution providing similar services as Protection Centre or shelter home for purposes of this Act.

(7) Where any existing facility, Centre or institution is declared as Protection Centre or shelter home under sub-section (6), the infra-structure, paraphernalia, assets and the employees of such facility, center or institution shall remain under the administrative control of the Social Welfare and Bait-ul-Maal Department of the Government:

provided that the service structure and terms and conditions of service of the employees of such facility, centre or institution shall continue to be governed under the law, rules and policies applicable to them for the time being in force.]

20 Inserted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

14. Women Protection Officer.— (1) The Government shall, by notification, appoint a District Women Protection Officer for a district and Women Protection Officers²¹[:

Provided that where the District Women Protection Officers or Women Protection Officers are not appointed under this section, the Secretary may, subject to such terms and conditions as he may determine, by notification in the official Gazette nominate any officer of the Social Welfare and Bait-ul-Maal Department of the Government to perform the functions of the District Women Protection Officers or Women Protection Officers under this Act.]

(2) Subject to general supervision of the Committee, a District Women Protection Officer shall:

- (a) supervise and coordinate the protection system in the district;
- (b) maintain liaison, supervise, plan, implement, monitor and periodically evaluate the protection system in the district;
- (c) be responsible for training of the staff, reporting and documentation of the protection system in the district;
- (d) provide counselling services to the aggrieved persons in the Protection Centre and shelter home;
- (e) approve a rescue operation for rescuing an aggrieved person;
- (f) file a habeas corpus case on the basis of any credible information of wrongful confinement of an aggrieved person;
- (g) set specific, measurable, achievable and relevant targets for the protection system to be achieved in the specified time;
- (h) ensure achievement of targets and submit compliance report in every meeting of the Committee; and
- (i) prepare an annual report about targets, activities and gaps of the protection system.

(3) Subject to the supervision of the District Women Protection Officer, a Women Protection Officer shall:

- (a) assist the District Women Protection Officer in the performance of her functions;
- (b) respond to the calls or queries of women on internet or toll-free dial-in-number of the Protection Centre;
- (c) rescue an aggrieved person and, subject to this Act, admit her and her dependent children or other family members, if necessary, in the shelter home;
- (d) direct the defendant to immediately move out of the house for a period not exceeding forty-eight hours in order to protect life, dignity or reputation of the aggrieved person;

21 Substituted for the full stop and thereafter proviso inserted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022)

- (e) approve admission of a woman or any other person in the shelter home in accordance with the provision of this Act and the rules governing the shelter home;
- (f) provide counseling services on phone or, where necessary, by visiting an aggrieved person; and
- (g) supervise working of officials of the shelter home.

(4) The District Women Protection Officer may perform any function of a Women Protection Officer and, in the absence of the District Women Protection Officer owing to any cause, the senior-most Women Protection Officer shall perform the functions of the District Women Protection Officer.

15. Power to enter. – (1) The District Women Protection Officer or a Women Protection Officer, at any time, enter in any place or house for the purpose of rescuing an aggrieved person but such officer or official shall not rescue the aggrieved person without her consent.

(2) The District Women Protection Officer or a Women Protection Officer shall give reasonable notice to the incharge of the place or house before entering and the incharge shall allow free access and afford all reasonable facilities to meet a woman residing or kept in the place or house.

(3) If access to such place or house cannot be obtained under sub-section (2), it shall be lawful for the District Women Protection Officer or a Women Protection Officer to enter such place or house in collaboration with district authorities including police and to meet an aggrieved person residing or kept in the place or house, and in order to effect an entrance into such place or house, to force her entry into the house or place.

(4) If the District Women Protection Officer or a Women Protection Officer who enters a place or house under this Act is detained in the house or place, she may force her exit from any house or place.

(5) Notwithstanding anything contained in this section, the powers of entry in a house or place of abode of a woman shall only be exercised by a female officer of the protection system.

16. Assistance on request. – (1) The District Women Protection Officer or a Women Protection Officer shall provide all reasonable assistance to an aggrieved person or to any other woman who needs such assistance in accordance with the provisions of this Act.

(2) The District Women Protection Officer or a Women Protection Officer may provide or offer to provide assistance under the Act on the request of the aggrieved person or on information or complaint received from any corner in collaboration with district authorities including police.

(3) Nothing in this Act shall be construed to provide assistance to an aggrieved person when the woman or aggrieved person has voluntarily refused to accept such assistance.

17. Assistance to officers. – (1) For protection of an aggrieved person, the designated police officer, agency or local government shall be bound to assist the District Women Protection Officer or the Women Protection Officer in the performance of their functions under the Act.

(2) In the performance of their functions under the Act, the District Women Protection Committee may call for any information from any agency of the Government or a local government in the district and such agency or local government shall be bound to provide the requisite information.

18. Penalty for obstructing a Protection Officer. – Any person, who obstructs the District Woman Protection Officer or a Woman Protection Officer in the performance of the duties under this Act, shall be liable to imprisonment for a term which may extend to six months or fine which may extend five hundred thousand rupees or both.

19. Penalty for filing false complaint. – A person, who gives false information about the commission of violence which that person knows or has reason to believe to be false, shall be liable to punishment of imprisonment for a term which may extend to three months or fine which may extend to one hundred thousand rupees but which shall not be less than fifty thousand rupees or both.

20. Penalty for breach of orders. – (1) A defendant, who commits breach of an interim order, protection order, residence order or monetary order, or illegally interferes with the working of the GPS tracker, shall be punished with imprisonment for a term which may extend to one year or fine which may extend to two hundred thousand rupees but which shall not be less than fifty thousand rupees or both.

(2) A defendant, who violates the interim order, protection order, residence order or monetary order more than once, shall be liable to punishment which may extend to two years but which shall not be less than one year and to fine which may extend to five hundred thousand rupees but which shall not be less than one hundred thousand rupees.

21. Cognizance and summary trial. – (1) The Court shall not take cognizance of an offence under this Act except on a complaint of the District Women Protection Officer or a Woman Protection Officer acting on behalf of the District Women Protection Officer.

(2) The Court shall conduct the trial of an offence under this Act in accordance with the provisions of Chapter XXII of the Code relating to the summary trials.

22. Appeal. – (1) A person aggrieved from an interim order, protection order, residence order, monetary order or sentence of the Court may, within thirty days of the communication of the order or sentence, prefer an appeal to the court of sessions which shall decide the appeal within sixty days from the date of receipt of the appeal.

(2) The decision of the court of sessions on an appeal under sub-section (1) shall be final and shall not be called in question in any other court or forum except as provided under this Act.

23. Right to information. - (1) Subject to sub-section (2), the Government shall, within seven days of acquiring any information pertaining to violence against the aggrieved person shall publish the details of the case and the steps taken for the protection of the aggrieved person, on its website accessible to the public free of cost.

(2) The Government may, for reasons to be recorded in writing, not publish any information, wholly or partially:

- (a) to ensure the safety, security, privacy and dignity of a woman or an aggrieved person;
- (b) to protect national security or to maintain public order;
- (c) to prevent any prejudice to the investigation of a case; or
- (d) to protect the identity of an officer or official where such protection is necessary for the safety and security of such officer or official.

24. Certain persons to be public servants. - Every person engaged in, or employed for, the administration of this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

25. Performance audit.-(1) The ¹²²¹[Authority] shall conduct or cause to be conducted the performance audit of the protection system of a district on periodic basis under the Act.

(2) The performance audit shall include the details of quality of services provided by the protection system, the targets to achieve the purposes of the Act and the identification of weaknesses and recommendations for future improvements.

26. Act not in derogation of other laws. - Save as otherwise provided in the Act, the provisions of the Act are in addition to and not in derogation of any other law.

27. Training.- The ¹²³¹[Authority] shall, at regular intervals, arrange training of the District Women Protection Officers, Women Protection Officers and other employees of the protection system for achieving the purpose of the Act.

28. Annual report.— ¹²⁴¹[(1) The Authority shall, within three months of the close of a financial year, submit to Secretary an annual report relating to the affairs and efficacy of the protection system, and the Secretary shall cause the report to be laid before Provincial Assembly of the Punjab.]

(2) The annual report shall consist of:

- (a) details of the services provided by the protection system along with a comprehensive statement of the rescue operations of the protection system during the preceding financial year;
- (b) reasons for delay, if any, in reaching the aggrieved person in need of help of the protection system and proposed solutions;
- (c) performance audit report, if any, of one or more protection system;
- (d) suggestions and recommendations for further reforms of the protection system for purposes of improving the service delivery; and

22 Substituted for the word “Government” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

23 Substituted for the word “Government” by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022)

24 Substituted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022), for the following:

“(1) The Government shall, within three months of the close of a financial year, submit to Provincial Assembly of the Punjab an annual report relating to the affairs and efficacy of the protection system.”

- (e) other matters considered appropriate by the Government or as may be prescribed.

29. Rules. – (1) The Government shall, after previous publication and by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the powers conferred under sub-section (1), the Government shall ²⁵[* * * * *] make the rules relating to:

- (a) establishment of monitoring and evaluation mechanism of the protection system;
- (b) universal toll-free dial-in-number of the protection system;
- (c) regulation of meetings of the Committees;
- (d) women volunteers and women volunteer organizations;
- (e) use, maintenance and disposal of land, vehicle, equipment and other items or money donated to a Protection Centre or shelter home;
- (f) details of medical, legal and psychological assistance, and shelter facilities;
- (g) repatriation or rehabilitation of residents;
- (h) maintenance of records and publication of information under the Act; and
- (i) regulation of affairs of the of Protection Centres and shelter homes.

30. Immunity. – No suit, prosecution or other legal proceedings shall lie against the Government, any officer of the Government, a Committee, convener or any member of a Committee, District Women Protection Officer, Women Protection Officer or official of a protection system for anything which is done in good faith under this Act or the rules.

31. Power to remove difficulties. – The Government may, within two years of the commencement of this Act and by notification, make such provisions, not inconsistent with this Act, as may appear necessary for removing any difficulty or giving effect to the provisions of the Act.

²⁵ The expression “, within one hundred and twenty days of the commencement of the Act,” omitted by the Punjab Protection of Women Against Violence (Amendment) Act 2022 (XXXVIII of 2022).

THE PUNJAB COMMISSION ON THE STATUS OF WOMEN ACT 2014

(Act I of 2014)

C O N T E N T S

SECTION	HEADING
CHAPTER I	
PRELIMINARY	
1.	Short title, extent and commencement.
2.	Definitions.
CHAPTER II	
THE COMMISSION	
3.	Establishment of the Commission.
4.	Appointment of Chairperson.
5.	Appointment of members.
6.	Term of office.
7.	Removal of Chairperson and members.
8.	Secretariat of the Commission.
CHAPTER III	
FUNCTIONS OF THE COMMISSION	
9.	Functions of the Commission.
10.	Meetings of the Commission.
11.	Committees.
CHAPTER IV	
FINANCIAL PROVISIONS	
12.	Fund.
13.	Accounts and audit.
CHAPTER V	
MISCELLANEOUS	
14.	Annual report of the Commission.
15.	Assistance to the Commission.
16.	Indemnity.
17.	Members and officers to be public servants
18.	Delegation of powers.
19.	Power to make rules.

¹THE PUNJAB COMMISSION ON THE STATUS OF WOMEN ACT 2014

(Act I of 2014)

[24 February 2014]

An Act to provide for the establishment of Punjab Commission on the Status of Women.

Preamble. – Whereas it is expedient to establish Punjab Commission on the Status of Women for the empowerment of women, expansion of opportunities for socio-economic development of women and elimination of all forms of discrimination against women and for ancillary matters;

It is enacted as follows: -

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement. – (1) This Act may be cited as the Punjab Commission on the Status of Women Act, 2014.

(2) It shall extend to the whole of the Punjab.

(3) It shall come into force at once.

2. Definitions. – In this Act—

- (a) “Chairperson” means Chairperson of the Commission and includes acting Chairperson;
- (b) “Commission” means Punjab Commission on the Status of Women established under the Act;
- (c) “Executive Committee” means the Executive Committee of the Commission;
- (d) “Fund” means the Punjab Commission on the Status of Women Fund established under the Act;
- (e) “girl” means a female human being who has not attained the age of eighteen years;
- (f) “Government” means Government of the Punjab;
- (g) “member” means a member of the Commission;
- (h) “prescribed” means prescribed by rules;
- (i) “Secretary” means Secretary of the Commission; and
- (j) “woman” means a female human being of eighteen years of age or above.

¹ This Act was passed by the Punjab Assembly on 12 February 2014; assented to by the Governor of the Punjab on 19 February 2014; and, was published in the Punjab Gazette (Extraordinary), dated 24 February 2014, pages 2641-45.

CHAPTER II

THE COMMISSION

3. Establishment of the Commission. – (1) The Government shall constitute a Commission to be known as ‘Punjab Commission on the Status of Women’.

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

(3) The Commission shall consist of–

- (a) the Chairperson, who shall be a woman having experience for more than fifteen years of working on issues relating to women and their rights;
- (b) one member from each Division of the Punjab, preferably women, but at least fifty percent members shall be women;
- (c) one-woman member who is a non-Muslim;
- (d) Secretaries to the Government, Law and Parliamentary Affairs, Finance, Planning and Development, Home, and Women Development Departments or their representatives not below the rank of Additional Secretaries;
- (e) President, Women Chamber of Commerce and Industries, Central and North Punjab for the first term of three years, followed by President, Women Chamber of Commerce and Industries, South Punjab for the second term of three years, and thereafter, in like order and for like term; and
- (f) Secretary of the Commission.

4. Appointment of Chairperson. – (1) The Government shall appoint the Chairperson on the recommendations of a search committee headed by Chief Secretary of the Government and consisting of the following: -

- (a) two female members of the Provincial Assembly of the Punjab, one each nominated by the Government and the Leader of Opposition in the Provincial Assembly; and
- (b) Secretaries to the Government, Law and Parliamentary Affairs, Finance, Human Rights and Women Development Departments.

(2) The Chairperson shall be appointed on such terms and conditions as may be prescribed and, until prescribed, as the Government may determine.

² [(3) * * * * *]

(4) If the office of the Chairperson falls vacant owing to death, illness, resignation or otherwise, the Government shall appoint a woman member of the Commission to act as Chairperson

² First substituted by the Punjab Commission on the Status of Women (Amendment) Act 2016 (XXXI of 2016) for the following:

“(3) The Chairperson shall be a full-time officer of the Commission and shall have the status equivalent to BS-21 officer of the Government.”

Now omitted the following by the Punjab Commission on the Status of Women (Amendment) Act 2022 (XXIII of 2022):

“(3) The Chairperson shall be a full-time officer of the Commission entitled to remuneration in management position scale-I (MP-I)”

for a period not exceeding three months or until the appointment of a new Chairperson, whichever is earlier.

³ **[5. Appointment of members.** – (1) The Government shall, in consultation with the Chairperson, appoint members mentioned in clauses (b) and (c) of sub-section (3) of section 3 in such manner and on such terms and conditions as may be prescribed and until so prescribed, as the Government may determine.

(2) A member appointed under sub-section (1) shall not be less than thirty years of age and more than sixty-five years of age, and shall have experience of working on issues relating to women rights.

(3) The Government shall, in consultation with the Chairperson, within thirty days of occurrence of a vacancy, appoint a member for the residual term of the outgoing member.]

6. Term of office. – (1) Subject to section 7, a person appointed as the Chairperson or a member, other than *ex officio* member, shall hold office for a term of three years from the date he enters upon the office but the Chairperson or a member shall not hold office for more than two terms.

(2) The Chairperson or a member, other than *ex officio* member, may resign by submitting the resignation to the Government.

7. Removal of Chairperson and members. – The Government may remove the Chairperson or a member, other than *ex officio* member, from the office if–

- (a) after proper inquiry, the Chairperson or the member is found guilty of misconduct; or
- (b) the Chairperson or the member is adjudged as an un-discharged insolvent;
- (c) the Chairperson or the member is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a medical board constituted by the Government; or
- (d) the Chairperson or the member has been sentenced to imprisonment for an offence involving moral turpitude.

8. Secretariat of the Commission. – (1) There shall be a Secretariat of the Commission headed by the Chairperson and consisting of the Secretary and such officers and support staff as may be prescribed and, until prescribed, as the Government may determine.

(2) The terms and conditions of appointment of employees of the Commission shall be such as may be prescribed and, until prescribed, as the Government may determine.

³ Substituted by the Punjab Commission on the Status of Women (Amendment) Act 2016 (XXXI of 2016) for the following:

“**5. Appointment of members.** – (1) The Government shall appoint members mentioned in clauses (b) and (c) of subsection (3) of section 3 in such manner and on such terms and conditions as may be prescribed and until so prescribed, as the Government may determine.

(2) A member appointed under subsection (1) shall not be less than thirty years of age or more than sixty-five years of age and shall have experience of working on issues relating to women and their rights.

(3) The Government shall, within thirty days of occurrence of a vacancy, appoint a member for the residual term of the outgoing member.”

(3) The Chairperson shall be the chief executive of the Commission and shall be responsible for the effective conduct of the business and discharge of functions of the Commission, and for the purpose, the administrative and financial authority of the Commission shall vest in the Chairperson.

(4) The Secretary shall be appointed in such manner as may be prescribed and until prescribed as the Government may determine.

(5) The Secretary shall perform such functions as may be prescribed or as may be assigned by the Commission or the Chairperson.

(6) The Secretary, under instructions of the Commission, shall prepare a draft three years' strategic plan, the annual work plan and budget of the Commission for approval of the Commission.

CHAPTER III

FUNCTIONS OF THE COMMISSION

9. Functions of the Commission. – (1) The Commission shall–

- (a) examine the policy, programs and other measures taken by the Government to materialize gender equality, empowerment of women and their representation and political participation, assess implementation and make suitable recommendations to the concerned authorities;
- (b) review the Punjab laws, rules and regulations affecting the status and rights of women and suggest repeal, amendment or new legislation essential to eliminate discrimination, safeguard and promote the interest of women and achieve gender equality in accordance with the Constitution and obligations under national and international covenants and commitments;
- (c) sponsor, steer and encourage research to generate information, analysis and studies and maintain a database relating to women and gender issues to provide knowledge and awareness for provincial policy and strategic action for women empowerment;
- (d) develop and maintain interaction and dialogue with non-governmental organizations, experts and individuals in society and an active association with similar commissions and institutions in other territories for collaboration and action to achieve gender equality at the provincial, national, regional and international level;
- (e) mobilize grants from provincial, national and international agency, including multi and bilateral agencies, approved by the Government, for meeting any of its obligations or performing its functions;
- (f) consider, approve and monitor implementation of the strategic plan, annual work plan and the annual budget;
- (g) facilitate and monitor implementation of instruments and obligations affecting women and girls to which Pakistan is a signatory, and advise the Government before

ratification or accession to any such proposed international instrument, covenant, protocol or treaty; and

- (h) perform such other functions as are ancillary to the above functions or as the Government may assign or as may be prescribed.

(2) The Commission may–

- (a) seek and receive information, data and documents from any source or entity in the course of performance of its functions;
- (b) inquire into any complaint of violation of women's rights and make appropriate recommendation for remedial action to the concerned agency or authority;
- (c) call for information or report from any agency or authority of the Government, civil society organization or any autonomous body;
- (d) exercise the powers vested in a civil court under the Code of Civil Procedure, 1908 (V of 1908) for enforcing the attendance of any person and compelling the production of documents;
- (e) inspect any jail, sub-jail or other places of custody, where women and girls are kept, in accordance with relevant laws and rules and after prior permission of the Government and to make appropriate recommendations to the concerned authority or agency;
- (f) act for advocacy, lobbying, coalition building, networking and as a catalyst for promotion of cause of women to facilitate their participation in all spheres of life including legal, economic, social and political empowerment;
- (g) on the recommendation of the executive committee, fix an honorarium or remuneration of advisors, consultants and experts;
- (h) monitor the mechanism and institutional procedure for redressal of violation of women's rights; and
- (i) exercise any power ancillary to above powers or as may be prescribed.

10. Meetings of the Commission. – (1) The Commission shall hold at least four meetings in a year, not less than one in every quarter, on such dates and at such times as the Chairperson may determine.

(2) The Secretary, on the directions of the Chairperson, shall call a meeting of the Commission and shall maintain the minutes of each meeting in the manner prescribed.

(3) The Chairperson, or in case of absence of the Chairperson, a member elected by the members present in the meeting, shall chair a meeting of the Commission.

(4) The quorum for the meeting of the Commission shall be one-half of the total membership of the Commission.

(5) The decisions of the Commission shall be taken by the majority of the members present and voting but, in case of a tie, the Chairperson or the person presiding the meeting shall have a second vote.

(6) A decision of the Commission shall not be invalid merely for the reason of any vacancy or defect in the constitution of the Commission.

(7) All decisions of the Commission shall be authenticated by the signature of the Chairperson or the person who presided the meeting.

11. Committees. – (1) The Commission shall appoint an Executive Committee consisting of the Chairperson and three other members, of whom at least two shall be women.

(2) The Executive Committee shall be responsible to oversee the implementation of the decisions and recommendations of the Commission.

(3) The Commission may constitute such other committees from amongst its members as it deems fit and may refer to any such committee any matter for consideration and report.

(4) The Commission may, if it considers necessary, co-opt in a committee any person possessing special knowledge and expertise in the relevant subject.

(5) All committees of the Commission, except the Executive Committee, shall be constituted for a specified period.

CHAPTER IV

FINANCIAL PROVISIONS

12. Fund. – (1) There shall be a Fund to be known as Punjab Commission on the Status of Women Fund, which shall vest in the Commission.

(2) The Fund shall consist of–

- (a) the grants-in-aid made by the Government;
- (b) donation made by any person, and any provincial, national and international agency;
- (c) income from investment by the Commission; and
- (d) all other sums or properties which may in any manner become payable to or vest in the Commission.

(3) The Fund shall be spent for purposes of performance of duties and discharge of functions by the Commission, including expenses on the Secretariat.

(4) The Commission may invest its Fund or a part of it in the prescribed manner or in accordance with the instructions of the Government.

(5) The Chairperson shall be the principal accounting officer of the Commission.

13. Accounts and audit. – (1) The Commission shall maintain proper accounts and other relevant record and prepare an annual statement of accounts in such manner and form as may be prescribed.

(2) The accounts of the Commission shall be annually audited by the Auditor General of Pakistan.

(3) The Government may conduct or cause to be conducted a special audit of the accounts of the Commission.

(4) The Government shall lay the annual or special audit report of the Commission in the Provincial Assembly of the Punjab and shall comply with the directions of the Provincial Assembly on an audit report of the Commission.

CHAPTER V

MISCELLANEOUS

14. Annual report of the Commission. – (1) In January each year, the Commission shall submit an annual report on performance of each one of its functions to the Government.

(2) The Government shall, at the earliest possible opportunity, lay the annual report of the Commission in Provincial Assembly of the Punjab.

15. Assistance to the Commission. – All Provincial executive authorities shall assist the Commission in the performance of its functions.

16. Indemnity. – No suit, prosecution or legal proceedings shall lie against the Commission, the Chairperson or any member, officer, employee, advisor or consultant of the Commission in respect of anything done in good faith under this Act or the rules or for any order made, publication of report by or under the authority of the Commission.

17. Members and officers to be public servants. – The Chairperson, a member and every officer or employee appointed under this Act or the rules shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

18. Delegation of powers. – The Commission may, subject to such conditions as it may specify, delegate any of its powers or functions to the Executive Committee or to any other committee or to the Chairperson, the Secretary or an officer of the Commission, except the functions of–

- (a) appointment of the Executive Committee or constitution of any other committee;
- (b) the approval of strategic plan, annual work plan, annual performance report and annual budget; and
- (c) recommendations relating to laws, rules, regulations or policies.

19. Powers to make rules. – The Government may, in consultation with the Commission and by notification in the official Gazette, make rules for purposes of giving effect to the provisions of this Act.

THE PUNJAB FAIR REPRESENTATION OF WOMEN ACT 2014

(Act IV of 2014)

C O N T E N T S

Section	Heading
1.	Short title and commencement.
2.	Amendment of certain laws.
3.	Schedule

¹THE PUNJAB FAIR REPRESENTATION OF WOMEN ACT 2014

(Act IV of 2014)

[12 March 2014]

An Act to amend certain laws of the Punjab for purposes of fair representation of women in decision-making process and their empowerment.

Whereas it is expedient to amend certain laws of the Punjab for purposes of ensuring fair representation of women in decision-making bodies and their empowerment;

It is enacted as follows: -

1. Short title and commencement. – (1) This Act may be cited as the Punjab Fair Representation of Women Act 2014.

(2) It shall come into force at once.

2. Amendment of certain laws. – The laws specified in the second column of the Schedule appended to this Act are amended to the extent and in the manner mentioned in the third column of the Schedule.

SCHEDULE

Sr. No.	Short title and number of the Act/Ordinance	Amendments
1.	The Town Improvement Act, 1922 (IV of 1922)	For section 4, the following shall be substituted:- “ 4. Constitution of Trust. – The Trust shall consist of a chairman and such other trustees including at least thirty three percent women, as may be appointed by the Provincial Government.”
2.	The Punjab Government Educational and Training Institution Ordinance, 1960 (XI of 1960)	In section 4, in subsection (1), after the word “members”, the words “including at least three women” shall be inserted.
3.	The Punjab Government Servants Benevolent Fund Ordinance, 1960	In section 6, in subsection (1)– (a) in clause (a), after the word and brackets “(Gazetted)”, the words “which shall include at least one female officer in BS-19 or above” shall be inserted;

¹ [This](#) Act was passed by the Punjab Assembly on 8 March 2014; assented to by the Governor of the Punjab on 11 March 2014; and, was published in the Punjab Gazette (Extraordinary), dated 12 March 2014, pages 2733-44.

Sr. No.	Short title and number of the Act/Ordinance	Amendments
	(XIV of 1960)	(b) in clause (b), after the word and brackets “(Non-Gazetted)”, the words “which shall include at least thirty three percent women” shall be inserted; (c) in clause (c), after the words “each District”, the words “which shall include at least thirty three percent women” shall be inserted; and (d) in clause (d), after the word “Management”, the words “which shall include at least one female officer in BS-19 or above,” shall be inserted.
4.	The Minimum Wages Ordinance 1961 (XXXIX of 1961)	In section 3, in subsection (1), for clauses (c) and (d), the following shall be substituted:- "(c) three members to represent the employers of the Province, including at least one woman; and (d) three members to represent the workers of the Province, including at least one woman."
5.	The Punjab Board of Technical Education Ordinance, 1962 (XXXIX of 1962)	In section 4, after subsection (1), the following subsection (1a) shall be inserted:- “(1a) The Controlling Authority, while nominating members specified in clauses (v), (vi) and (ix) of subsection (1), shall nominate at least two women.”
6.	The Provincial Employees’ Social Security Ordinance, 1965 (X of 1965)	In section 5, in subsection (1), for clauses (c) and (d), the following shall be substituted: “(c) three persons to represent the employers, including at least one woman; and (d) three persons to represent the secured persons, including at least one woman.”
7.	The Punjab Social Services Board Ordinance, 1970 (II of 1970)	In section 4, in subsection (7), for the word “two”, the word “three” shall be substituted.
8.	The Punjab Fair Price Shops (Factories) Ordinance, 1971 (XIII of 1971)	In section 10, in subsection (1), in the proviso, for the full stop at the end, a semi-colon shall be substituted and after the existing proviso, the following second proviso shall be inserted:- “Provided further that if women are employed in a factory as workers, their representation at the Managing Committee shall not be less than the proportion of their numerical strength in the work force of the factory.”
9.	The University of the Punjab Act, 1973	1. In section 23, in subsection (1)–

Sr. No.	Short title and number of the Act/Ordinance	Amendments
	(IX of 1973)	(a) in clause (xii), after the figure “15”, the words “including at least five female teachers” shall be inserted; (b) in clause (xiii), after the words “Affiliated Colleges”, the words “including at least two female Principals” shall be inserted; (c) in clause (xiv), after the figure “15”, the words “including at least five female teachers” shall be inserted; (d) in clause (xvi), after the word “representatives”, wherever occurs, the words “including at least one female representative” shall be inserted; (e) in clause (xvii), after the words “Registered Graduates”, the words “including at least two women” shall be inserted; and (f) in clause (xviii), after the word “persons”, the words “including at least two women” shall be inserted. 2. In section 25, in subsection (1)– (a) in clause (iv), after the word “members”, the words “including at least one female member” shall be inserted; (b) in clause (ix), after the word “Lecturer”, the words “out of whom at least one shall be a woman” shall be inserted; and (c) in clause (xi), after the word “one”, the word “female” shall be inserted. 3. In section 27, in subsection (1)– (a) in clause (ix), after the word “Professors”, the words “including at least one female Associate Professor” shall be inserted; (b) in clause (x), after the word “Lecturers”, the words “including at least two women” shall be inserted; (c) in clause (xi), for the word “one”, occurring for the second time, the word “two” shall be substituted; (d) in clause (xii), for the word “one”, occurring for the second time, the word “two” shall be substituted; and (e) in clause (xiii), after the word “persons”, the words “including at least one woman” shall be inserted

Sr. No.	Short title and number of the Act/Ordinance	Amendments
10.	The University of Agriculture Faisalabad Act, 1973 (XII of 1973)	1. In section 22, in subsection (1)– (a) in clause (x), after the word “fifteen”, the words “including at least three female teachers of the University” shall be inserted; (b) in clause (xii), after the word “experts”, the words “including at least two female experts” shall be inserted; and (c) in clause (xviii), after the word “members”, the words “including at least one female representative” shall be inserted. 2. In section 24, in subsection (1): (a) in clause (iv), after the word “members”, the words “including at least one female member” shall be inserted; (b) in clause (ix), after the word “Lecturer”, the words “out of whom at least one shall be a woman” shall be inserted; and (c) in clause (xi), after the word “one”, the word “female” shall be inserted. 3. In section 26, in subsection (1), in clause (vii), after the word “Instructors”, the words “out of whom at least two shall be women” shall be inserted.
11.	The Punjab Small Industries Corporation Act, 1973 (XV of 1973)	In section 5, in subsection (1), in clause (6), after the word “members”, the words “including at least one woman, if available” shall be inserted.
12.	The University of Engineering and Technology Lahore Act, 1974 (V of 1974)	1. In section 21, in subsection (1)– (a) in clause (x), after the word “themselves”, the words “out of whom at least seven shall be female teachers” shall be inserted; (b) in clause (xiii), after the word “representatives”, the words “including at least one female representative” shall be inserted; (c) in clause (xiv), after the words “Registered Graduates”, the words “including at least one woman” shall be inserted; and (d) in clause (xv), after the word “persons”, the words “including at least one woman” shall be inserted. 2. In section 23, in subsection (1)–

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(a) in clause (iv), after the word “members”, the words “including at least one female member” shall be inserted; and (b) in clause (ix), after the word “Lecturer”, the words “out of whom at least two shall be women” shall be inserted. 3. In section 25, in subsection (1), in clause (viii), after the word “persons”, the words “including at least one woman” shall be inserted.
13.	The Bahauddin Zakariya University Act, 1975 (III of 1975)	1. In section 23, in subsection (1)– (a) in clause (xii), after the figure “15”, the words “including at least five women” shall be inserted; (b) in clause (xiii), after the words “Affiliated Colleges”, the words “including at least two female Principals” shall be inserted; (c) in clause (xiii-a), after the words “ten teachers”, the words “including at least three female teachers” shall be inserted; (d) in clause (xv), after the word “representatives”, wherever occurs, the words “including at least one female representative” shall be inserted; (e) in clause (xvi), after the words “Registered Graduates”, the words “including at least two women” shall be inserted; and (f) in clause (xvii), after the word “persons”, the words “including at least two women” shall be inserted. 2. In section 25, in subsection (1): (a) in clause (iv), after the word “members”, the words “including at least one female member” shall be inserted; (b) in clause (ix), after the word “Lecturer”, the words “out of whom at least one shall be a woman” shall be inserted; (c) in clause (xi), after the word “one”, the word “female” shall be inserted. 3. In section 27, in subsection (1): (a) in clause (x), after the word “Professors”, the words “including at least one female Associate Professor” shall be inserted; and

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(b) in clause (xi), after the word “Lecturers”, the words “out of whom at least two shall be women” shall be inserted.
14.	The Islamia University of Bahawalpur Act, 1975 (IV of 1975)	1. In section 22, in subsection (1)– (a) in clause (xi), after the figure “5”, the words “including at least two female teachers” shall be inserted; (b) in clause (xii), after the words “Affiliated Colleges”, the words “including at least one female Principal” shall be inserted; (c) in clause (xiii), after the word “five”, the words “including at least two women” shall be inserted; (d) in clause (xv), after the word “representatives”, wherever occurs, the words “including at least one female representative” shall be inserted; (e) in clause (xvi), after the words “Registered Graduates”, the words “including at least one woman” shall be inserted; and (f) in clause (xvii), after the word “persons”, the words “including at least one woman” shall be inserted. 2. In section 24, in subsection (1)– (a) in clause (iv), after the word “members”, the words “including at least one female member” shall be inserted; (b) in clause (ix), after the word “Lecturer”, the words “out of whom at least one shall be a woman” shall be inserted; and (c) in clause (xi), after the word “one”, the word “female” shall be inserted. 3. In section 26, in subsection (1)– (a) in clause (ix), after the word “Lecturers”, the words “out of whom at least one shall be a woman” shall be inserted; and (b) in clause (xii), after the word “persons”, the words “including at least one woman” shall be inserted.
15.	The Punjab Council of the Arts Act, 1975 (XXIV of 1975)	In section 4, in subsection (1)– (a) in clause (d), after the word “members”, the words “including at least two female members” shall be inserted; and (b) in clause (l), after the words “sixteen persons”, the words “including at least five women” shall be inserted.

Sr. No.	Short title and number of the Act/Ordinance	Amendments
16.	The Punjab Seed Corporation Act, 1976 (X of 1976)	In section 4, in subsection (3)– (a) for clause (e), the following shall be substituted:- “two representatives including at least one female representative, if available from the farming community to be nominated by the Government”; and (b) for clause (f), the following shall be substituted: “two representatives including at least one female representative, if available from the seed trade to be nominated by the Government”.
17.	The Punjab Boards of Intermediate and Secondary Education Act, 1976 (XIII of 1976)	In section 5, in subsection (1)– (a) in clause (vii), after the word “one”, the word “female” shall be inserted; and (b) in clause (ix), for the word “two persons”, the words “including at least one woman” shall be inserted.
18.	The Cholistan Development Authority Act, 1976 (XIV of 1976)	In section 4, in subsection (3), in clause (b), after the word “members”, the words “including at least one female member” shall be inserted.
19.	The Punjab Economic Research Institute Ordinance, 1980 (X of 1980)	In section 5, in subsection (2), in clause (9), after the word “members”, the words “including at least one female member” shall be inserted.
20.	The Zakat and Ushr Ordinance, 1980 (XVIII of 1980)	1. In section 14, in subsection (2), in clause (c), for the word “two”, the word “three” shall be substituted. 2. In section 16, in subsection (3), in clause (a), for the word “two”, the word “three” shall be substituted. 3. In section 18– (a) in subsection (3), for the word “two”, the word “three” shall be substituted; and (b) in subsection (4), in the third proviso, for the word “two”, the word “three” shall be substituted.
21	The Disabled Persons (Employment and Rehabilitation) Ordinance, 1981 (XL of 1981)	In section 5, in clause (m), after the words “four persons”, the words “including at least two women” shall be inserted.
22.	The Employment of Children Act 1991 (V of 1991)	In section 5, in subsection (2), after the word “experts”, the words “including four women” shall be inserted.

Sr. No.	Short title and number of the Act/Ordinance	Amendments
23.	The Punjab Bait-ul-Maal Act, 1991 (VII of 1991)	In section 2, in subsection (3), after the word “members”, the words “including at least four women” shall be inserted.
24.	The Punjab Health Foundation Act, 1992 (XI of 1992)	In section 3, in subsection (1), after the words “non-official members”, the words “with at least thirty three percent female members from amongst the non-official members” shall be inserted.
25.	The University of Engineering and Technology Taxila Act, 1994 (XII of 1994)	1. In section 21, in subsection (1)– (a) in clause (i), after the word “eminent”, the word “female” shall be inserted; and (b) in clause (o), after the word “one”, the word “female” shall be inserted. 2. In section 23, in subsection (1)– (a) in clause (h), after the word “teachers”, the words “including at least one female teacher” shall be inserted; and (b) in clause (i), after the word “persons”, the words “including at least one woman” shall be inserted.
26.	The Pir Mehr Ali Shah Arid Agriculture University Rawalpindi Act 1995 (V of 1995)	1. In section 21, in subsection (1)– (a) in clause (b), after the word “one”, the word “female” shall be inserted; (b) in clause (i), after the word “themselves”, the words “out of whom at least one shall be a woman” shall be inserted. 2. In section 23, in subsection (1)– (a) in clause (g), after the word “Instructors”, the words “out of whom at least two shall be women” shall be inserted; (b) in clause (m), after the word “Scientists”, the words “including at least one female scientist, if available” shall be inserted.
27.	The Punjab Irrigation and Drainage Authority Act 1997 (XI of 1997)	In section 3, in subsection (3), after the words “number of the farmer members”, the words “out of whom at least four shall be women” shall be inserted.
28.	The Punjab Agriculture Research Board Act, 1997 (XIV of 1997)	In section 4– (a) for subsection (1), for the word “fifteen”, the word “sixteen” shall be substituted; and (b) for subsection 3, the following shall be substituted:-

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		“(3) Not less than three members of Provincial Assembly of the Punjab including at least one female member and three representatives of the farmers including at least one female representative shall be the members of the Board.”
29.	The Punjab Environmental Protection Act, 1997 (XXXIV of 1997)	In section 3, in subsection (1), in clause (iii), for the semi-colon and the word “and”, a colon shall be substituted and thereafter the following proviso shall be added: “Provided that at least one female member of the Assembly and at least four women shall be appointed as non-official members; and”.
30.	The Punjab Information Technology Board Ordinance, 1999 (XLIV of 1999)	In section 3, in subsection (1), after the word “members”, the words “including at least thirty three percent women” shall be inserted.
31.	Fatima Jinnah Women University Rawalpindi Ordinance, 1999 (XLIII of 1999)	1. In section 20, in subsection (1)– (a) in clause (ix), after the word “Division”, the words “out of whom at least two shall be female members of the Assembly” shall be inserted; and (b) in clause (x), after the word “one”, the word “female” shall be inserted. 2. In section 22, in subsection (1), in clause (xii), after the word “persons”, the words “including at least two women” shall be inserted.
32.	The Lahore College for Women University, Lahore Ordinance, 2002 (XLIX of 2002)	1. In section 20, in subsection (1)– (a) in clause (vii), after the word “one”, the word “female” shall be inserted; (b) in clause (x), after the word “persons”, the words “including one woman” shall be inserted; and (c) in clause (xiii), after the words “affiliated colleges”, the words “including at least one female Principal” shall be inserted. 2. In section 22, in subsection (1)– (a) in clause (vii), after the word “lecturers”, the words “out of whom at least two shall be women” shall be inserted; (b) in clause (ix), after the word “persons”, the words “including at least two women” shall be inserted; (c) in clause (x), after the word “persons”, the words “including at least one woman” shall be inserted;

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(d) in clause (xiii), after the word “persons”, the words “including at least one woman” shall be inserted; and (e) in clause (xiv), after the word “experts”, the words “including at least one female expert” shall be inserted.
33.	The Punjab Housing and Town Planning Agency Ordinance, 2002 (LXXVIII of 2002)	In section 3, in subsection (3)– (a) in clause (g), after the word “architects”, the words “preferably one woman” shall be inserted; and (b) in clause (i), after the word “persons”, the words “including at least two women” shall be inserted.
34.	The University of Veterinary and Animal Sciences, Lahore Ordinance, 2002 (XXIX of 2002)	1. In section 22, in subsection (1)– (a) for clause (ii), the following shall be substituted:- “(ii) four senior scientists including at least two women to be nominated by the Chancellor”; and (b) in clause (vii), after the word “eminence”, the words “including at least one woman” shall be inserted. 2. In section 24, in subsection (1), in clause (viii), after the word “Scientists”, the words “including at least one female Scientist” shall be inserted.
35.	The Government College University Lahore Ordinance, 2002 (XLVIII of 2002)	1. In section 20, in subsection (1)– (a) in clause (vii), after the word “one”, the word “female” shall be inserted; (b) in clause (x), after the word “persons”, the words “including at least one woman” shall be inserted; (c) in clause (xiii), after the words “affiliated colleges”, the words “including at least one female Principal” shall be inserted; and (d) in clause (xv), after the word “members”, the words “including at least one female member” shall be inserted. 2. In section 22, in subsection (1)– (a) in clause (vii), after the word “lecturers”, the words “out of whom at least two shall be women” shall be inserted; (b) in clause (ix), after the word “persons”, the words “including at least two women” shall be inserted; (c) in clause (x), after the word “persons”, the words “including at least one woman” shall be inserted; (d) in clause (xiii), after the word “persons”, the words “including at least one woman” shall be inserted; and

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(e) in clause (xiv), after the word “experts”, the words “including at least one female expert” shall be inserted
36.	The University of Education, Lahore Ordinance, 2002 (L of 2002)	1. In section 19, in subsection (1)– (a) in clause (f), after the word “one”, the word “female” shall be inserted; and (b) in clause (j), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted. 2. In section 21, in subsection (1)– (a) in clause (e), after the word “teachers”, the words “including at least one female teacher” shall be inserted; (b) in clause (g), after the word “persons”, the words “including at least one woman” shall be inserted; and (c) in clause (h), after the word “experts”, the words “including at least one female expert” shall be inserted.
37.	The Lahore Arts Council Ordinance, 2002 (LXIII of 2002)	In section 8, in subsection (1), after the words “twelve non official members”, the words “including at least four women” shall be inserted.
38.	The University of Health Sciences Lahore Ordinance 2002 (LVIII of 2002)	1. In section 23, in subsection (1), in clause (i), after the word “members”, the words “including at least two women” shall be inserted. 2. In section 26, in subsection (1)– (a) in clause (vi), after the word “personalities”, the words “including at least one woman” shall be inserted; and (b) in clause (vii), after the word, “affiliated colleges”, the words “including at least one female Principal, if available” shall be inserted.
39.	The Government College University Faisalabad Ordinance, 2002 (LXX of 2002)	1. In section 20, in subsection (1)– (a) in clause (viii), after the word “persons”, the words “including at least two women” shall be inserted; (b) in clause (xi), after the words “affiliated colleges”, the words “including at least one female Principal, if available” shall be inserted; and (c) in clause (xiii), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted.

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		2. In section 22, in subsection (1)– (a) in clause (iv), after the word “Principals”, the words “including at least one female Principal, if available” shall be inserted; (b) in clause (vi), after the word “lecturers”, the words “out of whom at least two shall be women” shall be inserted; (c) in clause (viii), after the word “persons”, the words “including at least two women” shall be inserted; (d) in clause (xi), after the word “persons”, the words “including at least one woman” shall be inserted; and (e) in clause (xii), after the word “experts”, the words “including at least one female expert” shall be inserted.
40.	The Punjab Medical and Health Institutions Act, 2003 (IX of 2003)	1. In section 6, in subsection (1), in clause (e), after the word “members”, the words “including at least two women” shall be inserted. 2. In section 10, in subsection (2), after the word “members”, the words “including at least thirty three percent women” shall be inserted.
41.	The University of Sar godha Ordinance, 2002 (LXXX of 2002)	1. In section 20, in subsection (1)– (a) in clause (viii), after the word “persons”, the words “including at least two women” shall be inserted; (b) in clause (x), after the word “colleges”, the words “including at least one female Principal, if available” shall be inserted; (c) in clause (xi), after the words “affiliated colleges”, the words “including at least one female Principal, if available” shall be inserted; and (d) in clause (xiii), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted. 2. In section 22, in subsection (1)– (a) in clause (iv), after the word “Principals”, the words “including at least one female Principal, if available” shall be inserted; (b) in clause (vi), after the word “lecturers”, the words “out of whom at least two shall be women” shall be inserted; (c) in clause (viii), after the word “persons”, the words “including at least two women” shall be inserted;

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(d) in clause (xi), after the word “persons”, the words “including at least one woman” shall be inserted; and (e) in clause (xii), after the word “experts”, the words “including at least one female expert” shall be inserted.
42.	The University of Gujrat Act, 2004 (IX of 2004)	1. In section 21, in subsection (1)– (a) in clause (ii), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted; (b) in clause (ix), after the word “persons”, the words “including at least two women” shall be inserted;
		(c) in clause (xi), after the words “constituent colleges”, the words “including at least one female Principal, if available” shall be inserted; and (d) in clause (xii), after the word “affiliated colleges”, the words “including at least one female Principal, if available” shall be inserted. 2. In section 23, in subsection (1)– (a) in clause (iv), after the words “affiliated colleges”, the words “including at least one female Principal, if available” shall be inserted; (b) in clause (vi), after the word “lecturers”, the words “out of whom at least two shall be women” shall be inserted; (c) in clause (viii), after the word “persons”, the words “including at least two women” shall be inserted; (d) in clause (xi), after the word “persons”, the words “including at least one woman” shall be inserted; and (e) in clause (xii), after the word “experts”, the words “including at least one female expert” shall be inserted.
43.	The Punjab Government Servants Housing Foundation Act 2004 (X of 2004)	In section 4, in subsection (1)– (a) in clause (g), after the word “Punjab”, the words “including at least one female civil servant” shall be inserted; and (b) in clause (h), after the word “persons”, the words “including at least one woman” shall be inserted.
44.	The Punjab Journalists Housing Foundation Act 2004	In section 4, in subsection (1), in clause (d), after the words “provided that”, the words “at least one of them shall be a female member of the Assembly and” shall be inserted.

Sr. No.	Short title and number of the Act/Ordinance	Amendments
	(XI of 2004)	
45.	The Punjab Destitute and Neglected Children Act 2004 (XVIII of 2004)	In section 6, in subsection (1)– (a) in clause (e), after the words “provided that”, the words “at least one of them shall be a female member of the Assembly and” shall be inserted; (b) in clause (f), after the word “agencies”, the words “including at least one woman” shall be inserted; (c) in clause (g), after the word “sciences”, the words “including at least one female Professor” shall be inserted; and (d) in clause (h), after the word “persons”, the words “including at least two women” shall be inserted.
46.	The Punjab Institute of Language, Art and Culture Act, 2004 (XXI of 2004)	In section 5, in subsection (1), in clause (l), after the word “members”, the words “including at least two women” shall be inserted.
47.	The King Edward Medical University Lahore Act 2005 (V of 2005)	1. In section 22, in subsection (1)– (a) in clause (xx), after the word “Punjab”, the words “including at least two female member of the Assembly” shall be inserted; and (b) in clause (xxiv), after the word “persons”, the words “including at least two women” shall be inserted. 2. In section 24, in subsection (1)– (a) in clause (j), after the word “Professors”, the words “including at least one female Professor” shall be inserted; (b) in clause (k), after the word “college”, the words “including at least one female Principal” shall be inserted; (c) in clause (l), after the word “nominees”, the words “including at least one woman” shall be inserted; (d) in clause (r), after the word “bankers”, the words “including at least one woman” shall be inserted; and (e) in clause (s), after the word “NGOs”, the words “including at least one woman” shall be inserted. 3. In section 26, in subsection (1)– (a) in clause (v), after the word “Professors”, the words “including at least one female” shall be inserted; and

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(b) in clause (ix), after the word “Professors”, the words “including at least one female Assistant Professor” shall be inserted.
48.	The Punjab Emergency Service Act 2006 (IV of 2006)	In section 6, in subsection (1), in clause (l), after the word “representatives”, the words “including at least one female representative” shall be inserted.
49.	The Punjab Procurement Regulatory Authority Act 2009 (VIII of 2009)	In section 6, in subsection (2)– (a) in clause (g), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted; and (b) in clause (h), after the word “industry”, the words “including at least one female” shall be inserted.
50.	The Punjab Privatization Board Act 2010 (IV of 2010)	In section 4, in subsection (1), in clause (a), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted.
51.	The Punjab Daanish Schools and Centers of Excellence Authority Act 2010 (V of 2010)	In section 3, in subsection (4), in clause (b), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted.
52.	The Punjab Technical Education and Vocational Training Authority Act 2010 (X of 2010)	In section 4, in subsection (1), after the word “members”, the words “including at least thirty three percent female members” shall be inserted.
53.	The Punjab Examination Commission Act 2010 (XI of 2010)	In section 4, in sub-section (1)– (a) in clause (a), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted; (b) in clause (j), after the word “educationists”, the words “including at least one female educationist” shall be inserted; and (c) in clause (k), after the word “schools”, the words “including at least one woman” shall be inserted.
54.	The Women University Multan Act 2010 (XV of 2010)	1. In section 19, in subsection (1)– (a) in clause (vii), after the word “one”, the word “female” shall be inserted; (b) in clause (ix), after the word “eminence”, the words “including at least one woman” shall be inserted;

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(c) in clause (xi), after the words “constituent colleges”, the words, “including at least one female Principal” shall be inserted; and (d) in clause (xii) after the words “affiliated colleges”, the words “including at least one female Principal” shall be inserted. 2. In section 21, in sub-section (1)– (a) in clause (vii), after the word “persons”, the words “including at least one woman” shall be inserted; and (b) in clause (ix), after the word “experts”, the words “including at least two female experts” shall be inserted. 3. In section 26, in subsection (1)– (a) in clause (d), after the word “one”, the word “female” shall be inserted; and (b) in clause (f), after the word “experts”, the words “including at least one female expert” shall be inserted.
55.	The Punjab Industrial Relations Act 2010 (XIX of 2010)	1. In section 6, in subsection (2)– (a) in clause (a), the word “and” shall be omitted; and (b) in clause (b), for the full stop a semi-colon and the word “and” shall be substituted, and the following clause (c) shall be inserted: “(c) If women are employed as workers in the establishment, group of establishments or industry with which the trade union is connected, unless it has included the female workers in the executive body, not being less than the proportion of their numerical strength in the work force of the establishment, group of establishments or industry.” 2. In section 29, in subsection (2), in clause (b), for the full stop at the end, a semi-colon and the word “and” shall be substituted and the following clause (c) shall be inserted: “(c) if women are employed as workers in the establishment, be women not less than the proportion of their numerical strength in the work force of the establishment.”
56.	The Punjab Holy Quran (Printing and Recording) Act, 2011 (XIII of 2011)	In section 4, in subsection (1), after the word “Muslims”, the words “out of whom at least thirty three percent shall be women, if available” shall be inserted.

Sr. No.	Short title and number of the Act/Ordinance	Amendments
57.	The Punjab Food Authority Act 2011 (XVI of 2011)	In section 4— (1) in subsection (1)— (a) in clause (f), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted; (b) in clause (g), after the word “scientists”, the words “including at least one female scientist” shall be inserted; (c) in clause (k), after the word “farmers”, the words “including at least one female representative” shall be inserted; (d) in clause (l), after the word “consumers”, the words “including at least one female consumer” shall be inserted; and (2) after subsection (1), the following subsection (1a) shall be inserted:- “(1a) The Government shall, while appointing members mentioned in clauses (h), (i) and (j) of subsection (1), appoint at least one female belonging to any of those categories.”
58.	The Lahore Ring Road Authority Act 2011 (XVII of 2011)	In section 7, in subsection (3), for the full stop, a semi-colon shall be substituted and thereafter, the following proviso shall be inserted:- “Provided that the Government shall give preference to a female professional”
59.	The Punjab Power Development Board Act 2011 (XVIII of 2011)	In section 4— (a) in subsection (1), for the word “ten”, the word “twelve” shall be substituted; and (b) for subsection (2), the following shall be substituted:- “(2) The Government shall appoint two members from amongst the representatives of the private power producers including at least one woman, if available and four members of the Provincial Assembly of the Punjab including at least two female members of the Assembly.”
60.	The Parks and Horticulture Authority Act 2012 (XLVII of 2012)	1. In section 6, in subsection (2)— (a) in clause (c), after the word “Punjab”, the words “including at least one female member” shall be inserted; and

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(b) in clause (j), after the word “environmentalists”, the words “including at least one female environmentalist” shall be inserted. (2) After subsection (2), the following subsection (2a) shall be inserted:- “(2a) The Government shall, while appointing members mentioned in clauses (k) and (l) of subsection (1) appoint at least one woman from any of those categories.”
61.	The Information Technology University of the Punjab Act 2012 (LIV of 2012)	1. In section 19, in subsection (1)– (a) in clause (i), after the word “Deans” the words “including at least one female Dean, if available” shall be inserted; (b) in clause (j), after the word “persons”, the words “including at least two women” shall be inserted; and (c) in clause (k), after the words “affiliated colleges”, the words “including at least one female Principal, if available” shall be inserted. 2. In section 21, in subsection (1)– (a) in clause (d), after the word “themselves”, the words “out of whom at least one shall be a woman” shall be inserted; and (b) in clause (e), after the word “experts”, the words “including at least one female expert” shall be inserted. 3. In section 26, in subsection (1)– (a) in clause (d), after the word “one”, the word “female” shall be inserted; and (b) in clause (f), after the word “experts”, the words “including at least one female expert” shall be inserted.
62.	The Ghazi University, Dera Ghazi Khan Act 2012 (XXIX of 2012)	1. In section 19, in subsection (1)– (a) in clause (j), after the word “persons”, the words “including at least one woman” shall be inserted; (b) in clause (m), after the words “affiliated colleges”, the words “including at least one female Principal, if available” shall be inserted; and (c) in clause (n), after the word “Punjab”, the words “including at least one female member of the Assembly” shall be inserted.
63.	The Punjab Metrobus Authority Act 2012 (LVI of 2012)	In section 3, in subsection (6)–

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(a) in clause (d), after the word “members”, the words “including at least one female member” shall be inserted; and (b) in clause (e), after the word “persons”, the words “including at least one woman” shall be inserted.
64.	The Government College Women University Faisalabad Act 2012 (VI of 2013)	1. In section 19, in subsection (1), in clause (j), after the word “persons”, the words “at least one woman” shall be inserted. 2. In section 21, in subsection (1)– (a) in clause (vii), after the word “persons”, the words “including at least one woman” shall be inserted; and (b) in clause (ix), after the word “experts”, the words “including at least two female experts” shall be inserted. 3. In section 26, in subsection (1)– (a) in clause (d), after the word “one”, the word “female” shall be inserted; and (b) in clause (f), after the word “experts”, the words “including at least one female expert” shall be inserted.
65.	The Government College Women University Sialkot Act 2012 (VII of 2013)	1. In section 19, in subsection (1), in clause (j), after the word “persons”, the words “including at least one woman” shall be inserted. 2. In section 21, in subsection (1)– (a) in clause (vii), after the word “persons”, the words “including at least one woman” shall be inserted; and (b) in clause (ix), after the word “experts”, the words “including at least two female experts” shall be inserted. 3. In section 26, in subsection (1)– (a) in clause (d), after the word “one”, the word “female” shall be inserted; and (b) in clause (f), after the word “experts”, the words “including at least one female expert” shall be inserted.
66.	The Government Sadiq College Women University Bahawalpur Act 2012 (VIII of 2013)	1. In section 19, in subsection (1), in clause (j), after the word “persons”, the words “including at least one woman” shall be inserted. 2. In section 21, in subsection (1)– (a) in clause (vii), after the word “persons”, the words “including at least one woman” shall be inserted; and (b) in clause (ix), after the word “experts”, the words “including at least two female experts” shall be inserted. 3. In section 26, in subsection (1)–

Sr. No.	Short title and number of the Act/Ordinance	Amendments
		(a) in clause (d), after the word “one”, the word “female” shall be inserted; and (b) in clause (f), after the word “experts”, the words “including at least one female expert” shall be inserted.

**THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE
ACT, 2010**

(Act IV of 2010)

C O N T E N T S

Section	Heading
1.	Short title, extent and commencement.
2.	Definitions
3.	Inquiry Committee
4.	Procedure for holding inquiry
5.	Powers of the Inquiry Committee
6.	Appeal against minor and major penalties
7.	Ombudsperson
8.	Ombudsperson to enquire into complaint
9.	Representation to Governor
10.	Powers of the Ombudsperson
11.	Responsibility of employer
12.	Provisions of the Act in addition to and not in derogation of any other law
13.	Power to make rules
SCHEDULE	

**THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE
ACT, 2010**

(IV of 2010)

[11 March 2010]

An Act to make provisions for the Protection Against Harassment of Women at the Workplace.

WHEREAS the constitution of the Islamic Republic of Pakistan recognizes the fundamental rights of citizens to dignity of person;

AND WHEREAS it is expedient to make this provision for the protection of women from harassment at the workplace;

It is hereby enacted as follows: -

1. Short title, extent and commencement. – (1) This Act may be called the Protection Against Harassment of Women at the Workplace Act, 2010.

^[2](2) It extends to whole of the Punjab.]

(3) It shall come into force at once.

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

- (a) “accused” means an employee or employer of an organization against whom complaint has been made under this Act;
- (b) “CBA” means Collective Bargaining Agent as provided in the ^[3][Punjab Industrial Relations Act 2010 (XIX of 2010)], or any other law for the time being in force
- (c) “Code” means the Code of Conduct as mentioned in the Schedule to this Act;
- (d) “Competent Authority” means the authority as may be designated by the management for the purposes of this Act;
- (e) “Complainant” means a woman or man who has made a complaint to the ^[4][Ombudsperson] or to the Inquiry Committee on being aggrieved by an act of harassment;
- (f) “Employee” means a regular or contractual employee whether employed on daily, weekly, monthly or hourly basis, and includes an intern or an apprentice;
- (g) “Employer” in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whatsoever and includes–

1 This Act of Parliament received the assent of the President on 9th March 2010 and published in the Gazette of Pakistan (Extraordinary), Pt. I, dated 11th March 2010, pages 63-74.

This Act was originally in the Federal ambit, however, the subject on which this law was enacted devolved to the provinces by virtue of 18th Amendment in the Constitution, hence it was adapted, with amendments, for the province of the Punjab by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act 2012 (III of 2013).

2 Substituted by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013).

3 *Ibid.*, for “Industrial Relations Act 2008 (IV of 2008)”.

4 *Ibid.* for “Ombudsman”.

- (i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;
- (ii) any person responsible for the direction, administration, management and control of the management;
- (iii) ^[5] the authority, in relation to an organization or group of organizations run by or under the authority of the Government, the Federal Government or any other Provincial Government, appointed in this behalf or, where no such authority is appointed, the head of the organization or group of organizations;]
- (iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;
- (v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof;
- (vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and
- (vii) office bearers of ^[6][* * *] a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;

^[7][(gg) “Government” means Government of the Punjab;]

- (h) “harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;
- (i) “Inquiry Committee” means the Inquiry Committee established under sub-section (1) of section 3;
- (j) “management” means a person or body of persons responsible for the management of the affairs of an organization and includes an employer;
- (k) “^[8][Ombudsperson]” means the ^[9][Ombudsperson] appointed under section 7;
- (l) “organization” means a Federal or Provincial Government Ministry, Division or department, a corporation or any autonomous or semiautonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial

5 Substituted by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013).

6 The words “a department or a Division of” omitted *ibid*.

7 Inserted *ibid*.

8 Substituted for the word “Ombudsman” by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013).

9 *Ibid*.

Government or District Government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;

(m) “Schedule” means Schedule annexed to this Act;

(n) “workplace” means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

3. Inquiry Committee. – (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority.

4. Procedure for holding inquiry.– (1) The Inquiry Committee, within three days of receipt of a written complaint, shall–

(a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;

(b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed *ex-parte*; and

(c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

(3) The following provisions *inter alia* shall be followed by the Committee in relation to inquiry: -

- (a) the statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) an officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (c) both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;
- (d) adverse action shall not be taken against the complainant or the witnesses;
- (e) the Inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and
- (f) the Inquiry Committee shall give its findings in writing by recording reasons thereof.

(4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:-

- (i) Minor penalties—
 - (a) censure;
 - (b) withholding, for a specific period, promotion or increment;
 - (c) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar; and
 - (d) recovery of the compensation payable to the complainant from pay or any other source of the accused;
- (ii) Major penalties—
 - (a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;
 - (b) compulsory retirement;
 - (c) removal from service;
 - (d) dismissal from service; and
 - (e) Fine. A part of the fine can be used as compensation for the complainant. In case of the owner, the fine shall be payable to the complainant.

(5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee.

(6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.

(7) In case the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee. – (1) The Inquiry Committee shall have power–

- (a) to summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to [110](#)[Ombudsperson] for appropriate action against the complainant if allegations leveled against the accused found to be false and made with *mala fide* intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

6. Appeal against minor and major penalties.– (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an [111](#)[Ombudsperson] established under section 7.

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the [112](#)[Ombudsperson].

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(4) [113](#)[* * * * *

(5) [114](#)[* * * * *

[115](#)[7. **Ombudsperson.**– The Government shall appoint the Ombudsperson on such terms and conditions as may be prescribed.

(2) A person shall be qualified to be appointed as the Ombudsperson who is not less than forty five years of age and–

- (a) has been or is qualified to be a Judge of a High Court; or
- (b) has been in the service of Pakistan in BS-20 or above; or
- (c) is an eminent educationist with not less than four years administrative experience.

10 Substituted for the word “Ombudsman” by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013).

11 *Ibid.*

12 *Ibid*

13 Omitted *ibid.*

14 *Ibid.*

15 Substituted *ibid.*

(3) The Ombudsperson 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.

(4) The Ombudsperson may appoint such staff as may be required to achieve the purposes of this Act.]

¹¹⁶[(5) The Ombudsperson shall hold office for a period of four years and shall not be eligible for extension of tenure or re-appointment.

(6) The Ombudsperson may resign from office by writing under her hand addressed to the Governor.]

8. ¹¹⁷[Ombudsperson] to enquire into complaint.— (1) Any employee shall have the option to prefer a complaint either to the ¹¹⁸[Ombudsperson] or the Inquiry Committee.

(2) The ¹¹⁹[Ombudsperson] shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused after the receipt of written notice, shall submit written defense to the ¹²⁰[Ombudsperson] within five days and his failure to do so without reasonable cause the ¹²¹[Ombudsperson] may proceed *ex-parte*. Both the parties can represent themselves before the ¹²²[Ombudsperson].

(3) The ¹²³[Ombudsperson] shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the ¹²⁴[Ombudsperson] deems proper.

(4) For the purposes of an investigation under this Act, the ¹²⁵[Ombudsperson] may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the ¹²⁶[Ombudsperson] is relevant and helpful in the conduct of the investigation.

(5) The ¹²⁷[Ombudsperson] shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

¹²⁸**9. Representation to Governor.** – Any person aggrieved by a decision of the Ombudsperson under sub-section (5) of section 8 may, within thirty days of the communication of the decision, make a representation to the Governor whose decision shall be final.]

16 Added by the Punjab Protection against Harassment of Women at the Workplace (Amendment) Act, 2021 (I of 2022).

17 Substituted for the word “Ombudsman” by the Punjab Protection against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013).

18 *Ibid.*

19 *Ibid.*

20 *Ibid.*

21 *Ibid.*

22 *Ibid.*

23 *Ibid.*

24 *Ibid.*

25 *Ibid.*

26 *Ibid.*

27 *Ibid.*

28 Substituted by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (III of 2013).

10. Powers of the ^[29][Ombudsperson].– The ^[30][Ombudsperson] shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely–

- (i) Summoning and enforcing the attendance of any person and examining him on oath;
- (ii) Compelling the production of evidence;
- (iii) Receiving evidence on affidavits;
- (iv) Issuing commission for the examination of witnesses;
- (v) entering any premises for the purpose of making any inspection or investigation, enter any premises where the ^[31][Ombudsperson] has a reason to believe that any information relevant to the case may be found; and
- (vi) The ^[32][Ombudsperson] shall have the same powers as the High Court has to punish any person for its contempt.

(2) ^[33][Ombudsperson] shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub-section (4) of section 4.

11. Responsibility of employer. – (1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection against harassment at the workplace as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file a ^[34][complaint before the Ombudsperson] and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

^[33][(4) A person aggrieved by an order under sub-section (3) may, within thirty days of the communication of the order, make a representation to the Governor whose decision shall be final.]

12. Provisions of the Act in addition to and not in derogation of any other law.– The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

29 *Ibid.*, for the word “Ombudsman”.

30 *Ibid.*

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

13. Power to make rules.— The ^[34][* * *] Government may make rules to carry out the purposes of this Act.

SCHEDULE

[See sections 2(c) and 11]

CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN AT THE WORKPLACE

Whereas it is expedient to make the Code of Conduct at the Workplace etc. to provide protection and safety to women against harassment, it is hereby provided as under: -

- (i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;
- (ii) “Harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation. – There are three significant manifestations of harassment in the work environment—

(a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual’s work performance or creates an intimidating, hostile, abusive or offensive work environment.

The typical “hostile environment” claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation

³⁴ Substituted for the words “petition before the District Court” by the Punjab Protection Against Harassment of Women at the Workplace (Amendment) Act, 2012 (Act III of 2013).

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (i) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (ii) A complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (iii) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (iv) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (v) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (vi) The complainant may make formal complaint through her incharge, supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (vii) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (viii) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;
- (ix) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any

parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;

- (x) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xi) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc. but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

THE FAMILY COURTS ACT, 1964

(Act XXXV of 1964)

C O N T E N T S

Section	Heading
1.	Short title, extent and commencement.
2.	Definitions.
3.	Establishment of Family Courts.
4.	Qualifications of Judge.
5.	Jurisdiction.
6.	Place of sittings.
7.	Institution of suits.
8.	Intimation to defendant.
9.	Written statement.
10.	Pre-trial proceedings.
11.	Recording of evidence.
12.	Conclusion of trial.
12A.	Cases to be disposed of within a specified period.
13.	Enforcement of decrees.
14.	Appeals.
15.	Power of Family Court to summon witnesses.
16.	Contempt of Family Courts.
17.	Provisions of Evidence Act and Code of Civil Procedure not to apply.
17A.	Suit for maintenance.
17B.	Power of the Court to issue Commission.
18.	Appearance through agents.
19.	Court fee.
20.	Family Court as Judicial Magistrate.
21.	Provisions of Muslim Family Laws Ordinance, 1961 not affected.
21A.	Interim order pending suit.
21B.	Intimation to Arbitration Council.
22.	Bar on the issue of injunctions by Family Court.
23.	Validity of marriages registered under the Muslim Family Laws Ordinance, 1961, not to be questioned by Family Courts.
24.	Family Courts to inform Union Councils of cases not registered under the Muslim Family Laws Ordinance, 1961.
25.	Family Court deemed to be a District Court for purposes of Guardians and Wards Act, 1890.
25A.	Transfer of cases.
25B.	Stay of proceedings by the High Court and District Courts.
26.	Power to make rules.
	SCHEDULE

[11](#)THE FAMILY COURTS ACT, 1964

(Act XXXV of 1964)

[18 July 1964]

An Act to make provision for the establishment of Family Courts

Preamble. – WHEREAS it is expedient to make provision for the establishment of Family Courts for the expeditious settlement and disposal of disputes relating to marriage and family affairs and for matters connected therewith;

It is hereby enacted as follows: -

1. Short title, extent and commencement.– (1) This Act may be called the [12](#)[* * *] Family Courts Act, 1964.

[13](#)[(2) It shall extend to whole of the Punjab.]

(3) It shall come into force in such area or areas and on such date or dates as Government may, by notification in the official Gazette, specify in this behalf.

[14](#)[(4) Nothing in this Act shall apply to any suit or any application under the Guardians and Wards Act, 1890, pending for trial or hearing in any Court immediately before the coming into force of this Act, and all such suits and applications shall be heard and disposed of as if this Act was not in force.

(5) Any suit, or any application under the Guardians and Wards Act, 1890, which was pending for trial or hearing in any Court immediately before the coming into force of this Act, and which has been dismissed solely on the ground that such suit or application is to be tried by a Family Court established under this Act, shall, notwithstanding anything to the contrary contained in any law, on petition made to it in that behalf by any party to the suit or application, be tried and heard by such Court from the stage at which such suit or application had reached at the time of its dismissal.]

2. Definitions.– [15](#)[(1)] In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say–

- (a) “Arbitration Council” and “Chairman” shall have the meanings respectively assigned to them in the Muslim Family Laws Ordinance, 1961;
- (b) “Family Court” means a Court constituted under this Act;
- (c) [16](#)[“Government” means Government of the Punjab;]

1 For statement of objects and reasons *see* Gazette of West Pakistan (Extraordinary), dated 6th April, 1964, pages 1153-P to 1155-W.

This Act was passed by the West Pakistan Assembly on 30th June, 1964; assented to by the Governor of West Pakistan on 14th July, 1964; and, published in the West Pakistan Gazette (Extraordinary), dated 18th July, 1964, pages 2427-34.

2 The words “West Pakistan” omitted by the Family Court (Amendment) Act, 1996 (Federal Act X of 1996).

3 Substituted by the Family Courts (Amendment) Act 2015 (XI of 2015) for the following:

“(2) It extends to the whole of [Pakistan].”

The word “Pakistan” was earlier substituted by the Federal Adaptation of Laws Order, 1975 (P.O. 4 of 1975), for “the Province of West Pakistan except the Tribal Areas”.

4 Added by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966).

5 Section 2 re-numbered as sub-section (1) of that section by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966).

6 Substituted by the Family Courts (Amendment) Act 2015 (XI of 2015) for the following:

- (d) “party” shall include any person whose presence as such is considered necessary for a proper decision of the dispute and whom the Family Court adds as a party to such dispute;
- (e) “prescribed” means prescribed by rules made under this Act ^[7];
- (f) ^[8] “Schedule” means the Schedule appended to the Act; and
- (g) “Union Council” means a Union Council, Municipal Committee, Cantonment Board, Union Administration or, in case of absence of any of these local governments in a local area, any other comparable body or authority constituted under any law relating to the local governments or local authorities.]

^[9][(2) Words and expressions used in this Act but not herein defined, shall have the meanings respectively assigned to them in the Code of Civil Procedure, 1908.]

^[10]**[3. Establishment of Family Courts.** – (1) Government shall establish one or more Family Courts in each District or at such other place or places as it may deem necessary and appoint a Judge for each of such Court:

Provided that at least one Family Court in each District, shall be presided over by a woman Judge to be appointed within a period of six months or within such period as the ^[11][Government may extend].

(2) A woman Judge may be appointed for more than one District and in such cases the woman Judge may sit for the disposal of cases at such place or places in either District, as the ^[12][*] Government may specify.

(3) Government shall, in consultation with the High Court, appoint as many woman Judges as may be necessary for the purposes of sub-section (1).]

^[13]**[4. Qualifications of Judge.**– No person shall be appointed as a Judge of a Family Court unless he is or has been ^[14][or is qualified to be appointed as] a District Judge, an Additional District Judge, ^[15][a Civil Judge or a Qazi appointed under the Dastur-ul-Amal Diwani, Riasat Kalat].

5. Jurisdiction.– ^[16][1] Subject to the provisions of the Muslim Family Laws Ordinance, 1961, and the Conciliation Courts Ordinance, 1961, the Family Courts shall have exclusive jurisdiction to entertain, hear and adjudicate upon matters specified in ^[17][Part I of the Schedule].

“(c) “Government means [the Provincial Government].”

The words “the Provincial Government” were earlier substituted by the Federal Adaptation of Laws Order, 1975 (P.O. 4 of 1975), for “the Government of West Pakistan”.

7 Substituted for the full-stop by the Family Courts (Amendment) Act 2015 (XI of 2015).

8 Inserted by the Family Courts (Amendment) Act 2015 (XI of 2015).

9 New sub-section (2) added by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966).

10 Substituted by the West Pakistan Family Courts (Amendment) Act, 1994 (Federal Act XXI of 1994).

11 Government may, on the request of Provincial Government, extend”.

12 The word “Provincial” omitted by the Family Courts (Amendment) Act 2015 (XI of 2015).

13 Substituted by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966).

14 Inserted by the West Pakistan Family Courts (Amendment) Act, 1994 (Federal Act XXI of 1994).

15 Substituted by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969), for “a Civil Judge”.

16 Section 5 re-numbered as sub-section (1) by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

17 Substituted for “the Schedule” by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

¹¹⁸[(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Family Court shall have jurisdiction to try the offences specified in Part II of the Schedule, where one of the spouses is victim of an offence committed by the other.]

¹¹⁹[(3) The Government may amend the Schedule through addition, deletion or substitution of any entry in the Schedule.]

6. Place of sittings.— Subject to any general or special orders of Government in this behalf a Family Court shall hold its sittings at such place or places within ¹²⁰[the District or area for which it is established] as may be specified by the District Judge.

7. Institution of suits. – (1) Every suit before a Family Court shall be instituted by the presentation of a plaint or in such other manner and in such Court as may be prescribed.

(2) The plaint shall contain all ¹²¹[material] facts relating to the dispute and shall contain a Schedule giving the number of witnesses intended to be produced in support of the plaint, the names and addresses of the witnesses and brief summary of the facts to which they would depose:

¹²²[Provided that a plaint for dissolution of marriage may contain all claims relating to dowry, maintenance, dower, personal property and belongings of wife, custody of children and visitation rights of parents to meet their children:]

Provided ¹²³[further] that parties may, with the permission of the Court, call any witness at any later stage, if the Court considers such evidence expedient in the interest of justice.

¹²⁴[(3) (i) Where a plaintiff sues or relies upon a document in his possession or power, he shall produce it in court when the plaint is presented, and shall at the same time, deliver the document or a copy thereof to be filed with the plaint.

(ii) Where he relies on any other document not in his possession or power, as evidence in support of his claim, he shall enter such documents in a list to be appended to the plaint ¹²⁵[giving reasons of relevancy of these documents to the claim in the plaint].]

(4) The plaint shall be accompanied by as many duplicate copies thereof including the Schedule and the lists of documents referred to in sub-section (3), as there are defendants in the suit, for service upon the defendants.

¹²⁶**[8. Intimation to defendant.**— (1) When a plaint is presented to a Family Court, it shall:

18 New sub-section (2) added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

19 The following sub-section (3) was added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002) and substituted by the Family Courts (Amendment) Act 2015 (XI of 2015):

“(3) The High Court may, with the approval of the Government, amend the Schedule so as to alter, delete or add any entry thereto.”

20 Substituted by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966), for “the Districts”.

21 Inserted by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966).

22 Inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

23 Inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

24 Substituted by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969).

25 Added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

26 The following section 8, having been previously substituted by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969), and successively been amended by various enactments, was substituted by the Family Courts (Amendment) Act 2015 (XI of 2015):

- (a) fix a date which shall not be more than fifteen days for the appearance of the defendant;
- (b) within two days of the presentation of the plaint, sent a notice or summons of the suit to a defendant through a process serving agency of the Family Court, registered post acknowledgment due, electronically or through courier, together with a copy of the plaint, a copy of the schedule referred to in subsection (2) of section 7 and copies of the documents and a list of documents referred to in subsection (3) of section 7; and
- (c) direct that the notice or summons issued under clause (b) also be served through affixation and shall simultaneously issue a proclamation in a newspaper.

(2) While issuing the notice or summons to a defendant, the Family Court shall require the defendant to submit a written statement on the day mentioned in the notice or summons.]

127][9. Written statement.— **128]**(1) On the date fixed under section 8, the defendant shall appear before the Family Court and file the written statement, a list of witnesses and gist of evidence, and in case the written statement is not filed on that date, the Family Court may, for any sufficient reasons which prevented the defendant from submitting the written statement, allow the defendant to submit the written statement and other documents on the next date which shall not exceed fifteen days from that date.]

129](1a) A defendant husband may, where no earlier suit for restitution of conjugal rights is pending, claim for a decree of restitution of conjugal rights in his written statement to a suit for dissolution of marriage or maintenance, which shall be deemed as a plaint and no separate suit shall lie for it.

(1b) A defendant wife may, in the written statement to a suit for restitution of conjugal rights, make a claim for dissolution of marriage including khula which shall be deemed as a plaint and no

“8. Intimation to defendants.— (1) When a plaint is presented to a Family Court, it—

- (a) [shall] fix a date [* *] of not more than thirty days for the appearance of the defendant;
- (b) shall issue summons to the defendant to appear on a date specified therein;
- (c) shall, within three days of the presentation of the plaint, send to each defendant, by registered post, acknowledgment due, [or by courier service or by both] a notice of the suit, together with a copy of the plaint, a copy of the Schedule referred to in sub-section (2) of section 7 and copies of the documents and a list of documents referred to in sub-section (3) of the said section].
- (2) Every summons issued under clause (b) of sub-section (1) shall be accompanied by a copy of the plaint, a copy of the Schedule referred to in sub-section (2) of section 7, and copies of the documents and list of documents referred to in sub-section (3) of the said section.
- [(3) * * * * *]
- (4) Service of the plaint and its accompaniments in the manner provided in clause (b) or clause (c) of sub-section (1) shall be deemed to be due service of the plaint upon the defendant.
- (5) Every notice and its accompaniments under clause (c) of sub-section (1) shall be served at the expense of the plaintiff. The postal charges for such service shall be deposited by the plaintiff at the time of filing the plaint.
- (6) Summons issued under clause (b) of sub-section (1) shall be served in the manner provided in the Code of Civil Procedure, 1908, Order V, Rules 9, 10, 11, 16, 17, 18, 19, [20,] 21, 23, 24, 26, 27, 28 and 29. The cost of such summons shall be assessed and paid as for summons issued under the Code of Civil Procedure, 1908.

Explanation— [* * * * *]

27 Substituted by the West Pakistan Family Courts (Punjab Amendment) Ordinance, 1971 (XXIV of 1971).

28 Substituted by the Family Courts (Amendment) Act 2015 (XI of 2015) for the following:

“(1) On the date fixed-under clause (a) of sub-section (1) of section 8, the plaintiff and the defendant shall appear before the Family Court and the defendant shall file his written statement, and attach therewith a list of his witnesses alongwith a precis of the evidence that each witness is expected to give.”

29 New subsections (1a) and (1b) inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

separate suit shall lie for it:

Provided that the proviso to sub-section (4) of Section 10 shall apply where the decree for dissolution of marriage is to be passed on the ground of *khula*.]

(2) Where a defendant relies upon a document in his possession or power, he shall produce it or copy thereof in the Court along with the written statement.

(3) Where he relies on any other document, not in his possession or power, as evidence in support of his written statement, he shall enter such documents in a list to be appended to the written statement ^[30][giving reasons of relevancy of these documents to the defence in the written statement].

(4) Copies of the written statement, list of witnesses and precis of evidence referred to in sub-section (1) and the documents referred to in sub-section (2) shall be given to the plaintiff, his agent or advocate present in the Court.

(5) If the defendant fails to appear on the date fixed by the Family Court for his appearance, then—

- (a) if it is proved that the summons or notice was duly served on the defendant, the Family Court may proceed *ex parte*; provided that where the Family Court has adjourned the hearing of the suit *ex parte*, and defendant at or before such hearing appears and assigns good cause for his previous non-appearance, he may, upon such terms as the Family Court directs, be heard in answer to the suit as if he had appeared on the day fixed for his appearance; and
- (b) if it is not proved that the defendant was duly served as provided in sub-section (4) of section 8, the Family Court shall issue fresh summons and notices to the defendant and cause the same to be served in the manner provided in clauses (b) and (c) of sub-section (1) of section 8.

^[31][(5A) If the defendant fails to submit the written statement on or before the date under sub-section (1), the defence of the defendant shall stand struck off and the Family Court shall decide the case under the law.]

(6) In any case in which a decree is passed *ex parte* against a defendant under this Act, he may apply within ^[32][thirty days of the service of notice under sub-section (7) of the passing of the decree] to the Family Court by which the decree was passed for an order to set it aside, and if he satisfies the Family Court that he was not duly served, or that he was prevented by any sufficient cause from appearing when the suit was heard or called for hearing, the Family Court shall, after service of notice on the plaintiff, and on such terms as to costs as it deems fit, make an order for setting aside the decree as against him, and shall appoint a day for proceeding with the suit; provided that where the decree is of such a nature that it cannot be set aside as against such defendant only, it may be set aside against all or any of the other defendants also.]

30 Added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

31 Inserted by the Family Courts (Amendment) Act 2015 (XI of 2015).

32 Substituted for the words “reasonable time of the passing thereof” by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

¹³³[(7) The notice of passing of the *ex-parte* decree referred to in sub-section (6) shall be sent to the defendant by the Family Court together with a certified copy of the decree within three days of the passing of the decree, through process server or by registered post, acknowledgement due, or through courier service or any other mode or manner as it may deem fit.

(8) Service of notice and its accompaniment in the manner provided in sub-section (7) shall be deemed to be due service of the notice and decree on the defendant.]

10. Pre-trial proceedings.— ¹³⁴[(1) When the written statement is filed, the Court shall fix an early date for a pre-trial hearing of the case.]

(2) On the date so fixed, the Court shall examine the plaint, the written statement (if any) and the precis of evidence and documents filed by the parties and shall also, if it so deems fit, hear the parties and their counsel.

¹³⁵[(3) The Family Court may, at the pre-trial stage, ascertain the precise points of controversy between the parties and attempt to effect compromise between the parties.]

¹³⁶[(4) Subject to sub-section (5), if compromise is not possible between the parties, the Family Court may, if necessary, frame precise points of controversy and record evidence of the parties.]

¹³⁷[(5) In a suit for dissolution of marriage, if reconciliation fails, the Family Court shall immediately pass a decree for dissolution of marriage and, in case of dissolution of marriage through khula, may direct the wife to surrender up to fifty percent of her deferred dower or up to twenty-five percent of her admitted prompt dower to the husband.]

¹³⁸[(6) Subject to sub-section (5), in the decree for dissolution of marriage, the Family Court shall direct the husband to pay whole or part of the outstanding deferred dower to the wife.]

11. Recording of evidence.— (1) On the date fixed for ¹³⁹[recording of the evidence] the Family Court shall examine the witnesses produced by the parties in such order as it deems fit.

¹⁴⁰[(1A) The Family Court shall record or cause to be recorded, the substance of the statement of a witness or may record or cause to be recorded, the statement of a witness through audio or video recording.]

(2) The Court shall not issue any summons for the appearance of any witness unless,

33 New sub-sections (7) and (8) added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

34 Substituted by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969).

35 Substituted by the Family Courts (Amendment) Act 2015 (XI of 2015) for the following:

“(3) At the pre-trial, the Court shall ascertain the points at issue between the parties and attempt to effect a compromise or reconciliation between the parties, if this be possible.”

36 Substituted by the Family Courts (Amendment) Act 2015 (XI of 2015) for the following:

“(4) If no compromise or reconciliation is possible the Court shall frame the issues in the case and fix a date for recording of evidence:

Provided that notwithstanding any decision or judgment of any Court or tribunal, the Family Court in a suit for dissolution of marriage, if reconciliation fails, shall pass decree for dissolution of marriage forthwith and shall also restore to the husband the *Haq Mehr* received by the wife in consideration of marriage at the time of marriage.”

37 New sub-section (5) inserted by the Family Courts (Amendment) Act 2015 (XI of 2015).

38 New sub-section (6) inserted by the Family Courts (Amendment) Act 2015 (XI of 2015).

39 Substituted by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969), for “the hearing of the evidence”.

40 New sub-section (1A) inserted by the Family Courts (Amendment) Act 2015 (XI of 2015).

within three days of the framing of issues, any party intimates the Court that it desires a witness to be summoned through the Court and the Court is satisfied that it is not possible or practicable for such party to produce the witness.

^[41][(3) The witnesses shall give their evidence in their own words:

Provided that the parties or their counsel may further examine, cross-examine or re-examine the witnesses:

Provided further that the Family Court may forbid any question which it regards as indecent, scandalous or frivolous or which appears to it to be intended to insult or annoy or needlessly offensive in form.]

^[42][(3A) The Family Court may, if it so deems fit, put any question to any witness for the purposes of elucidation of any point which it considers material in the case.]

(4) The Family Court may permit the evidence of any witness to be given by means of an affidavit:

Provided that if the Court deems fit it may call such witness for the purpose of examination in accordance with sub-section (3).

12. Conclusion of trial.— (1) After the close of evidence of both sides, the Family Court shall make another effort to effect a compromise or reconciliation between the parties ^[43][within a period not exceeding fifteen days].

(2) If such compromise or reconciliation is not possible, the Family Court shall announce its judgement and give a decree.

^[44]**12A. Cases to be disposed of within a specified period.** – The Family Court shall dispose of a case, including a suit for dissolution of marriage, within a period of six months from the date of institution:

Provided that where a case is not disposed of within six months, either party shall have a right to make an application to the High Court for necessary direction as the High Court may deem fit.]

13. Enforcement of decrees. – (1) The Family Court shall pass a decree in such form and in such manner as may be prescribed, and shall enter its particulars in the prescribed register.

41 Substituted by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969).

42 Added by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969).

43 Added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

44 The following section 12A was added by the Family Courts (Amendment) Act, 1996 (Federal Act X of 1996) and substituted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002):

“**12A. Certain cases to be disposed of within a specified period.**— Notwithstanding anything contained hereinbefore, a suit for dissolution of marriage shall finally be disposed of within a period of four months from its institution:

Provided that where an appeal lies against the dissolution of marriage, such appeal shall be disposed of within four months.”

(2) If any money is paid or any property is delivered in the presence of the Family Court, in satisfaction of the decree, it shall enter the fact of payment ¹⁴⁵[or] the delivery of property, as the case may be, in the aforesaid register.

(3) Where a decree relates to the payment of money and the decretal amount is not paid within time specified by the Court ¹⁴⁶[not exceeding thirty days], the same shall, if the Court so directs be recovered as arrears of land revenue, and on recovery shall be paid to the decree-holder.

(4) The decree shall be executed by the Court, passing it or by such other Civil Court as the District Judge may, by special or general order, direct.

(5) A Family Court may, if it so deems fit, direct that any money to be paid under a decree passed by it be paid in such installments as it deems fit.

14. Appeals.— ¹⁴⁷[(1) Notwithstanding anything provided in any other law for the time being in force, a decision given or a decree passed by a Family Court shall be appealable—

- (a) to the High Court, where the Family Court is presided over by a District Judge, an Additional District Judge or a person notified by Government to be of the rank and status of a District Judge or an Additional District Judge; and
- (b) to the District Court, in any other case.]

(2) No appeal shall lie from a decree passed by Family Court—

- (a) for dissolution of marriage, except in the case of dissolution for reasons specified in clause (a) of item (viii) of section 2 of the Dissolution of Muslim Marriages Act, 1939;
- (c) for dower ¹⁴⁸[or dowry] not exceeding rupees ¹⁴⁹[one hundred thousand];
- (d) for maintenance of rupees ¹⁵⁰[five thousand] or less per month.

¹⁵¹[(3) No appeal or revision shall lie against an interim order passed by a Family Court.

(4) The appellate Court referred to in sub-section (1) shall dispose of the appeal within a period of four months.]

15. Power of Family Court to summon witnesses. — (1) A Family Court may issue summons to any person to appear and give evidence, or to produce or cause the production of any document:

Provided that—

45 Substituted, for the word “and”, by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966).

46 Inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

47 Substituted by the West Pakistan Family Courts (Amendment) Ordinance, 1966 (X of 1966).

48 Inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

49 Substituted previously by the Family Courts (Amendment) Ordinance 2002 (LV of 2002) for “fifteen thousand” and then by the Family Courts (Amendment) Act 2015 (XI of 2015) for “thirty thousand”.

50 Substituted previously by the Family Courts (Amendment) Ordinance 2002 (LV of 2002) for “five hundred” and then by the Family Courts (Amendment) Act 2015 (XI of 2015) for “one thousand”.

51 New sub-sections (3) and (4) added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

- (a) no person who is exempt from personal appearance in a Court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908, shall be required to appear in person;
- (b) a Family Court may refuse to summon a witness or to enforce a summons already issued against a witness when, in the opinion of the Court, the attendance of the witness cannot be procured without such delay, expense or inconvenience as in the circumstances would be unreasonable.

(2) If any person to whom a Family Court has issued summons to appear and give evidence or to cause the production of any document before it, willfully disobeys such summons, the Family Court may take cognizance of such disobedience, and after giving such opportunity to explain, sentence him to a fine ^[52][of five thousand] rupees.

16. Contempt of Family Courts. – A person shall be guilty of contempt of the Family Court if he without lawful excuse—

- (a) offers any insult to the Family Court; or
- (b) causes an interruption in the work of the Family Court; or
- ^[53][(bb) misbehaves with any person in the Court premises or uses abusive language; threats or uses physical force or intimidates in any form; or]
- (c) refuses to answer any question put by the Family Court, which he is bound to answer; or
- (d) refuses to take oath to state the truth or to sign any statement made by him in the Family Court;

and the Family Court may forthwith try such person for such contempt and sentence him to a fine not exceeding rupees ^[54][two thousand].

17. Provisions of Evidence Act and Code of Civil Procedure not to apply.— (1) Save as otherwise expressly provided by or under this Act, the provisions of the ^[55][Qanun-e-Shahadat, 1984 (P.O. No. 10 of 1984)], and the Code of Civil Procedure, 1908, ^[56][except sections 10 and 11,] shall not apply to proceedings before any Family Court ^[57][in respect of Part I of Schedule].

(2) Sections 8 to 11 of the Oaths Act, 1872, shall apply to all proceedings before the Family Courts.

^[58]**17A. Suit for maintenance.**— (1) In a suit for maintenance, the Family Court shall, on the date of the first appearance of the defendant, fix interim monthly maintenance for wife or a child

52 Substituted for “not exceeding one thousand” by the Family Courts (Amendment) Act 2015 (XI of 2015).

53 Inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

54 Substituted for the word “two hundred” by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

55 Substituted for “Evidence Act, 1872” by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

56 Inserted by the West Pakistan Family Courts (Amendment) Act, 1967 (XV of 1967).

57 Added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

58 The following new section 17A was inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002) and substituted by the Family Courts (Amendment) Act 2015 (XI of 2015):

“17A. **Interim order for maintenance.**— At any stage of proceedings in a suit for maintenance, the Family Court may pass an interim order for maintenance, whereunder the payment shall be made by the fourteenth of each month, failing which the Court may strike off the defence of the defendant and decree the suit.”

and if the defendant fails to pay the maintenance by fourteen day of each month, the defence of the defendant shall stand struck off and the Family Court shall decree the suit for maintenance on the basis of averments in the plaint and other supporting documents on record of the case.

(2) In a decree for maintenance, the Family Court may:

- (a) fix an amount of maintenance higher than the amount prayed for in the plaint due to afflux of time or any other relevant circumstances; and
- (b) prescribe the annual increase in the maintenance.

(3) If the Family Court does not prescribe the annual increase in the maintenance, the maintenance fixed by the Court shall automatically stand increased at the rate of ten percent each year.

(4) For purposes of fixing the maintenance, the Family Court may summon the relevant documentary evidence from any organization, body or authority to determine the estate and resources of the defendant.]

[59]17B. Power of the Court to issue Commission. – Subject to such conditions and limitations as may be prescribed, the Court may issue a Commission to,-

- (a) examine any person;
- (b) make a local investigation; and
- (c) inspect any property or document.]

18. Appearance through agents. – If a person required under this Act to appear before a Family Court, otherwise than as a witness, is a *pardah nashin* lady, the Family Court may permit her to be represented by a duly authorised agent.

[60]19. Court fee. – Notwithstanding anything contained in the Court Fees Act, 1870 (VII of 1870), the Court fee to be paid on any plaint or memorandum of appeal shall be rupees fifteen for any kind of suit or appeal under this Act.]

[61]20. Family Court as Judicial Magistrate.– (1) A Family Court shall be deemed as the Judicial Magistrate of the first class under the Code of Criminal Procedure, 1898 (V of 1898) for

59 New section added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

60 Substituted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002) for the following:

“**19. Court fees.**– Notwithstanding anything to the contrary contained in the Court Fees Act, 1872, the court fees to be paid on any plaint filed before a Family Court shall be rupee [fifteen] for any kind of suit.”

The word in crotchets was earlier substituted by the Punjab Finance Act, 1973 (XIV of 1973), for “one”.

61 Section 20 substituted by the Family Courts (Amendment) Act 2015 (XI of 2015).

At the time of first substitution by the Family Courts (Amendment) Ordinance 2002 (LV of 2002), the original section 20 read as under:

“**20. Investment of powers of Magistrates on Judges.**– Government may invest any Judge of a Family Court with powers of Magistrate First Class to [make order for maintenance] under section 488 of the Code of Criminal Procedure, 1898.”

[Note: The words in crotchets had been substituted by the Punjab Finance Act, 1973 (XIV of 1973), for “to hear the case”.]

After substitution by the Family Courts (Amendment) Ordinance 2002 (LV of 2002), section 20 read as under:

“**20. Family Court to exercise the powers of the Judicial Magistrate.**– A Family Court shall have and exercise all the powers of a Judicial Magistrate of the First Class under the Code of Criminal Procedure, 1898 (Act V of 1898).”

taking cognizance and trial of any offence under this Act; the Muslim Family Laws Ordinance, 1961 (VIII of 1961); and, the Child Marriage Restraint Act, 1929 (XIX of 1929).

(2) A Family Court shall conduct the trial of an offence under sub-section (1) in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (V of 1898) relating to the summary trials.

(3) An offence other than contempt of a Family Court shall be cognizable on the complaint of the Union Council, Arbitration Council or the aggrieved party.]

¹⁶²[**21. Provisions of Muslim Family Laws Ordinance, 1961 not affected.** – Nothing in this Act shall be deemed to affect any of the provisions of Muslims Family Laws Ordinance, 1961, or the rules made thereunder.]

¹⁶³[**21A. Interim order pending suit.** – The Family Court may pass an interim order to preserve and protect any property in dispute in a suit and any other property of a party to the suit, the preservation of which is considered necessary for satisfaction of the decree, if and when passed.]

¹⁶⁴[**21B. Intimation to Arbitration Council.**– If a Family Court decrees dissolution of a Muslim marriage, the Family Court shall immediately but not later than three days from the decree send by registered post or other means a certified copy of the decree to the concerned Chairman of the Arbitration Council and upon receipt of the decree, the Chairman shall proceed as if he had received intimation of *Talaq* under the Muslim Family Laws Ordinance, 1961 (VIII of 1961).]

22. Bar on the issue of injunctions by Family Court. – A Family Court shall not have the power to issue an injunction to, or stay any proceedings pending before, a Chairman or an Arbitration Council.

23. Validity of marriages registered under the Muslim Family Laws Ordinance, 1961, not to be questioned by Family Courts. – A Family Court shall not question the validity of any marriage registered in accordance with the provisions of the Muslim Family Laws Ordinance, 1961, nor shall any evidence in regard thereto be admissible before such Court.

24. Family Courts to inform Union Councils of cases not registered under the Muslim Family Laws Ordinance, 1961.– If in any proceedings before a Family Court it is brought to the notice of the Court that a marriage solemnized under the Muslim Law after the coming into force of the Muslim Family Laws Ordinance, 1961, has not been registered in accordance with the provisions of the said Ordinance and the rules framed thereunder, the Court shall communicate such fact in writing to the Union Council for the area where the marriage was solemnized.

25. Family Court deemed to be a District Court for purposes of Guardians and Wards Act, 1890.– A Family Court shall be deemed to be a District Court for the purposes of the Guardians and Wards Act, 1890, and notwithstanding anything contained in this Act, shall, in dealing with matters specified in that Act, follow the procedure prescribed in that Act.

62 Substituted by the West Pakistan Family Courts (Punjab Amendment) Ordinance, 1971 (XXIV of 1971).

63 New section inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

64 New section inserted by the Family Courts (Amendment) Act 2015 (XI of 2015).

¹⁶⁵[25A. **Transfer of cases.** – (1) Notwithstanding anything contained in any law the High Court may, either on the application of any party or of its own accord, by an order in writing–

- (a) transfer any suit or proceeding under this Act from one Family Court to another Family Court in the same district or from a Family Court of one district to a Family Court of another district; and
- (b) transfer any appeal or proceeding under this Act, from the District Court of one district to the District Court of another district.

(2) A District Court may, either on the application of any party or of its own accord, by an order in writing, transfer any suit or proceeding under this Act from one Family Court to another Family Court in a district or to itself and dispose it of as a Family Court.

¹⁶⁶[(2a) Where a Family Court remains vacant or the presiding officer remains on leave or absent for any reason, except due to vacations, for more than thirty days a District Court may, either on the application of any party or of its own accord, by order in writing, transfer any suit or proceeding from such Family Court to another Family Court in a District or to itself and disposed it of as a Family Court.

(2b) On the application of any of the parties and after notice to the parties and after hearing such of them as desire to be heard, or of its own motion without such notice, the Supreme Court may at any stage transfer any suit, appeal or other proceedings under this Act pending before a Court in one Province to a Court in another Province, competent to try or dispose of the same.]

(3) Any Court to which a suit, appeal or proceeding is transferred under the preceding sub-sections, shall, notwithstanding anything contained in this Act, have the jurisdiction to dispose it of in the manner as if it were instituted or filed before it:

Provided that on the transfer of a suit, it shall not be necessary to commence the proceedings before the succeeding Judge *de novo* unless the Judge, for reasons to be recorded in writing directs otherwise.]

¹⁶⁷[25B. **Stay of proceedings by the High Court and District Courts.** – Any suit, appeal or proceeding under this Act, may be stayed–

- (a) by the District Court, if the suit or proceeding is pending before a Family Court within its jurisdiction; and
- (b) by the High Court, in the case of any suit, appeal or proceeding ¹⁶⁸[:]]

¹⁶⁹[Provided that the stay application shall be finally decided by the District Court or the High Court, as the case may be, within thirty days failing which the interim stay order shall cease to be operative.]

65 Added by the West Pakistan Family Courts (Punjab Amendment) Ordinance, 1971 (XXIV of 1971).

66 New sub-sections (2a) and (2b) inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

67 Added by the West Pakistan Family Courts (Punjab Amendment) Ordinance, 1971 (XXIV of 1971).

68 Substituted for the full-stop by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

69 Added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

26. Power to make rules. – (1) Government may, by notification in the official Gazette, make rules to carry into effect the provisions of this Act.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the rules so made may, among other matters, provide for the procedure, which shall not be inconsistent with the provisions of this Act, to be followed by the Family Courts.

SCHEDULE

[SEE SECTION 5]

^[70][PART I]

1. Dissolution of marriage ^[71][including *Khula*].
2. Dower.
3. Maintenance.
4. Restitution of conjugal rights.
5. Custody of children ^[72][and the visitation rights of parents to meet them].
6. Guardianship.
- ^[73][7. Jactitation of marriage.]
- ^[74][8. Dowry.]
- ^[75][9. The personal property and belongings of a wife and a child living with his mother.
10. Any other matter arising out of the *Nikahnama*.]

^[76][PART II]

Offences and aid and abetment thereof under Section 337A (i), 337F (i), 341, 342, 343, 344, 345, 346, 352 and 509 of the Pakistan Penal Code (Act XLV of 1860)]

70 Inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002)

71 Inserted by the Family Courts (Amendment) Ordinance 2002 (LV of 2002)

72 Added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

73 Added by the West Pakistan Family Courts (Amendment) Act, 1969 (I of 1969).

74 Added by the Family Courts (Amendment) Act, 1997 (Federal Act VII of 1997).

Note: This amendment shall not effect pending cases (section 3 *ibid*).

75 The following new entry 9 was added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002) and substituted by the Family Courts (Amendment) Act 2015 (XI of 2015):

“9. Personal property and belongings of a wife.”

76 Added by the Family Courts (Amendment) Ordinance 2002 (LV of 2002).

THE MUSLIM FAMILY LAWS ORDINANCE 1961

(VIII of 1961) C O N T E N T S

Section	Heading
1.	Short title, extent, application and commencement.
2.	Definitions.
3.	Ordinance to override other laws, etc.
4.	Succession.
5.	Registration of marriages.
6.	Polygamy.
7.	Talaq.
8.	Dissolution of marriage otherwise than by talaq.
9.	Maintenance.
10.	Dower.
11.	Power to make rules.
12.	[Omitted]
13.	[Omitted]

¹THE MUSLIM FAMILY LAWS ORDINANCE 1961

(VIII of 1961)

[2nd March 1961]

An Ordinance to give effect to certain recommendations of the Commission on Marriage and Family Laws

WHEREAS it is expedient to give effect to certain recommendations of the Commission on Marriage and Family Laws;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:

1. Short title, extent, application and commencement. – (1) This Ordinance may be called the Muslim Family Laws Ordinance, 1961.

(2) It extends to the whole of ^[2][the Punjab], and applies to all Muslim citizens of Pakistan, wherever they may be.

^[3][(3) It shall come into force at once.]

^[4]**2. Definitions.** - In this Ordinance:

(a) “Arbitration Council” means a body consisting of the Chairman and representative of each of the parties to a matter under the Ordinance; and, in case any party fails to nominate a representative within the prescribed time, the body formed without such representative shall be the Arbitration Council;

1 In pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President of Pakistan was pleased to make and promulgate this Ordinance which was published in the Gazette of Pakistan, 1961 (Extraordinary), dated 15 July 1961, p. 1128.

This Ordinance was originally in the Federal ambit, however, the subject on which this law was enacted devolved to the provinces by virtue of 18th Amendment in the Constitution, hence, it was adapted, with amendments, for the province of the Punjab by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015).

2 Substituted for the word “Pakistan” by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015).

3 Substituted by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015) for the following:

“(3) It shall come into force on such date as the [Federal Government] may, by notification in the official Gazette, appoint in this behalf.”

The words in crotchets were earlier substituted for “Central Government” by the Federal Adaptation Order 1975, Art. 2 and Table (w.e.f. 28th July 1975).

4 Substituted by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015) for the following:

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

(a) 'Arbitration Council' means a body consisting of the Chairman and representative of each of the parties to a matter deal with in this Ordinance:

Provided that where any party fails to nominate a representative within the prescribed time, the body formed without such representative shall be the Arbitration Council;

(b) 'Chairman' means the Chairman of the Union Council or a person appointed by the Central or a Provincial Government, or by an officer authorized in that behalf by any such Government, to discharge the functions of Chairman under this Ordinance:

Provided that where the Chairman of the Union Council is non-Muslim or he himself wishes to make an application to 'the Arbitration Council, or is owing to illness or any other reason, unable to discharge the functions of Chairman, the Council shall select one of its Muslim members as Chairman for the purposes of this Ordinance;

(c) 'Prescribed' means prescribed by rules made under section 11;

(d) 'Union Council' means the Union Council or the Town Committee constituted under the Basic Democracies Order, 1959 (P.O (No, 18 of 1959), and having in the matter jurisdiction as prescribed;

(e) 'Ward,' mean a ward within a Union or Town as defined in the aforesaid Order.”

- (b) “Chairman” means the Chairman of a Union Council, Union Administration or Municipal Committee or any officer authorized by the Government to discharge the functions of the Chairman under the Ordinance and where the Chairman is a non-Muslim or he himself wishes to make an application to the Arbitration Council, or is, owing to illness or any other reason, unable to discharge the functions of the Chairman, the Arbitration Council shall select one of its Muslim members as Chairman;
- (c) “Government” means Government of the Punjab;
- (d) “prescribed” means prescribed by rules made under this Ordinance; and
- (e) “Union Council” means a Union Council, Municipal Committee, Cantonment Board, a Union Administration or, in case of absence of any of these local governments in a local area, any other comparable body constituted under any law relating to the local governments or local authorities.]

3. Ordinance to override other laws, etc.— (1) The provisions of this Ordinance shall have effect notwithstanding any law, custom or usage, and the registration of Muslim marriages shall take place only in accordance with those provisions.

(2) For the removal of doubt, it is hereby declared that the provisions of the Arbitration Act, 1940^[5], the Code of Civil Procedure, 1908^[6], and any other law regulating the procedure of courts shall not apply to any Arbitration Council.

4. Succession. – In the event of the death of any son or daughter of the *propositus* before the opening of succession, the children of such son or daughter, if any, living at the time the succession opens, shall *per stirpes* receive a share equivalent to the share which such son or daughter, as the case may be, would have received if alive.

5. Registration of marriages. – (1) Every marriage solemnized under Muslim Law shall be registered in accordance with the provisions of this Ordinance.

^[7](2) For the purpose of registration of marriages under this Ordinance, the Union Council shall grant licenses to one or more persons, to be called Nikah Registrars.]

(3) Every marriage not solemnized by the Nikah Registrar shall, for the purpose of registration under this Ordinance, be reported to him by the person who has solemnized such marriage.

(4) Whoever contravenes the provisions of sub-section (3) shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

5 X of 1940

6 V of 1908

7 Substituted by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015) for the following:

“(2) For the purpose of registration of marriages under this Ordinance, the Union Council shall grant licences to one or more persons, to be called Nikah Registrars, but in no case shall more than one Nikah Registrar be licensed for any one Ward.”

(5) The form of *nikahnama*, the registers to be maintained by Nikah Registrars, the records to be preserved by Union Councils, the manner in which marriages shall be registered and copies of *nikahnama* shall be supplied to the parties, and the fees to be charged therefor, shall be such as may be prescribed.

(6) Any person may, on payment of the prescribed fee, if any, inspect at the office of the Union Council the record preserved under sub-section (5), or obtain a copy of any entry therein.

6. Polygamy. – (1) No man, during the subsistence of an existing marriage, shall, except with the previous permission in writing of the Arbitration Council, contract another marriage, nor shall any such marriage contracted without such permission be registered under this Ordinance.

(2) An application for permission under sub-section (1) shall be submitted to the Chairman in the prescribed manner, together with the prescribed fee, and shall state reasons for the proposed marriage, and whether the consent of existing wife or wives has been obtained thereto.

¹⁸[(2A) The Nikah Registrar or the person who solemnizes a Nikah shall accurately fill all the columns of the *nikahnama* form with specific answers of the bride or the bridegroom.]

(3) On receipt of the application under sub-section (2), the Chairman shall ask the applicant and his existing wife or wives each to nominate a representative, and the Arbitration Council so constituted may, if satisfied that the proposed marriage is necessary and just, grant, subject to such conditions, if any, as may be deemed fit, the permission applied for.

¹⁹[(4) If a person contravenes the provision of:

- (i) sub-section (2A), he shall be punished to simple imprisonment for a term which may extend to one month and fine of twenty-five thousand rupees; and
- (ii) sub-section (3), he shall be punished to simple imprisonment for a term which may extend to three months and fine of one hundred thousand rupees.]

(5) Any man who contracts another marriage without the permission of the Arbitration Council shall,

- (a) pay immediately the entire amount of the dower, whether prompt or deferred, due to the existing wife or wives, which amount, if not so paid, shall be recoverable as arrears of land revenue; and

8 New sub-section (2A) inserted by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015).

9 Substituted by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015) for the following:

“(4) In deciding the application, the Arbitration Council shall record its reasons for the decision, and any party may, in the prescribed manner, within the prescribed period, and on payment of the prescribed fee, prefer an application for revision [to the Collector] concerned and his decision shall be final and shall not be called in question in any Court.”

The words in crotchets were earlier substituted for “, in the case of West Pakistan to the Collector and, in the case of East Pakistan, to the Sub-Divisional Officer” by the Federal Adaptation Order 1975, Art. 2 and Sch (*w.e.f. 28th July 1975*).

¹¹⁰[(b) on conviction upon complaint be punishable with the simple imprisonment which may extend to one year and with fine of five hundred thousand rupees.]

7. Talaq. – (1) Any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of *talaq* in any form whatsoever, give the Chairman notice in writing of his having done so, and shall supply a copy thereof to the wife.

(2) Whoever, contravenes the provisions of sub-section (1) shall be punishable with simple imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

(3) Save as provided in sub-section (5), a *talaq*, unless revoked earlier, expressly or otherwise, shall not be effective until the expiration of ninety days from the day on which notice under sub-section (1) is delivered to the Chairman.

(4) Within thirty days of the receipt of notice under sub-section (1), the Chairman shall constitute an Arbitration Council for the purpose of bringing about a reconciliation between the parties, and the Arbitration Council shall take all steps necessary to bring about such reconciliation.

(5) If the wife be pregnant at the time *talaq* is pronounced, *talaq* shall not be effect until the period mentioned in sub-section ¹¹¹[(3)] or the pregnancy, whichever be later, ends.

(6) Nothing shall debar a wife whose marriage has been terminated by *talaq* effective under this section from remarrying the same husband, without an intervening marriage with a third person, unless such termination is for the third time so effective.

8. Dissolution of marriage otherwise than by *talaq*.– Where the right to divorce has been duly delegated to the wife and she wishes to exercise that right, or where any of the parties to a marriage wishes to dissolve the marriage otherwise than by *talaq*, the provisions of section 7 shall, *mutatis mutandis* and so far as applicable, apply.

9. Maintenance.– (1) If any husband fails to maintain his wife adequately, or where there are more wives than one, fails to maintain them equitably, the wife, or all or any of the wives, may, in addition to seeking any other legal remedy available, apply to the Chairman who shall constitute an Arbitration Council to determine the matter, and the Arbitration Council may issue a certificate specifying the amount which shall be paid as maintenance by the husband.

¹¹²[(1A) If a father fails to maintain his child, the mother or grandmother of the child may, in addition to seeking any other legal remedy, apply to the Chairman who shall constitute an Arbitration Council and the Arbitration Council may issue a certificate specifying the amount which shall be paid by the father as maintenance of the child.]

10 Substituted by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015) for the following:

“(b) on conviction upon complaint be punishable with simple imprisonment which may extend to one year, or with fine which may extend to five thousand rupees, or with both.”

11 Substituted for “(2)”, by the Muslim Family Laws (Second Amendment) Ordinance 1961 (XXX of 1961).

12 New sub-section (1A) inserted by the Muslim Family Laws (Amendment) Act 2015 (XIII of 2015).

(2) A husband or wife may, in the prescribed manner, within the prescribed period, and on payment of the prescribed fee, prefer an application for revision of the certificate, ^[13]to the Collector concerned and his decision shall be final and shall not be called in question in any Court.

(3) Any amount payable under sub-section (1) or (2), if not paid in due time, shall be recoverable as arrears of land revenue ^[14][:]

^[15]Provided that the Commissioner of a Division may, on an application made in this behalf and for reasons to be recorded, transfer an application for revision of the certificate from a Collector to any other Collector, or to a Director, Local Government, or to an Additional Commissioner in his Division.]

10. Dower. – Where no details about the mode of payment of dower are specified in the *nikahnama* or the marriage contract, the entire amount of the dower shall be presumed to be payable on demand.

11. Power to make rules.– (1) The ^[16]^[17][Federal Government] in respect of the Cantonment areas and the Provincial Government in respect of other areas] may make rules to carry into effect the purposes of this Ordinance.

(2) In making rules under this section, ^[18][such Government] may provide that a breach of any of the rules shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(3) Rules made under this section shall be published in the official Gazette, and shall thereupon have effect as if enacted in this Ordinance.

^[19]**12. * * * * ***

^[20]**13. * * * * ***

13 Substituted for “, in the case of West Pakistan to the Collector and, in the case of East Pakistan, to the Sub-Divisional Officer” by the Federal Adaptation Order 1975, Art. 2 and Sch (w.e.f. 28th July 1975).

14]Substituted for the full-stop by the Muslim Family Laws (Punjab Amendment) Act, 1975 (XI of 1975).

15 Proviso added by the Muslim Family Laws (Punjab Amendment) Act, 1975 (XI of 1975).

16 Substituted for “Provincial Government”, by the Central Adaptation of Laws Order, 1964, Art 2 & Sch.

17 Substituted for “Central Government”, by the Federal Adaptation Order 1975, Art 2 and Table (w.e.f. 28th July 1975).

18 Substituted for “ the Provincial Government”, by the Central Adaptation of Laws Order, 1964, Art 2 & Sch.

19 The following section 12 omitted by the Federal Laws (Revision and Declaration) Ordinance 1981 (XXVII of 1981), s.3 and Sch II.

“12. Amendment of Child Marriage Restraint Act, 1929 (XIX of 1929).– In the Child Marriage Restraint Act. 1929 (XIX of 1929)-

(1) In section 2; --

(a) in clause (a) for the word 'fourteen' the word sixteen' shall be substituted ;

(b) in clause (c), the word 'and' shall be omitted, and

(c) in clause (d), for the full-stop at the end, a comma shall be substituted and thereafter the following new clause (e) shall be added, namely :-

(e) 'Union Council' means the Union Council or the Town Committee constituted under the Basic Democracies Order, 1959 (P.O. No. 18 of 1959), within whose jurisdiction a child marriage is or is about to be solemnized.'

(2) Section 3 shall be omitted.

(3) In section 4, for words 'twenty-one' the word 'eighteen' shall be substituted.

(4) In section 9, after the words 'under this Act', the words 'except on a complaint made by the Union Council, or if there is no Union Council in the area, by such authority as the Provincial Government may in this behalf prescribe, and such cognizance shall in no case be taken' shall be inserted ; and

(5) Section 11 shall be omitted.”

20 The following section 13 omitted by the Federal Laws (Revision and Declaration) Ordinance 1981 (XXVII of 1981), s.3 and Sch II.

“13. Amendment of the Dissolution of Muslim Marriages Act, 1939 (VIII of 1939) .– In the Dissolution of Muslim Marriages Act, 1939 (VIII of 1939), in section 2:

(a) After clause (ii), the following new clause (ii-a) shall be inserted, namely

“(ii-a) that the husband has taken any additional wife in contravention of the provisions of the Muslim Family Laws Ordinance, 1961;” and

(b) In clause (vii), for the word 'fifteen' the word 'sixteen' shall be substituted.

THE PUNJAB SUPPRESSION OF PROSTITUTION ORDINANCE, 1961
(W.P. Ordinance II of 1961)

C O N T E N T S

Section	Heading
1.	Short title and extent.
2.	Definitions.
3.	Punishment for keeping a brothel or allowing any place to be used as a brothel.
4.	Punishment for soliciting.
5.	Punishment for permitting prostitution in places of public amusement.
6.	Punishment for living on earnings of prostitution.
7.	Presumption.
8.	Punishment for causing, encouraging or abetting prostitution of a girl under sixteen.
9.	Punishment for procuration.
10.	Punishment for importing any woman or girl for prostitution.
11.	Punishment for keeping any woman or girl for prostitution.
12.	Presumption.
13.	Bar of certain legal proceedings.
14.	Subsequent offence under section 3.
15.	Determination of tenancy of premises on conviction for permitting use as a brothel or for purposes of habitual prostitution.
16.	Power to arrest without warrant.
17.	Power to enter without warrant and removal of minor girls.
18.	Offences triable by certain magistrates only.
19.	Power to make rules.
20.	Repeal and savings.

^[1]THE ^[2][PUNJAB] SUPPRESSION OF PROSTITUTION ORDINANCE, 1961

(W.P. Ordinance II of 1961)

[7 January 1961]

An Ordinance to amend and consolidate the law relating to the suppression of prostitution in the province of ^[3][the Punjab]

Preamble.— WHEREAS it is expedient to amend and consolidate the law relating to the suppression of prostitution in the province of ^[4][the Punjab];

Now, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance:-

1. Short title and extent.— (1) This Ordinance may be called the ^[5][Punjab] Suppression of Prostitution Ordinance, 1961.

^[6](2) It extends to the whole of the province of ^[7][the Punjab], except the Tribal Areas.]

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

- (a) ^[8]["brothel" means any house, part of a house, room or place in which a prostitute resides or carries on prostitution or any place or institution where facilities are known to be available for prostitution;]
- (b) "place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing, or any diversion or game or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money or with the intention that money may be collected from those admitted, and shall include a race-course, circus, theatre, music hall, billiard-room, bagatelle-room, gymnasium or fencing school;
- (c) "place of public entertainment" shall mean any place, whether enclosed or open, to which the public are admitted and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place, and shall include a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, *serai* or tavern, or wine, beer, spirit, *arrack*, *toddy*, *bhang* or opium shop;

1 This Ordinance was promulgated by the Governor of West Pakistan on 29th Sep., 1960; published in the West Pakistan Gazette (Extraordinary), dated 7th Jan., 1961, pages 75-82; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1962).

2 Substituted by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974), for "West Pakistan".

3 *Ibid*

4 *Ibid*

5 *Ibid*

6 Substituted by the West Pakistan Suppression of Prostitution (Amendment) Ordinance, 1963 (XXXVI of 1963).

7 Substituted by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974), for "West Pakistan

8 Substituted by the West Pakistan Suppression of Prostitution (Amendment) Act, 1968 (II of 1968).

- (d) “prostitution” means promiscuous sexual intercourse for hire, whether in money or kind;
- (e) “prostitute” means any female available or known to be available for purposes of prostitution;
- (f) “public place” includes site of any *hut, bazar, mela*, exhibition, any river bank, dock, jetty or warehouse to which the public have access, every public building, garden or monument and the precincts thereof, every place of public amusement or entertainment, and every place accessible to the public for drawing water, washing or bathing or for purposes of recreation.

3. Punishment for keeping a brothel or allowing any place to be used as a brothel.— (1)
Whoever—

- (a) keeps or manages or acts or knowingly finances or takes part in the financing of, or assists in, the management of a brothel, or
- (b) being a tenant, lessee, occupier or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel, or
- (c) being a lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that it is intended to be used as a brothel,

shall be punished with imprisonment of either description for a term which may extend to two years ⁹[and] with fine, which may extend to one thousand rupees ¹⁰[* * *].

(2) Where, in any prosecution of a tenant, lessee, occupier or person in charge of any premises under this section, it is found that such premises or any part thereof have been used as a brothel, it shall be presumed, unless the contrary is proved, that he knowingly permitted such use.

4. Punishment for soliciting.— Whoever in any street or public place or place of public resort or within sight of and in such manner as to be seen or heard from any street or public place, whether from within any house or building or not,—

- (a) by words, gestures, wilful and indecent exposure of her person or otherwise attracts or endeavours to attract attention for the purpose of prostitution, or
- (b) solicits or molests any person or loiters for the purpose of prostitution, shall for a first offence be punished with imprisonment which may extend to six months, or with fine which may extend to two hundred rupees, or with both, and for a subsequent offence with imprisonment which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

5. Punishment for permitting prostitution in places of public amusement.— Whoever being the keeper of any place of public amusement or entertainment, knowingly permits prostitutes,

⁹ Substituted by the West Pakistan Suppression of Prostitution (Amendment) Act, 1968 (II of 1968), for the word “or”.

¹⁰ The words “or with both”, deleted *ibid*.

for the purposes of their trade, to enter or remain in such place, shall be punished with fine which may extend to five hundred rupees.

6. Punishment for living on earnings of prostitution.— (1) Whoever being above the age of eighteen years,—

- (a) knowingly lives, wholly or in part, on the earnings of another's prostitution, or
- (b) exploits the prostitution of another person, whether with or without that person's consent,

shall be punished with imprisonment of either description for a term which may extend to two years ^[11][and] with fine which may extend to one thousand rupees, ^[12][* * *] and if the person convicted is a male he may be punished with whipping in lieu of or in addition to any other punishment provided in this sub-section.

Presumption.— (2) Where any person is proved to be living with, or to be habitually in the company of, a prostitute or is proved to have directed or exercised control or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting, compelling or exploiting her prostitution with any other person or generally, or to be keeping or managing or assisting in the management of a brothel, it shall be presumed, until the contrary is proved, that he is knowingly living on the earnings of prostitution.

7. Punishment for causing, encouraging or abetting prostitution of a girl under sixteen.— If any person having custody, charge or care of any girl under the age of sixteen years, causes or encourages or abets the seduction or prostitution of that girl, he shall be punished with rigorous imprisonment for a term which may extend to three years, ^[13][and] with fine which may extend to one thousand rupees, ^[14][* * *] and if the person convicted is a male, shall also be liable to whipping.

8. Punishment for procuration.— Whoever procures or entices or leads away or attempts to procure, entice or lead away any woman or girl for the purposes of prostitution, whether with or without her consent, or who with intent that she may for the purposes of prostitution become the inmate of or frequent a brothel, persuades a woman or girl to leave her usual place of abode, shall be punished with imprisonment of either description for a term which may extend to three years, ^[15][and] with fine which may extend to one thousand rupees, ^[16][* * *] and if the person convicted is a male, he may be punished with whipping in lieu of or in addition to any other punishment provided in this section.

9. Punishment for importing any woman or girl for prostitution.— Whoever brings or attempts to bring into the province any woman or girl with a view to her becoming a prostitute, shall be punished with imprisonment of either description for a term which may extend to three years, ^[17][and] with

11 Substituted by the West Pakistan Suppression of Prostitution (Amendment) Act, 1968 (II of 1968), for the word "or".

12 The words "or with both", deleted *ibid*.

13 Substituted *ibid.*, for the word "or"

14 The words "or with both", deleted *ibid*.

15 Substituted *ibid.*, for the word "or"

16 The words "or with both", deleted *ibid*.

17 Substituted by the West Pakistan Suppression of Prostitution (Amendment) Act, 1968 (II of 1968), for the word "or".

fine which may extend to one thousand rupees, [118](#)[* * *] and if the person convicted is a male, he may be punished with whipping in lieu of or in addition to any other punishment provided in this section.

10. Punishment for keeping any woman or girl for prostitution.— (1) Whoever—

- (a) keeps any woman or girl in a brothel, or
- (b) detains any woman or girl, against her will, in any place with intent that she may have sexual intercourse with any man other than her lawful husband,

shall be punished with rigorous imprisonment for a term which may extend to three years, [119](#)[and] with fine which may extend to one thousand rupees, [120](#)[* * *] and if the person convicted is a male, shall also be liable to whipping.

(2) **Presumption.**— A person shall be presumed to detain a woman or girl in any place for the purpose referred to in clause (b) of sub-section (1), if such person, with intent to compel or induce her to remain there,—

- (a) withholds from her any jewellery, clothing or other property belonging to her, or
- (b) threatens her with legal proceedings if she takes away with her any jewellery or clothing lent or supplied to her by or under the direction of such person.

(3) **Bar of certain legal proceedings.**— No legal proceedings, whether civil or criminal, shall be taken against any such woman or girl for taking away or being found in possession of any such clothing as was necessary to enable her to leave such premises or brothel.

11. Subsequent offence under section 3.— (1) Whoever having been convicted of an offence punishable under section 3, is convicted of a subsequent offence punishable under the same section, may, in addition to the punishment provided under that section, be required by the Court to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Court may direct, and in default of executing such bond, may be imprisoned for a period not exceeding six months in addition to any punishment awarded in respect of his offence.

(2) The provisions of Chapters VIII and XLII of the Code of Criminal Procedure, 1898^{[121](#)}, shall apply to orders made for the execution of bonds under this section.

12. Determination of tenancy of premises on conviction for permitting use as a brothel or for purposes of habitual prostitution.— (1) On conviction of any tenant, lessee or occupier of an offence under sub-section (1) of section 3, the Court shall give notice thereof in writing to the landlord or lessor of such person, who shall then be entitled to require the person so convicted to assign the lease or other contract, under which the said premises are held by him, to some person approved by the landlord or lessor which approval shall not be unreasonably withheld, and in the event of the person so convicted failing within three months to assign the lease or contract, as aforesaid, the landlord or lessor shall, notwithstanding any law, contract, decree or order of a Court to the contrary, be entitled to determine the

¹⁸ The words “or with both”, deleted *ibid.*

¹⁹ Substituted *ibid.*, for the word “or”.

²⁰ The words “or with both,” deleted *ibid.*

²¹ V of 1898.

lease or other contract, but without prejudice to the rights or remedies of any party to such lease or contract accruing before the date of such determination.

(2) If the landlord or lessor determines a lease or contract of tenancy under the provisions of sub-section (1), the Court which has convicted the tenant, lessee or occupier may make an order for delivery of possession to the landlord or lessor within such time not being less than seven days as the Court may direct; and the order shall be served on the person against whom it is made in the manner provided in the Code of Criminal Procedure, 1898^[22], for the service of summons.

(3) Whoever fails to comply with an order under the last preceding sub-section shall be punished with imprisonment of either description which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(4) If the landlord or lessor, after he has received notice in writing of such conviction, fails to exercise his rights under sub-section (1), and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have abetted that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(5) Where a landlord or lessor determines a lease or other contract under this section, and subsequently grants another lease or enters into another contract of tenancy to, with, or for the benefit of the same person, without causing to be inserted in such lease or contract all reasonable provisions for the prevention of a recurrence of any such offence, he shall be deemed to have failed to exercise his rights under the provisions of this section, and any such offence committed during the subsistence of the subsequent lease or contract shall be deemed, for the purpose of this section, to have been committed during the subsistence of the previous lease or contract.

^[23]**13. Power to arrest without warrant.**— If a complaint is made to any gazetted police officer about the commission of any offence punishable under section 3, 4, 5, 6, 7, 8, 9 or 10 or if any such offence is committed in the view of any police officer not below the rank of the Superintendent of Police, such officer may arrest, without warrant, any person accused of the commission of such offence.]

14. Power to enter without warrant and removal of minor girls.— The Superintendent of Police, or any gazetted police officer specially authorised in writing in this behalf by the District Magistrate, may enter any place and remove to the prescribed place any girl who appears to be under the age of eighteen years, if he has reason to believe—

- (a) that an offence punishable under section 3 has been or is being committed in respect of the place; or
- (b) that a woman or girl in respect of whom an offence under this Ordinance has been committed, is to be found therein.

15. Offences triable by certain magistrates only.— No offence under this Ordinance shall be tried summarily, or by a magistrate below the rank of a magistrate of the first class.

²² *Ibid.*

²³ Substituted by the West Pakistan Suppression of Prostitution (Amendment) Act, 1968 (II of 1968).

16. Power to make rules.— The Provincial Government may make rules for carrying into effect the provisions of this Ordinance.

17. Repeal and savings.— (1) The following enactments are hereby repealed:-

- (i) the Punjab Suppression of Immoral Traffic Act, 1935²⁴;
- (ii) the Punjab Suppression of Immoral Traffic Act, 1935²⁵, as applicable to the former State of Bahawalpur;
- (iii) the North-West Frontier Province Anti-Prostitution and Suppression of Brothels Act, 1937²⁶; ²⁷[*]
- (iv) the Sind Prevention of Prostitution Act, 1951²⁸, ²⁹[;] ³⁰[and]
- (v) ³¹[The Bombay Prevention of Prostitution Act, 1923, as applicable to Karachi District.]

(2) Notwithstanding the repeal of the enactments mentioned in sub-section (1), everything done, action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorised, jurisdiction or power conferred, rule made and order issued under any of the provisions of the said enactments shall, if not inconsistent with the provisions of this Ordinance, be continued and, so far as may be, be deemed to have been respectively done, taken, incurred, commenced, appointed, authorised, conferred, made or issued under this Ordinance.

24 Pb. IV of 1935.

25 *Ibid.*

26 N.W.F.P. III of 1937.

27 The word “and” deleted by the West Pakistan Suppression of Prostitution (Amendment) Ordinance, 1963 (XXXVI of 1963).

28 Sind XX 1951.

29 Substituted by the West Pakistan Suppression of Prostitution (Amendment) Ordinance, 1963 (XXXVI of 1963), for the full-stop.

30 Added *ibid.*

31 *Ibid.*

**THE PUNJAB HINDU WOMEN'S RIGHTS TO AGRICULTURAL
LAND ORDINANCE, 1959**

(W.P. Ordinance XI of 1959)

C O N T E N T S

Section	Heading
1.	Short title and extent.
2.	Application.
3.	Devolution of agricultural land.
4.	Repeal and savings.

**^[1]THE ^[2][PUNJAB] HINDU WOMEN'S RIGHTS TO AGRICULTURAL LAND
ORDINANCE, 1959**

(W.P. Ordinance XI of 1959)

[26 March 1959]

An Ordinance to consolidate the Hindu Law governing Hindu Women's rights to agricultural land in the Province of ^[3][the Punjab]

Preamble. — WHEREAS it is expedient to consolidate the Hindu Law governing Hindu Women's rights to agricultural land in the Province of ^[4][the Punjab];

Now, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance: -

1. Short title and extent. — (1) This Ordinance may be called the ^[5][Punjab] Hindu Women's Rights to Agricultural Land Ordinance, 1959.

^[6][(2) It extends to the whole of the Province of ^[7][the Punjab], except the Tribal Areas.]

2. Application. — Notwithstanding any rule of Hindu Law or custom to the contrary, the provisions of section 3 shall apply where a Hindu dies intestate.

Explanation I.— A person shall be deemed to die intestate in respect of all agricultural land of which he has not made a testamentary disposition which is capable of taking effect.

Explanation II.—This Ordinance shall not affect any rule of succession prescribed in respect of tenants rights in agricultural land by any enactment relating to tenancy rights for the time being in force.

3. Devolution of agricultural land.— (1) When a Hindu governed by the *Dayabhaga* School of Hindu Law dies intestate leaving any agricultural land, a Hindu governed by any other school of Hindu Law or by customary law dies intestate leaving separate agricultural land, his widow, or if there are more than one widow all his widows together, shall, subject to the provisions of sub-section (3), be entitled in respect of the agricultural land in respect of which he dies intestate to the same share as a son:

Provided that the widow of a predeceased son shall inherit in like manner as a son if there is no son surviving of such predeceased son, and shall inherit in like manner as son's son if there is

1 This Ordinance was promulgated by the Governor of West Pakistan on 19th March, 1959; published in the West Pakistan Gazette (Extraordinary), dated 26th March, 1959, pages 201-203; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1962).

2 Substituted by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974), for "West Pakistan".

3 *Ibid.*

4 *Ibid.*

5 *Ibid.*

6 Substituted by the West Pakistan Laws (Extension to Karachi) Ordinance, 1964 (Ord. VII of 1964).

7 Substituted by the Punjab Laws (Adaptation) Order, 1974 (Pb. A.O. 1 of 1974), for "West Pakistan"

surviving a son or son's son of such predeceased son:

Provided further that the same provision shall apply *mutatis mutandis* to the widow of a predeceased son of a predeceased son.

(2) When a Hindu governed by any school of Hindu Law other than the *Dayabhaga* School or by customary law dies having at the time of his death an interest in a Hindu joint family agricultural land, his widow shall, subject to the provisions of sub-section (3), be entitled to the same interest in the agricultural land as he himself had.

(3) Any interest devolving on a Hindu widow under the provisions of this section shall be the limited interest known in Hindu Law as a Hindu women's estate, provided however that she shall have the same right of claiming partition as a male owner.

(4) The provisions of this section shall not apply to an estate which by a customary or other rule of succession or by the terms of the grant applicable thereto descends to a single heir or to any property to which the Succession Act, 1925^[8], applies.

4. Repeal and savings. — (1) The following enactments and amendments thereby made in the Hindu Women's Rights to Property Act, 1937^[9], are hereby repealed:-

- (a) The North-West Frontier Province Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942^[10]; and
- (b) The Hindu Women's Rights to Property (Sind Extension to Agricultural Land) Act, 1943^[11].

(2) Nothing in this Ordinance shall apply to the property of any Hindu dying intestate before the commencement of this Ordinance.

8 XXXIX of 1925.

9 XVIII of 1937.

10 N.W.F.P. VI of 1942.

11 Sind IX of 1943.

THE PUNJAB MATERNITY BENEFIT ORDINANCE, 1958

(Ordinance XXXII of 1958)

C O N T E N T S

Section	Heading
1.	Short title and extent.
2.	Definitions.
3.	Employment or work during certain periods.
4.	Right to and liability for payment of maternity benefit.
5.	Procedure regarding payment of maternity benefit.
6.	Payment of maternity benefit in case of a woman's death.
7.	No notice of dismissal to be given to a woman in certain cases.
8.	Penalty for working for payment during permitted period of absence.
9.	Penalty for contravention of this Ordinance by an employer and application of fine in payment of compensation.
10.	Cognizance of offences.
11.	Appeal against refusal to prosecute or grant sanction thereto.
12.	Limitation.
13.	Rules.
14.	Exhibition of extracts.
15.	[<i>Omitted</i>].

^[1]THE PUNJAB MATERNITY BENEFIT ORDINANCE, 1958
(Ordinance XXXII of 1958)

[22 December 1958]

*An Ordinance to consolidate the law relating to employment of
women in ^[2][establishments] in the ^[3][Punjab].*

Preamble.— WHEREAS it is expedient to consolidate the law relating to employment of women in ^[4][establishments] in the ^[5][Punjab];

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the 7th day of October, 1958, and in exercise of all powers enabling him in that behalf the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:—

1. Short title and extent.— (1) This Ordinance may be called the ^[6][Punjab] Maternity Benefit Ordinance, 1958.

^[7](2) It extends to the whole of ^[8][the Punjab].

2. Definitions. — (1) In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

- (a) “child” includes a still-born child;
- (g) ^[9] “Director of Labour Welfare” means the head of the Labour Welfare Directorate of the ^[10][Punjab], by whatever name called;]
- (k) “employer” means any person who has ultimate control over the appointment of a woman;
- (a) ^[11] “Establishment” means an organisation, whether industrial, commercial, or otherwise;]
- (b) ^[12] “Government” means Government of the Punjab;]
- (a) “Inspector of Factories” means a person appointed as Inspector of Factories under section 10 of the Factories Act, 1934^[13];
- (b) “maternity benefit” means the amount payable under the provisions of this Ordinance to a woman employed in ^[14][an establishment];

1 This Ordinance was promulgated by the Governor of West Pakistan on 17th Dec., 1958; published in the West Pakistan Gazette (Extraordinary), dated 22nd Dec., 1958, pages 1715-21; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1962).

2 Substituted for the word “factories” by the Labour Laws (Amendment) Act, 1994 (Federal Act XI of 1994).

3 Substituted for the words “Province of West Pakistan” by the Punjab Maternity Benefit (Amendment) Act, 2012 (XXII of 2012).

4 Substituted for the word “factories” by the Labour Laws (Amendment) Act, 1994 (Federal Act XI of 1994).

5 Substituted for the words “Province of West Pakistan” by the Punjab Maternity Benefit (Amendment) Act, 2012 (XXII of 2012).

6 *Ibid*, for the words “West Pakistan”.

7 Substituted by the West Pakistan Laws (Extension to Karachi) Ordinance, 1964 (VII of 1964).

8 Substituted, for the word “Pakistan”, by the Punjab Maternity Benefit (Amendment) Act 2012 (XXII of 2012).

9 Substituted by the West Pakistan Laws (Extension to Karachi) Ordinance, 1964 (VII of 1964).

10 Substituted for the word “Province” by the Punjab Maternity Benefit (Amendment) Act, 2012 (XXII of 2012).

11 Substituted by the Labour Laws (Amendment) Act, 1994 (Federal Act XI of 1994).

12 Substituted by the Punjab Maternity Benefit (Amendment) Act, 2012 (XXII of 2012).

13 XXV of 1934.

14 Substituted for the words “a factory” by the Labour Laws (Amendment) Act, 1994 (Fed Act XI of 1994).

- (c) “medical practitioner” means a medical practitioner nominated for the purposes of this Ordinance by the employer with the approval of the Inspector of Factories;
- (d) “prescribed” means prescribed by rules made under this Ordinance;
- (e) “still-born child” means any child which has issued forth from its mother after the twenty-eighth week of pregnancy and which did not at any time after being completely expelled from its mother, breathe or show any other signs of life;
- (f) “wages” means wages as defined in clause (vi) of section 2 of the Payment of Wages Act, 1936¹⁵; and
- (g) “woman” means a woman worker.

(2) Expressions used in this Ordinance but not defined herein shall have the meanings respectively assigned to them in the Factories Act, 1934¹⁶.

¹¹⁷[3. **Employment or work during certain periods.**— (1) An employer shall not employ a woman and a woman shall not be engaged in employment of any nature in any establishment during six weeks following the date on which she delivers a child.

(2) An employer shall not ask an employed woman working on regular or temporary basis to do any work which is of arduous nature or which involves long hours of standing or which is likely to affect her health for a period of one month immediately:

- (a) preceding the period of six weeks before the date of the expected delivery; and
- (b) succeeding six weeks after the date on which she delivers a child.]

4. Right to and liability for payment of maternity benefit.— ¹¹⁸[(1) Subject to the provisions of this Ordinance, every woman employed in an establishment shall be entitled to, and her employer shall be liable for, the payment of maternity benefit at the rate of her wages last paid during the period of six weeks immediately preceding and including the days on which she delivers the child and for each day of six weeks succeeding that day:

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the establishment of the employer from whom she claims maternity benefit for a period of not less than four months immediately preceding the day on which she delivers the child.]

(1) ¹¹⁹[* * * * *

5. Procedure regarding payment of maternity benefit.— (1) Any woman entitled to maternity benefit,—

15 IV of 1936.

16 XXV of 1934.

17 Substituted by the Punjab Maternity Benefits (Amendment) Act 2016 (X of 2016) for the following:

“3. **Employment of, or work by, women in establishments prohibited during certain period.**— No employer shall knowingly employ a woman and no woman shall engage in employment in any establishment during the six weeks following the date on which she is delivered of a child.”

18 Sub-section (1) substituted by the Labour Laws (Amendment) Act, 1994 (Fed Act XI of 1994).

19 Omitted by the Labour Laws (Amendment) Act, 1994 (Fed Act XI of 1994).

- (a) who is pregnant may, give notice either orally in person or in writing in the prescribed form to the employer that she expects to be confined within six weeks next following and may therein nominate a person for the purposes of section 6;
- (b) who has not given the notice referred to in clause (a) and has been delivered of a child, shall within seven days, give similar notice that she has been delivered of a child.

(2) When such notice is received, the employer shall permit the woman to absent herself from the factory from the date following the date of notice in the case mentioned in clause (a) of sub-section (1) and from the day of delivery in the case mentioned in clause (b) thereof, until six weeks after the day of delivery.

(3) An employer shall pay maternity benefit for twelve weeks to a woman entitled thereto in any of following ways selected by the woman, namely:-

- (i) for six weeks before delivery within forty-eight hours of the production of a certificate signed by the medical practitioner stating that the woman is expected to be confined within six weeks of the date of the certificate, and for the remainder of the period for which she is entitled to maternity benefit within forty-eight hours of the production of the proof that she has been delivered of a child; or
- (ii) for the period of six weeks before delivery and including the day of delivery, within forty-eight hours of the production of proof that she has been delivered of a child and, for the remainder of the said period, within six weeks of the production of such proof; or
- (iii) for the whole of the said period of twelve weeks, within forty-eight hours of the production of proof that she has been delivered of a child:

Provided that a woman shall not be entitled to any maternity benefit or any part thereof, the payment of which is dependent upon the production of proof under this sub-section that she has been delivered of a child, unless such proof is produced within six months of the delivery.

(4) The proof required to be produced under sub-section (3) shall be either a certified extract from a birth register or a certificate signed by the medical practitioner or such other proof as may be accepted by the employer.

6. Payment of maternity benefit in case of a woman's death.— (1) If a woman entitled to maternity benefit under this Ordinance dies on the day she is delivered of a child or during the period thereafter for which she is entitled to the maternity benefit, the employer's liability under sub-section (1) of section 4 shall not, by reason of her death, be discharged, and he shall pay the amount of maternity benefit due, ^[20]to the person nominated by her under sub-section (1) of section 5 for the benefit of all her legal representatives, or, if she has made no such nomination, to all her legal representatives].

(2) If a woman dies during the period for which she is entitled to maternity benefit but before she is delivered of a child, the employer shall be liable only for the period upto and including the day

20 Substituted by the West Pakistan Maternity Benefit (Amendment) Act, 1985 (Federal Act VIII of 1985).

of her death, provided that any sum already paid to her in excess of such liability under clause (i) of sub-section (3) of section 5 shall not be recoverable from her legal representative ; and any amount due at the woman's death shall be paid to the person nominated by her under sub-section (1) of section 5, or ^[21]for the benefit of all her legal representatives, or, if she has made no such nomination, to all her legal representatives].

7. No notice of dismissal to be given to a woman in certain cases.— (1) When a woman absents herself from work in accordance with the provisions of this Ordinance, it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

(2) (a) No notice of dismissal given without sufficient cause by an employer to a woman within a period of six months before delivery shall have the effect of depriving her of any maternity benefit to which but for such notice she may have become entitled under this Ordinance.

(b) If any question arises as to whether any notice of dismissal is one to which clause (a) applies, such question shall be referred to the Inspector of Factories; and an appeal from the Inspector's decision shall, within sixty days thereof, lie to the Director of Labour Welfare whose decision shall be final.

8. Penalty for working for payment during permitted period of absence.— If a woman does any work in any ^[22]establishment for which she receives payment in cash or kind after she has been permitted by her employer to absent herself under the provisions of section 5, she shall be liable to a fine not exceeding ^[23]one hundred rupees.

9. Penalty for contravention of this Ordinance by an employer and application of fine in payment of compensation.— (1) If any employer contravenes any provision of this Ordinance, he shall be liable to a fine which may extend to ^[24]three thousand rupees.

(2) Whenever a Court imposes a fine under this section or confirms in appeal, revision or otherwise such a sentence, it may, when passing judgement order the whole or any part of the fine recovered to be applied in the payment of compensation to the woman concerned for any loss or damage caused to her.

10. Cognizance of offences. — (1) No prosecution under this Ordinance shall be instituted except by, or with, the previous sanction of the Inspector of Factories and no such prosecution shall be instituted until the expiry of the period of appeal under sub-section (2) or, if such an appeal is preferred, unless the Director of Labour Welfare by his order thereon, sanctions a prosecution.

(2) Where the Inspector of Factories decides either to institute a prosecution under this Ordinance or to grant sanction thereto, he shall forthwith communicate his order to the person complained against, who may, within thirty days of the date of the said order, appeal to the Director of Labour Welfare against such decision; and the decision of the Director of Labour Welfare on such appeal shall be final and shall not be liable to be contested by suit or otherwise.

²¹ *Ibid.*

²² Substituted for the word "factory" by the Labour Laws (Amendment) Act, 1994 (Federal Act XI of 1994).

²³ Substituted for the word "ten" by the Punjab Maternity Benefit (Amendment) Act, 2012 (XXII of 2012).

²⁴ *Ibid.*, for the words "five hundred".

(3) No Court inferior to that of a magistrate of the first class shall try any offence against this Ordinance or any rule made thereunder.

11. Appeal against refusal to prosecute or grant sanction thereto.— Where on an application by an employer or a woman, ¹²⁵[or the person nominated by her or any of her legal representative] the Inspector of Factories refuses either to institute a prosecution under this Ordinance, or to grant sanction thereto, he shall without delay communicate to the applicant his order of refusal, and an ¹²⁶[applicant] aggrieved by such order may, within thirty days of the date thereof appeal to the Director of Labour Welfare against such order; and the decision of the Director of Labour Welfare on such appeal ¹²⁷[which shall be taken after affording to the applicant an opportunity of being heard,] shall be final.

12. Limitation. – No Court shall take cognizance of any offence against the Ordinance or any rule made thereunder unless complaint thereof has been made to the Inspector of Factories within six months of the date on which the offence is alleged to have been committed.

13. Rules. – (1) Government may make rules to carry out the purposes of this Ordinance.

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

- (b) the preparation and maintenance of a muster roll or register or combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under section 41 of the Factories Act, 1934¹²⁸;
- (c) the inspection of ¹²⁹[establishments] for the purposes of this Ordinance by the Inspector of Factories;
- (d) the exercise of powers and the performance of duties by the Inspector of Factories for the purposes of this Ordinance;
- (e) the method of payment of maternity benefit in so far as provision has not been made in this Ordinance;
- (f) the forms of notice under clause (a) and clause (b) of sub-section (1) of section 5; and
- (g) procedure to be observed in the disposal of appeals under sub-section (2) of section 7 or sub-section (2) of section 10 or section 11.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to two hundred and fifty rupees.

(4) All rules made under this Ordinance shall be laid before the ¹³⁰[* * *] Provincial Assembly, as soon as may be after they are made, and if the Assembly within next subsequent seven days on which

25 Inserted by the West Pakistan Maternity Benefit (Amendment) Act, 1985 (Federal Act VIII of 1985).

26 Substituted for the words “employer or a woman” by the West Pakistan Maternity Benefit (Amendment) Act, 1985 (Federal Act VIII of 1985).

27 Inserted *ibid*.

28 XXV of 1934.

29 Substituted for the word “factories” by the Labour Laws (Amendment) Act, 1994 (Federal Act XI of 1994).

30 The words “West Pakistan”, deleted by the Federal Adaptation of Laws Order, 1975 (P.O. 4 of 1975).

the Assembly has sat after any such rule has been laid before it, resolves that the rule shall be annulled, the rule shall forthwith be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new rule.

14. Exhibition of extracts.— An abstract of the provisions of this Ordinance and the rules thereunder in the regional language shall be exhibited in a conspicuous manner by the employer in every part of the [\[31\]](#)[establishment] in which women are employed.

15. [\[32\]](#)[* * * * *]

31 Substituted for the word “factory” by the Labour Laws (Amendment) Act, 1994 (Federal Act XI of 1994).

32 Section 15 “**Repeal and savings**” omitted by the Punjab Maternity Benefit (Amendment) Act 2012 (XXII of 2012).

THE CHILD MARRIAGE RESTRAINT ACT 1929

(Act XIX of 1929)

C O N T E N T S

SECTION	HEADING
1.	Short title, extent and commencement
2.	Definitions.
3.	[<i>Omitted</i>]
4.	Punishment for marrying a child.
5.	Punishment for solemnizing a child marriage.
6.	Punishment for parent or guardian concerned in a child marriage.
7.	Imprisonment not to be awarded for offence under section 3.
8.	Jurisdiction under this Act.
9.	Cognizance of offence and trial.
10.	Preliminary inquiries into offences under this Act.
11.	[<i>Omitted</i>]
12.	Power to issue injunction prohibiting marriage in contravention of this Act.

¹THE CHILD MARRIAGE RESTRAINT ACT 1929

(Act XIX of 1929)

[1st October 1929]

An Act to restraint the solemnization of child marriages.

Whereas it is expedient to restrain the solemnization of child marriages:

It is hereby enacted as follows:

1. Short title, extent and commencement. – (1) This Act may be called the Child Marriage Restraint Act² [1929].

³[(2) It extends to the whole of⁴[the Punjab] and applies to all citizens of Pakistan wherever they may be.]

(3) It shall come into force on the 1st day of April, 1930.

⁵[**2. Definitions.** – In this Act:

(a) "child" means a person who, if a male, is under eighteen years of age, and if a female, is under sixteen years of age;

(b) "child marriage" means a marriage to which either of the contracting parties is a child;

(c) "Government" means Government of the Punjab;

(d) "minor" means person of either sex who is under eighteen years of age; and

(e) "Union Council" means a Union Council, Municipal Committee, Cantonment Board, a Union Administration or, in case of absence of any

1 For Statement of Objects and Reasons, *see*, Gazette of India, 1927, Part V, p.28; and for Report of the Select Committees, *see* Gazette of India, 1928, Part V, pp.111-165. This Act was originally in the Federal ambit, however, the subject on which this law was enacted, devolved to the provinces by virtue of 18th Amendment in the Constitution, hence it was adapted, with amendments, for the province of the Punjab Child Marriage Restraint (Amendment) Act 2015 (XII of 2015).

2 Substituted for "1928" by the Repealing and Amending Act 1930 (VIII of 1930), s.2 and 1st Sch

3 Substituted by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s.3 and 2nd Sch (w.e.f. 14th October 1955), for the original sub-section (2), as amended by the Child Marriage Restraint (Amendment) Act 1938 (VII of 1938), s.2, the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949), and the Federal Laws (Revision and Declaration) Act 1951 (XXVI of 1951), s.8.

4 Substituted for the word "Pakistan" by the Punjab Child Marriage Restraint (Amendment) Act 2015 (XII of 2015).

5 Substituted by the Punjab Child Marriage Restraint (Amendment) Act 2015 (XII of 2015) for the following:

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

(a) "child" means a person who, if a male, is under eighteen years of age, and if a female, is under sixteen years of age;

(b) "child marriage" means a marriage to which either of the contracting parties is a child;

(c) "contracting party" to a marriage means either of the parties whose marriage is or is about to be thereby solemnized; and

(d) "minor" means person of either sex who is under eighteen years of age."

Earlier, the following clause (e) had been omitted by the Child Marriage Restraint (Punjab Amendment) Ordinance, 1971 (XXIII of 1971):

"(e)" Union Council" means the Union Council or the Town Committee constituted under the Law relating to Local Government for the time being in force."

of these local governments in a local area, any other comparable body constituted under any law relating to the local governments or local authorities.]

⁶[3. * * * * *]

⁷**4. Punishment for marrying a child.** – If a person, not being a minor, contracts child marriage, he shall be liable to punishment of simple imprisonment which may extend to six months and fine of fifty thousand rupees.]

5. Punishment for solemnizing a child marriage. – Whoever performs, conducts or directs any child marriage shall be punishable with simple imprisonment which may extend to ⁸[six months and fine of fifty thousand rupees], unless he proves that he had reason to believe that the marriage was not a child marriage.

6. Punishment for parent or guardian concerned in a child marriage.– (1) Where a minor contracts a child marriage, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or unlawful, who does any act to promote the marriage or permits it to be solemnized, or negligently fails to prevent it from being solemnized, shall be punishable with simple imprisonment which may extend to ⁹[six months and fine of fifty thousand rupees]:

Provided that no woman shall be punishable with imprisonment.

(2) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a child marriage, the person having charge of such minor has negligently failed to prevent the marriage from being solemnized.

7. Imprisonment not to be awarded for offences under section 3.– Notwithstanding anything contained in section 25 of the General Clauses Act, 1897¹⁰, or section 64 of the Pakistan Penal Code¹¹, a Court sentencing an offender under section 3 shall not be competent to direct that, in default of payment of the fine imposed, he shall undergo any term of imprisonment.

⁶ Section 3 “Punishment of male adult below twenty-one years of age marrying a child” omitted by the Muslim Family Laws Ordinance, 1961 (VIII of 1961).

⁷ Substituted by the Punjab Child Marriage Restraint (Amendment) Act 2015 (XII of 2015) for the following:

“4. Punishment for male adult above eighteen years of age marrying a child.– Whoever, being a male above eighteen years of age, contracts child marriage shall be punishable with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both.”

⁸ Substituted by the Punjab Child Marriage Restraint (Amendment) Act 2015 (XII of 2015) for “one month, or with fine which may extend to one thousand rupees, or with both”.

⁹ Substituted by the Punjab Child Marriage Restraint (Amendment) Act 2015 (XII of 2015) for “one month, or with fine which may extend to one thousand rupees, or with both”.

¹⁰ X of 1897

¹¹ XLV of 1860

8. Jurisdiction under this Act. – Notwithstanding anything contained in section 190 of the Code of Criminal Procedure, 1898¹², no Court other than that of¹³ [* * *] a¹⁴ [Magistrate of the first class] shall take cognizance of, or try, any offence under this Act.

9. Cognizance of offence and trial. – (1) A Family Court shall not take cognizance of any offence under this Act except on a complaint made by the Union Council.

(2) A Family Court exercising the powers of a Judicial Magistrate of the first class shall conduct the trial of an offence under this Act in accordance with the provisions of Family Court Act, 1964 (XXXV of 1964).]

10. Preliminary inquiries into offences under this Act.– The Court taking cognizance of an offence under this Act shall, unless it dismisses the complaint under section 203 of the Code of Criminal Procedure, 1898, either itself make an inquiry under section 202 of that Code, or direct a Magistrate of the first class subordinate to it to make such inquiry.

[11. * * * * *]

[12. Power to issue injunction prohibiting marriage in contravention of this Act.– (1) Notwithstanding anything to the contrary contained in this Act, the Court may, if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnized, issue an injunction against any of the persons mentioned in sections 3, 4, 5 and 6 of this Act prohibiting such marriage.

(2) No injunction under sub-section (1) shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction.

(3) The Court may either on its own motion or on the application of any person aggrieved, rescind or alter any order made under sub-section (1).

(4) Where such an application is received, the Court shall afford the applicant an early opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(5) Whoever, knowing that an injunction has been issued against him under sub-section (1) of this section disobeys such injunction shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both:

Provided that no woman shall be punishable with imprisonment.]

¹² V of 1898

¹³ The words “a Presidency Magistrate or” omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. 4 of 1949).

¹⁴ Substituted by the Child Marriage Restraint (Second Amendment) Act 1938 (XIX of 1938) for “District Magistrate”.

Laws of the Sindh

THE WOMEN AGRICULTURE WORKERS ACT, 2019
(Act No. V of 2020)
CONTENTS

Section	Heading
CHAPTER I PRELIMINARY	
1.	Short title, extent and commencement
2.	Definitions
CHAPTER II RIGHTS OF WOMEN AGRICULTURAL WORKERS	
3.	Pay to woman agriculture worker
4.	Working hours and off-work
5.	Maternity leave
6.	Child nutrition by woman agriculture worker
7.	Access to public health services and government institutions of agriculture etc.
8.	Free from harassment and abuse
9.	Written contract for work
10.	Association of woman agriculture worker
11.	Discrimination of woman agriculture worker against employment opportunities etc.
12.	Application of rights of women agriculture workers
CHAPTER III REGISTRATION OF WOMAN AGRICULTURAL WORKER	
13.	Registration of woman agriculture worker
14.	Government to recognize and promote and protect the rights of agriculture workers
CHAPTER IV BENAZIR WOMEN'S SUPPORT PROGRAM	
15.	Benazir women support program
16.	Registration of women agricultural workers
CHAPTER V TRIPARTITE ARBITRATION COUNCILS	
17.	Labour and Human Resource Department
CHAPTER VI OTHER GOVERNMENT ACTION	
18.	Step-wise process reforms initiated by Government
19.	Collection of social and economic data and statistic
20.	Government to take measures to encourage private sector and non-governmental stakeholders
21.	Responsibilities of various departments of Government
22.	Power to make rules
23.	Over-riding effect

THE SINDH WOMEN AGRICULTURAL WORKERS ACT, 2019

(ACT NO, VOF 2020)

An Act to provide for the recognition of women's work in agriculture (including farming, livestock and fisheries) and related sectors, to promote and protect their rights, to ensure their participation in decision-making and to foster empowerment through work, and to improve the health and nutrition of women agricultural workers and their children.

AND WHEREAS it is expedient to provide for the recognition of women's work in agriculture (including farming, livestock and fisheries) and related sectors, to promote and protect their rights, to ensure their participation in decision-making and so foster empowerment through work, and to improve the health and nutrition of women agricultural workers and their children.

It is hereby enacted as follows: -

CHAPTER 1

PRELIMINARY

1. Short title, extent and commencement. (1) this act may be called the Sindh Women Agricultural Worker's Act, 2019.

(2) It shall extend to the whole of the province of Sindh.

(3) It shall come into force at once.

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

(a) “agriculture means and includes all activities related to cultivation of crops, animal husbandry, poultry, livestock rearing, apiculture, gardening, fishing, aquaculture, sericulture, vermiculture, horticulture, floriculture, agro-forestry, or any other farming activity or related post-farm activity carried out through self-employment, tenorial cultivation, including shifting cultivation, collection, use and sale of minor or non-timber forest produce by virtue of ownership rights or usufructuary rights;

(b) “Government” means the Government of Sindh;

(c) “Programme” means the Women Benazir Support programme set up under section 15;

(d) “Province” means the Province of Sindh;

- (e) “Tripartite Council” means the Tripartite Arbitration council set up under section 17; and
- (f) “women agricultural worker” means any female person who is, individually or jointly with any other person, paid or unpaid, on land owned or held by herself or her family or anyone else, and for any duration of time, engages in agriculture directly or through the supervision of others and includes all women agricultural workers present in the province, including temporary residents, seasonal migrants, and individuals belonging to travelling and homeless communities;
- (g) “Department” means the Labour and Human Resources Department;

CHAPTER-II

RIGHTS OF WOMEN AGRICULTURAL WORKERS

3. Pay to Woman agriculture worker. — (1) A woman worker shall receive pay in case or in kind, for any agricultural work undertaken individually, or as part of a family unit, on land and livestock belonging to her or her own family, or to someone else which shall be an equal to pay received by male workers for same work.

(2) The pay to a woman agriculture worker under sub- section (1) shall not be less than the minimum wages fixed by Government from time to time for a worker.

4. Working hours and off-work.— (1) The working day of a woman agricultural worker shall working hours and not exceed eight working hours, and shall not commence until one hour after daybreak, or continue beyond one hour prior to Sunset.

(2) A woman agricultural worker shall take time off work due to sickness or for ante-natal and post-natal care, routine health check-ups and visits, without incurring financial or other penalty.

5. Maternity Leave.— (1) A woman agricultural worker is entitled to 120 days of maternity leave.

(2) Every Woman Agriculture Worker is entitled to Iddat Leave for the period prescribed in their faith professed by the worker.

6. Child Nutrition by woman agriculture worker.— A woman agricultural worker having child of up to two Child nutrition by woman agriculture years of age may breastfeed her child in safe and hygienic conditions and in the first six months of the child's life shall worker receive the necessary support to exclusively breast feed her child.

7. Access to public health services and government institutions of agriculture etc.— (1) A women agricultural worker shall have access to public health services convenient for her in terms of timing with regard to her working hours, and location with regard to her place of residence or place of work.

(2) A woman agriculture worker has the right to access government agricultural, livestock, fisheries and other services, credit, social security, subsidies and asset transfers in her own individual right, or in association with other women agricultural workers.

8. Free from Harassment and abuse.— A woman agricultural worker shall perform work free from all forms of harassment or abuse as laid out in the relevant laws prevailing in the province.

9. Written Contract for work.— A woman agricultural worker shall receive a written contract of employment if she so demands, and for accessible and fair arbitration mechanisms, particularly with respect to rates of pay, payment schedules, working conditions, and health and safety at the workplace.

10. Association of woman agriculture worker.— A woman agricultural worker shall have right to form a union or association or to associate herself with an association or group for the purposes of collective bargaining, social welfare including child health, community development, economic profit, and for accessing publicly supplied goods and services.

11. Discrimination of woman agriculture worker against employment opportunities etc.— A woman agricultural worker shall not be discriminated against with respect to employment opportunities, wages and working conditions on grounds of sex, land ownership, caste, religion, ethnicity and residential status.

12. Application of rights of women agriculture workers.— The rights listed in this chapter are applicable to all women agricultural workers regardless of whether they are currently employed directly or indirectly (through labour contractors or male family members), paid or unpaid family help, or are engaged in agricultural work as part of any other arrangements.

CHAPTER-III

REGISTRATION OF WOMAN AGRICULTURAL WORKER

13. Registration of woman agriculture worker.— (1) Government shall, through the labour and Human Resources Department, maintain a register of women agricultural workers at every Union Council. The registration process would be initiated after enactment of this Act as a prerequisite to provide all the benefits, incentives and privileges to the women agricultural workers provided under this Act,

(2) Any woman resident of the Union Council may apply for being registered as a Women Agricultural Worker as long as she fulfils the definition provided in section 2(f).

(3) The registered Woman Agricultural Worker shall be issued a Benazir Women Agricultural Worker's card (Benazir card).

(4) The woman agricultural worker who held Benaizr Card shall be free to make her associations or groups according to her choice.

(5) A union of woman agricultural worker consisting of at least five Benazir Woman Agricultural Worker's card holders may also apply to register a "Woman Agricultural Worker Union"

(6) Individual registered workers or registered groups of workers may apply for government asset transfers, subsidies, credit and services, as well as for arbitration and enforcement of contracts and may mobilize for support within communities for the equitable distribution of the care burden of families.

(7) Registration shall also be seen as one of non-exclusive facilitative instrument for the recognition, protection and promotion of rights listed in Chapter-II. It shall not be a prerequisite for the recognition, protection or promotion of these rights.

14. Government to recognize and promote and protect the rights of agriculture workers.— Government shall recognize, promote and protect the rights of woman agricultural workers, through supportive policies and programme of all relevant departments, coordinated by the Benazir Women's Support Programme of the Labour and Human Resources Department.

CHAPTER-IV

BENAZIR WOMEN'S SUPPORT PROGRAMME

15. Benazir Women Support Program.— (1) The Government shall, by notification in the official gazette set up the Benazir Women's support programme (BWSP) as a permanent programme under the Labour and Human Resources Department with an endowment fund.

(2) The Programme setup under sub-section (1) shall be regulated by the board consisting of:-

- (a) Minister for Labour and Human Resources or Advisor for Labour Human Resources or any other Minister or person to be nominated by the Chief Minister;
- (b) Secretary Labour and Human Resources, Agriculture, Livestock, Fisheries, Women Development, Local Government, Finance, Planning & Development, Government of Sindh and all Divisional Commissioners; Ex-Officio Members

- (c) Two persons of civil society having worked in the field of women agricultural sector; Members
- (d) Two Representatives of the Farmer's / Abadgar organization. Members
- (e) Two Women MPA'S nominated by the speaker Members
- (f) Two elected representatives of groups of women agricultural workers from each division of the Province. Members

(3) The Board shall define the detailed policies and objectives of the programme and appoint Secretary for the execution of the Program.

16. Registration of Women Agricultural Workers.— (1) The Programme shall be responsible for registration of women agricultural workers, and will have a field presence in all districts of the province.

(2) The Programme shall liaise with relevant line departments at the district and local levels for the recognition, promoting and protection of the rights of women agricultural workers.

(3) The Programme shall be able to provide technical and financial assistance to projects initiated by local groups of women agricultural labourers for livelihood, food security, nutrition, health, recognition of women's economic contribution, behavior change and changing social norms and other issues relevant to the rights and welfare of women agricultural workers.

CHAPTER V

TRIPARTITE ARBITRATION COUNCILS

17. (1) Labour and Human Resources Department shall set up Tripartite Arbitration Councils at provincial, district, taluka and Union Council levels with representatives of women agricultural workers, employers, labour and female councilors, and Labour and Human Resources Department (represented by the Programme) for—

- (a) setting piece-rates for various agricultural tasks such as cotton-harvesting, chilli-harvesting, wheat harvesting and others according to local conditions for every season;
- (b) setting the rates for sale of other produce directly involving women agricultural workers, such as dairy and other livestock products;
- (c) registering and arbitrating contractual conditions between employers, landlords, labour contractors, and women agricultural workers,

- (d) promoting safe and hygienic working conditions for women agricultural workers, such as provision of clean drinking water, and preventing exposure to pesticides and other hazardous substances;
- (e) preventing sexual and other forms of harassment or abuse;
- (f) promoting model contracts and best practices;
- (g) detailed rules and procedures which will be framed in the light of the rights of women agricultural workers, listed in-chapter II, and guided by the overarching premise that the arbitration process will recognize, promote and protect these rights.

CHAPTER-VI

OTHER GOVERNMENT ACTION

18. Step-wise process reforms initiated by Government.— (1) Government shall initiate a step-wise process of reform in all relevant departments, policies and programme to recognize, promote and protect the rights of women agricultural workers.

(2) The step-wise process shall be coordinated by the planning and Development Department and led by steering group which will report on progress of reforms envisaged under this Act the appropriate forum within the Sindh Assembly on a quarterly basis.

19. Collection of social and economic data and Statistic.— Government agencies charged with collecting social and economic data and statistics will revise their methodologies to pay explicit attention for the recognition of women agricultural workers, and their economic contribution.

20. Government to take measures to encourage private sector and non-governmental Stakeholders.— Government shall take active measures to encourage private sector and non-governmental stakeholders in agriculture health and other sectors to facilitate the access of women agricultural workers to their services.

21. Responsibilities of various departments of Government. - (1) The departments of agriculture, livestock, fisheries, land revenue and other agriculture- related and programme will prepare and implement a five-year plan form the date of enactment, to make their outreach and services appropriate and accessible to the needs and rights of women agricultural workers, which shall include but not be limited to increasing the number of women staff, particularly at the field level.

(2) The Department of health, population welfare, local government and women development including labour department shall prepare and implement a two-year plan from

the date of commencement of this Act to ensure that their outreach and services are appropriate and accessible to the needs and rights of women agricultural workers.

(3) All such departments shall initiate measures to ensure that they can be responsive to demands from individual Benazir Card holders as well as groups of Benazir Card holders registered with the Labour and Human Resources Department, as well as women agricultural workers who might not be so registered.

22. Power to make rules.— Government may make rules for carrying out the purposes of this Act,

23. Over-riding effect.— The provisions of this Act shall have overriding effect notwithstanding anything contained in any other law, for the time being in force.

THE SINDH MATERNITY BENEFITS ACT, 2018

(Act No. XXXIX of 2018)

CONTENTS

Section	Heading
1.	Short title, commencement and extent
2.	Definitions
3.	Mandatory maternal leave
4.	Additional maternity leave
5.	Eligibility for maternal benefits
6.	Notice of maternal benefits
7.	Right to payment of maternal benefit
8.	Payment of maternal benefit in case of a death of a woman
9.	Nursing breaks
10.	Day care facility
11.	Penalties
12.	Cognizance of offences
13.	Power to make rules
14.	Overriding effect

THE SINDH MATERNITY BENEFITS ACT, 2018

(Act No. XXXIX of 2018)

An Act to provide safeguards to working women's maternity benefits, proper child nursing and job security in public and private organizations.

Preamble: Whereas it is expedient to provide safeguards to working women's maternity benefits, proper nursing of new born to maintain job security and matters ancillary thereto;

It is hereby enacted as follows: -

1. Short title, commencement and extent.— (1) This Act may be called the Sindh Maternity Benefits Act, 2018.

- (2) It shall come into force at once.
- (3) It shall extend to the whole of Province of Sindh.

2. Definitions:

- (a) "Day Care facility" means a place designated for supervised day time of pre-school children's care within the premises where a woman works providing care and recreation facilities to the child;
- (b) "Delivery" means the birth of a child;
- (c) "Employer" means a person or business that employs one or more people for wages or salaries and includes:
 - (a) The Government Organisation;
 - (b) Private Organisation;
 - (c) Semi-Government Organisation;
- (d) "Government" means the Government of Sindh;
- (e) "Maternity" means state relating to, or for the period in which a woman is pregnant or has just given birth to a child;
- (f) "Maternity benefits" means the payment, mandatory leave and other benefits prescribed in this Act;
- (g) "Maternity Leave" means leave of absence for an expectant or new mother for the birth and care of the baby;
- (h) "Neonate" means a new-born baby;
- (i) "Wages" means all remunerations paid or payable in cash to a woman, as per the contract of employment, written or verbal;

3. Mandatory maternal leave.— An employer must grant a mandatory maternity leave to a working woman during pregnancy in the following order:

- (1) Four weeks before the expected date of delivery.
- (2) Twelve-weeks after the delivery.

4. Additional maternity leave.— (1) Miscarriage: In case of miscarriage, there shall be a 1-week of paid leave.

(2) Still-born: In case of still-born, there shall be paid leave of 4-weeks.

(3) Premature delivery: There shall be a paid leave of 16-weeks in case of a premature delivery, leave shall commence since the day of the birth of premature neonate.

Explanation: 4-weeks of pre-natal and 12-weeks of post-natal leave shall be combined and a mother shall be granted a combined 16-weeks of paid leave after the occurrence of a premature delivery.

(4) Any other medical complication: In case of any other medical complication, in which case the life of a mother or her unborn may be at risk, shall be paid leave for 4-weeks.

Such a request for additional maternity leave shall be supported by medical documents and the organisation may countercheck, if needed.

5. Eligibility for maternal benefits.— The benefits are available to all the female employees who have worked for a continuous period of one year preceding the date of her expected delivery.

6. Notice of maternal benefits.— A woman shall inform the employer through a written application 12-weeks before the expected date of delivery.

7. Right to payment of maternal benefit.— Employer has to pay a woman the same amount of salary during the period of maternity leave.

8. Payment of maternal benefit in case of a death of a woman.— If a woman entitled to maternity benefits under this act dies during or before child labour, the employer shall pay 10% of her monthly salary for the number of years she has worked for the organisation to the legal heirs of the employee along with all the other benefits for which she was entitled to receive from the respective organisation at the time of commencement of her employment.

9. Nursing breaks.— Women employee shall be permitted to visit the day care facility 4 times during the day to nurse, wean and feed the child.

10. Day Care Facility.— It is mandatory for every organisation employing 10% or more employees to establish a day care facility within the premises and the installation of CCTV for monitoring the child's wellbeing.

11. Penalties.— If any employer fails to pay any amount of maternity benefit to a woman entitled under this Act, or discharges or dismisses such a woman during or on account of her absence from work in accordance with the provisions of this Act.

12. Cognizance of offences.— Any aggrieved woman may file a complaint regarding the commission of an offence under this Act in the court of competent jurisdiction.

13. Power to make rules.— The rules shall be made for carrying out the purpose of this Act once it becomes law.

14. Overriding effect.—The provisions of this Act shall be in addition to and not in derogation of any other law. In case of contradiction, this law prevails.

THE SINDH HINDUS MARRIAGE ACT, 2016

(ACT NO. IX)

CONTENTS

Section	Heading
1.	Short title, extent and commencement.
2.	Definitions.
3.	Objective.
4.	Conditions for a Hindu marriage.
5.	Ceremonies for marriage
6.	Registration of marriages.
7.	Manner of registration.
8.	Omitted.
9.	Government to prescribe fee.
10.	Power to make rules.
11.	Retrospective effect of the act.
12.	Power to remove difficulties.
13.	Interpretation.
14.	Act to take precedence over other laws

THE SINDH HINDUS MARRIAGE ACT, 2016

Sindh Act No. IX of 2016

An Act to provide for law relating to marriage amongst Hindus

WHEREAS the right to family is a fundamental right guaranteed by the Constitution of Pakistan;

And Whereas there is a need to create a uniform mechanism for registration of Hindu marriages and for matters which are incidental or ancillary thereto.

It is hereby enacted as follows: -

1. Short title, extent, and commencement.— This Act may be called the Sindh Hindu Marriage Act, 2016.

(2) This Act extends to all Hindus in the Province of Sindh.

(3) It shall come into force at once.

2. Definitions.— In this Act—

(a) “Certificate of marriage” means the document provided in Schedule A.

(b) “Concerned Officer” means the officer duly authorized in the Union Council, Ward or any other Municipal Authority where the marriage ceremony takes place.

(c) “Consent” means informed and voluntary consent that is given freely without any coercion, undue influence, fraud or misrepresentation by an adult with full capacity to give any such consent and full knowledge of the implications of the consent and any alternatives.

(d) “Degrees of prohibited relationship” means a relationship prohibited under personal law of the religion and customs of Hindus that forbids certain relations to join in marital life;

(e) “Government” means the Government of Sindh;

(f) “Hindu” any person who practices the Hindu, Jain or Sikh religions in any of the forms or developments;

(g) “Marriage Register” means the register of marriages maintained by the Concerned Officer as prescribed by the Government;

(h) “Solemnization” means the marriage ceremony.

3. Objective.— The objective of this Act is to provide a formal process of registration of marriages for Hindus.

4. Conditions for a Hindu marriage.— A marriage may be solemnized under this Act, if the following conditions are fulfilled, namely:

- (a) parties to the marriage are of 18 years of age or above;
- (b) parties to the marriage are able to give consent;
- (c) parties to the marriage give free consent;
- (d) parties are not within the prohibited degree of relationship;
- (e) neither of the parties to the marriage has a spouse living at the time of marriage; and
- (f) At least two witnesses are present at the time of the solemnization and registration of marriage.

Provided that condition in clause (e) shall not apply where a living female spouse cannot conceive a child and medically declared to be so.

5. Ceremonies for marriage.— Notwithstanding anything contained in this Act, a marriage may be solemnized in accordance with the customary rites and ceremonies of either party to the marriage.

6. Registration of marriages.— Every marriage solemnized under this Act shall be registered with the Union Council/Ward or any other Municipal Authority, where the marriage ceremony took place, within 45 days of the solemnization.

7. Manner of registration.— (1) There shall be 4 copies of the certificate of marriage, as provided in Schedule A, all of which after being filled out shall be provided to the Concerned Officer.

(2) The Concerned Officer after satisfying himself that all conditions of marriage set out in Section 4 have been met shall certify/endorse the certificate of marriage and keep one copy of the certificate for its record and return the remaining copies to the parties.

(3) The Concerned Officer shall maintain a Marriage Register for the purposes of this Act as per Rules and directions issued by the Government.

(4) Omitted.

8. Restitution of Conjugal Rights.— (1) Either party to Hindu marriage, whether solemnized before or after commencement of this Act, may present a petition to the court praying for decree of judicial separation on any of the grounds specified in sub0section (1) of section 11 and in the case of a wife also on any of the ground specified in sub-section (2) thereof.

(2) Whereas decree of judicial separation has been passed, the court may on application of both the parties and on being satisfied or truth of statements made in such petition, rescind the decree if it consider it just and reasonable to do so.

9. Void marriage.— Any Hindu marriage solemnized after commencement of this Act may, on a petition to the court presented by either party to the marriage or their real parents be declared null and void the conditions specified in clause (c) and (d) of section 4.

10. Void marriage.— Any Hindu marriage solemnized, whether before or after commencement of this Act may be declared voidable and may be subsequently annulled by a decree of nullity passed by the court if:-

- (a) marriage has not been consummated owing to impotence of the respondent, or
- (b) the marriage has been solemnized in contravention of the condition specified in clause (a) of section 4, or
- (c) consent of the petitioner was obtained by force, coercion or by fraud as to the nature of the ceremony or as any material fact or circumstances concerning the respondent, or
- (d) the respondent was at the time of the marriage pregnant by some person.

(2) Notwithstanding anything contained in sub-section (1) no petition for annulling a marriage:

- (A) on the ground specified in clause (c) of sub-section (1) shall be entertained if:-
 - (i) the petition is presented more than one year after the force or coercion has ceased to operate or, as the case may be, the fraud had been discovered: or
 - (ii) the petitioner has with his or her full consent, continued to live with the other party to the marriage as husband or wife the force has ceased to operate or, as the case may be, the fraud has been discovered, and
- (B) on the ground specified in clause (d) of sub-section (1) shall be entertained unless the court is satisfied that:-
 - (i) the petitioner was, at the time of the marriage, ignorant of the facts alleged: and
 - (ii) the proceeding have been instituted, in case of marriage solemnized: -
 - (d) before the commencement of this Act within one year of such commencement and
 - (e) after such commencement within one year from the date of the marriage.

11. Termination of Hindu marriage.— Any Hindu marriage solemnized whether before or after commencement of this Act may, on a petition presented to the Court by either a husband or a wife, be terminated by decree of termination of marriage on the ground:-

(a) That the party: -

- (i) has, after the solemnization of the marriage, treat the petitioner with cruelty, or
- (ii) has deserted the petitioner, for a continuous period of not less than two years immediately preceding the presentation of the petition or

Explanation.- In this clause, the expression “desertion” means the desertion of the petitioner by the other party to the marriage without reasonable cause and without the consent or against the wish of such party and includes the willful neglect of the petitioner by the other party to the marriage: or

- (iii) has ceased to be Hindu by conversion to another religion, or
- (iv) has been incurably of unsound mind, mental disorder.

Explanation:- In this clause the expression “mental disorder” means mental illness, arrested or incomplete development of mind, psychopathic disorder or any disorder or disability of mind including schizophrenia and the expression “psychopathic disorder” means a persistent disorder or disability of mind (whether or not including sub-normality of intelligence) which results in abnormally aggressive or serious irresponsible conduct on the part of the other party and whether or not it requires or is susceptible to medical treatment: or

- (v) has been suffering from virulent and incurable from of leprosy, or
- (vi) has been suffering from venereal disease in communicable from or HIV Aids: or
- (vii) has renounced the world by entering any religious order, or

(b) That there has been no resumption of cohabitation as between the parties to the marriage for a period of more than one year after the passing of a degree for judicial separation or order of restitution of conjugal rights passed by the court.

(2) A wife may also present a petition for termination of her marriage on the ground: -

- (a) in the case of any marriage solemnized before commencement of this Act, that the husband has married again before such commencement or that another wife of the husband married before such commencement was alive at the time of the solemnization of the marriage of the petitioner:

Provided that in either case the other wife is alive at the time of the presentation of the petition: or

- (b) that the husband has neglected or has failed to provide for her maintenance for a period of two years'
- (c) that the husband has been sentenced to imprisonment for a period of four years or upward; or
- (d) that her marriage, whether consumed or not, was solemnized before she attained the age of eighteen years and she has repudiated the marriage before attaining that age;

Explanation:- This clause applies whether the marriage was solemnized before or after commencement of this Act.

12. Financial security of wife and children.— (1) If a wife is respondent in a petition for termination of the marriage by decree of termination she may oppose the grant of decree on the ground that the termination of the marriage may result in grave financial hardship to her unless arrangement have been made to the satisfaction:

Provided that nothing contained in this Act shall affect any right which she may have to her dower or any party thereof on the termination of marriage.

(2) The Court shall not pass a decree of termination unless the court is satisfied that adequate provisions for the maintenance of children born out of the marriage has been made in commensuration with the financial capacity of the parties to the marriage.

13. Termination of Hindu marriage by mutual consent.— (1) Subject to the provisions of this Act a petition for termination of marriage by a decree of divorce may be presented to the Court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of this Act, on the ground that they have been living separately for a period of six month a year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be terminated.

(2) The Court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree of termination declaring the marriage to be terminated with effect from the date of the decree.

14. After termination of marriage person may marry again.— When a marriage has been annulled or terminated by a decree of nullity or decree of termination as the case may be and the

time for appeal has expired or an appeal has been preferred but has been dismissed, it shall be lawful for either party to marry again after expiry of six months from final decision.

15. Hindu widows are entitled to re-marry.— A Hindu widow shall have right to re-marry of her own will and consent after the death of her husband provided a period of six months has lapsed after the husband's death.

16. Legitimacy of child born out of voidable Hindu marriage.— (1) Notwithstanding that a marriage is null and void under section 9, any child of such marriage who would have been legitimate if the marriage had been valid, shall be legitimate, whether such a child is born before or after the commencement of this Act and whether or not a decree of nullity is granted in respect of the marriage under this Act and whether or not the marriage is held to be void otherwise than on a petition under this Act.

(2) Where a decree of nullity is granted in respect of a voidable marriage under section 10, any child begotten or conceived before the decree is made, who would have been the legitimate child of the parties to the marriage if at the date of the decree it had been terminated instead of being annulled, shall be deemed to be their legitimate child notwithstanding the decree of nullity.

17. Punishment of bigamy.— Any marriage solemnized after the commencement of this Act is void if at the date of such marriage either party had a spouse living and the provisions of section 494 and 495 of the Pakistan Penal Code, 1860 (Act XLV of 1860) shall apply accordingly.

18. Punishment for contravention of certain other conditions for Hindu marriage.— Every person who get his or her marriage solemnized under this Act in contravention of the conditions specified in clauses (b) or (c) of section (4) shall be punishable with simple imprisonment which may extend to six months but not less than three months or with fine which may extend to five thousand rupees or with both.

19. Court to which petition shall be presented.— Every petition under this Act shall be presented to the Family Court and provisions of:-

- (a) the Family Court Act, 1964 (XXXV of 1964) except proviso of sub-section (4) of section 10, sub-section (2) of section 14 and section 21 and 23 thereof; and
- (b) the West Pakistan Family Court Rules, 1965 except proviso to clause (b) of rule (6) thereof;

shall mutatis mutandis apply to the proceeding under this Act.

20. Penalty for violation of the provisions of this Act.— (1) Any person who contravenes the provisions of this Act or rules made there under regarding of Hindu marriage shall be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to one thousand rupees or with both.

(2) Any person who make statement or give particulars to be entered in the marriage register which is false or has reason to believe to be false, shall be punished with a simple

imprisonment which may extend to six months but not less than one month or fine which may extend up to one hundred thousand or with both.

21. Cognizance of offence under this Act.— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898) all offences under this Act shall be non-cognizable and non-compoundable and the same shall be triable by a Magistrate of First Class on a complaint in writing by a marriage registrar.

22. Government to prescribe fee.— The Government through a notification published in the official gazette shall prescribe fee for registering marriages and issuing certified copies of the certificates.

23. Power to make rules.— The Government shall within 3 months of when this Act comes into force, shall notify Rules for the purpose of furtherance of achieving the objects of this Act.

24. Retrospective effect of the Act.— (1) The Act shall have retrospective effect for the purposes of validation and registration of the marriages solemnized prior to the commencement of this Act.

(2) Marriages solemnized before this Act came into force may be registered with the Concerned Officer with the same procedure, as prescribed under this Act.

25. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

26. Interpretation.— This Act and the Rules framed hereunder shall be interpreted so as to advance the purposes of this Act and to facilitate and encourage people belonging to Hindu religion to get their marriages registered.

27. Act to take precedence over other laws.— The provisions of this Act shall take precedence over the provisions of any other law.

SCHEDULE A CERTIFICATE OF MARRIAGE

1. Union Council Name/No _____, Tehsil/Town _____, District _____

2. Date of Marriage -----

3. Particulars of the Groom:

- i. Full Name, _____
CNIC _____
- ii. Father's Name _____
CNIC _____
- iii. Mother's Name _____ CNIC: _____
- iv. Age _____
- v. Permanent Address: _____
- vi. Temporary Address: _____
- vii. Matrimonial Status: Single Married Divorced Widower
- viii. Number, Name and Ages of Dependents: _____
- ix. Religion: Hindus Sikh Jain

4. Particulars of the Bride:

- i. Full Name: _____ CNIC _____
- ii. Father's Name: _____ CNIC _____
- iii. Mother's Name _____ CNIC _____
- iv. Age _____
- v. Permanent Address: _____

- vi. Temporary Address: _____
- vii. Matrimonial Status: Single Married Divorced Widower
- viii. Number, Name and Ages of Dependents: _____
- ix. Religion: Hindus Sikh Jain

5. Signature of Bride: _____

6. Signature of Groom: _____

7. Name, Signature and CNIC number of Witnesses

8. Signature of Pandit, Maharaj or any person solemnizing the marriage

9. Stamp & Seal of Concerned Officer.

THE SINDH COMMISSION ON THE STATUS OF WOMEN ACT, 2015

(Act No. XX of 2015)

Contents

Section	Heading
	Preamble
1.	Short title, extent and commencement
2.	Definitions
	CHAPTER-II
	ESTABLISHMENT OF THE COMMISSION
3.	Establishment of the Commission.
4.	Constitution of a Special Committee.
5.	Constitution of a Parliamentary Committee for the appointment of Commission.
6.	Appointment of Chairperson.
7.	Appointment of members.
8.	Term of Office of Chairperson and Members.
9.	Removal of Chairperson and Members.
10.	Acting Chairperson.
11.	Secretariat of the Commission.
12.	Powers and Functions of the Commission.
13.	Meeting of the Commission.
14.	Appointment of Committees of the Commission.
	CHAPTER-IV
	FUNDS, BUDGET AND ACCOUNTS
15.	Fund.
16.	Annual budget
17.	Annual report, Accounts and Audit
18.	Investments
19.	Annual Report of the Commission
20.	Assistance to the Commission
21.	Indemnity
22.	Members and officers to be public servants
23.	Power to make Rules
24.	Delegation of Powers
25.	Power to remove difficulties

THE SINDH COMMISSION ON THE STATUS OF WOMEN ACT, 2015

(Act No. XX of 2015)

An Act to provide for the setting up Provincial Commission on the Status of Women

WHEREAS it is expedient to set up Provincial Commission on the Status of Women for promotion of social, economic, political and legal rights of women, as provided in the Constitution of the Islamic Republic of Pakistan 1973, and in accordance with international declarations, Conventions, treaties, Covenants and agreements relating to women, including Convention on the Elimination of all forms of Discrimination against Women (CEDAW), and for matters connected therewith or incidental thereto;

CHAPTER-I

PRELIMINARY

It is hereby enacted as follows:

1. Short title, extent and commencement. (1) This Act may be called the Sindh Commission on the Status of Women Act, 2015.

(2) It extends to the whole of the Province of Sindh.

(3) It shall come into force at once.

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

- (a) “Chairperson” means the Chairperson of the Commission as appointed under section 6, and includes acting chairperson appointed under section 10;
- (b) “Commission” means the Sindh Commission on the status of Women established under section 3;
- (c) “Girl” means a female child under the age of eighteen years;
- (d) “Government” means the Government of Sindh;
- (e) “Member” means the Member of the Commission;
- (f) “Prescribed” means prescribed by rules made under this Act;
- (g) “regulations” means a regulations made under this Act;
- (h) “rules” means rules made under this Act;
- (i) “Secretary” means the Secretary of the Commission appointed under section 3 of this Act;
- (j) “Women” means a female of eighteen years or above;

- (k) “District, means a district as defined in the Sindh Land Revenue Act, 1967.

3. Establishment of the Commission.— (1) Government shall constitute a Commission to be known as the Sindh Commission on the Status of Women (SPCSW), to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of twenty-one members and shall include one Chairperson and twenty Members:

Provided that the Chairperson and Members shall be appointed within ninety days of the passage of this Act.

(3) The Chairperson shall be appointed under Section 6 of this Act:

- (a) The Chairperson shall be a woman, not less than forty five years of age with experience of working on issues relating to women’s rights for more than fifteen years, and is committed to the cause of women’s empowerment;

(4) A Member of the Commission shall be appointed under Section 7 of this Act.

- (a) The Commission shall include at least one women representative of the minority community and three male members.

- (b) A Member of the Commission shall not be less than thirty or thirty five years of age, of active experience of working on issues relating to women’s rights for more than 10 years and is committed to the cause of women’s empowerment.

(c) The Members of the Commission shall include—

- (ii) seven members representing each Division with at-least ten years experience in promoting women’s rights and empowerment;
- (iii) seven members with an expertise in gender and development, law and social sector and academia, one of whom shall be a male;
- (iv) five ex-officio members who shall be representatives of the Provincial Departments of Women, Law, Finance, Home and Social Welfare, not below BPS-19, and who shall have the right to vote;
- (v) Secretary of the Commission, who shall not have the right to vote.

(5) The headquarters of the Commission shall be at Karachi.

(6) The Commission shall be a body corporate having perpetual succession and a common seal with powers, among others to acquire, hold and dispose of any property and shall sue and be sued by the said name.

4. Constitution of a Special Committee.— (1) The Women Development Department (WDD) shall invite through public notice applications and recommendations for Chairperson and membership of the Commission.

(2) The WDD shall set up a Special Committee which shall include: -

(viii) Minister, WDD, who shall head the Committee;

(ix) Convener Women's Parliamentary Caucus (WPS);

(x) Member, WPC;

(xi) Chairperson Sindh Human Rights Commission;

(xii) Member, Sindh Human Rights Commission;

(xiii) Secretary Social Welfare Department;

(xiv) Secretary Law; and

(xv) Secretary Women Development Department, who will be Secretary of the Committee.

(3) The Special Committee shall vet, scrutinize and examine the nominations and applications for Chairperson and Members of the Commission to satisfy itself that the recommended names fulfill the qualifications and criteria as laid down by this law in Section 6 and Section 7.

(4) The names identified by the Special Committee shall submit the final nominations:-

(a) To the Chief Minister Sindh and Leader of the Opposition for the Chairperson to follow the procedures set out in Section 6; and

(b) To the Parliamentary Committee constituted under Section 7 for the Members of the Commission.

5. Constitution of a Parliamentary Committee for the appointment of Commission.— A Parliamentary Committee shall be constituted by the Speaker of the Provincial Assembly of Sindh and shall comprise fifty percent members from the treasury benches and fifty percent from the opposition parties, based on their strength in the Provincial Assembly, to be nominated by the respective Parliamentary Leaders.

6. Appointment of Chairperson.— (1) Government, through the Women Development Department, shall through public notice, invite applications and recommendations for suitable persons for appointment as Chairperson and after proper scrutiny as set out in Section 4, shall submit a list of those persons to the Chief Minister and the Leader of the Opposition in the Provincial Assembly of Sindh.

(2) The Chief Minister in consultation with the Leader of the Opposition in the Provincial Assembly of Sindh shall forward two names for Chairperson to the Parliamentary Committee for hearing and confirmation of any one person:

Provided that in case there is no consensus between the Chief Minister and the Leader of the Opposition, each shall forward a separate list to the Parliamentary Committee who shall finalize the nomination on the basis of two-thirds majority.

(3) The Parliamentary Committee shall forward the name of the nominee confirmed by it, to the Chief Minister, who shall appoint the Chairperson accordingly.

7. Appointment of members.— (1) The ex-officio members, shall be appointed by the Chief Minister from amongst the names recommended by the relevant Minister.

(2) Each Division Commissioner shall recommend four names from each Division to the WDD Special Committee, out of which one shall be a man and one shall be a minority.

(3) The Minister for WDD shall appoint seven suitable members as per sub-section (2) of section 4.

(4) A vacancy of a Member shall be filled as provided in sub-sections (1), (2) and (3) within thirty days of the occurrence of the vacancy.

8. Term of Office of Chairperson and Members.— (1) A person appointed as the Chairperson and Member shall hold office for a term of three years from the date on which he or she enters upon his or her office. The term of the office may be extended only once.

(2) The chairperson or a Member may resign his office in writing under his hand addressed to Chief Minister of the Sindh Province and on acceptance of such resignation; such vacancy shall be filled within thirty days for the unexpired term of the member.

9. Removal of Chairperson and Members.— The Chairperson or Members may be removed from office by the Government, if he—

- (a) is, after proper inquiry, found guilty of misconduct;
- (b) is, adjudged an insolvent;
- (c) is, unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority; and
- (d) has, on conviction of any offence involving moral turpitude been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his release.

10. Acting Chairperson.— By reason of a vacancy in the office of Chairperson due to death, illness, resignation or otherwise, Government shall appoint a woman from amongst members of the Commission to act as Chairperson for a period of not exceeding thirty days or until the appointment of a new Chairperson, whichever is earlier.

11. Secretariat of the Commission.— (1) There shall be a Secretariat of the Commission headed by the Secretary with complement of officers and support staff as may be prescribed.

(2) The Secretary on the instructions of the Commission shall prepare a draft three year strategic plan, the Annual Work Plan and Budget.

(3) The Secretary shall be appointed in the manner as may be prescribed.

(4) The appointment and terms and conditions of the employees of the Commission shall be such as may be prescribed.

CHAPTER-III POWERS AND FUNCTIONS OF THE COMMISSION

12. Powers and Functions of the Commission.— The Commission shall—

- (a) examine the policy, programs and other measures taken or to be taken by Government for gender equality, women's empowerment, political participation, representation, assess, implementation and make suitable recommendations to the concerned authorities;
- (b) review all Provincial laws, rules and regulations prejudicial to the legitimate interest and rights of women and suggest accordingly in term of replacement, amendment, addition or legislation afresh essentially needed to eliminate discrimination, safeguard and promote the interest of women and achieve gender equality before law in accordance with the Constitution and obligations under international covenants and commitments;
- (c) sponsor, steer, encourage research to generate information, analysis and studies and maintain a database relating to women and gender issues to provide knowledge and awareness for Government policy and strategic action for women empowerment;
- (d) develop and maintain interaction and dialogue with non-governmental organizations, experts and individuals in society and an active association with similar commissions and institutions in other provinces for collaboration and action to achieve gender equality in the province;
- (e) mobilize grants from domestic sources and international sources in order to meet any of its obligation or for the performing of its functions;
- (f) facilitate and monitor implementation of international instruments and obligations affecting women and girls advise to Government in providing opinions and inputs to the Federal Government before accession to any such proposed international instrument, protocol or treat by Federal Government;

- (g) seek and receive information, data and documents from any Provincial or Federal sources or entity in the course of performance of its functions;
- (h) inspect any jail, sub-jail or other places of custody where women and girls are kept and to make appropriate recommendations to the authorities concerned;
- (i) act for advocacy, lobbying, coalition building, networking and as a catalyst for promotion of cause of women to facilitate their participation in all spheres of life including legal, economic, social and political empowerment;
- (j) liaise with the National Commission on the Status of Women and other Provincial Commissions or any other relevant body;
- (k) monitor mechanism and institutional procedure for redressal of violation of women's rights; and
- (l) Perform any other functions which may be assigned to it by Government.
- (m) the Commission shall, with the approval of Executive Committee as defined Section 14, fix an honorarium or remuneration of advisors, consultants and experts as may be prescribed.
- (n) the Commission shall consider, approve and monitor implementation of the Strategic Plan and the Annual Budget.

13. Meeting of the Commission.— (1) A meeting of the Commission shall be held in each quarter of the year at such times and at such place as the Chairperson may decide. The Chairperson may call additional meetings if and when required.

(2) All meetings shall be chaired by the Chairperson or in his absence the members present shall elect from amongst themselves a member to preside the meeting.

(3) The meeting of the Commission shall be conducted in accordance with the procedure as may be prescribed.

(4) The quorum for the meeting of the Commission shall not be less than one half of the total strength of the Commission.

(5) The decisions of the Commission shall be taken by the majority of the members present. In case of a tie, the Chairperson of the meeting shall have the casting vote.

(6) No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Commission.

14. Appointment of Committees of the Commission.— (1) There shall be an Executive Committee of the Commission consisting of the Chairperson and two other members to be appointed by the Commission which shall be responsible to oversee the implementation of the decisions and recommendations of the Commission.

(2) The Commission may establish such other Committees from amongst its members as it deems fit and may refer to them any matter for consideration and report. The

Commission may, if it considers necessary, co-opt to a Committee any person possessing special knowledge and expertise on the relevant subject.

CHAPTER-IV

FUNDS, BUDGET AND ACCOUNTS

15. Fund.— (1) There shall be established a Fund for the purposes of this Act which shall vest in, and be administered and controlled by the Commission.

(2) The Fund shall consist of—

- (i) such funds as Government may grant by way of seed money or otherwise;
- (ii) donations from domestic and international donor agencies and other institutions;
- (iii) grants of money and funds borrowed or raised by the Commission for the purposes of meeting any of its obligations or discharging any of its duties;
- (iv) fees, penalties or other charges imposed under this Act; and
- (v) all other funds which may in any manner become payable to or vested in the Commission in respect of any matter incidental to the exercise of its powers and functions.

(3) The fund shall be expended for the purpose of –

- (a) paying any expenditure lawfully incurred by the Commission, including remuneration of employees appointed by the Commission, their provident fund contributions, superannuating allowances or gratuities;
- (b) meeting the costs and charges of the contractors, inspection teams, advisors, consultants and agents hired by the Commission;
- (c) paying any other expenses, costs or expenditure properly incurred or accepted by the Commission in the performance of its functions or the exercise of its powers under this Act, including legal fees and costs;
- (d) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other work and undertakings in the performance of its functions or the exercise of its powers under this Act;
- (e) repaying any financial accommodation received or moneys borrowed under this Act and the profit, return, mark-up or interest due thereon; and
- (f) generally paying any expenses for carrying into effect the provisions of this Act.

16. Annual budget.— (1) The Commission shall prepare and approve annual budget for a financial year in the prescribed manner.

(2) No expenditure shall be made for which provision has not been made in any approved budget except if made from any previously approved contingency funds, unless further approval is sought and obtained from the Board.

17. Annual report, Accounts and Audit.— (1) Within ninety days from the end of each financial year, the Commission shall prepare a report on the activities and performance of the Commission, including inspections carried out under this Act during the financial year and submit a copy of the report to Government.

(2) The Commission shall keep proper accounts and shall, as soon as practicable, after the end of each financial year, prepare a statement of accounts of the Commission for the financial year which shall include a balance sheet and accounts of income and expenditure.

(3) The Commission shall appoint a firm of chartered accountants for audit of the statement of accounts of the Commission.

(4) The Board shall, within one hundred and twenty days of the end of each financial year, together with the annual report of the Commission under sub-section (2), send a copy of the statement of accounts of the Commission certified by the Auditors and the copy of the Auditor's report to Government.

18. Investments.— (1) Subject to sub-section (2), the Commission may, in so far as its moneys are not required to be expended under this Act, invest the surplus moneys in such manner as may be prescribed.

(2) The Commission shall not invest its money in listed securities or any derivative thereof whether listed or not.

19. Annual Report of the Commission.— (1) The Commission shall prepare its Annual Report and shall be presented to the Chief Minister and Women Development Department. The annual report shall include accounts of its performance and utilization of funds.

(2) The Annual Report of the Commission shall be laid and discussed in the Assembly.

20. Assistance to the Commission.— All Government executive authorities shall assist the Commission in the performance of its functions.

21. Indemnity.— No suit, prosecution or legal proceedings shall lie against the Commission, the Chairperson or any Member, officer, employees, advisors or consultants of the Commission in respect of anything done in good faith or intended to be done under this Act or the Rules made there under or order made, or publication by or under the authority of Government, Commission or any report, paper or proceedings.

22. Members and officers to be public servants.— Every member of the Commission and every officer appointed or authorized by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

23. Power to make Rules.— Government shall in consultation with the Commission and by notification in the official Gazette, make Rules for the purpose of giving effect to the provisions of this Act.

24. Delegation of Powers.— The Commission may subject to such conditions, as it may specify delegate any of its powers under this Act to the Executive Committee or member and to other such committees formed by the Commission.

25. Powers to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, Government may remove such difficulties.

THE SINDH CHILD MARRIAGES RESTRAINT ACT, 2013

(ACT NO. XV OF 2014)

CONTENTS

Section	Heading
1.	Short title and commencement.
2.	Definitions.
3.	Punishment for male contracting party.
4.	Punishment for solemnizing a child marriage.
5.	Punishment for parent or guardian concerned in a child marriage.
6.	Jurisdiction under this Act.
7.	Power to issue injunction prohibiting marriage in contravention of this Act.
8.	Offence to be punishable and triable.
9.	Cognizance, trial and conclusion of the case.
10.	Rules.
11.	Indemnity.
12.	Removal of difficulty.
13.	Repeal and saving.

THE SINDH CHILD MARRIAGES RESTRAINT ACT, 2013

(ACT NO. XV OF 2014)

An Act to restrain the solemnization of child marriages

WHEREAS it is expedient to restrain the solemnization of child marriages.

It is hereby enacted as follows: -

1. Short title and commencement.— (1) This Act may be called the Sindh Child Marriages Restraint Act, 2013.

(2) It shall come into force at once.

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

- (a) "child" means a person male or female who is under eighteen years of age;
- (b) "child marriage" means a marriage to which either of the contracting party is a child;
- (c) "Code" means the Code of Criminal Procedure, 1898 (No. V of 1898);
- (d) "contracting party" to marriage means either of the party whose marriage is, or is about to be solemnized;
- (e) "Court" means the Court of a Judicial Magistrate of First Class;
- (f) "Government" means the Government of Sindh.

3. Punishment for male contracting party.— Whoever, being a male above eighteen years of age, contracts a child marriage shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall be liable to fine.

4. Punishment for solemnizing a child marriage.— Whoever performs, conducts, directs, brings about or in any way facilitates any child marriage shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall also be liable to fine, unless he proves that he had reason to believe that the marriage was not a child marriage.

5. Punishment for parent or guardian concerned in a child marriage.— (1) Where a parent or guardian or any other person in any capacity, lawful or unlawful, does any act to promote the child marriage or permits it to be solemnized, or fails to prevent it negligently, from being solemnized, shall be punished with rigorous imprisonment which may extend to three years but shall not be less than two years and shall also be liable to fine.

(2) For the purposes of this section, it shall be presumed, until contrary is proved, that where a child has been contracted into a marriage, a person having charge of such child failed to prevent the marriage from being solemnized.

6. Jurisdiction under this Act.— Notwithstanding anything contained in section 190 of the Code, no court other than the Court of a Judicial Magistrate of First Class shall take cognizance of or try any offence under this Act.

7. Power to issue injunction prohibiting marriage in contravention of this Act.— (1) Notwithstanding anything to the contrary contained in any other law, the court may, if satisfied from information laid before it through an application that a child marriage in contravention of this Act is going to be arranged or is about to be solemnized, issue an injunction prohibiting such marriage.

(2) No injunction under sub-section (1), shall be issued against any person unless the Court has previously given notice to such person, and has afforded him an opportunity to show cause against the issue of the injunction. The Court may dispense with notice if deemed necessary.

(3) The Court may, either on its own motion or on an application of any person, rescind or alter any order made under sub-section (1).

(4) Where an application is received, the Court shall afford an opportunity of appearing before it either in person or by pleader; and if the Court rejects the application wholly or in part, it shall record in writing its reasons for so doing.

(5) Whoever, knowing that an injunction has been issued against him under sub-section (1) of this section, disobeys such injunction, shall be punished with imprisonment of either description for a term which may extend to one year or fine or with both.

8. Offence to be punishable and triable. - Notwithstanding anything contained in the Code, an offence punishable under this Act shall be cognizable, non-bailable and non-compoundable.

9. Cognizance, trial and conclusion of the case.— The Court shall on taking cognizance of a case proceed with the trial and conclude the case within ninety days.

10. Rules.— Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

11. Indemnity.— No suit, prosecution or other legal proceedings shall lie, against any person in respect of anything which is in good faith done or intended to be done under this Act.

12. Removal of difficulty.— If any difficulty arises in giving effect to any of the provisions of this Act, Government may make such order, not inconsistent with the provisions of this Act, as may appear to Government to be necessary for the purpose of removing the difficulty.

13. Repeal and saving.— (1) The provisions of the Child Marriage Restraint Act, 1929, relating to the Province of Sindh are hereby repealed.

(2) Notwithstanding the repeal of the Child Marriages Restraint Act, 1929, all orders made, decisions taken, judgment passed by any Court, shall be deemed to have been validly made, taken and passed under this Act.

THE SINDH CHILD MARRIAGES RULES, 2016

CONTENTS

S. No.	Heading
Chapter I PRELIMINARY	
1.	Short title and commencement
2.	Definitions
Chapter II Age of Contracting Parties and Persons Liable Under the Act	
3.	Ensuring Age of Parties
4.	Performing, conducting, directing, bringing about or facilitating a Child Marriage
Chapter-III Mechanism of Complaints	
5.	Complaint to the magistrate
6.	Complaint to the Police
7.	Provisions of Criminal Procedure Code 1898 to Apply.
Chapter IV Rescue, Custody and Special Procedures for Victims of Child Marriage	
8.	Rescue and recovery of child victim
9.	Warrant to search for child
10.	Temporary custody
11.	Court may direct production of child by parent or guardian
12.	Examination of person producing or reporting
13.	Special Circumstances to be adopted
14.	Presence of Persons in cases involving a Child
15.	Withdrawal of Persons from Courts
16.	Withdrawal of persons from Court when child is examined
17.	Dispensing with Attendance of Child
18.	Prohibition on Publication of Names, Addresses of Children Involved in Cases or Proceedings

19.	Entrustment of the custody of child victim
20.	Sending of child having place of residence outside jurisdiction
21.	Period of custody
22.	Contribution of parents
23.	Monitoring of Child Protection Institutes
Chapter-V Provincial Monitoring Committee on Child Marriage	
24.	Establishment of the Provincial Monitoring Committee on Child Marriage
25.	Appointment of Members of the Provincial Committee
26.	Qualification of members
27.	Term of Office of Member of the Committee
28.	Removal of Members
29.	Acting Chairperson
30.	Role and Responsibilities of the Committee
31.	Functioning of the Provincial Committee
32.	Annual Report of the Provincial Committee
Chapter-VI District Monitoring Committees	
33.	Establishment of the District Monitoring Committees
34.	Appointment of Members of the Committee
35.	Acting Chairperson
36.	Qualification of Members
37.	Term of Office of Member of the Committee
38.	Removal of chairperson and Members
39.	Secretariat of the Committee
40.	Role and Responsibilities of the District Committee
41.	Functioning of the District Committee
42.	Annual Report of the Committee
43.	Assistance to the Committee

THE SINDH CHILD MARRIAGES RULES, 2016

Government of Sindh

Women Development Department

Karachi dated the 22nd March, 2016

NOTIFICATION

NO.SO(WD)/WDD/2-100/2016: In exercise of the powers conferred by Section 10 of the Sindh Child Marriages Restraint Act, 2013 (Sindh Act No. XV of 2014) the Government of Sindh are pleased to make the following Rules namely: -

Chapter I

PRELIMINARY

1. Short title and commencement.— (1) These rules may be called ‘The Sindh Child Marriages Restraint Rules, 2016’.

(2) The Shall extend to the whole province of Sindh

(3) They shall come into force at once.

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

(a) ‘Act’ means ‘The Sindh Child Marriage Restraint Act, 2013 (Sindh Act No. XV of 2014);

(b) “Child Protection Institute” means any such government facility or registered voluntary organization established for the admission, care, protection and rehabilitation of persons, particularly children and women and may include remand houses, shelter homes, brostal institutions etc.

(c) “Child Victim” means a person below the age of 18 who is a contracting party in a child marriage;

(d) “Code” means Code of Criminal Procedure 1898 (Act V of 1998);

(e) ‘Committee’ means District Monitoring Committee constituted under the Act;

(f) “Court” means court of Judicial Magistrate of the First Class;

(g) “CNIC” means Computerized National Identity Card;

- (h) 'Facilitation' means making an action or process easier or providing help and assistance in the Provincial Committee of an action or process;
- (i) "Faith" means religion;
- (j) "Government" means Provincial Government of Sindh;
- (k) 'Informed and voluntary consent' means consent which is given freely without any coercion, undue influence, fraud or misrepresentation by an adult with full knowledge of the implications of the consent and any alternatives;
- (l) 'Monitoring Committee on Child Marriage' means a committee constituted under these rules;
- (m) "spouse" means husband or wife;
- (n) "relatives" means any person related to the child through blood, kinship or marriage;

(2) The words and expressions used but not defined in these rules shall have the same meanings respectively assigned to them in the Act.

Chapter II

Age of Contracting Parties and Persons Liable Under the Act

(3) Ensuring Age of Parties.— (1) Any person performing, conducting or solemnizing the marriage must ensure that the bride and the bridegroom are aged 18 or above as per the Act.

He shall provide a signed affidavit stating that he has satisfied himself about the age of the contracting parties as not being less than 18 years. Such affidavit shall be attached with the nikkahnama.

(2) An attested copy of a valid CNIC of both contracting parties shall be attached with the nikkahnama, marriage contract or any other documentation having the same effect.

Explanation: The copies of the CNIC may be attested by a Nikkah Registrar having license under section 5 of Muslim Family Laws Ordinance, 1961 and attached with nikahnama for registration of marriages.

(3) If a CNIC of either party to the marriage is not available, the parties may attach a medical certificate verifying the age of the parties.

(4) Any person or institution providing a medical certificate verifying age of a person shall sign and provide an affidavit stating that he has satisfied himself about the age of the person examined. Such affidavit shall be attached with the nikkahnama, marriage contract or any other document having the same effect.

(5) Fabricating of false evidence, statement or affidavit shall be liable to prosecution as per the Pakistan Penal Code, 1860 (Act XIV of 1860).

4. Performing, conducting, directing, bringing about or facilitating a Child Marriage.— As per section 4 of the Act, any person who may perform, conduct, direct, bring about or facilitate a child marriage is liable to punishment under the Act. This may include parents of the contracting parties, relatives of the child, the Nikkahkhan or any person solemnizing the marriage, those providing the space or premises where the marriage is contracted and celebrated etc.

Chapter-III

Mechanism of Complaints

5. Complaint to the Magistrate.— (1) Any person may lay an application before the Court of a Judicial Magistrate of First Class that a child marriage is going to be arranged, or is about to be solemnized or has been solemnized.

(2) An application can be laid down in any of the following jurisdictions: -

- (i) where the child victim resides;
- (ii) where the accused resides or works;
- (iii) the location where the child victim may be residing at during pendency of the trial.

(3) The Court shall proceed according to the provisions laid down in rule 7 of these rules:

Provided that this provision is in addition to the existing process of the Criminal Procedure Code 1898:

Provided further that the Court may take cognizance of any complaint or First Information Reports registered with the police.

(4) Where an application is filed under section 7 (1) of the Act, the Court may issue notices as per the Civil Procedure Code, 1908 and the Code of Criminal Procedure, 1898 by all three modes at once, namely, through Bailiff, pasting and publication all at once and if notice is served by any of these modes, the notice shall be deemed to have been served.

6. Complaint to the Police.— (1) The provisions of the Code of Criminal Procedure 1898 (Act V of 1898) shall be applicable to any complaints made or First Information Reports registered under the Act unless expressly provided otherwise in the Act or these Rules.

(2) Any police officer failing to register or investigate a case of child marriage based on a complaint brought before him shall be liable to offences under the Pakistan Penal Code, 1860 (Act XLV of 1860).

7. Provisions of Criminal Procedure Code 1898 to Apply.— Except as expressly provided under the Act or these Rules, the procedure to be followed shall be in accordance with the provisions of the Code of Criminal Procedure.

Chapter-IV

Rescue, Custody and Special Procedures for Victims of Child Marriage

8. Rescue and recovery of child victim.— A police officer or any person given such authority under the law upon receiving information that a child marriage is going to be arranged or solemnized or has been solemnized, may upon investigation take into custody a child alleged to be the victim of child marriage and produce her or him before the Court within twenty-four hours of taking the child into such custody:

Provided that where a child is in the custody of her or his parent or guardian and the parent or guardian are not alleged offenders under the Act, the officer shall not take her or him into custody but shall in the first instance, make a report to the Court:

Provided further that the first proviso shall not be applicable in case of where the alleged accused is a parent or guardian or any other person in any capacity, lawful or unlawful.

Provided that where the child is of another faith from that of her or his spouse or intended bridegroom or bride, she or he immediately be taken into custody in the first instance.

9. Warrant to search for child.— (1) If it appears to a Court from information received on oath or solemn affirmation laid by any person who, in the opinion of the Court, is acting in the interest of the child that there is reasonable cause to suspect that an offense has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the Court may make orders to any police officer or any person authorized under the law to search for such child and if it is found that the child is a victim or intended victim of child marriage, to remove her or him and deal with her or his custody in accordance with the provisions of these Rules and in the best interest of the child.

(2) The officer executing the warrant shall be accompanied by the person laying the information, if such person so desires and may also, if the Court by whom the warrant is issued so directs, be accompanied by the police or any person so authorized by the law or court or by both.

(3) The Court issuing a warrant under this rule may in its discretion by the same warrant direct that any person accused of any offense in respect of the child be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the Magistrate at a specified time and thereafter until otherwise directed

by the Magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

10. Temporary custody.— (1) Where a child victim is taken into custody in accordance with rule 8 and 9, she or he shall immediately be produced before the Court and if immediate production of the child before the Court is not possible due to any reason, shall immediately be taken to the nearest child protection institution for temporary custody till her or his production before the Court within the stipulated time.

(2) Where the child victim is of another faith than her or his spouse, intended bridegroom or bride, she or he shall be given temporary custody in a child protection institution during the pendency of the trial for the best interests of the child.

(3) While providing temporary custody as per sub-rule (2), the court may use its discretion and in the best interests of the child and in the interest of security, withhold the information of the location of the child from any person with the exception of necessary official personnel.

(4) Any person who discloses the location of the child victim shall be liable to penalties as contempt of court as under the Contempt of Court Act, 1976 (Act No. LXIV of 1976) and any other penalties deem fit by the Court.

(5) The child may be allowed to meet her or his parents, guardians, husband, intended bridegroom or in laws only upon her or his informed voluntary written consent in the best interests of the child:

Provided that any such meeting shall be supervised by a police officer, senior employee of the child protection institution or any other person authorized by the court.

Provided further that any such meeting may be given police protection at the discretion of the court.

11. Court may direct production of child by parent or guardian.— The Court to which a report is made under the first proviso of rule 8, may-

- (i) call upon such parent or guardian to produce the child before it and show cause why the said child should not, during the pendency of the proceedings, be removed from their custody; and may order the child to be admitted in a child protection institution or on suitable surety being offered for the safety of such child and for her or him being brought before it, permit the child to remain in the custody of her or his parent or guardian: or
- (ii) if it appears to the Court that the child is likely to be removed from the jurisdiction of the court or is concealed, may issue a search warrant for the production of the child, and order her or his immediate admission to a child protection institution.

12. Examination of person producing or reporting.—(1) The Court before which a child is brought under rule 8 or is produced under rule 11 shall examine on oath the person who has brought the child or made the report and record the substance of such examination and may order the admission of the child to a child protection institution pending any further inquiry, if any in the best interests of the child.

(2) On the date fixed for the production of the child or for the inquiry or on any subsequent date to which the proceedings may be adjourned, the Court shall hear and record substance of the evidence which may be adduced and consider any cause which may be shown why an order directing the child to be admitted to a child protection institution or be given in the care of a suitable person should not be passed in the best interests of the child.

13. Special Circumstances to be adopted.—(1) In situations where the child is not of the same faith as her or his spouse, intended bridegroom or bride, special measures may be put in place during the investigation and trial of the matter at the discretion of the court and in the best interests of the child. These special measures may include but not be limited to: -

- (i) holding the trial in a different and secure location;
- (ii) withholding the location of the child from any person with the exception of necessary official personnel;
- (iii) any person who makes known the child's location be liable to legal action against them;
- (iv) taking the child's statement and evidence outside the court premises and in a secure location;
- (v) providing police protection during transport of the child victim from court or the location where her or his statement may be recorded;
- (vi) passing an order or injunction to prohibit a child marriage; removal of child from jurisdiction of the court or police station or any other necessary order as per the circumstances;
- (vii) initiate immediate and fast-tracked divorce proceedings if the accused is found guilty upon the informed and voluntary consent of the child victim.

(2) The Court shall take appropriate measures to provide adequate security to the prosecution witnesses, investigating officers, prosecutors, the child victim, her or his family and the Judges during the pendency of investigation and trial, and if necessary, post the trial.

(3) The Court may use its discretion, with permission from the Chief Justice, High Court of Sindh, to transfer the case to the jurisdiction of another Court or Province if due to the insecurity or the political situation in the local area may result in difficulty of ensuring the safety of persons involved in the investigation and trial or where there is fear that there cannot be a Fair Trial as understood by Article 10 of the Constitution of the Islamic Republic of Pakistan, 1973.

(4) In case of transfer of a case as per sub-rule (3), it may not be necessary for the new Court to recall any witness or again record any evidence that may be needed.

14. Presence of Persons in cases involving a Child.— No person shall be present at any sitting of a Court involving a case of a child with the exception of those identified in these rules hereunder: -

- (i) the members and officers of the Court;
- (ii) the parties to the case before the Court and other persons directly concerned in the case including the police officers: and
- (iii) such other persons as the Court specially authorized to be present.

15. Withdrawal of Persons from Courts.— If at any stage during the course of a trial of a case or proceeding, a Court considers it expedient in the best interest of the child to direct any person, including the parent, guardian or the child's spouse or intended bride or bridegroom or the child herself or himself to withdraw, the Court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the Court may take steps to remove him and hold him in contempt of court as under the Contempt of Court Act, 1976 (Act No. LXIV of 1976).

16. Withdrawal of persons from Court when child is examined.— (1) If at any stage during the course of a trial of a case, a child is examined, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not being parties to the case or proceeding their legal advisors and the officers concerned with the case or proceeding to withdraw, such persons shall then withdraw. If any person refuses to withdraw, the Court may take steps to remove him and hold him in contempt of court as per (Act No. LXIV of 1976).

(2) The Court may use its discretion and allow the examination of the child to be conducted in camera, in another secure location or through video link or employ any other such means, if necessary, in the best interests of the child:

Provided that if the child is of another faith than her or his spouse, intended bridegroom or bride, the examination of the child shall be conducted in the manner identified in sub-rule (2).

17. Dispensing with Attendance of Child.— If at any stage during the course of the trial of a case or proceeding, a Court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the Court may dispense with her or his attendance and proceed with the trial of the case in the absence of the child.

18. Prohibition on Publication of Names, Addresses of Children Involved in Cases or Proceedings.— No report in any newspaper, magazine or news sheet of any case or proceeding in any Court under these in which a child is involved shall disclose the name, address or school or include any particulars calculated to lead directly or indirectly to the

identification of any such child, nor shall any picture be published as being or including a picture of any such child in the best interests of the child:

Provided that for reasons to be recorded in writing, the Court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion such disclosure is in the interest of child welfare and is not likely to affect adversely the best interest of the child concerned.

19. Entrustment of the custody of child victim.— (1) if the Court is satisfied that the child brought before it is a victim of child marriage and that it is expedient to deal with her or him, the Court may order in the best interest of the child, that he or she be admitted to a child protection institution or her or his custody be entrusted to a suitable person, who is able and willing to look after the child, until such child attains the age of eighteen years, or in exceptional cases for a shorter period.

(2) The Court which makes an order for entrusting a child in the custody of a suitable person may, when making such an order, require such person to execute a bond, with or without sureties, as the Court may direct, undertaking to be responsible for the care education and well-being of the child and for the observance of such other conditions as the Court may impose for ensuring welfare of the child.

(3) The Court making an order for entrusting the custody of a child to a suitable person under this rule, may order submission of periodical reports as to the welfare of the child to the Court by an authorized officer.

(4) The Court may from time to time during the custody of a child by an authorized person, compel the production of the child in the Court to satisfy itself that the conditions of such custody are being carried out.

(5) If at any time it appears to the Court, from information received from any source that there has been a breach of any condition contained in the bond, it may, after making such inquiry as it deems fit, order the child to be admitted into a child protection institution or be entrusted to the custody of any other suitable person.

20. Sending of child having place of residence outside jurisdiction.— (1) In the case of a child victim of child marriage whose ordinary place of residence is not within the jurisdiction of the Court, the Court may direct that the child shall be kept in such custody and be produced before a Court having territorial jurisdiction over the place of residence of the child or to deal with her or his custody in any other manner provided in the Rules.

(2) Where a child is produced before a Court on the direction of any other Court passed under the foregoing provision of this rule, such Court may regulate the custody of the child as if the child had been produced before it in terms of rule 8 or rule 11 of these Rules.

21. Period of custody.— Subject to any order of the Court, a child ordered to be admitted to a child protection institution shall be kept in such custody till he or she attains the age of eighteen years in the best interest of the child.

22. Contribution of parents.— (1) Where an order has been made for the admission of a child into child protection institution or giving the custody of the child to a suitable person, the Court may direct a parent or guardian, in a suitable case, to pay maintenance of the child at such rates as may be determined by the Court:

Provided that while passing any such order, the Court shall take into consideration the capacity of the parent or guardian to pay maintenance.

(2) In case of non-compliance of the direction for the payment of maintenance issued under sub-rule (1), the Court may recover the amount from the parent or guardian as arrears of land revenue or directly from the place or employment of parent or guardian.

23. Monitoring of Child Protection Institutes.— Child Protection Institutes shall be monitored as per procedures laid down in Sindh Children Act 1955 (Act XII of 1955) and any other mechanisms or rules laid down by the Child Protection Authority formed by the Child Protection Authority Act, 2011 (XIV of 2011) or Government, as the case may be.

Chapter-IV

Provincial Monitoring Committee on Child Marriage

24. Establishment of the Provincial Monitoring Committee on Child Marriage.— (1) Government shall constitute a Committee to be called as the Monitoring Committee on Child Marriage (hereby referred to as “Provincial Committee”), which shall be established in Karachi to exercise the powers conferred upon, and to perform the functions assigned to it.

(2) The Provincial Committee shall consist of Chairperson and eighteen Members.

(3) The Secretariat of the Provincial Committee shall lie with the Women Development Department, Government of Sindh.

(4) The Chairperson shall be the Secretary of the Women Development Department.

(5) The Members of the Committee shall include-

- (i) The Additional Secretary of the Women Development Department, who shall be the Secretary of the Committee;
- (ii) Seven (7) ex-officio members who shall be representatives of the Departments of Law, Finance, Social welfare, Home, Human Rights, Education and Health, not below the rank of Additional Secretary, and who shall not have the right to vote;
- (iii) Provincial Ombudsperson for Protection Against Sexual Harassment;
- (iv) Chairperson, Sindh Commission of Human Rights;

- (v) Chairperson, Sindh Commission on the Status of Women;
- (vi) Representative of the Child Protection Authority;
- (vii) Two eminent persons of civil society;
- (viii) Two persons of the legal fraternity, one of whom shall be nominated by the Sindh Bar Council;
- (ix) Two persons of the media to be nominated by Government:

Provided that at least one-third of the members shall be women.

25. Appointment of Members of the Provincial Committee.— The Women Development Department, Government of Sindh in consultation with the Sindh Human Rights Commission shall compile a list of candidates fulfilling the qualifications identified in rule 26, and present them to the Secretary Women Development Department, who shall notify the Provincial Committee.

26. Qualification of members.— (1) The ex-officio members and their delegated representative shall not be below the rank of Deputy Secretary.

(2) Members from civil society shall have at least ten (10) years of experience working on human rights and children issues.

(3) The member nominated by the Sindh Bar Council shall have at least ten (10) years' experience working on human rights cases and cases involving children's issues.

(4) The member of the legal fraternity not nominated by the Sindh Bar Council shall have at least ten (10) years' experience working on children's rights.

(5) Members from the media shall have at least ten (10) years experience working reporting or researching on children's rights and issues.

(6) Members of the Provincial Committee shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

27. Term of Office of Member of the Committee.— (1) A person appointed as a Member of the Provincial Committee shall hold office for a term of three years from the date on which he or she enters upon his or her office which shall be extendable for further one term only.

(2) The Member may resign his or her office in writing under his or her hand addressed to Chairperson of the Provincial Committee and on acceptance of such resignation; such vacancy shall be filled within thirty days for the unexpired term of the member.

28. Removal of Members.— The Members may be removed from office by the Chief Minister if he or she, as the case may be—

- (a) is, after proper inquiry, found guilty of misconduct;
- (b) is adjudged an insolvent;
- (c) is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority;
- (d) does not attend two consecutive meetings without a justifiable reason; and
- (e) has, on conviction of any offence involving moral turpitude, been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his or her release.

Explanation.— “Misconduct” shall include behavior which is found to be discriminatory or biased against women.

Explanation-II.— An inquiry shall be carried out into any charge of ‘misconduct’ by two members of the Committee and one independent member.

29. Acting Chairperson.— By reason of a vacancy in the office of Chairperson due to death, illness, resignation or otherwise, the Chief Minister shall appoint another woman from amongst the members of the Provincial Committee to act as Chairperson for a period of not exceeding thirty days or until the appointment of a new Chairperson, whichever is earlier.

(2) The Women Development Department shall have the administrative and financial responsibility of the Committee.

(3) There shall be a separate desk, office for record keeping and staff within the Women Development Department at Karachi.

(4) Extra staff may be hired by the Women Development Department of and when deemed necessary.

30. Role and Responsibilities of the Committee.— The role and responsibility of the Provincial Committee shall include-

- (a) review from time to time the existing provisions of the law of Sindh Child Marriage Restraint Act 2013, and other laws related to child marriage and suggest amendments therein, if any;
- (b) call for specific studies or investigation into specific incidence of child marriage;
- (c) look into complaints and take Suo moto notice of matters relating to child marriage and the non-implementation of the law;
- (d) participate and advise on the planning process for securing a safe environment free of child marriage; and

- (e) mobilize grants from domestic and international sources in order to meet any of its obligations and for the performing of its functions;
- (f) oversee the functioning of the District Watch Committee; and
- (g) any other functions that may be necessary to achieve the objectives of the Act and these rules.

31. Functioning of the Provincial Committee.—(1) The Committee shall meet at least quarterly at such times and at such place as the Chairperson may decide. The Chairperson may call additional meetings if and when required.

(2) All decisions of the Provincial Committee shall be authenticated by the signature of the Chairperson or any person authorized in this behalf by the Chairperson.

(3) The quorum for the meeting of the Provincial Committee shall not be less than one third of the total voting strength of the Provincial Committee.

(4) The decisions of the Provincial Committee shall be them by the majority of the members present and in case of the tie, the Chairperson of the meeting shall have the casting vote.

(5) No act or proceeding of the Provincial Committee shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Provincial Committee.

(6) While inquiring into complaints of violations of women's rights, the Provincial Committee may call for information or report from departments of Government, civil society organizations and autonomous or concerned bodies; and in this regard the Committee shall have the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) for enforcing the attendance of any person and compelling the production of documents.

32. Annual Report of the Provincial Committee.— (1) The Provincial Committee shall prepare its Annual Report which shall be presented to the Chief Minister and concerned Department. The Annual Report shall include and account of its performance and utilization of funds.

(2) The Annual Report of the Provincial Committee shall be laid and discussed in the Provincial Assembly.

33. Assistance to the Provincial Committee.—All executive authorities of Province and departments shall assist the Committee in the performance of its functions.

Chapter-IV

District Monitoring Committees

34. Establishment of the District Monitoring Committees.— (1) The Women Development Department shall constitute a District Monitoring Committees in each district referred to as “the District Committee”, which shall be established in each district to exercise the powers conferred upon, and to perform the functions assigned to it by Women Development Department.

(2) The District Committee shall consist of minimum eleven members but not more than fourteen members.

(3) The Chairperson of the District Committee shall be the deputy Commissioner of the concerned District.

(4) The Members of the District Committee shall include—

- (i) District Officer of Women Development Department, who shall be the Secretary of the District Committee;
- (ii) District Officers of the Education, Health, Social Welfare not below the rank of BPS-17;
- (iii) Representatives from Police Department not below the rank of DSP;
- (iv) Officer/incharge of Child Protection Unit;
- (v) One advocate having experience in the child rights nominated by the District Bar Council;
- (vi) Two members from Civil Society Organizations;
- (vii) One member from media;
- (viii) One member from minority;
- (ix) Members(s) of the Domestic Violence Protection Committee;
- (x) Probation Officer; and
- (xi) Any other person notified by the Women Development Department:

Provided at least one-third of the Committee shall consist of women.

35. Appointment of Members of the Committee.—(1) The Women Development Department through its district offices shall compile a list of candidates fulfilling the qualifications identified in rule 27, and present them to the Secretary of Women Development Department who shall make a final selection in consultation with the Provincial Committee.

(2) If, for any reason whatsoever a person identified in the sub-rule (1) is not available in a district, the Women Development Department in consultation with the Committee shall appoint any other person in their place on the basis of a majority vote.

36. Acting Chairperson. — By reason of a vacancy in the office of Chairperson due to death, illness, resignation or otherwise, the District Committee shall through majority vote appoint another person from amongst the members of the District Committee to act as the Chairperson for a period of not exceeding thirty days or until the appointment a new Chairperson, whichever is earlier.

37. Qualification of Members.— Members of the District Committee must have the following qualifications: -

- (i) Members from civil society and minority member shall have at least ten years of experience working on human's rights and issues with a focus on children;
- (ii) The member nominated by the District Bar Association shall have at least ten years' experience working on human rights cases and cases involving child rights';
- (iii) Members from the media shall have at least ten years' experience working, reporting or researching on human rights and child rights issues;
- (iv) Members of the Committee shall be deemed to be public servants within the meaning of section 2fd1 of the Pakistan Penal Code (Act XLV of 1960)

38. Term of Office of Member of the Committee.—(1) A person appointed as a Member of the District Committee shall hold office for a term of three years from the date on which he or she enters upon his or her office. The term of the extended may be extended only once.

(2) The Member of the District Committee may resign his or her office in writing under his or her hand addressed to Chairperson of the District Committee and on acceptance of such resignation; such vacancy shall be filled within thirty days for the unexpired term of the member.

39. Removal of chairperson and Members.— The Members may be removed from office by the Minister, Social Welfare if he or she, as the case may be-

- (a) is, after proper inquiry, found guilty of misconduct;
- (b) is adjudged an insolvent;
- (c) is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority;
- (d) does not attend two (2) consecutive meetings without a justifiable reason; and

- (e) has, on conviction of any offence involving moral turpitude, been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his or her release.

Explanation.— “Misconduct” shall include behavior which is found to be discriminatory by two members of the Provincial Committee and one (1) independent member.

Explanation-II.— An inquiry shall be carried out into any charge of ‘misconduct’ by two members of the Provincial Committee and one (1) independent member.

40. Secretariat of the Committee.— (1) The Secretariat of the District Committee shall lie with the Women Development Department.

(2) The Women Development Department shall have the administrative and financial responsibility of the District Committee.

(3) There shall be a separate desk, office and staff for record keeping and monitoring within the office of district offices of Women Development Department.

(4) Extra Staff may be hired by the Women Development Department if and when deemed necessary.

Provided that if for any reason the Women Development Department is unable to hold a Secretariat of a District Committee, the Chief Minister may appoint another provincial department to hold the Secretariat and report to the Secretary, Women Development Department.

41. Role and Responsibilities of the District Committee.— The roles and responsibilities of the Committee as identified shall include-

- (i) provide information to the Court or local police station that a child marriage is going to be arranged or is about to be solemnized or has been solemnized;
- (ii) inform the child victim of her or his rights provided under the Act or any other law for the time being in force and the remedies and the help that may be provided;
- (iii) assist the child victim in obtaining any medical treatment necessitated due to the child marriage;
- (iv) if necessary, assist the child victim in relocating to a safer place acceptable to the child victim, which may include the house of any relative or family friend or other safe place including those established by a child protection institute in the best interest of the child;

- (v) assist the child victim in the preparation of and filing of any application, petition or report under the Act, Rules, the Code or any other law for the time being in force;
- (vi) assist the child victim in filing for divorce, khula, dissolution of marriage with the informed voluntary consent of the child or her or his parent or guardian;
- (vii) assurance to the child victim is provided legal aid if necessary;
- (viii) maintenance of a list of all child protection institutions providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the court;
- (ix) keeping official record of the incidents of child marriages in its area of jurisdiction, whether on the basis of information received or suo moto inquiry, irrespective of whether or not action is taken under this Act or Rules; Such record shall include:-
 - (a) the first information received about the incident of child marriage;
 - (b) the assistance, if any, offered or provided by the Committee to the child victim;
 - (c) where applicable the reason for not taking action under the Act or Rules when an incident was brought to the notice of the Committee;
 - (d) where applicable, the reason for the child victim's or her or his parent or guardian's refusal to take assistance from the Committee;
 - (e) the names and contact details of the child protection institution, if any, from whom the child victim has sought help;
- (x) maintenance of the record of applications, orders and child protection institutions operating in the area of jurisdiction;
- (xi) prepare a quarterly and annual report to be shared with the Provincial Committee;
- (xii) perform any other duties that may be assigned to the Committee under the Act, the rules made there under, any other law and the Court.

42. Functioning of the District Committee.— (1) The District Committee shall meet quarterly at such times and at such place as the Chairperson may decide. The Chairperson may call additional meetings if and when required.

(2) All decisions of the Committee shall be authenticated by the signature of the Chairperson or any person authorized in this behalf by the Chairperson.

(3) The quorum for the meeting of the Committee shall not be less than one third of the total strength of the Committee.

(4) The decisions of the Committee shall be taken by the majority of the members present. In case of a tie, the Chairperson of the meeting shall have the casting vote.

(5) No act or proceeding of the Committee shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Committee.

(6) In case of an emergency, a Sub-Committee may be formed by the Chairperson to meet and respond as the situation may require. If deemed necessary, the sub-committee may convene a meeting of the entire Committee.

43. Annual Report of the Committee.—(1) The Committees shall prepare an Annual Report and it shall be shared with the Women Development Department. The reports shall include an account of its performance and utilization of funds.

(2) The Women Development Department in coordination with the Provincial Committee shall consolidate the reports of the Committee to finalize one Annual Report to be presented to the Secretary, Women Development Department and Minister Development Department. The Annual Report shall include an account of its performance and utilization of funds.

44. Assistance to the Committee.— All district executive authorities and departments shall assist the Committee in the performance of its functions.

THE SINDH DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2013

(Act No. XX of 2013)

CONTENTS

Section	Heading
1.	Short title, extent and commencement
2.	Definitions
3.	Government to ensure effective implementation of the Act
4.	Constitution of Commission
5.	Domestic Violence
6.	Punishment
7.	Petition to the Court
8.	Counseling
9.	Right to reside in a household
10.	Power to grant interim order
11.	Passing of protection orders and residence orders
12.	Monetary relief
13.	Custody orders
14.	Duration and alteration of interim, protection and residence orders
15.	Penalty for breach of an interim or protection order by the
16.	respondent
17.	Appeal
18.	Protection Committee
19.	Duties and functions of Protection Committee
20.	Powers, privileges and immunities of Protection Committee
21.	Delegation of functions and powers
22.	Protection Officer
23.	Duties of Protection Officer
24.	Assistance of service provider
25.	Powers of service provider
26.	Procedure
27.	Protection of actions taken in good faith
28.	Act not in derogation of any other law
29.	Revision
30.	Power to make rules
31.	Removal of difficulties

THE SINDH DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) ACT, 2013

(Act No. XX of 2013)

An Act to make provisions for protection against domestic violence

WHEREAS it is expedient to institutionalize measures which prevent and protect women, children and any vulnerable person from domestic violence and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:

1. Short title, extent and commencement.— (1) This Act may be called the Domestic Violence (Prevention and Protection) Act, 2013.

(2) It extends to the whole of the Province of Sindh.

(3) It shall come into force at once.

2. Definitions.— (1) In this Act, unless there is anything repugnant in the subject or context, -

- (a) “aggrieved person” means any woman, child or any vulnerable person who is or has been in a domestic relationship with the respondent and who alleges to have been subjected to any act of domestic violence by the respondent;
- (b) “child” means any person under the age of eighteen years living in a domestic relationship with the respondent and includes any adopted, step or foster child;
- (c) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (d) “court” means the court of Judicial Magistrate of first class;
- (e) “domestic relationship” means a relationship between persons who live, or have at any point of time lived together in a household when they are related by Consanguinity, marriage, kinship, adoption, or are family members living together;
- (f) “domestic violence” has the same meaning as assigned to it in section 5;
- (g) “Government” means the Government of Sindh;
- (h) “household” means a household where the aggrieved person lives or at any stage has lived in a domestic relationship either singly or along with the respondent and includes such a household whether owned or tenanted either jointly by the aggrieved person and the respondent or owned and tenanted by either of them, any such household in respect of which either the aggrieved person or the respondent or both jointly or singly have any right, title, interest or equity and includes such a household which may belong to the joint family of which the respondent is a member, irrespective of whether the respondent or the aggrieved person has right, title, interest in such a shared household;

- (i) “informer” means a person who has credible information that an offence is being committed under this Act and who has no interest adverse to the aggrieved person or to the accused;
- (j) “monetary relief” means a monetary relief which a court may order under section 12;
- (k) “notification” means a notification published in the Official Gazette;
- (l) “prescribed” means prescribed by the rules made under this Act;
- (m) “Protection Committee” means a Committee constituted under section 17;
- (n) “Protection Officer” means an officer appointed by Government under section 21;
- (o) “Protection order” means an order passed in terms of section 11;
- (p) “respondent” means a person who is or has been in a domestic relationship with the aggrieved person and against whom relief has been sought under this Act;
- (q) “residence order” means an order granted in terms of section 11;
- (r) “service provider” means any such government facility or registered voluntary organization established for the protection of aggrieved person providing legal, medical, financial or any other assistance;
- (s) “vulnerable person” means a person who is vulnerable due to old age, mental illness or handicap or physical disability or for other special reason.

(2) Words and phrases not defined in this Act shall have the same meaning as assigned to them in the Pakistan Penal Code, 1898 (Act XLV of 1898) and the Code of Criminal Procedure, 1860, (Act V of 1860).

3. Government to ensure effective implementation of the Act.— Government shall ensure that -

- (a) this Act and the contents thereof receive wide publicity through electronic and print media in Urdu and local languages;
- (b) the Government officers, the police and the members of the judicial service are given periodic sensitization and awareness training on the issues addressed by this Act; and
- (c) effective protocols are formulated by the concerned Ministries and Departments dealing with health, education, employment, law and social welfare to address the issue of domestic violence and that the same are periodically revised.

4. Constitution of Commission.— (1) Government shall constitute a Commission which shall consist of a Chairperson and such number of members as may be prescribed.

(2) The Commission shall –

- (a) review from time to time the existing provisions of the law on domestic violence and suggest amendments therein, if any;

- (b) call for specific studies or investigation into specific incidence of domestic violence;
- (c) look into complaints and take suo moto notice of matters relating to domestic violence and the non- implementation of the law; and
- (d) participate and advise on the planning process for securing a safe environment free of domestic violence.

5. Domestic violence.— Domestic violence includes but is not limited to, all acts of gender based and other physical or psychological abuse committed by a respondent against women, children or other vulnerable persons, with whom the respondent is or has been in a domestic relationship including but not limited to—

- (a) “abet” as defined in Pakistan Penal Code (Act XLV of 1860) hereinafter referred to in this section as the said Code;
- (b) “assault” as defined in section 351 of the said Code;
- (c) “attempt” as defined in section 511 of the said Code to commit any of the offenses enumerated in this section;
- (d) “criminal force” as defined in section 350 of the said Code;
- (e) “criminal intimidation” as defined in section 503 of the said Code;
- (f) “Emotional, psychological and verbal abuse” means a pattern of degrading or humiliating conduct towards the victim, including but not limited to –
 - (i) obsessive possessiveness or jealousy constituting serious invasion of the victim’s privacy, liberty, integrity and security;
 - (ii) insults or ridicule;
 - (iii) threat to cause physical pain;
 - (iv) threat of malicious prosecution;
 - (v) blaming a spouse of immorality;
 - (vi) threats of divorce;
 - (vii) baselessly blaming or imputing insanity, or citing barrenness of a spouse with the intention to marry again;
 - (viii) bringing false allegation upon the character of a female member by any member of the shared household; and
 - (ix) willful or negligent abandonment of the aggrieved person;
- (g) “harassment” as defined in section 509 of the said Code;
- (h) “hurt” as defined in sections 332, 333, 335, 336A, 337, 337B, 337C, 337E, 337J, 337K, 337L of the said Code;

- (i) “mischief” as defined in section 425 of the said Code against the property of the aggrieved person;
- (j) “physical abuse” means any hurt caused by any act or conduct as defined in section 5(f) of this Act;
- (k) “stalking” includes, but is not limited to –
 - (i) accosting the aggrieved person against his or her wishes; and
 - (ii) watching or loitering outside or near the building or place where the aggrieved person resides or works or visits frequently;
- (l) “sexual abuse” includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the aggrieved person which may include –
 - (i) compelling the wife to cohabit with anybody other than the husband;
 - (i) any kind of sexual abuse including sexual harassment of a member of the family;
- (m) “trespass” means entry into aggrieved person’s residence either temporary or permanent without his or her consent, and includes workplace or frequently other place where the parties do not share the same residence;
- (n) “wrongful confinement” as defined in section 340 of the said Code; and
- (o) “economic abuse” includes deprivation of economic or financial resources or prohibition or restriction to continue access to such resources which the aggrieved person is ordinarily entitled to.

6. Punishment.— (1) The offences under section 5 (a), (b), (c), (d), (e), (g), (h) (i) and (n) shall be punishable as provided under the Pakistan Penal Code, 1860.

(2) The offences under section 5(f) shall be punishable with imprisonment of minimum six months or with fine to be paid as compensation to the aggrieved person which shall not be less than ten thousand rupees or with both.

(3) Whosoever stalks a person under section 5(k) shall be punished with simple imprisonment of not less than one year or with fine to be paid as compensation to the aggrieved party which shall not be less than twenty thousand rupees or with both.

(4) The offences under section 5(l) shall be punishable with imprisonment of either description not less than two years or with compensation to the aggrieved party which shall not be less than fifty thousand rupees or with both.

(5) The offences under section 5(m) shall be punishable with imprisonment for either description for a term not less than one month or with fine or with both.

(6) Any person who commits the offences under section 5(o) shall be liable to pay compensation under section 12(1)(a).

7. Petition to the Court.— (1) An aggrieved person or other person authorized by the aggrieved person in this behalf or informer may present a petition to the Court within whose jurisdiction—

- (i) the aggrieved person resides or carries on business; and
- (ii) the last place where the respondent and aggrieved person last resided together.

(2) The court shall fix the first date of hearing, which shall not exceed seven days from the date of the receipt of the petition by the court.

(3) On receipt of petition from an aggrieved party, the court shall, with or without issuing an interim order, issue a notice upon the person complained against calling upon him to show cause within seven days of receipt of notice as to why a protection order shall not be made against him for committing an act or acts of domestic violence as alleged in the petition.

(4) The petition made under sub-section (1) shall be disposed of within a period of ninety days and any adjournment given during the hearing of the petition shall be granted for reasons to be recorded in writing by the Court.

8. Counselling.— (1) The court, at any stage of the proceedings under this Act, may direct the respondent or as the case may be, aggrieved person to undergo mandatory counseling with an appropriate service provider.

(2) Where the court has issued any direction under sub-section (1), it shall fix the next date of hearing of the case within a period not exceeding thirty days.

9. Right to residence a household.— (1) Notwithstanding anything contained in any other law for the time being in force, the aggrieved person shall not be evicted from the household without consent, whether or not he or she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted from the household or any part of it by the respondent save in accordance with law.

10. Power to grant interim order.— (1) In any proceeding under this Act, the court may pass such interim order at any time and stage of the petition as it deems just and proper.

(2) If the court is satisfied that petition *prima facie* discloses that the respondent has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, it may issue order on the basis of an affidavit of the aggrieved person or any other evidence or material, before the court as prescribed under sections 11, 12 and 13 against the respondent.

11. Passing of protection order and residence orders.— (1) The court on being satisfied that domestic violence has *prima facie* taken place may pass a protection order in favour of the aggrieved person and prohibit the respondent from –

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the aggrieved person is a child, his or her educational institution or any other place frequented by the aggrieved person;

- (d) attempting to communicate in any form, whatsoever with the aggrieved person, including personal, oral or written, electronic or telephonic or mobile phone contact;
- (e) causing violence to the dependents, other relatives or any person who gives the aggrieved person assistance against domestic violence; and
- (f) committing any other act as specified in the protection order;

(2) In addition to the order under sub-section (1), or otherwise, the court on being satisfied that domestic violence has taken place may pass a residence order to –

- (a) restrain the respondent from dispossessing or in any other manner disturbing the possession of the aggrieved person from the household;
- (b) restrain the respondent or any of his relatives from entering the household; and
- (c) direct the respondent to secure alternative accommodation for the aggrieved person or if the circumstances so require to pay rent for the same.

(3) The court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any child of such aggrieved person.

(4) The court may require from the respondent to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(5) While making an order under sub-sections (1), (2) or (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist the aggrieved person or the person making an application on his or her behalf in the implementation of the order.

(6) While making an order under sub-section (2), the court may impose on the respondent obligations relating to the discharge of rent or other payments, having regard to the financial needs and resources of the parties.

(7) The court may direct the officer in charge of the police station in whose jurisdiction the court has been approached to assist in the implementation of the protection order.

(8) The court may direct the respondent to return the possession to the aggrieved person of any property, valuables or documents to which the aggrieved person is entitled.

(9) The court shall in all cases where it has passed any order under this section, order that a copy of such order, shall be given to the parties to the application, the officer in charge of the police station in the jurisdiction of which the court has been approached as well as to the service provider located within the local limits of the jurisdiction of the court.

12. Monetary relief.— (1) The court may, at any stage of the trial of a petition filed by the aggrieved person, pass interim order directing the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and such relief may include, but is not limited to –

- (a) compensation to the aggrieved person for suffering as a consequence of economic abuse to be determined by the court;

- (b) loss of earning;
- (c) medical expense;
- (d) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and
- (e) the maintenance for the aggrieved person as well her children, if any, including an order under or in addition to an order of maintenance under family laws.

(2) The respondent shall pay monetary relief to the person aggrieved within the period specified in the order made in terms of sub-section (1) and in accordance with terms thereof.

(3) The court may, upon failure on part of the respondent to make payment in terms of the order under sub-section (2) direct an employer or debtor, of the respondent, to directly pay the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the respondent, which amount may be adjusted towards the monetary relief payable by the respondent.

13. Custody order.— The court may, at any stage of the petition for protection order or for any other relief under this Act grant temporary custody of an aggrieved person who is —

- (a) a child to a person under the Guardians and Wards Act 1890 (VIII of 1890); and
- (b) an adult to a service provider or some other person in accordance with the will of the aggrieved person:

Provided that in any case where a complaint of sexual abuse of a child has been made and the court is *prima facie* satisfied that such allegation is true, the court shall grant custody of the aggrieved child to the non-respondent parent or guardian or the person making an application on his or her behalf.

14. Duration and alteration of interim, protection and residence orders.— (1) The interim order made under section 10 and the protection order made under section 11 shall remain in force until the aggrieved person applies for discharge of such order.

(2) If the court on receipt of an application at any stage from the aggrieved person or the respondent is satisfied that there is a change in the circumstances requiring alteration, modification or recalling of any order made under this Act, it may, for reasons to be recorded in writing pass such order, as it may deem appropriate.

(3) The residence order shall remain in force until such time it is altered.

(4) Nothing contained in sub-sections (1) and (2) shall prevent an aggrieved person from making a fresh application after the previous order has been discharged.

15. Penalty for breach of an interim or protection order by the respondent.— (1) A breach of protection order, or of the interim protection order, by the respondent shall be an offence and shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to twenty thousand rupees, or with both.

(2) Notwithstanding anything contained in the Code the offence under this section shall be cognizable, bailable and compoundable.

16. Appeal.— Any person convicted by a court under sub-section (1) of section 15, may file an appeal to the court of Sessions within thirty days of the passing of the order of sentence and the court of sessions shall decide the appeal within sixty days.

17. Protection Committee.— (1) Government shall, by notification in the official Gazette, constitute Protection Committees for the purposes of this Act.

(2) A Protection Committee shall comprise a Social Welfare Officer who shall be the convener, medical practitioner, a psychologist, psycho-social worker and an official appointed by the court, a female police officer not below the rank of Sub-Inspector and two women members from civil society and the Protection Officer who shall also act as the Secretary of the Protection Committee.

18. Duties and functions of Protection Committee.— The Protection Committee may –

- (a) inform the aggrieved person of her or his rights provided under this Act or any other law for the time being in force and the remedies and the help that may be provided;
- (b) assist the aggrieved person in obtaining any medical treatment necessitated due to the domestic violence;
- (c) if necessary, and with the consent of the aggrieved person, assist the aggrieved person in relocating to a safer place acceptable to the aggrieved person, which may include the house of any relative or family friend or other safe place or if any, established by a service provider;
- (d) assist the aggrieved person in the preparation of and filing of any petition or report under this Act, the Code or any other law for the time being in force;
- (e) keep official record of the incidents of domestic violence in its area of jurisdiction, whether on the basis of information received or suo moto inquiry, irrespective of whether or not action is taken under this Act. Such record shall include –
 - (i) the first information received about the incident of domestic violence;
 - (ii) the assistance, if any, offered or provided by the Protection Committee to the aggrieved person;
 - (iii) where applicable the reason for not taking action under this Act when an incident was brought to the notice of the Protection Committee;
 - (iv) where applicable, the reason for the aggrieved person's refusal to take assistance from the Protection Committee;
 - (v) the names and contact details of the service provider, if any, from whom the aggrieved person sought help;
 - (vi) maintenance of the record of applications, protection orders and the service providers operating in the area of jurisdiction; and
 - (vii) perform any other duties that may be assigned to the Protection Committee under this Act or the rules made there under.

19. Powers, privileges and immunities of Protection Committee.— (1) Members of the Protection Committee shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(2) The Protection Committee may file an application for obtaining a protection order under section 11, if so desired by the aggrieved person.

(3) The Protection Committee may procure the assistance of any person or authority, and any person or authority so requested by the Protection Committee, shall be under legal obligation to provide the desired assistance to the Protection Committee.

20. Delegation of functions and powers.— The Protection Committee may delegate any of its functions and powers to any of its member or members.

21. Protection Officer.— (1) Government shall, by notification in the official Gazette, appoint a gazetted officer to act as Protection Officer, for the purposes of this Act.

(2) The Protection Officer shall possess such qualifications and experience as may be prescribed under the rules.

22. Duties of Protection Officer.— It shall be the duty of the Protection Officer –

- (a) to make a domestic incident report to the Protection Committee, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the Protection Committee within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;
- (b) to make an application in such form and in such manner as may be prescribed to the court, if the aggrieved person so desires, claiming relief for issuance of a protection order;
- (c) to ensure that the aggrieved person is provided legal aid;
- (d) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the court;
- (e) to make available a safe place of residence, if the aggrieved person so requires and forward a copy of his report of having lodged;
- (f) (f) to get the aggrieved person medically examined, if he or she has sustained bodily injuries and forward a copy of the medical report to the Protection Committee having jurisdiction in the area where the domestic violence is alleged to have been taken place;
- (g) to ensure that the order for monetary relief under section 12 is complied with and executed in accordance with the procedure prescribed; and
- (h) to perform such other duties as may be prescribed.

23. Assistance of service provider.— (1) In any proceeding under this Act, the court may secure the services of a service provider.

(2) Service provider shall have all the privileges and immunities enjoyed by the Protection Committee.

24. Powers of service provider.— A service provider shall have the power to –

- (a) record the domestic incident in a prescribed form if the aggrieved person so desires, and forward a copy thereof to the Protection Officer having jurisdiction in the area where the domestic violence took place;
- (b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer within the local limits of which the domestic violence took place;
- (c) ensure that the aggrieved person is provided shelter in a safe place of residence, if he or she so requires and forward a report of the lodging of the aggrieved person in a safe place of residence to the Protection Committee within the local limits of the place where the domestic violence took place; and
- (d) provide the aggrieved person with any aid or assistance if he or she may so require.

25. Procedure.— Save as otherwise provided in this Act, all proceedings taken and offences committed under the provisions of this Act, shall be governed by the Code.

26. Protections of actions taken in good faith.— No suit, prosecution or other legal proceedings shall lie against any Protection Committee, Protection Officer or service provider for anything which is done in good faith or purported to be done under this Act.

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

28. Revision.— Chapter XXXII of the Code shall apply to an order passed under sections 10, 11, 12 and 13.

29. Power to make rules.— Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

30. Removal of difficulties.— If any difficulty arises in giving effect to any provision of this Act, Government may make an order not inconsistent with the provisions of this Act to remove the said difficulty.

THE DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) RULES, 2016

CONTENTS

S. No.	Heading
1.	Short title, extent and commencement
Chapter I	
2.	Definitions
Chapter-II	
Establishment and Functioning of the Commission on Domestic Violence	
3.	Establishment and Functioning of the Commission on Domestic Violence
4.	Appointment of Members of the Commission
5.	Qualification of Members
6.	Term of Office of Member of the Commission
7.	Removal of Chairperson and members
8.	Acting Chairperson
9.	Secretariat of the Commission
10.	Role and Responsibilities of the Commission
11.	Appointment of a Sub Committee
12.	Functioning of the Commission
13.	Annual Report of the Commission
14.	Assistance to the Commission
Chapter III	
Appointment of protection Officer	
15.	Appointment of Protection Officer
16.	Qualifications of the Protection Officer
17.	Duties of the Protection Officer
18.	Reports of the Protection Officer
Chapter IV	
Establishment of Protection Committees	
19.	Establishment of Protection Committees
20.	Appointment of Members of the Protection Committees
21.	Qualification of Members
22.	Term of Office of Member of the Commission

23.	Role and Responsibilities of the Protection Committee
24.	Functioning of the Committee
25.	Removal of Chairperson and Members
26.	Acting Chairperson
27.	Secretariat of the Committee
28.	Reporting of the Committee
29.	Assistance to the Committees
CHAPTER V	
MISCELLANEOUS	
30.	Information to Protection Officers
31.	Domestic incident reports
32.	Petitions to the Magistrate
33.	Action to be taken in cases of emergency
34.	Certain other duties of the Protection Officers
35.	Means of service of Notices
36.	Appointment of counselors
37.	Appointment of counselors
38.	Breach of Protection Orders
39.	Shelter to the aggrieved person
40.	Medical Facility to the aggrieved person
FORM NO 1	

THE DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) RULES, 2016

Women Development Department

Karachi dated the 22nd March, 2016

No. SO (WD)/WDD/2-100/2016: In exercise of the powers conferred by section 29 of the Domestic Violence (Prevention and Protection) Act, 2013, the Government of Sindh is pleased to make the following rules namely:-

1. Short title and commencement: - (1) These rules may be called the Domestic Violence (Prevention and protection) Rules, 2016

(2) They shall extend to the whole Province of Sindh.

(3) They shall come into force at once.

Chapter I

2. Definitions.— In these rules, unless the context otherwise requires: -

- (a) “Act” means the Domestic Violence (Prevention and Protection) Act, 2013;
- (b) “Complaint” means any allegation made orally or in writing by any person to the Protection Officer;
- (c) “Counsellor” means a member of a service provider competent to give counseling under sub-section 8 of the Act;
- (d) “Rules” means The Domestic Violence (Prevention and Protection) Rules, 2016
- (e) “Section” means a section of the Act;
- (f) Words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

Chapter-II

Establishment and Functioning of the Commission on Domestic Violence

3. (1) The Provincial Government of Sindh shall constitute a Commission to be known as the Domestic Violence Commission (hereby referred to as the Commission), which shall be established in Karachi to exercise the Powers conferred upon, and to perform the functions assigned to it, as per section 4 of the Act.

(2) The Commission shall consist of sixteen (16) members and shall include one (1) Chairperson and fifteen (15) Members.

(3) The Secretariat of the Commission shall lie with the Women Development Department.

- (4) The Chairperson shall be the Minister of the Women Development Department.
- (5) The Members of the Commission shall include:-
 - (i) The Secretary of the Women Development Department,
 - (ii) The Additional Secretary of the Women Development Department, who shall be the Secretary of the Commission.
 - (iii) Six (6) ex-officio members who shall be representatives of the Provincial Departments of Law, Finance, Social Welfare, Home. Human Rights and Health, not below the rank of Deputy Secretary, and who shall not have the right to vote;
 - (iv) Chairperson, Sindh Commission of Human rights.
 - (v) Chairperson, Sindh Commission on the Status of Women
 - (vi) Two members of civil Society
 - (vii) Two members of the legal fraternity, one of whom shall be nominated by the Sindh Bar council
 - (viii) Two members of the media

(6) Delegation of representation by the Commission: - The ex-officio member of the Commission may nominate and delegate their representatives to attend Commission meetings.

(7) If due to any circumstances, the Women Development Department is unable to take charge of the Commission, the chief Minister may notify another Provincial Department to responsibility over the Secretariat of the Commission.

4. Appointment of members of the Commission.— (1) The Women Development Department Chairperson of the Sindh Commission of Human rights and Chairperson Sindh Commission on the Status of Women shall compile a list of Candidates fulfilling the qualification identified in rule 5 and present them to the Chief Minister.

5. Qualification of members.— (1) The ex-officio members and their delegated representatives shall not be the rank of Deputy Secretary.

(2) Members from civil Society shall have at least ten (10) years of experience working on women's rights and issues.

(3) The member nominated by the Sindh Bar Council shall have at least ten (10) years experience working on human rights cases and cases involving women's issues.

(4) The member of the legal fraternity not nominated by the Sindh Bar Council shall have at least ten (10) years experience working in women's Rights.

(5) Members from the media shall have at least ten (10) years experience working, reporting or researching on women's rights and issues.

(6) Members of the Commission shall be deemed to be public servants within the meaning of section 21 of the Pakistan penal Code (Act XLV of 1860).

Provided at least half of the members shall be women.

6. Term of Office of Member of the Commission.— (1) A person appointed as a member of the commission shall hold office for a term of three years from the date on which he or she enters upon his or her office. The term of the office may be extended only once.

(2) The member may resign his or her office in writing under his or her hand addressed to the Chairperson of the Commission and on acceptance such resignation, such vacancy shall be filled within thirty days for the unexpired term of the member.

7. Removal of Chairperson and members.— The Chairperson and Members may be removed from office by the Chief Minister if he or she, as the case may be:-

- (a) is, after proper inquiry, found guilty of misconduct;
- (b) is adjudged an insolvent;
- (c) is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority;
- (d) does not attend two (2) consecutive meetings without a justifiable reason; and
- (e) has, on conviction of any offence involving moral turpitude, been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his or her release.

Explanation: - I “Misconduct” shall include behavior which is found to be discriminatory or biased against women.

Explanation: - II An inquiry shall be carried out into any charge of ‘Misconduct’ by 2 members of the Commission and 1 independent member.

8. Acting Chairperson.— By reason of a vacancy in the office of Chairperson due to death, illness, resignation or otherwise, the Chief Minister shall appoint another woman from amongst the members of the Commission to act as Chairperson for a period of not exceeding thirty days or until the appointment of a new Chairperson, whichever is earlier.

9. Secretariat of the Commission.— (1) The Secretariat of the Commission shall lie with the women Development Department at Karachi.

(2) The Women Development Department shall have the administrative and financial responsibility of the Commission.

(3) There shall be a separate desk and office for record keeping within the Women Development Department at Karachi.

(4) Extra staff may be hired by the Women Development Department when and if deemed necessary.

10. Role and Responsibilities of the Commission.— The roles and responsibilities of the Commission as identified by Section 4(2) of the Act include:

- (a) review from time the existing provisions of the law on domestic violence and suggest amendments therein, if any;
- (b) call for Specific studies or investigation into specific incidence of domestic violence;
- (c) look into complaints and take suo moto notice of matters relating to domestic violence and the non-implementation of the law; and
- (d) participate and advise on the planning process for securing a safe environment free of domestic violence;
- (e) mobilize grants from domestic and international sources in order to meet any of its obligations and for the performing of its functions.

11. Appointment of a Sub-Committee.—(1) There shall be a sub-committee appointed consisting of five persons which shall be responsible to oversee the implementation of the decisions and recommendations of the Commission.

(2) The Sub Committee shall set its own process and procedures with approval of the Commission.

(3) The commission may establish such other Committees from amongst its members as it deems fit and may refer to them any matter for consideration and report. Any such Committee shall be time barred. The Commission may, if it considers necessary, co-opt to the Sub Committee or any other Committee any person possessing special knowledge and expertise on the relevant subject.

12. Functioning of the Commission. - (1) The Commission shall meet at least quarterly at such times and at such place as the Chairperson may decide. The Chairperson may call additional meetings if and when required.

(2) All decisions of the Commission shall be authenticated by the signature of the Chairperson or any person authorized in this behalf by the Chairperson.

(3) The quorum for the meeting of the Commission shall not be less than one third of the total voting strength of the Commission.

(4) The decisions of the Commission shall be taken by the majority of the members present. In case of a tie, the Chairperson of the meeting shall have the casting vote.

(5) No Act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Commission.

(6) In case of an emergency, the Sub-Committee shall meet and respond as the situation may require if deemed necessary, the Sub-Committee may convene a meeting of the entire commission.

(7) While inquiring into complaints of violations of women's rights, the Commission may call for information or report from the Government, civil society organizations and autonomous or concerned bodies; and in this regard the Commission shall

have the powers vested in a civil court under the code of Civil Procedure, 1908 (Act V of 1908) for enforcing the attendance of any person and compelling the production of documents.

13. Annual Report of the Commission.— (1) The Commission shall prepare its Annual Report and it shall be presented to the Chief Minister and concerned Department. The Annual report shall include an account of its performance and utilization of funds.

(2) The Annual Report of the Commission shall be laid and discussed in the Provincial Assembly.

14. Assistance to the Commission.— All provincial executive authorities and departments shall assist the Commission in the performance of its functions.

Chapter III

Appointment of protection Officer

15. Appointment of Protection Officer.— (1) The Women Development Department shall appoint a gazetted officer not below the rank of BPS 17 as a Protection Officer in each district of Sindh, as per Section 21 (1) of the Act, to perform duties and functions for the purposes of this Act,

(2) The post shall advertise through the newspaper.

(3) Preference shall be given to females.

(4) The appointment of the Officer shall be notified through the Official Gazette.

(5) The Government through the Women Development Department, shall provide necessary office assistance to the Protection Officer for the efficient discharge of his or her functions under the Act and these rules.

16. Qualifications of the Protection Officer.— (1) The Protection Officer shall be a gazetted officer not below BPS-17.

(2) The Protection Officer shall have at least 3 years experience in the social and welfare sector with a degree in law, social work, social science, psychology or gender, preferably with experience on working on issues relating to violence against women.

(3) If for any reason whatsoever a person identified in the sub-sections (1) to (2) are not available in a district, the Domestic Violence Commission through its sub Committee may appoint any other person in their place on the basis of a majority vote.

17. Duties of the Protection Officer.— The duties of the Protection Officer are defined in section 22 of the Act:

(a) to make a domestic report to the Protection Committee, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic

violence and forward copies thereof to the Protection Committee within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

- (b) to make an application in such form and in such manner as may be prescribed to the court, if the aggrieved person so desires, claiming relief for issuance of a protection order;
- (c) to ensure that the aggrieved person is provided legal aid;
- (d) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the court;
- (e) to make available a safe place of residence, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the Protection Committee;
- (f) to get the aggrieved person medically examined, if he or she has sustained bodily injuries and forward a copy of the medical report to the Protection Committee, having jurisdiction in the area where the domestic violence is alleged to have been taken place;
- (g) to ensure that the order for monetary relief under section 12 is compiled with and executed in accordance with the procedure prescribed; and
- (h) to perform such other duties as may be prescribed.

18. Reports of the Protection Officer.— (1) The Protection Officer shall submit a written quarterly report to the Protection Committee established under section 17 (1) of the Act.

(2) The report shall contain details of every incident of domestic violence the Protection officer investigated or was made aware of and his response and current status of the incident.

Chapter IV

Establishment of Protection Committees

19. Establishment of Protection Committees.— (1) the Government through the Women Development Department shall establish Protection Committee (hereby referred to as “the Committee”) in every district, of Sindh Under Section 17 (1) of the Act, the Protection committees shall be constituted by notification in the Official Gazette.

(2) The members of the Protection Committee in each district, as identified in Section 17(2) of the Act shall comprise of a:

- (i) Women Development Department official, who shall be the Secretary;
- (ii) Social Welfare Officer, who shall be the Convener;
- (iii) Medical Practitioner;

- (iv) Psychologist;
- (v) Psycho-social worker;
- (vi) Official appointed by the Court;
- (vii) Female police officer not below the rank of sub-Inspector;
- (viii) Two women members from civil society; and
- (ix) Protection Officer.

(2) If for any reason whatsoever a person identified in the sub-section (1) is not available in a district, the Women Development Department in consultation with the Domestic Violence Commission through its Sub Committee may appoint any other person in their place on the basis of a majority vote.

20. Appointment of Members of the Protection Committees.— (1) the Women Development Department, through its district offices shall compile a list of persons with the relevant qualifications for Members of the Committee as specified by Section 21 of the Act,

Explanation: Members of the Committee shall include all members with the exception of the Protection Officer who shall be appointed as per the procedure identified in Section 14 of the Rules.

(2) The Commission shall finalize the Members of the committees from the list identified by the Women Development Department.

(3) The Minster Women Development Department shall notify the Protection Committees.

21. Qualification of Members.— (1) All members, with the exception of the Women Development Department Officer, Social Welfare Officer and Police Officer, shall have at least ten (10) years experience working on social and women's issues.

(2) Any gazetted officer shall not be below the rank of BPS-17.

(3) The Women Development Department and Social Welfare Officer shall not be below the rank of BPS-17

(4) The Police officer shall not be below the rank of DSP.

(5) In case of non-availability of required qualification, the Women Development Department in consultation with the sub Committee of the Commission may make recommendation of the qualification of alternative members.

(6) Members of the Commission shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

22. Term of Office of Member of the Commission.— (1) A Person appointed as a member of the Committee shall hold office for a term of three years from the date on which he or she enters upon his or her office. The term of the office may be extended only once.

(2) The Member may resign his or her office in writing under his or her address to Chairperson of the Committee and on acceptance of such resignation such vacancy shall be filled within thirty days for the unexpired term of the member.

23. Role and Responsibilities of the Protection Committee.— (1) the role and responsibility of the Committee as identified by section 18 of the Act include:

- (a) inform the aggrieved person of her or his rights provided under this Act or another law for the time being in force and the remedies and the help that may be provided;
- (b) assist the aggrieved person in obtaining any medical treatment necessitated due to the domestic violence.
- (c) if necessary, and with the consent of the aggrieved person, assist the aggrieved person in relocating to a safer place acceptable to the aggrieved person, which may include the house of any relative or family friend or other safe place or if any established by a service provider;
- (d) assist the aggrieved person in the preparation of and filing of any petition or report under this Act, the Code or any other law for the time being in force.
- (e) keep official record of the incidents of domestic violence in its area of jurisdiction, whether on the basis of information received or Suo moto inquiry, irrespective of whether or not action is record shall include-
 - (i) the first information received about the incident of domestic violence;
 - (ii) the assistance, if any, offered or provided by the Protection Committee to the aggrieved person;
 - (iii) where applicable the reason for not taking action under this Act when an incident was brought to the notice of the Protection Committee;
 - (iv) where applicable, the reason for the aggrieved person's refusal to take assistance from the Protection Committee;
 - (v) the names and contact details of the service provider; if any, from whom the aggrieved person sought help;
 - (vi) maintenance of the record of applications, protection orders and the service providers operating in the area of jurisdiction; and
 - (vii) perform any other duties that may be assigned to the protection committee this Act or the rules made there under.

24. Functioning of the Committee. - (1) The Committee in its first meeting which shall be convened by the convener, shall appoint through a simple majority vote, a chairperson.

(2) The Committee shall meet quarterly at such times and at such place as the Chairperson may decide.

(3) The Convener may call additional meetings with the permission of the Chairperson if and when required.

(4) In addition to discussing any cases of domestic violence the Committee may be handling, the Committee shall also evaluate its work, process and the situation of domestic violence in its district;

(5) All decisions of the Committee shall be authenticated by the signature of the Chairperson or any person authorized in this behalf by the Chairperson.

(6) The quorum for the meeting of the Committee shall not be less than one third of the total voting strength of the Committee.

(7) The decisions of the Committee shall be taken by the majority of the members present. In case of a tie, the Chairperson of the meeting shall have the casting vote.

(8) No act or proceeding of the Committee shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Committee.

(9) In case of an emergency, the Protection Officer shall call an emergency meeting to shall meet and respond as the situation may require. If deemed necessary, the Committee may appoint a smaller sub-committee to respond to the situation at hand. Any such sub-committee shall be time-barred.

(10) While inquiring into complaints of violations of women's rights, the Committee may call for information or report from the Government, civil society organization and autonomous or concerned bodies; and in this regard the committee shall have the powers vested in a civil court under the code of civil procedure 1908 (Act V of 1908) for enforcing the attendance of any person and compelling the production of documents.

25. Removal of Chairperson and Members.— the Chairperson and Members may be removed from office if he or she, as the case may be: -

- (a) Is, after proper inquiry, found guilty of misconduct;
- (b) Is adjudged an insolvent;
- (c) Is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority;
- (d) Does not attend two (2) consecutive meetings without a justifiable reason; and
- (e) Has, on conviction of any offence involving moral turpitude, been sentenced to imprisonment for a term of not less than two years, unless a period of five years has elapsed since his or her release.

Explanation: "Misconduct" shall include behavior which is found to be discriminatory or biased against women.

Explanation: An inquiry shall be carried out into any charge of 'misconduct' by 2 members of the commission and 1 independent member.

26. Acting Chairperson.— By reason of a vacancy in the office of Chairperson due to death, illness, resignation or otherwise, the Commission shall appoint another person

from amongst the members of the Committee to act as Chairperson for a period not exceeding thirty days or until the appointment of a new Chairperson, whichever is earlier.

27. Secretariat of the Committee.— (1) the Secretariat of the Committee shall lie with each district women development department.

(2) The District women Development Departments shall have the administrative and financial responsibility of the Committee.

(3) There shall be a separate desk, office for record and staff keeping within the district offices of the women development department.

(4) Extra staff may be hired for the offices by the Women Development Department when and if deemed necessary:

Provided if for any reason the women development department is unable to hold a secretariat of a committee, the Chief Minister may appoint another provincial department to hold the secretariat report to the secretary, women development department.

28. Reporting of the Committee.— (1) The Committee shall prepare and send a quarterly report to the Commission.

(2) The Committee shall prepare and present an Annual Report and shall be presented to the Commission and concerned Department. The Annual Report shall include and account of its performance and utilization of funds.

29. Assistance to the Committees.— All Provincial executive authorities and departments shall assist the Committee in the performance of its functions.

CHAPTER V MISCELLANEOUS

30. Information to Protection Officers.— (1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed may give information about it to the Protection Officer having jurisdiction in the area either orally or in writing.

(2) In case the information is given to the Protection Officer under sub-section (1) orally, he or she shall cause it to be reduced into writing and shall ensure that the same is read out, understood and signed by the person giving such information and in case the informer is not in a position to furnish written information the Protection Officer shall keep a confidential record of the identity of the person giving such information.

(3) The Protection Officer shall give a copy of the information recorded by him immediately to the informant free of cost.

31. Domestic incident reports.— (1) Upon receipt of a complaint of domestic violence, the Protection Officer shall prepare a domestic incident report in the form prescribed

as FORM-1 and submit the same to the magistrate and forward copies thereof to the police officer in charge of the police station within the local limits of jurisdiction of which the domestic violence alleged to have been committed has taken place and to the service providers in that area.

(2) Upon a request of any aggrieved person, a service provider may record a domestic incident report and forward a copy thereof to the Magistrate and the Protection Officer having Jurisdiction in the area where the domestic violence is alleged to have taken place.

32. Petitions to the Magistrate.— (1) An aggrieved person shall prepare a written petition to submit to the concerned Magistrate.

(2) An aggrieved person may seek the assistance of the Protection Officer in preparing her or his petition and forwarding the same to the concerned Magistrate.

(3) In case the aggrieved person is illiterate, the Protection Officer shall read over the petition and explain to her or him the contents thereof.

(4) The Petitions Under Section 7 of the Act shall be dealt with and the orders enforced in the same manner laid down under the Code of Criminal Procedure, 1898.

33. Action to be taken in cases of emergency.— If the Protection Officer or a service provider reliable information through any mode of communication including e-mail, telephone call or the either from the aggrieved person, an informer or from any person who has reason to believe that an act of domestic violence is being or is likely to be committed and in a such an emergency situation, the protection officer or the service provider, as the case may be, shall seek immediate assistance of the police who shall accompany the Protection Officer or the service provider, as the case may be, to the place of occurrence and record the domestic incident report and present the same to the Magistrate without any delay for seeking appropriate orders under the Act.

34. Certain other duties of the Protection Officers.— (1) The Protection Officer, if directed to do so in writing, by the Magistrate shall: -

- (a) conduct a home visit of the shared household premises and make preliminary enquiry if the court requires clarification, in regard to granting ex-parte interim relief to the aggrieved person under the Act and pass an order for such home visit;
- (b) after making appropriate inquiry, file a report on the emoluments, assets, bank accounts or any other documents as may be directed by the court;
- (c) restore the possession of the personal including gifts and jewelry of the aggrieved person and the shared household to the aggrieved person;

- (d) Assist the aggrieved person to regain custody of children and secure rights to visit them under his or her supervision as may be directed by the court;
- (e) assist the court in enforcement of orders in the proceedings under the Act in the manner directed by the Magistrate, including orders under section 10, section 11, section 12, section 13, or section 14 in such manner as may be directed by the court;
- (f) take the assistance of the police, if required, in confiscating any weapon involved in the alleged domestic violence.

(2) The Protection officer shall also perform such other duties as may be assigned to him by the Government or the Magistrate in giving effect to the provisions of the Act and these rules from time to time.

(3) The Magistrate may, in addition to the orders for effective relief in any case, also issue directions relating general practice for better handling of the cases, to the Protection Officers within his jurisdiction and the Protection Officers shall be bound to carry out the same.

35. Means of service of notices.— (1) The notice for appearance in respect of the proceedings under the Act shall contain the names of the person alleged to have committed domestic violence, the nature of domestic violence and such details which may facilitate the identification of person concerned.

(2) The Court may issue notices as per the Civil Procedure Code, 1908 and the Code of Criminal Procedure, 1898 by all three modes at once, namely, through bailiff, pasting and publication all at once and if notice is served by any of these modes, the notice shall be deemed to have been served.

- (a) The notice may be served at the place of residence of the accused or where he or she is gainfully employed.
- (b) In addition to the procedure prescribed under the Civil procedure Code 1908 and code of Criminal Procedure, 1898, the Court may direct any other steps necessary with a view to expediting the proceedings to adhere to the time limit provided in the Act.

(3) On statement on the date fixed for appearance of the respondent, or a report of the person authorized to serve the notices under the Act, that service has been effected appropriate orders shall be passed by the court on any pending application for interim relief, after hearing the complainant or the respondent, or both.

(4) When a protection order is passed restraining the respondent from entering the shared household or the respondent is ordered to stay away or not to contact the aggrieved person, no action of the aggrieved person including an invitation by the aggrieved person shall be considered as waiving the restraint imposed on the respondent, by the order of the court, unless such protection order is duly modified in accordance with the Act.

36. Appointment of counselors.— (1) A person from the list of available counselors forwarded by the protection Officer, shall be appointed as a Counselor, under intimation to the aggrieved person.

(2) The following persons shall not be eligible to be appointed as counselors in any proceedings, namely: -

- (i) any person who is interested or connected with the subject matter of the dispute or is related to any one of the parties or to those who represent them unless such objection is waived by all the parties in writing.
- (ii) any legal practitioner who has appeared for the respondent in the case or any other suit or proceedings connected therewith.

(3) The Counselors shall as far as possible be women.

37. Procedure to be followed by Counselors.— (1) The Counselors shall work under the general supervision of the court or the Protection Officer or both.

(2) The Counselors shall convene a meeting at a place convenient to the aggrieved person or both the parties.

(3) The factors warranting counseling shall include the factor that the respondent shall furnish an undertaking that he would refrain from causing such domestic violence as complained by the aggrieved person and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, electronic mail or through any medium except in the counseling proceedings before the counselor or as permissibly by law or order of a court of competent jurisdiction.

(4) The Counselor shall conduct the counseling proceedings bearing in mind that the counseling shall be in the nature of getting an assurance, that the incidence of domestic violence shall not get repeated.

(5) The respondent shall not be allowed to plead any counter justification for the alleged act of domestic violence in counseling and the fact that any such justification for the act of domestic violence by the respondent is not allowed to be a part of the Counseling proceeding should be made known to the respondent before the proceedings begin.

(6) The respondent shall furnish an undertaking to the Counselor that he would refrain from causing such domestic violence as complained by the aggrieved person and in appropriate cases an undertaking that he will not try to meet, or communicate in any manner through letter or telephone, e-mail or through any other medium except in the counseling proceedings before the Counselor.

(7) If the aggrieved person so desires, the Counselor shall make efforts of arriving at a settlement the manner.

(8) The limited scope of the efforts of the Counselor shall be to arrive at the understanding of the grievances of the aggrieved person and the best possible redressal of her

or his grievances and the efforts shall be to focus on evolving remedies or measures for such redressal.

(9) The counselor shall strive to arrive at a settlement of a dispute by suggesting measures for redressal of grievances of the aggrieved person by taking into accounts the measures or remedies suggested by the parties for counseling and reformulating the terms for the settlement, wherever required.

(10) The counselor shall not be bound by the provisions of the Law of evidence, 1984 or the Code of Civil Procedure, 1908 or the Code of Criminal Procedure, 1898, and his or her action shall be guided by the principles of fairness and justice and aimed at finding way to bring an end domestic violence to the satisfaction of the aggrieved person and in making such an effort the counselor shall give due regard to the wishes and sensibilities of the aggrieved person.

(11) The Counselor shall submit his or her report to the Magistrate as expeditiously as possible for appropriate action.

(12) In the event the Counselor arrives at resolution of the dispute, she or he shall record the terms of settlement and get the same endorsed by the parties.

(13) The court may, on being satisfied about the efficacy of the solution and after making a preliminary inquiry from the parties and after, recording reasons for such satisfaction, which may include undertaking by the respondents to refrain from repeating acts of domestic violence, admitted to have been committed by the respondents, accept the terms with or without conditions.

(14) The court shall, on being so satisfied with the report of counseling, pass an order, recording the terms of the settlement or an order modifying the terms of the settlement on being so requested by the aggrieved person, with the informed and voluntary consent of the parties.

(15) In cases, where a settlement cannot be arrived at in the counseling proceedings, the Counselor shall report the failure of such proceedings to the court and the court shall proceed with the case in accordance with the provisions of the Act.

(16) The record of proceedings shall not be deemed to be material on record in the case on the basis of which any inference may be drawn or an order may be passed solely based on it.

(17) The court shall pass an order, only after being satisfied that the application for such an order is not vitiated by force, fraud or coercion or any other factor and the reasons for such satisfaction shall be recorded in writing in the order, which may include any undertaking or surety given by the respondent.

38. Breach of Protection Orders.— (1) An aggrieved person may report a breach of protection order or an interim protection order to the Protection Officer.

(2) Every report referred to in sub-section (1) shall be in writing by the aggrieved person or informer and duly signed by him or her.

(3) The Protection Officer shall forward a copy of such complaint with a copy of the protection order of which a breach is alleged to have taken place to the concerned Magistrate for appropriate orders.

(4) The aggrieved person may, if she or he so desires, make a complaint of breach of protection order or interim protection order directly to the magistrate or the police, if she or he so chooses.

(5) If at any time after a protection order has been breached, the aggrieved person seeks his resistance, the protection Officer shall immediately rescue her or him by seeking help from the local police station and assist the aggrieved person to lodge a report to the local police authorities in appropriate cases.

(6) When charges are framed under sections 5 or 15 of the Act, or any other offence not summarily triable, the court may separate the proceedings for such offences to be tried in the manner prescribed under Code of Criminal Procedure, 1898 and proceed to summarily try the offence of the breach of Protection Order under section 15.

(7) Any resistance to the enforcement of the orders of the court under the Act by the respondent or any other person purportedly acting on his behalf shall be deemed to be a breach of protection order or an interim protection order covered under the Act.

(8) A breach of a protection order or an interim protection order shall immediately be reported to the local police station having territorial jurisdiction and shall be dealt with as a cognizable offence.

(9) While enlarging the person on bail arrested under the Act, the court may, by order, impose the following conditions to protect the aggrieved person and to ensure the presence of the accused before the court, which may include—

- (a) an order restraining the accused from threatening to commit or committing an act of domestic violence;
- (b) an order preventing the accused from harassing, telephoning or making any contact with the aggrieved person;
- (c) an order directing the accused to vacate and stay away from the residence of the aggrieved person or any place she is likely to visit;
- (d) an order prohibiting the possession or use of firearm or any other dangerous weapon;
- (e) an order prohibiting the consumption of alcohol or other drugs;
- (f) any other order required for protection, safety and adequate relief to the aggrieved person;

39. Shelter to the aggrieved person.— (1) on a request being made by the aggrieved person, the Protection Officer or a service provider may make a request to the person in charge of a shelter home in writing.

(2) When a Protection Officer makes a request referred to in sub-section (1), it shall be accompanied by a copy of the domestic incident report registered by the Protection Officer:

Provided that shelter home shall not refuse shelter to an aggrieved person under the Act, for her not having lodged a domestic incident report, prior to the making of request for shelter in the shelter home.

(3) If the aggrieved person so desires, the shelter home shall not disclose the identity of the aggrieved person in the shelter home or communicate the same to the person complained against.

40. Medical facility to the aggrieved person.— (1) The aggrieved person or the Protection Officer or the service provider may make a request to a person in charge of a medical facility in writing.

(2) When a Protection Officer makes such a request, it shall be accompanied by a copy of the domestic incident report:

Provided that the medical facility shall not refuse medical assistance to an aggrieved person under the Act, for her not having lodged a domestic incident report, prior to making a request for medical assistance or examination to the medical facility.

(3) If no domestic incident report has been made, the person-in-charge of the medical facility shall make a domestic incident report and forward the same to the local protection officer.

(4) The medical facility shall supply a copy of the medical examination report to the aggrieved person free of cost.

FORM NO. 1

Form and manner- Domestic incident Report Under Sindh Domestic violence (Prevention and Protection) Act, 2013

1. Name of the complainant/ aggrieved Person
2. Address
3. Mode of transmission of complaint oral/verbal_____ Writing _____
4. Nature of complaint (brief gist) (Enclosed copy of the Complaint)
5. Name/ Address of the respondent
6. Person to whom information first communicated.
7. Report recorded by: - protection officer/ service provider _____
8. Designation / Address

(Signature/ thumb impression of complainant)

(counter signature of SP/PO)

Complaint Received By:

1. Name / Designation of Protection Officer
2. Address
3. Whether the complaint is covered under Section 5 of the Act.
Yes _____ No _____

Signature of Protection Officer

Copy forwarded to: -

1. Local police station
2. Service provider
3. Complainant
4. Magistrate

Laws of the Khyber Pakhtunkhwa

**THE KHYBER PAKHTUNKHWA DOMESTIC VIOLENCE AGAINST WOMEN
(PREVENTION AND PROTECTION) ACT, 2021**

CONTENTS

Section	Heading
	PREAMBLE
1.	Short title, extent and commencement
2.	Definitions
3.	Protection against Domestic Violence
4.	District Protection committee
5.	Meeting of the District Protection Committee
6.	Powers and functions of District Protection Committee
7.	Report of the District Protection Committee
8.	Assistance to the complainant
9.	Duties and Responsibilities of the Secretary of the District Protection Committee
10.	Responsibilities of service provider
11.	Assistance by Government
12.	Petition of the Court
13.	Power to grant interim order
14.	Passing of orders by the Court
15.	Monetary Relief
16.	Duration and alteration of orders
17.	Penalty for breach of an order of Court
18.	Appeal
19.	Powers to make rules

**THE KHYBER PAKHTUNKHWA DOMESTIC VIOLENCE AGAINST WOMEN
(PREVENTION AND PROTECTION) ACT, 2021**

(KHYBER PAKHTUNKHWA ACT NO. III OF 2021)

An Act to curb the menace of Domestic Violence against Women in the Province of Khyber Pakhtunkhwa.

WHEREAS, Article 25 of the Constitution of the Islamic Republic of Pakistan while guaranteeing general equality, enable the state to make any special provision for the protection of Women;

AND WHEREAS, it is expedient to provide for prevention of Domestic Violence against Women in order to protect women from sexual abuse, psychological abuse, economic abuse and stalking and for the matters connected herewith and ancillary there to;

It is hereby enacted by Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. Short title, extent and commencement.— (1) This Act may be called the Khyber Pakhtunkhwa Domestic Violence against Women (Prevention and Protection) Act, 2021.

(2) It extends to the whole Province of Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.— (1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say,—

- (a) “Child” for the purpose of this Act means a natural person who has not attained the age of eighteen years;
- (b) “Code” means the Code of Criminal Procedure, 1898 (V of 1898);
- (c) “complainant” means the women against whom domestic violence has been committed under this Act; and
- (d) “complainee” means a person, who is in a domestic relationship with the complainant and against whom relief has been sought under this Act;
- (e) “Court” means the Court of District and Session Judge or an Additional

District and Session Judge, so notified by the Peshawar High Court, Peshawar;

- (f) “Department” means Zakat, Usher, Social Welfare, Special Education and Women Empowerment Department, of Government;
- (g) “District Committee on the Status of Women” means the District Committee on the Status of Women established under the Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016 (Khyber Pakhtunkhwa Act No. XXVIII of 2016);
- (h) “District Protection Committee” means a District Protection Committee constituted under section 4 of this Act;
- (i) “domestic relationship” means a relationship by consanguinity, marriage, kinship, affinity, or other family relationship;
- (j) “domestic violence” means the violence committed by the complainee against the complainant with whom the complainee is in domestic relationship;
- (k) “Government” means the Government of Khyber Pakhtunkhwa;
- (l) “monetary relief” means a monetary relief which a Court may grant under this Act;
- (m) “prescribed” means prescribed by rules made under this Act;
- (n) “rules” mean the rules made under this Act;
- (o) “service provider” means any such Government facility or voluntary organization registered with Government to work for providing services under this Act to protect complainant through any means including legal, medical, financial, or any other assistance; and
- (p) “violence” means and include but not limited to an act, omission, commission, or conduct of the complainee which result in any physical, psychological, emotional, and economic abuse to the complainant and also include but not limited to abetment, assault, criminal force, criminal intimidation, hurt, mischief, harassment, sexual abuse and wrongful confinement as defined in the Code.

Explanations: For the purpose of this clause—

- (i) “economic abuse” means denial of food, clothing, or shelter in

domestic relationships to the complainant by the complainee under legal obligation in accordance with the complainee income.

- (ii) “psychological abuse” means psychological deterioration of aggrieved person which may result in anorexia, a suicide attempt, or clinically proven depression resulting from complainee oppressive behavior or limiting freedom of movement of the aggrieved person.
- (iii) “sexual abuse” does not include ordinary and natural relationships amongst husband and wife so committed in accordance with injunctions of Islam.

(2) Words and expressions used but not defined in this Act shall have the same meaning assigned to them under the Pakistan Penal Code, 1860 (Act No. XLV of 1860) for the time being enforce.

3. Protection against Domestic Violence.—(1) No person shall commit, aid and abet for the commission of the act of domestic violence.

(2) Any person, who commits an act pursuant to sub-section (1), shall be deemed to have committed an offence under this Act and shall be liable to imprisonment for a period not less than one year and up to a maximum of five years, in addition to fine as provided for the said offence in the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

4. District Protection Committee. -(1) Soon after the commencement of this Act, Government shall, by notification in the official Gazette, constitute at each District a District Protection Committee, consisting of the following:

(a)	Deputy Commissioner of the concerned district;	Chairperson
(aa)	One female member of the Provincial Assembly of Khyber Pakhtunkhwa;	Member
(b)	Executive District Officer, Health;	Member
(c)	District Officer, Social Welfare;	Member
(d)	District Public Prosecutor;	Member
(e)	a representative of the District Police Officer;	Member
(f)	any female Government Officer not below the rank of BPS-17 from the concerned District;	Member

(g)	two persons from civil society, who resides in the concerned District;	Members
(h)	District Khateeb of the District concerned;	Member
(i)	one Gynecologist of the District concerned; one Psychologist of the District concerned; and	Member
(j)	Chairperson of the concerned District Committee on the Status of Women or in his absence the District Social Welfare Officer.	Member-cum Secretary

(2) The members at clause (g) shall be nominated by Government for a period of three years on such terms and conditions as may be prescribed.

(3) The members at clause (g) may tender resignation addressed to Government.

(4) The members at clause (g), shall be removed by Government, if he—

- (a) is of unsound mind;
- (b) has applied to be adjudicated as an insolvent and his application is pending;
- (c) is an un-discharged insolvent;
- (d) has been convicted by a Court of law for an offence involving moral turpitude;
- (e) has been debarred from holding any office under any provision of law for the time being in force; and
- (f) has conflict of interest with such position:

Provided that no person shall be removed under this sub-section until he has been given a reasonable opportunity of being heard.

5. Meetings of the District Protection Committee.-(1) Meetings of the District Protection Committee shall be regulated in accordance with procedure as may be prescribed.

(2) The District Protection Committee shall meet at least once in a month.

(3) The Chairperson shall preside over the meetings of the District Protection Committee:

Provided that if a sitting female Member of the Provincial Assembly of Khyber Pakhtunkhwa is available in the District, meeting of the Committee shall be presided over by her, and in case of his/her absence, the member nominated by the Chairperson may preside over the meeting.

(4) Presence of six (06) members of District Protection Committee shall constitute the quorum for a meeting.

(5) The decisions of the District Protection Committee shall be taken by the majority of the members present and, in case of a tie, the person presiding over the meeting shall have a casting vote. All orders, determinations and decisions of the District Protection Committee shall be reduced into writing together with a record of the discussions held in the meeting.

6. Powers and functions of District Protection Committee.—(1) The District Protection Committee shall—

- (a) aware the community at grass root level of their rights provided under this Act;
- (b) assist the complainant in obtaining any medical treatment necessitated due to the domestic violence;
- (c) assist the complainant in relocating to a safer place acceptable to the complainant, which may include a Shelter Home established by Government or any other safe place; and
- (d) keep official record in respect of the incidents of domestic violence in its area of jurisdiction on the basis of information received, irrespective of the action taken under this Act and such records shall include—
 - (i) the first information received about the incident of domestic violence;
 - (ii) the assistance, if any provided by the District Protection Committee to the complainant;
 - (iii) where applicable the reason for not taking action under this Act when an incident was brought to the notice of the District Protection Committee;
 - (iv) maintain the record of applications received from the complainant or his guardian and protection order issued by the Court; and

- (v) perform such other functions that may be assigned to the District Protection Committee under this Act or rules made thereunder.

(2) The District Protection Committee may delegate any of its power and function to any of its member.

7. Report of the District Protection Committee.— (1) Each District Protection Committee shall submit a biannual report to the Chairperson of Provincial Commission on the Status of Women.

(2) The Chairperson, Provincial Commission on the Status of Women shall be obligated to consolidate all reports received from District Protection Committees into an annual report to be submitted to the Provincial Assembly of Khyber Pakhtunkhwa through the Department.

8. Assistance to the complainant.—(1) The complainant or her guardian may file an application to the District Protection Committee for assistance.

(2) Upon receipt of an application of a complainant or her guardian, the District Protection Committee, while making an order for assistance, may refer the matter for mediation amongst the parties to the panel of mediators comprising one mediator each from the family of complainant and complaine and a neutral mediator to be appointed by the District Protection Committee, which shall try to reconcile the issue within a period of thirty days.

(3) The process of mediation shall not prevent the District Protection Committee from initiating its proceedings for the protection of complainant or taking other steps necessary in the matter.

(4) The District Protection Committee shall provide all reasonable assistance to the complainant, who needs such assistance in accordance with the provisions of this Act.

9. Duties and Responsibilities of the Secretary of the District Protection Committee.— The Secretary of the District Protection Committee shall perform the following functions, namely:

- (a) to report any domestic violence to the District Protection Committee;
- (b) to make an application on the recommendations of the District Protection Committee to the Court, with consent of complainant, claiming relief for issuance of a protection order;
- (c) to ensure that the complainant is provided legal aid;
- (d) to maintain a list of all services providers providing legal aid or

counseling, shelter homes and medical facilities in a local area within the jurisdiction of the Court. Where the service providers are not available in the respective local area, a list of service providers from the nearest Districts shall be maintained;

- (e) to make available a safe place of residence, if the complainant so requires, and forward his lodging report in a shelter home to the District Protection Committee;
- (f) forward a copy of the medical examination report of the complainant to the District Protection Committee;
- (g) to ensure that the order for monetary relief under this Act is complied with and executed in accordance with the procedure prescribed by rules; and
- (h) to perform such other duties as may be assigned by the District Protection Committee.

10. Responsibilities of service provider. -A service provider shall —

- (a) record the domestic violence incident in a prescribed form with the consent of complainant and forward a copy thereof, to the District Protection Committee;
- (b) get the complainant medically examined and forward a copy of the medical examination report thereof, to the Secretary; and
- (c) ensure that the complainant is provided shelter in a safe place of residence, if he/she so requires and forward a report of his/her lodging in a safe place of residence to the Secretary of the District Protection Committee.

11. Assistance by Government. -(1) The Government shall—

- (a) establish a toll-free help line for reporting of the domestic violence incidents;
- (b) establish Shelter Homes in a phased manner;
- (c) Government through Department shall ensure that this Act receive wide publicity through electronic and print media in Urdu and local languages;
- (d) ensure that right available to women in Islam are widely publicized for awareness and visible efforts are made for their implementation and enforcement as well;

- (e) hold periodic sensitization and awareness trainings on domestic violence issues to Government officers, Police and other public servants;
- (f) make arrangements for psychological counseling of the complainee or complainant;
- (g) take other necessary measures to accomplish the objective of this Act; and
- (h) Government shall ensure that District Protection Committees receive necessary wherewithal to perform their functions.

(2) The Shelter Homes already established by Government shall deem to be established under this Act.

12. Petition to the Court.—(1) A complainant or her guardian or the Secretary of the District Protection Committee under sub-section (1) of section 8 of this Act, may file an application to the Court to sought relief under this Act, having territorial jurisdiction within fifteen days of the occurrence.

(2) The Court shall on taking cognizance of a case, proceed with the trial from day to day and shall decide the case within sixty days:

Provided that the Court shall not adjourn any trial unless such adjournment is, in its opinion, necessary in the interest of justice and no adjournment shall, in any case, be granted for more than two working days.

(3) The provisions of the Code shall *mutatis mutandis* apply to applications filed under this Act.

13. Power to grant interim order.—In any proceeding under this Act, the Court may pass any interim order deemed appropriate in the circumstances of the case at any stage before passing of final order.

14. Passing of orders by the Court.—(1) The Court, when satisfied that domestic violence has taken place, may pass orders in favor of the complainant and prohibit the complainee from—

- (a) committing any further act of domestic violence;
- (b) aiding or abetting the commission of acts of domestic violence;
- (c) entering the place of employment of the complainant or, his educational institution or any other place frequently visited by the complainant;

- (d) attempting to communicate in any form, whatsoever, with the complainant including personal, oral, written, electronic, telephonic or mobile phone contact;
- (e) causing violence to the dependents, his relatives or any person who gives assistance to the complainant; and
- (f) committing any other act as specified in the order.

(2) In addition to the order under sub-section (1), or otherwise, the Court when satisfied that domestic violence has taken place, may pass the following orders to—

- (a) refrain the complainee from dispossessing, or in any other manner disturbing the possession of the complainant from the household;
- (b) direct the complainee to provide some additional measures for the safety of life or property of the complainant or any member of his family;
- (c) require from the complainee to execute a bond, with or without sureties, for keeping peace in the matter; and
- (d) direct the complainee to return and put in possession the complainant in the same property to which she is legally entitled.

(3) While making an order under sub-section (2), to impose on the complainee obligation relating to the discharge of rent or other payment, having regards to the financial needs and resources of the parties.

15. Monetary Relief.—(1) The Court may, at any stage of the trial, on an application by the complainant, direct the complainee to deposit expenses incurred and losses suffered by the complainant and such relief may include—

- (a) compensation to the complainant for suffering as a consequence of economic abuse to be determined by the Court;
- (b) loss of earning;
- (c) medical expense;
- (d) the loss caused due to the destruction, damage or removal of any property from the control of the complainant; and
- (e) the maintenance for the complainant and his children, if any, under family laws for the time being enforce.

(2) The complainee shall provide monetary relief to the complainant within the period specified in the order issued under sub-section (1) and in accordance with terms, thereof: Provided that upon failure of the complainee to make payment, the Court may pass any order as deemed appropriate.

16. Duration and alteration of orders.— (1) The interim order made under section 13 and the other order made under section 14 shall remain in force until the Court discharge such order on its own motion or upon the application made by either party.

(2) If the Court, on receipt of an application, at any stage, from the complainant or the complainee is satisfied that there is any change in the circumstances requiring alternation, or recalling of any order made under this Act, it may, for reasons to be recorded in writing, pass such order as it may deem appropriate.

(3) Nothing contained in sub-sections (1) and (2) shall prevent a complainant from making a fresh application after the previous order has been discharged.

17. Penalty for breach of an order of Court.—A breach of an order made by Court under this Act shall deem to be an offence and shall be punishable with imprisonment for a term which may extend to one year or fine which may extend to three hundred thousand rupees or with both.

18. Appeal.— Any person convicted by a Court under this Act may file an appeal to the High Court within thirty days in accordance of the Code.

19. Powers to make rules.— Government may make rules, by notification in the official Gazette, for carrying out the purposes of this Act.

**THE KHYBER PAKHTUNKHWA ENFORCEMENT OF WOMEN'S PROPERTY
RIGHTS ACT, 2019
CONTENTS**

Section	Heading
	PREAMBLE
1.	Short title, application, extent and commencement
2.	Definition
3.	Powers of the Ombudsperson
4.	Complaint to the Ombudsperson in case no proceedings in a court of law are pending
5.	Delivery of possession and transfer of ownership of property to women etc.
6.	Reference to the Court
7.	Complaint to the Ombudsperson in case proceedings in a court of law are pending
8.	Appeal
9.	Loss of rent
10.	Execution of orders
11.	Appointment of officer etc.
12.	Bar of Jurisdiction
13.	Power to make rules

**THE KHYBER PAKHTUNKHWA ENFORCEMENT OF WOMEN'S PROPERTY
RIGHTS ACT, 2019**

(KHYBER PAKHTUNKHWA ACT, NO. XLIV OF 2019)

*An Act to protect and secure the rights of ownership of women in the property in the province of
the Khyber Pakhtunkhwa.*

WHEREAS, It is expedient to provide for the protection of the rights of ownership and possession of properties owned by women, ensuring that such rights are not violated by means of harassment, coercion, force or fraud and for the matters connected therewith or incidental thereto:

It is hereby enacted as follows:

1. Short title, extent and commencement.— (1) This Act may be called the Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.—in this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them. That is to say: -

- (a) “complainant” means a woman who files a complaint or for whom proceedings are initiated in respect of the title or possession of her property;
- (b) “Government” means the Government of the Khyber Pakhtunkhwa;
- (c) “Ombudsperson” means the Ombudsperson appointed under section 7 of the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).
- (d) “prescribed” means prescribed by rules;
- (e) “property” includes any moveable and immoveable property; and
- (f) “rules” means rules made under this Act.

3. Powers of the Ombudsperson.— In addition to the powers, functions and authority under this Act and Rules made thereunder, the Ombudsperson, for the purpose of this Act, shall have the same powers, functions and authority as are vested in the Ombudsperson for the Protection against Harassment of Women at the Workplace Act, 2010 (IV of 2010).

4. Complaint to the Ombudsperson in case no proceedings in a Court of law are pending.— (1) Any woman deprived of ownership or possession of her property by any means, may file a complaint to the Ombudsperson if no proceedings in a court of law are pending regarding that property:

Provided that the Ombudsperson, on its own motion or on a complaint filed by any person including a non-governmental organization, may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, if no proceedings are pending in a Court in respect of that property.

(2) The Ombudsperson shall make a preliminary assessment of the complaint filed under sub-section (1) where after he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant and her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsperson.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsperson may, after calling any record, if deemed necessary, pass orders under section 5.

(4) The Ombudsperson upon receiving the report under sub-section (2), may further conduct such summary enquiry and call for such record as he may deem fit.

(5) The Ombudsperson after confronting the report of the concerned Deputy commissioner and the conclusion and findings of his own enquiry, shall call upon the complainant and her adversaries to submit objections, where after he may conduct.

5. Delivery of possession and transfer of ownership of property to women etc.—(1) On conclusion of the proceedings under section 4, if the Ombudsperson finds that the complainant has been illegally deprived of ownership or possession of her property, he shall direct the Deputy commissioner or a state functionary or any private person to take steps so as to restore or confer possession or title of the property to the complainant, including measures to perfect such title.

(2) The Ombudsperson may, where deemed fit, direct the Officer-in-charge of a police station for such assistance as may be required for the purposed of implementing the orders passed under sub-section (1).

(3) The concerned Deputy Commissioner shall submit a compliance report within seven days to the Ombudsperson in respect of implementation of his orders.

6. Reference to the Court.—(1) Notwithstanding anything contained in section 4 and 5, if upon preliminary assessment, or upon receiving the report of the Deputy Commissioner or upon conducting further summary enquiries by the Ombudsperson himself, he comes to the conclusion that the matter requires in-depth enquiry, investigation or detailed recording of evidence or intricate adjudication, he shall formulate a reference along with all the reports and material collected and submit the same to the Civil Court of competent jurisdiction preferably within sixty days of receipt of the complaint under sub-section (1) of section 4.

(2) Notwithstanding anything contained in any other law, the Civil Court shall entertain the reference under sub-section (1), as a civil suit and proceed further in terms of the Code of Civil Procedure, 1908 (Act V of 1908) and the relevant rules.

7. Complaint to the Ombudsperson in case proceedings in a Court of law are pending. — (1) where proceedings in a court of law are pending in relation to the ownership or possession of any property claimed to be owned by a woman, she may file a complaint under this sub-section to the Ombudsperson:

Provided that the Ombudsperson, on its own motion or on a complaint filed by any person including a non-governmental organization may also initiate action under sub-section (1) in relation to the ownership or possession of a woman's property, even if proceedings are pending in a court in respect of that property.

(2) The Ombudsperson shall make a preliminary assessment of the complaint under sub-section (1), where after he may, if the matter requires further probe or investigation, refer the matter to the concerned Deputy Commissioner, who, after calling the record, if necessary, and issuing notices to the complainant and her adversaries, conduct a summary enquiry and submit a report within fifteen days to the Ombudsperson.

(3) If the matter does not require any detailed probe, investigation or recording of evidence, the Ombudsperson may, after calling any record, if deemed necessary, may file a report in the Court of Law, in which the case is pending, recommending that the proceedings in the court may be terminated or put in abeyance unconditionally or subject to any court order and the Ombudsperson be permitted by the Court to take further proceedings under this Act.

(4) Before filing of the report under sub-section (3), the Ombudsperson shall call upon the complainant and her adversaries to submit objections, and conduct a hearing and pass order, preferably within thirty days of the hearing, as to whether the Ombudsperson may or may not file a report under sub-section (3).

(5) In case the Ombudsperson passed an order of not filling a report under sub-section (3), he may advise the complainant to pursue the proceedings in the court of law and terminate the complaint.

(6) The Ombudsperson upon receiving the report under sub-section (2) may further conduct such summary inquiry and call for such record as he may deem fit.

8. Appeal.— Any person who is aggrieved from an order of Ombudsperson may, within forty-five (45) days of the order. Prefer an appeal to the Peshawar High Court.

9. Loss of rent.— On culmination of proceedings under section 5, the Ombudsperson may also direct the complainant to be paid by the person depriving the said complainant of the use of the property, the amount equivalent to the rent that the property would fetch at the prevalent market rate, for the duration for which the complainant was deprived of the use of such property.

10. Execution of orders. -The Ombudsperson may direct any executive state functionary including the concerned Deputy Commissioner where the property of the complainant is situated, to execute the orders in letter and spirit.

11. Appointment of officer, etc.— for carrying out the object and purpose of this Act,

the Government shall appoint such officers as may be required, on such terms and conditions as prescribed.

12. Bar of jurisdiction.— No Court or other authority shall have jurisdiction-

- (a) to question the validity of any action taken, or intended to be taken, or order made, or anything or purporting to have been taken, made or done made, or anything or purporting to have been taken, made or done under this Act; or
- (b) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsperson.

13. Power to make rules.— Government may, by notification in the official gazette, make rules to carry out the purpose of this Act.

**THE KHYBER PAKHTUNKHWA COMMISSION ON THE STATUS OF WOMEN ACT,
2016
(ACT NO. XXVIII OF 2016)**

CONTENTS

Section	Heading
1.	Short title and commencement
2.	Definitions
3.	Re-constitution of the Commission
4.	Constitution of the Commission
5.	Terms and conditions as applicable to Chairperson and members
6.	Meetings of the Commission
7.	Secretary of the Commission
8.	Functions of the Commission
9.	Executive Committee
10.	Appointment of officers and other employees
11.	Commission Fund
12.	Custody and investment of funds
13.	Budget and Accounts
14.	Audit of accounts
15.	Annual report
16.	Removal of difficulties
17.	Chairperson, members and other staff of the Commission and District Committee, to be public servants
18.	Power to make rules
19.	Power to make regulations
20.	Repeal and saving

**THE KHYBER PAKHTUNKHWA COMMISSION ON THE STATUS OF
WOMEN ACT, 2016.
(ACT NO. XXVIII OF 2016)**

An Act to reconstitute and reorganize the Commission on the Status of Women in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to reconstitute and reorganize the Commission on the Status of Women in the Province of the Khyber Pakhtunkhwa and to give it an autonomous status for effective and improve performance, efficiency and responsive to provide effective services for promoting women rights and eliminate all forms of discrimination against women and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:

1. Short title and commencement. - (1) This Act may be called the Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016.

(2) It shall come into force at once.

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

- (a) "Chairperson" means the Chairperson of the Commission;
- (b) "Commission" means the Khyber Pakhtunkhwa Commission on the Status of Women reconstituted under section 3;
- (c) "District Committee" means a District Committee on the status of women;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "member" means the member of the Commission;
- (f) "prescribed" means prescribed by rules or regulations; and
- (g) "rules" means rules made under this Act;
- (h) "regulations" means regulations made under this Act;
- (i) "repealed Act" means the Khyber Pakhtunkhwa Establishment of a Commission on the Status of Women Act, 2009 (Khyber Pakhtunkhwa Act No. XIX of 2009), as repealed under section 23 of this Act; and
- (j) "Secretary" means the Secretary of the Commission.

3. Re-constitution of the Commission.— (1) As soon as may be, after the commencement of this Act, Government shall, by notification in the official Gazette, re-constitute the Commission on the Status of Women established under section 4 of the repealed Act and shall be known as the "Khyber Pakhtunkhwa Commission on the Status of Women".

(2) The Commission shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued.

(3) The Commission shall have a permanent Secretariat at Peshawar and shall have its District Committees at district level.

4. Constitution of the Commission.— (1) The Commission established and constituted under section 4 of the repealed Act shall continue their functions under this Act, till the expiration of the tenure of the existing Chairperson and members of the Commission under the repealed Act or till the constitution of the new Commission under this Act whichever may be earlier.

(2) After the expiration of the tenure of the Chairperson and members of the Commission constituted under the repealed Act, the Commission shall be reconstituted as that it shall consist of fifteen (15) official and non-official members including Chairperson to be appointed and notified by Government:

Provided that Chairperson shall be a female and at least eight (8) non-official members shall also be female and at least one member shall be from the minorities of the Province of the Khyber Pakhtunkhwa.

(3) The official members shall include two (02) female members of the Provincial Assembly, one each nominated by the Government and Leader of Opposition in the Provincial Assembly and Secretary to Government, Zakat, Ushr and Social Welfare Department or his representative not below BS-19.

(4) The non-official members including Chairperson shall be persons of integrity, good standing and repute having the knowledge of laws related to women and fully apprehend social, economic and legal problems faced by women and may have such other qualifications as Government may prescribed; provided that they shall not be less than thirty (30) years of age.

(5) The non-official members and Chairperson shall be appointed by Government on the recommendation of a Search and Scrutiny Committee constituted under section 8.

(6) The term of office of a non-official member including Chairperson shall be three (03) years which may be extended for a further period of three (03) years, unless he/she resigns earlier or becomes ineligible or is disqualified from holding such office under this Act.

(7) Chairperson of the Commission shall give policy vision to the Commission for achieving the purposes under this Act and shall have executive authority over the management of the affairs of the Commission.

(8) The membership of non-official members shall cease and fall vacant if, he resigns, or fails to attend three consecutive meetings without sufficient cause or for any other reasons which incapacitate him/her to remain as member. Any such vacancy shall be filled in within one month and the new member shall hold office for the remainder of the term of his/her predecessor.

(9) Any vacancy caused due to death, resignation or removal of the Chairperson or member, shall be filled in by Government. The new Chairperson or member shall hold office for the remainder of the term of his/her predecessor.

- (10) No, he/she- person shall be appointed or remain as a member of the Commission, if
- (a) is of unsound mind;
 - (b) has applied to be adjudicated as an insolvent and his/her application is pending;
 - (c) is an un-discharged insolvent;
 - (d) has been convicted by a Court of law for an offence involving moral turpitude;
 - (e) has been debarred from holding any office under any provisions of law for the time being in force; or
 - (f) has conflict of interest with such position:

Provided that no person shall be removed under this clause until he/she has been given a reasonable opportunity of being heard.

Explanation.—For the purpose of this clause, conflict of interest means the financial benefit or a liability accruing to the public office holder or his family due to his official position.

5. Terms and conditions as applicable to Chairperson and members.— (1) The salary and other allowances payable to and terms and conditions of service of members and Chairperson, shall be such as prescribed by the Government.

(2) The Chairperson of the Commission shall have a status equal to BPS-21 officer of Government.

6. Meetings of the Commission.— (1) Meetings of the Commission shall be regulated in accordance with procedure as may be prescribed by regulations.

(2) Meetings of the Commission shall be held as and when required, but once at least in a quarter, at the time and place as the Chairperson may determine.

(3) The Chairperson shall preside over the meetings of the Commission and in case of his/her absence, the Chairperson may nominate a Commission member as acting Chairperson or if he/she has not done so, the members present shall elect an acting Chairperson for that meeting.

(4) Presence of seven (07) members of the Commission shall constitute the quorum for a meeting; provided that such number shall include at least one official member.

(5) The decisions of the Commission shall be taken by the majority of the members present and, in case of a tie, the person presiding over the meeting shall have a casting vote. All

orders, determinations and decisions of the Commission shall be reduced to writing together with a record of the discussions held in the meeting.

(6) The Commission may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Commission, who may take part in discussion, but shall not be entitled to vote for or against the matter under discussion.

(7) The Commission may invite a representative of any Government Department, as it deems necessary to a meeting of the Commission provided that such a participant shall not have any right to vote.

(8) No act or proceedings of the Commission shall be invalid merely by reason of any vacancy in or defect in the constitution of the Commission.

7. Secretary of the Commission.—(1) Government shall post a Government Officer of the rank of BS-19, to act as the Secretary of the Commission for a term not exceeding three (03) years.

(2) Notwithstanding a change in the term of his office by an order of the Government, the Secretary shall continue to hold office till his successor enters upon his office.

(3) The Secretary shall perform such functions and exercise such powers as may be prescribed by regulation or delegated to him by the Commission and shall-

- (a) be whole time officer of the Commission;
- (b) act as the Principal Accounting Officer of the Commission and District Committees; and
- (c) delegate all or any of his powers under this Act or rules made thereunder to any officer of the Commission or District Committee for a specific purpose.

(4) The Secretary while acting with reference to conducting meetings of the Commission shall be responsible for:

- (a) convening of meetings of the Commission with the approval of Chairperson;
- (b) the preparation of the agenda, working paper and its distribution among the members of Commission;
- (c) recording the minutes of each meeting of the Commission and its prompt dispatch to the concerned quarters;
- (d) implement decisions of the Commission; and
- (e) proper follow-up of all matters connected with or arising out of a meeting of the Commission.

(5) Without prejudice to the generality of the foregoing, the Secretary shall function under the supervision and control of the Commission and shall undertake responsibilities and duties as are entrusted to him by the Commission for purposes of this Act.

8. Functions of the Commission. - The Commission shall,—

- (a) examine the policy, programs, projects and other measures taken by Government, for women development and gender equality, to assess implementation and make suitable recommendations to the concerned authorities, where considered necessary for effective impact;
- (b) review all provincial laws, rules and regulations affecting the status and rights of women and suggest repeal, amendments or new legislations essential to eliminate discrimination, safeguard and promote the interests of women and achieve gender equality in accordance with the Constitution of the Islamic Republic of Pakistan and obligations under International Covenants and commitments;
- (c) monitor the mechanism and institutional procedures for redress of violation of women's rights, individual grievances and facilities for social care, and undertake initiative for better management and efficient provision of justice and social services through the concerned forums and authorities;
- (d) examine and review policies/programs and plans of each department to ensure that they address gender concerns adequately;
- (e) establish and constitute in consultation with the Government, District Committees, consisting of such number of members with female majority and to be headed by a female Chairperson on such terms and conditions and for such a period as may be prescribed through regulations to examine and review policies/programs and plans for each office in the district and to ensure that they address gender concerns adequately; provided that two female members of district council shall be added to the District Committee and meetings and quorum of the District Committee shall be such as prescribed by regulations;
- (f) provide guidelines to a District Committee for implementation and receive periodic reports on the implementation status to the Commission;
- (g) approve annual budget of the Commission and of the District Committees;
- (h) approve regulations required to be made under this Act;
- (i) delegate such of their powers and functions to the officers of the Commission, as it may consider necessary for the efficient implementation of this Act;
- (j) prescribe procedure for appointment, terms and conditions of service, disciplinary matters and other service matters for the employees of Commission or the District Committees, as the case may be;
- (k) creation, re-designation or abolition of posts; provided that while creating posts the financial implications do not exceed the approved annual budget; and

- (l) constitute sub-committees consisting of such of its members as it may deem fit and may refer to them any matter for consideration and report; and
- (m) perform any other function which may be assigned to it by Government.

9. Executive Committee.— There shall be an executive committee of the Commission consisting of the Chairperson, Secretary and three other members to be elected by the Commission, which shall be responsible for overseeing the implementation of the decisions and recommendations of the Commission.

10. Appointment of officers and other employees.— (1) The Commission may, appoint such officers, advisors, experts, consultants and employees, as it considers necessary, for the efficient performance of its functions on such terms and conditions as may be prescribed by regulations.

(2) The Commission may associate with it, in such manner, on such terms and for such purpose as it may deem fit, any person whose assistance or advice it may require in carrying out its functions under this Act.

(3) Notwithstanding anything contained in any law or rules, all the employees appointed in the Commission before the commencement of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the commencement of this Act, having the same qualification and experience for the said posts and their seniority shall be settled from the date of their appointment in a manner as may be prescribed.

11. Commission Fund.— (1) There shall be established by the Government a Fund to be known as the Commission on the Status of Women Fund, hereinafter referred to as “Commission Fund”, which shall consist of:

- (a) grants paid by Government for running the affairs of the Commission and of the District Committees;
- (b) all grants, if any, made by the Federal Government, Provincial Governments or local bodies for the Commission and District Committees; and
- (c) donations, if any, made by private individuals, national and international agencies for Commission and District Committees.

(2) Subject to the general supervision of Government, the Commission Fund shall be administered by the Commission, which shall make such allocation for specific activities as it thinks necessary.

(3) The Commission Fund shall be utilized for—

- (a) performing functions of the Commission and of the District Committees;
- (b) the establishment charges; and
- (c) the welfare and empowerment of women.

12. Custody and investment of funds.— The Commission may keep money in any treasury, sub-treasury or a bank as may be prescribed.

13. Budget and Accounts.— (1) The Secretary shall, in respect of each fiscal year, submit for approval of the Commission, by such date and in such manner as may be prescribed, a statement showing the estimated receipts, the current and developmental expenditures and the sum required as grant-in-aid from the Federal Government and Government and shall be submitted to Government by the prescribed date; provided that the Government may modify the said estimates to the extent of any Government fund or grant as it may consider necessary.

(2) Accounts of the receipts and expenditure of the Commission shall be kept in such form as may be prescribed.

(3) The Commission shall, on the close of each financial year, place before Government the annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the preceding financial year.

14. Audit of accounts.—The accounts of the Commission shall be audited annually by the Auditor General of Pakistan.

15. Annual report.— (1) The Commission shall, within four (04) months after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year. The Commission shall also, no later than four (04) months prior to the end of its financial year, finalise and present to Government annual development plan and budget for the next ensuing financial year:

Provided that the reports of the Commission relating to its activities shall be submitted to the Chief Minister, Khyber Pakhtunkhwa.

(2) The District Committee shall, after the end of every financial year, submit an annual report to the Commission on the conduct of its affairs for that year. The District Committee shall also, prior to the end of its financial year, finalize and present to the Commission annual development plan and budget for the next ensuing financial year:

Provided that the reports relating to the activities of a District Committee shall be submitted to Nazim, District Government.

16. Removal of difficulties.— If any difficulty arises in giving effect to any provision of this Act, Government may, in consultation with the Commission, issue orders, not inconsistent with the provisions of this Act, or the rules made thereunder, for the removal of the difficulty:

Provided that this power shall be available for a period of one year from the date of commencement of this Act.

17. Chairperson, members and other staff of the Commission and District Committee, to be public servants.— The Chairperson, members, officers and other employees of the Commission and a District Committees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

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

19. Power to make regulations.— Commission may by notification in the official Gazette, make regulations for carrying out the purposes of this Act.

20. Repeal and savings.— (1) The Khyber Pakhtunkhwa Establishment of a Commission on the Status of Women Act, 2009, is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done; taken, made or issued, under this Act, and shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

THE KHYBER PAKHTUNKHWA ELIMINATION OF CUSTOM OF GHAG ACT, 2013.

(ACT NO. II OF 2013)

CONTENTS

Section	Heading
1.	Short title, extent and commencement
2.	Definitions
3.	Prohibition of Ghag
4.	Punishment
5.	Abetment
6.	Jurisdiction
7.	Offence to be cognizable
8.	Act to override other laws, etc.
9.	Repeal

THE KHYBER PAKHTUNKHWA ELIMINATION OF CUSTOM OF GHAG ACT, 2013.

(ACT NO. II OF 2013)

An Act to eradicate a social evil called “Ghag”

WHEREAS the Constitution of the Islamic Republic of Pakistan provides that the dignity of man, and subject to law, the privacy of home, shall be inviolable and the State shall protect the marriage and the family;

AND WHEREAS the Constitution of the Islamic Republic of Pakistan ordains that 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;

AND WHEREAS the Shariah gives right to women to enter into valid marriage with their free consent;

AND WHEREAS the Constitution of Islamic Republic of Pakistan enjoins upon the State to promote social justice and eradicate social evils;

AND WHEREAS it is expedient to take steps to eliminate such evil practices;

It is hereby enacted as follows:

1. Short title, extent and commencement. —(1) This Act may be called the Khyber Pakhtunkhwa Elimination of Custom of Ghag Act, 2013.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions. - (1) In this Act, unless the context otherwise requires:

(a) “Code” means Code of Criminal Procedure, 1898 (Act V of 1898);

(b) “Ghag” means a custom, usage, tradition or practice whereby a person forcibly demands or claims the hand of a woman, without her own or her parents' or wali's will and free consent, by making an open declaration either by words spoken or written or by visible representation or by an imputation, innuendo, or insinuation, directly or indirectly, in a locality or before public in general that the woman shall stand engaged to him or any other particular man and that no other man shall make a marriage proposal to her or marry her, threatening her parents and other relatives to refrain from giving her hand in marriage to any other person, and shall also include obstructing the marriage of such woman in any other manner pursuant to such declaration; and

Explanation.—For the purpose of this definition, ghag shall also include “awaz”, “noom” or any word or phrase, denoting such declaration.

(c) “woman” denotes a female human being of any age.

(2) The words and expressions used herein but not defined shall have the same meaning as are assigned to them in the relevant laws for the time being in force.

3. Prohibition of Ghag.— No one shall demand the hand of a woman in marriage by way of Ghag.

4. Punishment.— Whoever contravenes the provisions of section 3 shall be punishable with imprisonment of either description for a term which may extend to seven years, but shall not be less than three years, and shall also be liable to fine upto five hundred thousand rupees or both.

5. Abetment. ---Any person who knowingly and willfully abets the commission of or who aids to commit or does any act preparatory to or in furtherance of the commission of an offence under section 3 of this Act, shall be guilty of that offence and shall be liable on conviction to the punishment provided for the offence under section 4.

6. Jurisdiction.—Offences under this Act shall be triable by the Court of Sessions established under the Code.

7. Offence to be cognizable, non-bailable and non-compoundable.— (1) The offence under this Act shall be cognizable, non-bailable and non-compoundable.

(2) The provisions of Code shall *mutatis mutandis* apply to all the proceedings under this Act.

8. Act to override other laws, etc.—This Act shall have effect notwithstanding anything contained in any other law for the time being in force.

9. Repeal.—The Khyber Pakhtunkhwa Elimination of Custom of Ghag Ordinance, 2012 (Khyber Pakhtunkhwa Ord. No. VI of 2012) is hereby repealed.

**THE KHYBER PAKHTUNKHWA ENFORCEMENT OF WOMEN OWNERSHIP RIGHTS
ACT, 2012.**

(ACT NO. III OF 2012)

CONTENTS

Section	Heading
1.	Short title, extent and commencement
2.	Definitions
3.	Bar on depriving women of her ownership
4.	Punishment
5.	Abetment

**THE KHYBER PAKHTUNKHWA ENFORCEMENT OF WOMEN OWNERSHIP
RIGHTS ACT, 2012.**

(ACT NO. III OF 2012)

An Act to protect and secure the right of ownership of women in the property

WHEREAS the Islamic Sharia provides equal guarantee for the protection of life and property of men and women;

AND WHEREAS the Constitution of Pakistan, 1973, and section 5 of the Khyber Pakhtunkhwa Shari Act, 2003, enjoins upon the Government to legislate with respect to the protection of the said right;

AND WHEREAS the Sharia gives due respect to the women in society and guarantees their right of ownership;

AND WHEREAS the rights of ownership of women is at stake in the society and such rights are violated by means of coercion, fraud, fabrication, forgery, cheating and it is necessary to protect and secure the said rights of women in the society;

Therefore, it is hereby enacted as follows:

1. Short title, extent an commencement.— (1) This Act may be called the Khyber Pakhtunkhwa Enforcement of Women Ownership Rights Act, 2012.

(2) It extends to the whole of the Khyber Pakhtunkhwa Province.

(3) It shall come into force at once.

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

(a) “Ownership” means the right of ownership in the property both movable and immovable which is devolved upon and vested in women by way of inheritance, gift, purchase, mehr or acquired by her by way of any other legal and Shari means; and

(b) “Government” means the Government of the Khyber Pakhtunkhwa.

3. Bar on depriving women of her ownership.— No person shall abridge, violate, curtail or obstruct the right of ownership or possession of a woman, nor shall he dispossess any woman of her property save in accordance with law.

4. Punishment.— (1) Whoever contravenes or abets in the contravention of the provisions of section 3 shall be punishable with imprisonment of either description for a term not exceeding five years and fine not exceeding fifty thousand rupees:

Provided that this punishment shall be in addition to the punishment provided by any other law for the time being in force for such offence.

(2) Whenever a person is convicted of an offence under sub-section (1), the Court shall handover possession of the property, on account of which the person has been so convicted to the rightful owner.

(3) Whenever a woman files a suit, the Court shall decide the case in six months and the judgment and decree of the Court shall be implemented by the Court through local police in the supervision of the Court within one month of decision of the case, failing which the said officer shall be charged under section 5.

5. Abetment.—Whoever abets the offence under section 3 of this Act shall be punished as provided under section 4.

**THE KHYBER PAKHTUNKHWA PROTECTION AGAINST HARASSMENT OF
WOMEN AT THE WORKPLACE ACT, 2010
(ACT NO. IV OF 2010)**

CONTENTS

Section	Heading
	Preamble
1.	Short title, extent and commencement.
2.	Definitions
3.	Inquiry Committee
4.	Procedure for holding inquiry
5.	Powers of Inquiry Committee
6.	Appeal against minor and major penalties
7.	Ombudsperson
7A	Acting Ombudsman
7B	Oath of office.
8.	Ombudsperson to enquire into complaint
9.	Representation to president or Governor
10.	Powers of the Ombudsperson
11.	Responsibility of employer
12.	Provisions of the Action in addition to and not in derogation of any other law.
13.	Power to make rules
SCHEDULE-I	
SCHEDULE-II	

**THE PROTECTION AGAINST HARASSMENT OF WOMEN AT THE
WORKPLACE ACT, 2010**

(ACT NO. IV OF 2010)

*An Act to make provisions for the protection against harassment of women at the
workplace*

WHEREAS the constitution of the Islamic Republic of Pakistan recognizes the fundamental rights of citizens to dignity of person;

AND WHEREAS it is expedient to make this provision for the protection of women from harassment at the workplace;

It is hereby enacted as follows:

1. Short title, extent and commencement.— (1) This Act may be called the Protection against Harassment of women at the Workplace Act, 2010.

(2) It extends to the whole of ¹[the Province of the Khyber Pakhtunkhwa].

(3) It shall come into force at once.

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

- (a) “accused” means an employee or employer of an organization against whom complaint has been made under this Act;
- (b) “CBA” means Collective Bargaining Agent as provided in ²[the Khyber Pakhtunkhwa Industrial Relations Act, 2010 (Khyber Pakhtunkhwa Act No. XVI of 2010)] or any other law for the time being in force.
- (c) “Code” means the Code of Conduct as mentioned in the Schedule to this Act;
- (d) “Competent Authority” means the authority as may be designated by the management for the purposes of this Act;
- (e) “Complainant” means a woman or man who has made a complaint to the ³[Ombudsperson] or to the Inquiry Committee on being aggrieved by an act of harassment;
- (f) “Employee” means a regular or contractual employee whether employed on daily, weekly, monthly or hourly basis, and includes an intern or an

¹ Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

² Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

³ Substituted vide Khyber Pakhtunkhwa Act No. V of 2018

apprentice;

(g) "Employer in relation to an organization," means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whosoever and includes—

(i) an heir, successor or assign, as the case may be, of such person or, body as aforesaid;

(ii) any person responsible for the direction, administration, management and control of the management;

⁴ [(iii) the authority, in relation of an organization or a group of organizations run by or under the authority of any Department of Government, appointed in this behalf or, where no authority is appointed, the head of the Department as the case may be;]

(iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;

(v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof;

(vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis what so every; and

(vii) office bearers of a department of ⁵***] Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;

⁶[(g-i) "Government" means the Government of the Khyber Pakhtunkhwa;]

(h) "harassment" means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of asexual nature or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to

⁴ Substituted vide Khyber Pakhtunkhwa Act No. V of 2018

⁵ Deleted vide Khyber Pakhtunkhwa Act No. V of 2018.

⁶ Inserted vide Khyber Pakhtunkhwa Act No. V of 2018.

comply to such a request or is made a condition for employment;

- (i) "Inquiry Committee" means the Inquiry Committee established under sub-section (1) of section 3;
- (j) management means a person or body of persons responsible for the management of the affairs of an organization and includes an employer;
- (k) "⁷[Ombudsperson]" means the ⁸[Ombudsperson] appointed under section 7;
- ⁹(l) "organization" means a Government Department, a corporation or any autonomous or semi-autonomous body, educational institutes, medical facilities established or controlled by Government or district government or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;]
- (m) "Schedule" means Schedule annexed to this Act;
- (n) "Workplace" means the place of work or the premises where an organization or employer operates and includes building, factory, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work or official activity outside the office.

3. Inquiry Committee.— (1) Each organization shall constitute an inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under this Act.

(2) The Committee shall consist of three members of whom at least one member shall be a woman. One member shall be from senior management and one shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry Committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority

4. Procedure for holding inquiry.— (1) The Inquiry Committee, within three days of receipt of a written complaint, shall-

⁷ Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

⁸ Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

⁹ Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

- (a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;
- (b) require the accused within seven days from the day the charge communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed ex-parte; and
- (c) enquire into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of this Act and any rules made thereunder the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for the fixing place and time of its sitting.

(3) The following provisions *inter alia* shall be followed by the Committee in relation to inquiry:

- (a) the statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) an officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (c) both parties, the complainant and the accused, shall have the right to be represented or accompanied by a Collective Bargaining Agent representative, a friend or a colleague;
- (d) adverse action shall not be taken against the complainant or then witnesses;
- (e) the inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and
- (f) the Inquiry Committee shall give its findings in writing by recording reasons thereof,

(4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:

(i) Minor penalties:

- (a) Censure;
- (b) withholding, for a specific period, promotion or increment;
- (c) Stoppage, for a specific period, at an efficiency bar in the time- scale, otherwise than for unfitness to cross such bar; and

- (d) recovery of the compensation payable to the complainant from pay or any other source of the accused.

(ii) Major penalties:

- (a) reduction to a lower post or time-scale, or to a lower stage in a time-scale;
- (b) compulsory retirement;
- (c) removal from service;
- (d) dismissal from service; and
- (e) Fine. A part of the fine can be used as compensation for the complainant. In case of the Owner, the fine shall be payable to the complainant.

(5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee.

(6) The inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of Competent Authority and Appellate Authority have been implemented.

(7) In case the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of the Inquiry Committee.—(1) The Inquiry Committee shall have power-

- (a) Summon and enforce attendance of any person and examine him on oath;
- (b) to require the discovery and production of any document;
- (c) to receive evidence on affidavits; and
- (d) to record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under this Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to ¹⁰[Ombudsperson] for appropriate action against the complainant if allegations leveled against the accused found to be false and made with mala fide intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

¹⁰ Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

6. Appeal against minor and major penalties.— (1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an ¹¹[Ombudsperson] established under section 7.

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the ¹²[Ombudsperson].

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(4) Until such a time that the ¹³[Ombudsperson] is appointed the District Court shall have the Jurisdiction to hear appeals against the decisions of Competent Authority and the provisions of sub-sections (1) to (3) shall *mutatis mutandis* apply

(5) On the appointment of ¹⁴[Ombudsperson] all appeals pending before the District Court shall stand transferred to ¹⁵[Ombudsperson] who may proceed with the case from the stage at which it was pending immediately before such transfer.

¹⁶7. Ombudsperson.— ¹⁷[(1) For the purpose of this Act, Government shall appoint an Ombudsperson, who shall not be more than sixty-five (65) years and not less than forty five (45) years of age and who shall be-

- (i) a person, who is, or has been, or is qualified to be a judge of the High Court; or
- (ii) a retired civil servant of known integrity having law background with at least fifteen (15) years service; or
- (iii) a person, who is or has been working with a well reputed civil society organization or a social welfare organization having at least Bachelor's or equivalent degree in law from a recognized national or international university with at least fifteen (15) years post qualification experience.]

¹⁸[(1A) Notwithstanding anything contained contrary in any judgment, decree or order of any Court or judicial proceedings, the existing Ombudsperson already appointed before the commencement of the Khyber Pakhtunkhwa Protection against Harassment of Women at the

11 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

12 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

13 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

14 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

15 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

16 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

17 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

18 Inserted vide Khyber Pakhtunkhwa Act No. VII of 2020.

Workplace (Amendment) Act, 2020, shall deemed to be validly appointed.]

(2) The Ombudsperson shall be appointed by Government from a panel of candidates as recommended by the Search and Scrutiny Committee which shall consist of the following:

(i)	Chief Secretary, to Government of the Khyber Pakhtunkhwa;	Chairman
(ii)	Secretary, to Government of the Khyber Pakhtunkhwa, Social Welfare Department;	Member-cum Secretary
(iii)	Secretary, to Government of the Khyber Pakhtunkhwa, Finance Department;	Member
(iv)	Secretary, to Government of the Khyber Pakhtunkhwa, Law Parliamentary Affairs and Human Rights Department; and	Member
(v)	Secretary, to Government of the Khyber Pakhtunkhwa, Establishment Department.	Member

(3) The Search and Scrutiny Committee shall scrutinize the documents credentials of the candidates and recommend to Government for appointment of a candidate as Ombudsperson.

(4) The Ombudsperson shall be eligible to all perks and privileges admissible to BPS-21 officer of Government.

(5) The Ombudsperson shall hold office for a period of three years.

(6) The Ombudsperson may resign his office by writing under his hand addressed to Government.

(7) Government may remove the Ombudsperson on the grounds of inefficiency or misconduct after giving him an opportunity of being heard.

(8) Government shall provide necessary staff for assistance of Ombudsperson as required to achieve the purposes of this Act.]

¹⁹ [7A. **Acting Ombudsperson.**— If at any time the office of the Ombudsperson is vacant or he is unable to perform duties due to any cause, the Governor or the Province of the Khyber Pakhtunkhwa shall appoint an acting Ombudsperson, having the same qualification as provided in sub-section (1) of section 7, who shall perform functions and exercise powers as are vested in the Ombudsperson and shall be entitled to all privilege as are admissible to Ombudsperson.

7B. Oath of office.— An ombudsperson shall take oath before the Governor of the Province of the Khyber Pakhtunkhwa before he enters upon his office as prescribed in the SCHEDULE-II.]

¹⁹ Inserted vide Khyber Pakhtunkhwa Act No. VII of 2020.

8. Ombudsperson to enquire into complaint.— (1) Any employee shall have the option to prefer a complaint either to the ²⁰[Ombudsperson] or the Inquiry Committee.

(2) The Ombudsperson shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused after the receipt of written notice, shall submit written defense to the ²¹[Ombudsperson] within five days and his failure to do so without reasonable cause the ²²[Ombudsperson] may proceed *ex parte*. Both the parties can represent themselves before the Ombudsperson.

(3) The Ombudsperson shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the ²³[Ombudsperson] deems proper.

(4) For the purposes of an investigation under this Act, the ²⁴[Ombudsperson] may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the Ombudsperson is relevant and helpful in the conduct of the investigation.

(5) The ²⁵[Ombudsperson] shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

²⁶[9. Representation to Governor.— Any person aggrieved by a decision of Ombudsperson under sub-section (5) of section 8, may, within thirty days of decision, make a representation to the Governor of the Khyber Pakhtunkhwa, who may pass such order thereon as he may deem fit.]

10. Powers of the Ombudsperson.— The ²⁷[Ombudsperson] shall for the purpose of this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act V of 1908), in respect of the following matters, namely:

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) compelling the production of evidence;
- (iii) receiving evidence on affidavits;
- (iv) issuing commission for the examination of witnesses;
- (v) entering any premises for the purpose of making any inspection or investigation, enter any premises where the ²⁸[Ombudsperson] has a reason to believe that any information relevant to the case may be found; and
- (vi) the Ombudsperson shall have the same powers as the High Court has to punish any person for its contempt.

20 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

21 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

22 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

23 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

24 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

25 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

26 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

27 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

28 Substituted vide Khyber Pakhtunkhwa Act No. V of 2018.

(2) Ombudsperson shall while making the decision on the complaint may impose any of the minor or major penalties specified in sub- section (4) of section 4.

11. Responsibility of employer.— (1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection *against* harassment at the *workplace* as a part of their management policy and to form Inquiry Committee referred to in section 3 and designate a competent authority referred to in section 4.

(2) The management shall display copies of the Code in English as well as in language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of this Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file a *petition before the District Court* and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees.

12. Provisions of the Act in addition to and not in derogation of any other law.— The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13. Power to make rules. —The ²⁹***] Government may make rules to carry out the purposes of this Act.

²⁹ Deleted vide Khyber Pakhtunkhwa Act No. V of 2018.

³⁰ [SCHEDULE-I]

[see sections 2 (c) and 11]

**CODE OF CONDUCT FOR PROTECTION AGAINST HARASSMENT OF WOMEN
AT THE WORKPLACE**

Whereas it is expedient to make the Code of Conduct at the Workplace etc to provide protection and safety to women against harassment it is hereby provided as under:

- (i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidation;
- (ii) Harassment means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a Sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office

Explanation:

There are three significant manifestations of harassment in the work environment:

(a) Abuse of authority

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual's work performance or creates an intimidating,

³⁰ Renumbered vide Khyber Pakhtunkhwa Act No. VII of 2020.

hostile, abusive or offensive work environment.

The typical hostile environment claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(C) Retaliation

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evaluation reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) An informal approach to resolve a complaint of harassment may be through mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (iv) A complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (v) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be pursued formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint,
- (vii) A complainant does not necessarily have to take complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (viii) The complainant may make formal complaint through her incharge, Supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;

- (ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required;
- (xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;
- (xii) The harassment usually occurs between colleagues when they are alone, therefore usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the case; and
- (xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc. but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employers through negotiation.

³¹[SCHEDULE-II

[see sections 7B]

**PART-A
(FOR NON-MUSLIM)**

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

That as Ombudsperson, I will discharge my duties and perform my functions honestly, to the best of my ability, faithfully in accordance with the laws of the Islamic Republic of Pakistan, and without fear or favour, affection or ill will:

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

And that I will directly or indirectly communicate, or reveal to any person any matter which shall be brought under my consideration, or shall become known to me, as Ombudsperson, except as may be required for the due discharge of my duties as Ombudsperson.

May Allah almighty help and guide me (Ameen).

**PART-B
(FOR MUSLIM)**

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

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

That I will bear true faith and allegiance to Pakistan:

³¹ Added vide Khyber Pakhtunkhwa Act No. VII of 2020.

That, as an Ombudsperson, I will discharge my duties and perform my functions honestly, trustworthily and faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the Law:

That, I will never allow my personal interests to influence my official conduct or official decisions:

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

May Allah Almighty help and guide me. (Ameen)]

Laws of the Balochistan

THE BALOCHISTAN COMMISSION ON THE STATUS OF WOMEN ACT, 2017
(No. V of 2017)
CONTENTS

Section	Heading
	Preamble
1.	Short title, extent and commencement
2.	Definition
3.	Establishment of the Commission
4.	Appointment of Chairperson
5.	Appointment of member
6.	Term of Office of Chairperson and of Members
7.	Removal of Chairperson and Members
8.	Acting Chairperson
9.	Terms and Conditions as applicable to members
10.	Secretariat of the Commission
11.	Functions and Powers of the Commission
12.	Meetings of the Commission
13.	Appointment of Committees of the Commission
14.	Funds
15.	Accounts and Audit
16.	Annual Report of the Commission
17.	Assistance to the Commission.
18.	Indemnity
19.	Members and officers to be public servants
20.	Power to make Rule
21.	Delegation of powers
22.	Power to remove difficulties

THE BALOCHISTAN COMMISSION ON THE STATUS OF WOMEN ACT
(No. V of 2017)

An Act to provide for the establishment of Balochistan Commission on the Status of Women.

WHEREAS, it is expedient to establish the Balochistan Commission on the status of Women for the promotion of social, economic, political and legal rights of women as provided in the constitution of the Islamic Republic of Pakistan and elimination of all forms of discrimination against women and for matters connected therewith or incidental thereto:-

It is hereby enacted as follows:-

CHAPTER-I
PRELIMINARY

1. Short title, extent and commencement.— (1) This Act may be called the Balochistan Commission on the Status of Women Act, 2017.

(2) It extends to the whole of the Province of Balochistan except the Tribal Areas.

(3) It shall come into force at once.

2. Definition. - In this Act unless there is anything repugnant to the subject or context-

(a) “Act” means the Balochistan Commission on the status of women Act, 2017;

(b) “Chairperson” means the Chairperson of the Commission as appointed under section 4, and includes the acting chairperson appointed under section 8;

(c) “Commission” means the Balochistan Commission on the status of Women established under section 3;

(d) “Department” means the Women Development Department, Government of Balochistan;

(e) “Executive Committee” means the Committee constituted under section 13;

(f) “Ex-officio” means a member appointed under section 5(1);

(g) “Girl” means a female human being who has not attained the age of eighteen years;

- (h) “Government” means the Government of Balochistan;
- (i) “member” means the member of the Commission;
- (j) “Prescribed” means prescribed by rules made under this Act;
- (k) “Secretary” means the Secretary of the Commission appointed under section 10(3); and
- (l) “Women” means a female human being of eighteen years or above.

CHAPTER-II THE COMMISSION

3. Establishment of the Commission.—(1) The Government shall establish a Commission to be known as the Balochistan Commission on the Status of Women (PCSW), to exercise the powers conferred upon, and to perform the functions assigned to it under this Act,

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

(3) The Commission shall consist of:-

- (a) not less than nine and more than fifteen, members of which two third members shall be females, including a Chairperson;
- (b) Chairperson, who shall be a woman with experience of working on issues related to women’s rights for more than twelve years, and is committed to the cause of women’s empowerment;
- (c) The Chairperson and members shall be persons of integrity good standing and repute having the knowledge of laws related to women; and fully apprehend social, economic, and legal problems faced by women;
- (d) Six ex-officio members shall be the Secretaries to the Government of Balochistan, Law Department, Finance Department, Social Welfare Department, Women Development Department, Home & Tribal Affairs Department, and the Department concerned with the subject of women’s rights not below BPS-19, and who shall not have the right to vote;
- (e) One Women member who shall be a non-Muslim;

- (f) The Chief inspector of treasuries and Accounts (B-20); and
- (g) Secretary of the Commission, who shall not have the right to vote

(4) A Chairperson appointed under clause (b) of sub-section (2), shall not be less than thirty-five years of age, with experience on issues related to women's rights and is committed to the cause of women's empowerment, and be a person of integrity, good standing, and repute having the knowledge of laws related to women; and fully apprehend social economic and legal problems faced by women.

(5) The head office of the Commission shall be at Quetta.

4. Appointment of Chairperson.— (1) The Government shall appoint the Chairperson on the recommendations of a search committee headed by Chief Secretary of the Government and consisting of the following:-

- (a) two female members of the Provincial Assembly nominated by the Speaker Balochistan Provincial Assembly.
- (b) secretaries to the Government, Law and Parliamentary Affairs, Finance, Human Rights and Women Development Departments.

(2) The Chairperson shall be appointed on such terms and conditions as may be prescribed and, until prescribed, as the Government may determine.

(2) The Chairperson shall be a full-time officer of the Commission entitled to remuneration in management position scale-I

5. Appointment of member. - (1) The members, excluding ex-officio members, shall be appointed by the Chief Minister from amongst the names recommended under sub-section (2) of Section 5.

(2) The Government shall, after consultation with relevant stakeholders, recommend to the Chief Minister three names for each Member who fulfill the qualifications laid down in section 3.

(3) A vacancy of a member shall be filled as provided in sub-sections (1) and (2) within thirty days of the occurrence of the vacancy.

6. Term of Office of Chairperson and of Members.— (1) A person appointed as the Chairperson and Member shall hold office for a term of three years which may be extended only once.

(2) The Chairperson or a Member other than *ex-officio* member, may resign his or her office in writing under his or her hand addressed to Chief Minister and on acceptance of such resignation, such vacancy shall be filled within thirty days for the remaining term of the member.

7. Removal of Chairperson and Members.— (1) The Chairperson and Members other than *ex-officio* member may be removed from office by the Chief Minister if he or she, as the case may be:-

- (a) is, after proper inquiry, found guilty of misconduct;
- (b) is adjudged an insolvent;
- (c) is unfit to continue in office by reason of being mentally or physically challenged and stands so declared by a competent medical authority; and
- (d) has, on conviction of any offence involving moral turpitude been sentenced to imprisonment for a term of not less than two years.

8. Acting Chairperson.— By reason of a vacancy in the office of Chairperson due to death, illness, resignation removal or otherwise, the Chief Minister shall appoint a woman from amongst the members of the Commission to act as Chairperson for a period of not exceeding ninety days or until the appointment of a new Chairperson, whichever is earlier.

9. Terms and Conditions as applicable to members.— (1) The traveling and daily allowance and other allowances payable to and terms and conditions as applicable to members, other than *ex-officio* members, shall be such as may be prescribed.

(2) The salary and allowances payable to and terms and conditions applicable to the Chairperson, shall be such as prescribed by the Government.

(3) The Chairperson shall be a full-time employee of the commission and shall have the status equivalent to BS-20 officer of the Government.

(4) A member of the Commission shall have status equivalent to BPS-19 of the Government.

10. Secretariat of the Commission.— (1) There shall be a Secretariat of the Commission headed by the Secretary with complement of Officers and supporting staff as may be prescribed.

(2) The Secretary on the instruction of the Commission will prepare a draft three-year strategic plan, the Annual Work Plan and Budget.

(3) The Secretary shall be appointed in the manner as may be prescribed.

(4) The appointment and terms and conditions of the employees of the Commission shall be such as may be prescribed.

CHAPTER-III

11. Functions and Powers of the Commission.— The Commission:-

- (a) shall examine the policy, programs and other measures taken by the Government for gender equality, women's empowerment, political participation representation, assess implementation and make suitable recommendations to the concerned authorities;
- (b) shall review all Balochistan laws, rules and regulations affecting the status and rights of women and suggest repeal amendment or new legislation essential to eliminate discrimination, safeguard and promote the interest of women and achieve gender equality before law in accordance with the Constitution and obligations under international covenants and commitments;
- (c) shall sponsor, steer, encourage research to generate information, analysis and studies and maintain a database relating to women and gender issues to provide knowledge and awareness for national policy and strategic action for women empowerment;
- (d) shall develop and maintain interaction and dialogue with nongovernmental organizations, experts and individuals in society and an active association with similar commissions and institutions in other provinces and countries for collaboration and action to achieve gender equality at national, regional and international level;
- (e) shall mobilize grants from domestic and international, including multi and bilateral agencies approved by the Government, for meeting any of its obligations or performing its functions;
- (f) shall facilitate and monitor implementing of international instruments and obligation affecting women and girls to which Pakistan is a signatory, and advise the Government before accession to any such proposed international instruments and obligations affecting women and girls to which Pakistan is a signatory, and advise the Government before accession to any such proposed international instrument, protocol or treaty;
- (g) shall recommend to the Provincial Government the signing ratifying of international instruments (conventions, treaties and covenants) affecting rights of women and girls;

- (h) may seek and receive information, data and documents from any Federal and Provincial source or entity in the course of performance of its functions;
- (i) while inquiring into complaints of violations of women's rights may call for information or report from the Federal Government, Provincial Government, Civil Society organization and autonomous or concerned bodies and in this regard the Commission shall have the powers vested in a civil court under the Code of Civil Procedure, (Act V of 1908), for enforcing the attendance of any person and compelling the production of documents;
- (j) may in accordance with relevant laws and rules and prior permission of the Government inspect any jail, sub-jail or other places of custody where women and girls are detained and to make appropriate recommendations to the authorities concerned;
- (k) may act for advocacy, lobbying, coalition building, networking and as a catalyst for promotion of cause of women to facilitate their participation in all spheres of life including legal, economic, social and political empowerment;
- (l) liaise with the Federal and Provincial Commissions set up under their provincial laws and other concerned provincial organizations;
- (m) shall monitor the mechanism and institutional procedure for redressal of violation of women's rights; and
- (n) may perform any other functions which may be assigned to it by the Government.

12. Meetings of the Commission.—(1) A meeting of the Commission shall be held in each quarter of the year at such times and at such place as the Chairperson may decide. The Chairperson may call additional meetings if and when required.

(2) All meetings shall be chaired by the Chairperson or any other member nominated by the chairperson in her absence.

(3) The Secretary on the direction of the Chairperson shall call a meeting of the Commission and shall maintain the minutes of each meeting.

(4) The Commission will consider, approve and monitor implementation of the Strategic plan and the Annual Budget.

(5) The Commission shall, with the approval of Executive Committee, fix an honorarium or remuneration of advisors, consultants and experts as may be prescribed.

(6) The meeting of the Commission shall be conducted in accordance with the procedure as may be prescribed.

(7) All decisions of the Commission shall be authenticated by the signatures of the Chairperson and the members present.

(8) The quorum for the meeting of the Commission shall not be less than one third of the total strength of the commission.

(9) The decision of the Commission shall be taken by the majority of the members present. In case of a tie the Chairperson of the meeting shall have the casting vote.

(10) No act or proceeding of the Commission shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Commission.

13. Appointment of Committees of the Commission.— (1) There shall be an Executive Committee of the Commission consisting of the Chairperson and three other members from amongst the Commission to be appointed by the Commission which shall be responsible to oversee the implementation of the decisions and recommendations of the commission. The Chairperson of the committee along with the members shall be nominated by the Chairperson of the Commission.

(2) The Commission may establish such other Committees from amongst its members as it deems fit and may refer to them any matter for a consideration and report. The commission may, if it considers necessary, co-opt to a committee any person possessing special knowledge and expertise on the relevant subject.

(3) All Committees except the Executive Committee will be time bound.

CHAPTER-IV FUNDS AND FINANCIAL CONTROL

14. Funds.— (1) There shall be established by the Government a Fund to be known as the Balochistan Commission on the Status of Women Fund, which shall vest in the Commission and shall be used by the Commission to meet the charges in connection with its functions under this Act.

(2) Sources of the Fund amongst other means may be the following:-

- (i) such fund as the Government shall allocate each year as a non-lapsable grant in the Annual Budget;

- (ii) donations, if any, made by private individuals, national and international agencies;
- (iii) income from investment by the Commission, as may be prescribed;
- (iv) all funds held by the Government under the title of Balochistan Commission on the status of women's Fund; and
- (v) all other sums or properties or assets which in any manner become payable to or vest in the Commission in respect of any matter.

(3) The Commission whilst performing its functions and exercising its powers under this Act, shall ensure the highest sense of prudence in respect of expenditures incurred.

(4) The Fund shall be expended for the purpose of:-

- (a) performing functions of the Commission;
- (b) the establishment charges, including its members, employees, consultants, legal and other fees and costs; and
- (c) such other activities which fall within the purview of the Commission.

(4) The Commission may invest its Fund in accordance with the instructions of the Government.

(5) The Chairperson shall be the Principal Accounting Officer of the commission.

15. Accounts and Audit.— (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government.

(2) The accounts of the Commission shall be audited by the Auditor General Baluchistan.

(3) The Auditor-General Baluchistan and any other person appointed by him or her in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Auditor-General generally has in connection with the audit of the Government accounts and in particular shall have rights to demand the production of books, accounts connected vouchers and other documents and papers and to inspect any of the office of the Commission.

(4) The accounts of the Commission, as certified by the Auditor-General or any other person appointed by him or her in this behalf, together with the Audit Report thereon shall be

forwarded annually to the Government by the Commission and the Government shall cause the audit report to be laid, as soon as may be after it is received, before the Provincial Assembly.

CHAPTER-V MISCELLANEOUS

16. Annual Report of the Commission.— (1) The Commission shall prepare its Annual Report and shall be presented to the Government in January each year. The Annual report shall include an account of its performance and utilization of funds.

(2) The Annual Report of the Commission shall be laid and discussed in the Balochistan Provincial Assembly.

17. Assistance to the Commission.— All Provincial Executive Authorities shall assist the Commission in the performance of its functions.

18. Indemnity.— No suit, prosecution or legal proceedings shall be against Commission, the Chairperson or any Member, officer, employees, advisors or consultants of the Commission in respect of anything done in good faith or intended to be done under this Act or the rules made there under or order made, or publication by or under the authority of the Government, Commission or any report, paper or proceedings.

19. Members and officers to be public servants.— The Chairperson, a member other than *ex-officio* member of the Commission and every officer or employee appointed or authorized by the Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, (Act No. XLV of 1860).

20. Power to make Rules.— The Provincial Government in consultation with commission and by notification in the official gazette, make rules for the purpose of giving effect to the provisions of this Act.

21. Delegation of powers.— The Commission may subject to such conditions, as it may specify delegate any of its powers under this Act to the Executive Committee or member and to other such committees formed by the Commission except the Function of:-

- (a) appointment of Executive Committee or Constitution of any other Committee;
- (b) the approval of strategic plan, annual work plan, performance report and annual budget; and
- (c) recommendation relating to Laws, rules, regulations or policies.

22. Power to remove difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Government may by order published in the official gazette make such provisions not inconsistent with the provisions of this Act as appears to it, be necessary or expedient for removing the difficulty:

Provided that this power shall be available for a period of one year from the date of commencement of this Act.

**THE BALOCHISTAN PROTECTION AGAINST HARASSMENT OF WOMEN AT WORK
PLACE ACT, 2016**

CONTENTS

Section	Heading
	Preamble
1.	Short title, extent and commencement
2.	Definition
3.	Inquiry Committee
4.	Procedure for holding Inquiry
5.	Powers of Inquiry Committee.
6.	Appeal against minor and major penalties.
7.	Ombudsperson
8.	Ombudsperson to receive complaint
9.	Representation to Governor
10.	Powers of the Ombudsperson
11.	Responsibility of employer
12.	Provision of the Act in addition to and not in derogation of any other law
13.	Helpline
14.	Power to make rules
15.	Repeal and saving

**THE BALOCHISTAN PROTECTION AGAINST HARASSMENT OF WOMEN AT WORK
PLACE ACT, 2016**

(Act No. I of 2016)

An Act to provide for the protection of women against harassment at the workplace

WHEREAS the Constitution of Islamic Republic of Pakistan recognizes the fundamental rights of every citizens of Pakistan to dignity of person, it is expedient to provide for the Protection Against Harassment of Women at the workplace and the matters connected therewith or ancillary thereto;

It is hereby enacted as follows: -

1. Short title, extent and commencement.—(1) This Act may be called as the Balochistan Protection Against Harassment of Women at the Workplace Act, 2016.

(2) It shall extend to the whole of Balochistan, except the Provincially Administrative Tribal Areas.

(3) It shall come into force at once.

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

- (a) “accused” means an employee or employer of an organization against whom complaint has been made under this Act;
- (b) “Act” means the Balochistan Protection Against Harassment of Women at the Workplace Act, 2016;
- (c) “CBA” means Collective Bargaining Agent as provided in the Balochistan Industrial Relations Act, 2010 (Act No. XIII of 2010) or any other law for the time being in force;
- (d) “Code” means the Code of Conduct as mentioned in the Schedule to this Act;
- (e) “Competent Authority” means the authority as may be designated by the management for the purposes of this Act;
- (f) “Complainant” means a woman or man who has made a complaint to the Ombudsperson or to the Inquiry Committee on being aggrieved by an act of harassment;
- (g) “Employee” means a regular or contractual employee whether employed on

daily, weekly, monthly or hourly basis, and includes an intern or an apprentice;

- (h) “Employer” in relation to an organization, means any person or body of persons whether incorporated or not, who or which employs workers in an organization under a contract of employment or in any other manner whosoever and includes—
 - (i) an heir, successor or assign, as the case may be, of such person or , body as aforesaid;
 - (ii) any person responsible for the direction, administration, management and control of the management;
 - (iii) the authority, in relation to an organization or group of organizations run by or under the authority of the Government, the Federal Government or any other Provincial Government, appointed in this behalf or, where no such authority is appointed, the head of the organization or group of organizations;
 - (iv) the office bearer, in relation to an organization run by or on behalf of the local authority, appointed in this behalf, or where no officer is so appointed, the chief executive officer bearer of that authority;
 - (v) the proprietor, in relation to any other organization, of such organization and every director, manager, secretary, agent or office bearer or person concerned with the management of the affairs thereof;
 - (vi) a contractor or an organization of a contractor who or which undertakes to procure the labour or services of employees for use by another person or in another organization for any purpose whatsoever and for payment in any form and on any basis whatsoever; and
 - (vii) office bearers of a Federal or a Provincial or local authority who belong to the managerial, secretarial or directional cadre or categories of supervisors or agents and those who have been notified for this purpose in the official Gazette;
- (i) “Government” means the Government of Balochistan;
- (j) “harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature or sexually demeaning attitudes, any kind of threats, blackmailing, mental and physical torture, attempt for defamation or defamation through

modern techniques, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment;

- (k) “Helpline” means the helpline to be established by the Women Department;
- (l) “Inquiry Committee” means the Inquiry Committee established under section 3 (1) of the Act;
- (m) “Management” means a person or body of person responsible for the management of the affairs of an organization and includes an employer;
- (n) “Ombudsperson” means the Ombudsperson appointed under section 7 of the Act;
- (o) “Organization” means a Federal or Provincial Government ministry, division or department, a corporation or any autonomous or semi-autonomous body, Educational Institutes, Medical facilities established or controlled by the Federal or Provincial Governments or District Governments or registered civil society associations or privately managed a commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance, 1984 (XLVII of 1984) and includes any other registered private sector organization or institution;
- (p) “Schedule” means Schedule annexed to this Act;
- (q) “Workplace” means the place of work or the premises where an organization or employer operates and includes building, factory, transport, open area or a larger geographical area where the activities of the organization or of employer are carried out and including any situation that is linked to official work, official activity or other activities outside the office;
- (r) “Restaurant” means a public eating-house providing standard and variety of cuisines on monetary consideration to tourists, which conforms to the minimum prescribed criteria;
- (s) “Service” means any service provided in a hotel or a restaurant; and
- (t) “Tourist” means a person, whether a citizen of Pakistan or not, who stays overnight or more as a guest in a hotel or at a place other than his normal place of residence.

3. Inquiry Committee.— (1) Each organization shall constitute an Inquiry Committee within thirty days of the enactment of this Act to enquire into complaints under the Act.

(2) The Committee shall consist of five members, out of whom at least two members shall be women. One member shall be from senior management and shall be a senior representative of the employees or a senior employee where there is no CBA. One or more members can be co-opted from outside the organization if the organization is unable to designate three members from within as described above. A Chairperson shall be designated from amongst them.

(3) In case a complaint is made against one of the members of the Inquiry committee that member should be replaced by another for that particular case. Such member may be from within or outside the organization.

(4) In case where no competent authority is designated the organization shall within thirty days of the enactment of this Act designate a competent authority.

4. Procedure for holding Inquiry.— (1) The Inquiry Committee, within three days of receipt of a written complaint, shall—

- (a) communicate to the accused the charges and statement of allegations leveled against him, the formal written receipt of which will be given;
- (b) require the accused within seven days from the day the charge is communicated to him to submit a written defense and on his failure to do so without reasonable cause, the Committee shall proceed ex-parte; and
- (c) enquiry into the charge and may examine such oral or documentary evidence in support of the charge or in defense of the accused as the Committee may consider necessary and each party shall be entitled to cross-examine the witnesses against him.

(2) Subject to the provisions of the Act and rules made there under, the Inquiry Committee shall have power to regulate its own procedure for conducting inquiry and for fixing the place and time of its sitting.

(3) The following provisions *inter alia* shall be followed by the Committee in relation to inquiry:-

- (a) the statements and other evidence acquired in the inquiry process shall be considered as confidential;
- (b) an officer in an organization, if considered necessary, may be nominated to provide advice and assistance to each party;
- (c) both parties, the complainant and the accused, shall have the right to be

represented or accompanied by a Collective Bargaining Agent, a friend or a colleague;

- (d) adverse action shall not be taken against the complainant or the witnesses;
- (e) the Inquiry Committee shall ensure that the employer or accused shall in no case create any hostile environment for the complainant so as to pressurize her from freely pursuing her complaint; and
- (f) the Inquiry Committee shall give its findings in writing by recording reasons thereof.

(4) The Inquiry Committee shall submit its findings and recommendations to the Competent Authority within thirty days of the initiation of inquiry. If the Inquiry Committee finds the accused to be guilty it shall recommend to the Competent Authority for imposing one or more of the following penalties:

(a) **Minor penalties:**

- (i) Censure;
- (ii) withholding, for a specific period, promotion or increment;
- (iii) stoppage, for a specific period, at an efficiency bar in the time-scale, otherwise than for unfitness to cross such bar;
- (iv) recovery of the compensation payable to the complainant from pay or any other source of the accused; and

(b) **Major penalties:**

- (i) Reduction to a lower post or time-scale, or to a lower stage in a time-scale;
- (ii) removal from service;
- (iii) dismissal from service;
- (iv) fine of rupees fifty thousand, which may extend to rupees five hundred thousand:

Provided that the amount of fine or a part thereof may be paid as compensation to the complainant or the victims; and

- (c) The Inquiry Committee may besides the aforesaid punishments, recommend for a criminal proceeding against the accused.

(5) The Competent Authority shall impose the penalty recommended by the Inquiry Committee under sub-section (4) within one week of the receipt of the recommendations of the Inquiry Committee.

(6) The Inquiry Committee shall meet on regular basis and monitor the situation regularly until they are satisfied that their recommendations subject to decision, if any of the Competent Authority and Appellate Authority, have been implemented.

(7) In case the complainant is in trauma the organization will arrange for psycho-social counseling or medical treatment and for additional medical leave.

(8) The organization may also offer compensation to the complainant in case of loss of salary or other damages.

5. Powers of Inquiry Committee. - The Inquiry Committee shall have power to—

- (a) summon and enforce attendance of any person and examine him on oath;
- (b) require the discovery and production of any document;
- (c) receive evidence on affidavits; and
- (d) record evidence.

(2) The Inquiry Committee shall have the power to inquire into the matters of harassment under the Act, to get the complainant or the accused medically examined by an authorized doctor, if necessary, and may recommend appropriate penalty against the accused within the meaning of sub-section (4) of section 4.

(3) The Inquiry Committee may recommend to Ombudsperson for appropriate action against the complainant if allegations leveled against the accused found to be false and made with mala fide intentions.

(4) The Inquiry Committee can instruct to treat the proceedings confidential.

6. Appeal against minor and major penalties.—(1) Any party aggrieved by decision of the Competent Authority on whom minor or major penalty is imposed may within thirty days of written communication of decision prefer an appeal to an Ombudsperson established under section 7 of the Act.

(2) A complainant aggrieved by the decision of the Competent Authority may also prefer appeal within thirty days of the decision to the Ombudsperson.

(3) The Appellate Authority may, on consideration of the appeal and any other relevant material, confirm, set aside, vary or modify the decision within thirty days in respect of which such appeal is made. It shall communicate the decision to both the parties and the employer.

(3) Until such a time that the Ombudsman is appointed the District Court shall have the jurisdiction to hear appeals against the decisions of Competent Authority and the provisions of sub-sections (1) to (3) shall mutatis mutandis apply.

(4) On the appointment of Ombudsman all appeals pending before the District Court shall

stand transferred to Ombudsman who may proceed with the case from the stage at which it was pending immediately before such transfer.

7. Ombudsperson.— (1) There shall be an Ombudsperson preferably a woman, for the Province of Balochistan, who shall be appointed by the Government.

(2) The Ombudsperson shall, in all matters, perform his function and exercise his powers fairly, honestly, diligently and independently of the executive and all executive authorities shall act in aid of the Ombudsperson.

(3) A person shall be qualified to be appointed as the Ombudsperson, who is not less than forty-five years of age, and—

- (a) has been or is qualified to be a Judge of a High Court; or
- (b) is or has been in the service of Pakistan in BPS-19 or above, possessing LLB Degree and having sufficient experience in the field of Law.

(4) The Ombudsperson 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.

(5) The Ombudsperson shall hold office for a period of three (3) years, which may be extended for a further period of two years, and shall not be eligible for re-appointment as ombudsperson under any circumstances.

(6) The Ombudsperson may any time resign his office by writing under his hand addressed to the Government.

(7) The Ombudsperson shall be entitled to such salary, allowances and privileges and other terms and conditions of service as the Government may determine and these terms shall not be varied during the term of his office as the Ombudsperson.

(8) The Ombudsperson may appoint such staff as may be required to achieve the purpose of this Act.

(9) At any time, when the Office of the Ombudsperson is vacant, or the Ombudsperson is absent or is unable to perform his function due to any cause, the Government shall appoint an acting Ombudsperson

8. Ombudsperson to enquire into complaint.— (1) Any employee shall have the option

to prefer a complaint either to the Ombudsperson or the Inquiry Committee.

(2) The Ombudsperson shall within 3 days of receiving a complaint issue a written show cause notice to the accused. The accused after the receipt of written notice, shall submit written defense to the Ombudsperson within five days and his failure to do so without reasonable cause the Ombudsperson may proceed *ex-parte*. Both the parties can represent themselves.

(3) The Ombudsperson shall conduct an inquiry into the matter according to the rules made under this Act and conduct proceedings as the Ombudsperson deems proper.

(4) For the purposes of an investigation under this Act, the Ombudsperson may require any office or member of an organization concerned to furnish any information or to produce any document which in the opinion of the Ombudsperson is relevant and helpful in the conduct of the investigation.

(5) The Ombudsperson shall record his decision and inform both parties and the management of the concerned organization for implementation of the orders.

9. Representation to Governor.— Any person aggrieved by a decision of the Ombudsperson under sub-section (5) of section 8 of the Act, may make a representation to the Governor within thirty days of the communication of the decision, whose decision shall be final.

10. Powers of the Ombudsperson.— (1) The Ombudsperson for the purpose of this Act, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedures, 1908 (Act No. V 1908), in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of evidence;
- (c) receiving evidence on affidavits;
- (d) issuing commission for the examination of witnesses;
- (e) entering any premises for the purpose of making any inspection or investigation, enter any premises where the Ombudsperson has a reason to believe that any information relevant to the case may be found.

(2) The Ombudsperson for its contempt shall have the same powers as the High Court has to punish any person for its contempt.

(3) The Ombudsperson while making the decision on the complaint, may impose any of the Minor or Major Penalties as specified in sub-section (4) of section 4 of the Act.

11. Responsibility of employer.— (1) It shall be the responsibility of the employer to ensure implementation of this Act, including but not limited to incorporate the Code of Conduct for protection against harassment at the workplace as a part of their management policy and to form Inquiry Committee referred to in section 3 of the Act and designate a Competent Authority referred to in section 4 of the Act.

(2) The management shall display copies of the Code in English with Translation in Urdu as well as in the language understood by the majority of employees at conspicuous place in the organization and the work place within six months of the commencement of the Act.

(3) On failure of an employer to comply with the provisions of this section any employee of an organization may file a complaint before the Ombudsperson and on having been found guilty the employer shall be liable to fine which may extend to one hundred thousand rupees but shall not be less than twenty-five thousand rupees

(4) A person aggrieved by an order under sub-section (3) may, within thirty days of the communication of the order, make representation to the Governor whose decision shall be final.

12. Provision of the Act in addition to and not in derogation of any other law.— The provision of this Act shall be in addition to and not in derogation of any other law for the time being in force.

13. Helpline.— The Provincial Women Development Department shall establish a helpline which shall provide information for the help and guidance of victims.

14. Power to make rules.— The Government may make rules to carry out the purposes of this Act.

15. Repeal and savings.— (1) The Protection Against Harassment of Women at the Workplace Act, 2010 (Act No. IV of 2010) as applicable and to the extent of the Province of Balochistan is hereby repealed.

(2) Notwithstanding the repeal of the Protection against Harassment of Women at the Workplace Act, 2010 (Act No. IV of 2010) under sub-section (1) (herein referred as the repeal Act), the rules, regulations, bye laws made or saved, orders, and notifications issued, anything done, action taken, obligation, liability, penalty of punishment incurred, inquiry or proceeding commenced, person authorized, jurisdiction of powers conferred under any of the provisions of the repealed Act, shall continue to be in force and deemed to have been done, taken, incurred, commenced, appointed, authorized, conferred, made, imposed or assessed, released or issued under this Act, until they are repealed, rescinded, withdrawn, cancelled, replaced or modified in accordance with the provisions of this Act.

Schedule
[See section 2 (c) and 11]

Code of Conduct

For Protection against Harassment of Women at the Workplace

Whereas it is expedient to make the Code of Conduct at the Workplace etc. to provide protection and safety to women against harassment, it is hereby provided as under:

- (i) The Code provides a guideline for behavior of all employees, including management, and the owners of an organization to ensure a work environment free of harassment and intimidating.
- (ii) “Harassment” means any unwelcome sexual advance, request for sexual favors or other verbal or written communication or physical conduct of a sexual nature, or sexually demeaning attitudes, causing interference with work performance or creating an intimidating, hostile or offensive work environment, or the attempt to punish the complainant for refusal to comply to such a request or is made a condition for employment.

The above is unacceptable behavior in the organization and at the workplace, including in any interaction or situation that is linked to official work or official activity outside the office.

Explanation: There are three significant manifestations of harassment in the work environment.

(a) Abuse of authority. –

A demand by a person in authority, such as a supervisor, for sexual favors in order for the complainant to keep or obtain certain job benefits, be it a wage increase, a promotion, training opportunity, a transfer or the job itself.

(b) Creating a hostile environment. -

Any unwelcome sexual advance, request for sexual favors or other verbal or physical conduct of a sexual nature, which interferes with an individual’s work performance or create an intimidating, hostile, abusive or offensive work environment. The typical “hostile environment” claim, in general, requires finding of a pattern of offensive conduct, however, in cases where the harassment is particularly severe, such as in cases involving physical contact, a single offensive incident will constitute a violation.

(c) Retaliation. –

The refusal to grant a sexual favor can result in retaliation, which may include limiting the employee's options for future promotions or training, distorting the evolution reports, generating gossip against the employee or other ways of limiting access to his/her rights. Such behavior is also a part of the harassment.

- (iii) An informal approach to resolve a complaint of harassment may be thorough mediation between the parties involved and by providing advice and counseling on a strictly confidential basis;
- (iv) A complainant or a staff member designated by the complainant for the purpose may report an incident of harassment informally to her supervisor, or a member of the Inquiry Committee, in which case the supervisor, or the Committee member may address the issue at her discretion in the spirit of this Code. The request may be made orally or in writing;
- (v) If the case is taken up for investigation at an informal level, a senior manager from the office or the head office will conduct the investigation in a confidential manner. The alleged accused will be approached with the intention of resolving the matter in a confidential manner;
- (vi) If the incident or the case reported does constitute harassment of a higher degree and the officer or a member reviewing the case feels that it needs to be perused formally for a disciplinary action, with the consent of the complainant, the case can be taken as a formal complaint;
- (vii) A complainant does not necessarily have to take a complaint of harassment through the informal channel. She can launch a formal complaint at any time;
- (viii) The complainant may make formal complaint through her incharge supervisor, CBA nominee or worker's representative, as the case may be, or directly to any member of the Inquiry Committee. The Committee member approached is obligated to initiate the process of investigation. The supervisor shall facilitate the process and is obligated not to cover up or obstruct the inquiry;
- (ix) Assistance in the inquiry procedure can be sought from any member of the organization who should be contacted to assist in such a case;
- (x) The employer shall do its best to temporarily make adjustments so that the accused and the complainant do not have to interact for official purposes during the investigation period. This would include temporarily changing the office, in case both sit in one office, or taking away any extra charge over and above their contract which may give one party excessive powers over the other's job conditions. The employer

can also decide to send the accused on leave, or suspend the accused in accordance with the applicable procedures for dealing with the cases of misconduct, if required.

- (xi) Retaliation from either party should be strictly monitored. During the process of the investigation work, evaluation, daily duties, reporting structure and any parallel inquiries initiated should be strictly monitored to avoid any retaliation from either side;
- (xii) The harassment usually occurs between colleagues when they are alone; therefore, usually it is difficult to produce evidence. It is strongly recommended that staff should report an offensive behavior immediately to someone they trust, even if they do not wish to make a formal complaint at the time. Although not reporting immediately shall not affect the merits of the cases; and
- (xiii) The Code lays down the minimum standards of behavior regarding protection of women from harassment at workplace etc. but will not affect any better arrangement that an organization may have developed nor will it bar the grant of protection that employees working in an institute may secure from their employees through negotiation.

**THE BALOCHISTAN PROTECTION AGAINST HARASSMENT OF WOMEN AT
WORK-PLACE RULES, 2018**

CONTENTS

Rule	Heading
	Preamble
1.	Short title, extent and commencement
2.	Definitions.
3.	Competent authority.
4.	Complaint.
5.	Contents of the Complaint.
6.	Procedure of inquiry committee.
7.	Recommendations.
8.	Imposition of Penalty
9.	Procedure before the Ombudsperson
10.	Remedial measures
11.	Advice and Counseling

THE BALOCHISTAN PROTECTION AGAINST HARASSMENT OF WOMEN AT WORK-PLACE RULES, 2018

Notification

No. WDD.SO (Coord & Dev-II)-09/2018/462-69.— In exercise of the power conferred by the section 14 of the Balochistan Protection against Harassment of Women at Work Place Act, 2016 (No. 01 of 2016), the Government of Balochistan is pleased to make the following rules to carry out the purposes of the Balochistan Protection against Harassment at of Women at Work Place Act, 2016.

1. Short title and Commencement.— (1) These rules shall be called the Balochistan Protection against Harassment of Women at Work-place Rules, 2018.

(2) These rules shall come into force at once.

2. Definitions.— (1) In these rules,—

- (a) “Act” means the Balochistan Protection against Harassment of Women at Work-place Act, 2016, (I of 2016);
- (b) “Complainant” means women or man who has made a complaint to the Ombudsperson to the inquiry committee on being aggrieved by an act of harassment;
- (c) “Employee” means a regular, contractual employee whether employed on daily, weekly, monthly, intern or an apprentice;
- (d) “Ombudsperson” means an ombudsperson appointed under section 7 of the Act.

(2) The words and expressions used but not defined in these rules shall have the same meaning as assigned to them in the Act.

3. Competent authority.— (1) Each organization shall, by order, nominate the competent authority in term of sun section (4) of section 3 of the Act.

(2) The organization shall, within seven days of the nomination of the competent authority, send a copy of the order to the Ombudsperson and circulate it to the employees of the organization for information.

(3) An organization shall not discriminate against any gender while nominating competent authority.

4. Complaint.— (1) A complainant may, under sub-section (1) of section 8 of the Act, prefer a complaint either to the inquiry committee through any of its member or the ombudsperson.

(2) The inquiry committee or ombudsperson shall, under confidential cover inform the employer of the complainant about the complaint received under sub-section (1).

(3) At any stage of the proceedings but before the final decision on a complaint, the complainant may with the permission of inquiry committee or the ombudsperson withdraw the complaint.

5. Contents of the Complaint.— (1) A complaint shall contain a comprehensive statement of the fact relating to the incident of harassment, all necessary details, names of witnesses and any other material details of evidence in support of the complaint.

(2) All documents, evidence or other supporting material in whatever form such as audio, video, or documentary, shall be annexed with the complaint.

(3) The complaint shall verify that the information contained in the complaint is true and correct to the best of knowledge and belief of the complainant.

(4) A party may amend the complaint or written defense at any stage of the inquiry.

(5) The complainant shall sign the complaint or affix the thumb impression on the complaint.

(6) The accused shall sign the written defense or affix the thumb impression on the written defense.

6. Procedure of inquiry committee.— (1) The inquiry committee shall:

- (a) hold the inquiry in fair and impartial and non-discriminatory manner after giving opportunity of being heard to the parties;
- (b) obtain documents or other information relating to incident of reported harassment and consider the same;
- (c) not make public any documents or statements of any party to an inquiry and maintain high standards of confidentiality as provided under clause (a) of sub-section (3) of section 4 of the Act; and
- (d) make suitable arrangement for safe custody of all documents, records other material relating to inquiry proceedings.

(2) All documents information, record proceedings and findings of the inquiry committee shall be confidential and no copies thereof shall be provided to any person not related to the case.

7. Recommendations.— (1) The inquiry committee may, after recording reasons, either dismiss the complaint or recommend any of the penalties under section 4 of the Act.

(2) The inquiry committee shall, provide a copy of its recommendations to both the parties free of cost.

8. Imposition of Penalty.— (1) If any inquiry committee recommends the imposition of nay penalty on the accused, the competent authority may, within seven days of the receipt of recommendation of the inquiry of committee, impose the penalty of refer back the case to the inquiry committee for further inquiry on specified aspects of the case.

(2) The Ombudsperson shall, after the inquiry, record the decision and shall inform both the parties and the organization for implementation of decisions.

(3) The competent authority shall send a copy of the final order to both the parties the inquiry committee and ombudsperson.

9. Procedure before the Ombudsperson.—(1) The show cause notice under sub-section (2) of section 8 of the Act shall contain all the allegations leveled against the accused by the complainant and copy of the complaint shall be provided along with the notice.

(2) Subject to sub-section (2) of section 8 of the Act, on receipt of written defense from the accused, the Ombudsperson shall summon the parties for personal hearing before taking any decision.

(3) The parties shall appear before the Ombudsperson along with supporting material, documents, information or other evidence available with the complainant or the accused.

(4) The Ombudsperson may summon any witness, record or any other material in possession of anybody or authority for the just decision of the case.

(5) The Ombudsperson shall on the basis of the available evidence record, his decision along with reason.

(6) In the absence of any express provision regarding conduct of proceedings or inquiry, the Ombudsperson may conduct the proceedings or inquiry in such manner as the Ombudsperson may consider necessary and appropriate for purposes of arriving at just decision of an appeal or a complaint.

(7) The Ombudsperson shall decide a case under the Act as expeditiously as possible and send a copy of this decision to the competent authority for implementation.

(8) Subject to the decision of the Governor on the representation of any party, the competent authority shall implement the decision of the Ombudsperson within thirty (30) days from the date of the receipt of the decision or within such further period as the Ombudsperson may specify and shall within seven days of the implementation of the decision inform the Ombudsperson, the accused and the complainant.

10. Remedial measures.—The inquiry committee or the Ombudsperson may recommend to the employer any remedial measures in case the complainant or the accused is in a state of trauma depression or other psychological shock.

11. Advice and counselling.— (1) An employer may nominate an officer possessing knowledge of law, psychology or sociology to provide necessary advice counseling and assistance to the complainant or the accused under clause (b) of sub-section (3) of section 4 of the Act.

(2) The counseling officer may recommend such step to the employer as may be necessary to avoid harassment keeping in view the socio-culture requirements of the area and the organization.

**THE BALOCHISTAN DOMESTIC VIOLENCE (PREVENTION AND PROTECTION)
ACT, 2014**

(ACT NO. VII OF 2014)

CONTENTS

Section	Heading
	Preamble
1.	Short title, extent and commencement
2.	Definitions
3.	Duty of Government To ensure effective Implementation of the Act
4.	Domestic Violence
5.	Application to the Court
6.	Counseling
7.	Right to reside in a household
8.	Passing of protection orders and residence orders
9.	Monetary relief
10.	Custody orders.
11.	Power to grant interim order
12.	Duration and alteration of protection and residence orders
13.	Penalty for Breach of protection order by the accused
14.	Protection Committee
15.	Duties and functions of Protection Committee
16.	Powers, privileges and immunities of Protection Committee
17.	Delegation of Functions and powers
18.	Protection Officer
19.	Duties of Protection Officer
20.	Assistance of service provider
21.	Powers of Service Provider
22.	Procedure
23.	Protection of Actions taken in good faith
24.	Act not in derogation of any other law
25.	Penalty for filing a false Complaint
26.	Revision
27.	Power to make rules
28.	Removal of difficulties

**THE BALOCHISTAN DOMESTIC VIOLENCE (PREVENTION AND
PROTECTION) ACT 2014 (ACT NO. VII OF 2014)**

An Act to make provisions for protection against domestic violence

WHEREAS the Constitution recognizes the fundamental rights of women and men to dignity of person;

AND WHEREAS it is expedient to institutionalize measures which prevent and protect women and children from domestic violence and for matters connected therewith or incidental thereto;

It is hereby enacted as follows:-

1. Short title, extent and commencement.— (1) This Act may be called the Balochistan Domestic Violence (Prevention and Protection) Act, 2014.

(2) It extends to the whole of Balochistan, except Tribal Areas.

(3) It shall come into force at once.

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

- (a) "aggrieved person" means any woman, child, man or any vulnerable person who is or has been in a domestic relationship with the accused and who alleges to have been subjected to any act of domestic violence by the accused;
- (b) "accused" means a person who is or has been in a domestic relationship with the aggrieved person and against whom the aggrieved person has sought any relief under this Act;
- (c) "child" means any person under the age of eighteen years living in a domestic relationship with the accused and includes any adopted, step or foster child;
- (d) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);
- (e) "court" means the court of Sub Divisional Magistrate having the powers of first-class Magistrate;
- (f) "domestic relationship" means a relationship between persons who live, or have, at any point of time, lived together in a household when they are related by consanguinity, marriage, kinship, adoption, employment, domestic help or are family members living together as a joint family;

- (g) “domestic violence” has the same meaning as assigned to it in section 4;
- (h) “Family Conciliatory Committee” means the Committee for conciliation constituted. under the ‘B a l o c h i s t a n Local Government Act, 2010 (Act No. V of 2010);
- (i) “Government” means Government Balochistan;
- (j) “harassment” means any course of conduct that evokes a fear of harm to the aggrieved person;
- (k) “household” means a household where the aggrieved person lives or at any stage has lived in a domestic relationship either singly or along with the accused and includes such a household whether owned or tenanted either jointly by the aggrieved person and the accused or owned and tenanted by either of them, any such household in respect of which either the aggrieved person or the accused or both jointly or singly have any right, title , interest or equity and includes such a household which may belong to the joint family of which the accused is a member, irrespective of whether the accused or the aggrieved person has right, title, interest in such a shard household;
- (l) “Local Government Act” means the Balochistan Local Government Act, 2010 (Act No. V of 2010);
- (m) “monetary relief” means a monetary relief which a court may order under section 9;
- (n) “notification” means a notification published in the Official Gazette;
- (o) “prescribed” means prescribed by the rules made under this Act;
- (p) “Protection Officer” means an officer appointed by the Government under section 18;
- (q) “Protection Committee” means a Committee constituted under section 14;
- (r) “Protection order” means an order granted in terms of section 8;
- (s) “residence order” means an order granted in terms of section 8;
- (t) “service provider” means any such government facility or registered voluntary organization established for the protection of aggrieved person in a household by any means including legal, medical, financial or any other assistance; and

- (u) “vulnerable person” means a person who is vulnerable due to old age, mental illness or handicap or physical disability or other special reason or domestic help, or employment as a domestic servant.

(2) Words and phrases not defined in this Act shall have the meanings as described thereto in the Pakistan Penal Code, 1898 (Act XLV of 1898) and the code of Criminal Procedure, 1860, (Act V of 1860).

3. Duty of Government to ensure effective implementation of the Act. - The Government shall ensure that,—

- (a) this Act and the contents thereof receive wide publicity through electronic and print media in Urdu and local languages;
- (b) The government officers, the police and the members of the judicial service are given periodic sensitization and awareness training on the issues addressed by this Act; and
- (c) effective measures are taken by the concerned Departments to address the issue of domestic violence and that the same are periodically revised.

4. Domestic Violence.— Domestic Violence includes but is not limited to, all intentional acts of gender based or other physical or psychological abuse committed by an accused against women, children or other vulnerable persons with whom the accused is or has been in a domestic relationship including but not limited to—

- (a) “assault” as defined in section 351 of the Pakistan Penal Code (Act XLV of 1860) hereinafter referred to in this section “as the said Code”;
- (b) “attempt” as defined in section 511 of the said Code to commit any of the offences enumerated in this section;
- (c) “criminal force” as defined in section 350 of the said Code;
- (d) “criminal intimidation” as defined in section 503 of the said Code;
- (e) “economic abuse” includes deprivation of economic or financial resources or prohibition or restriction to continued access to such resources which the aggrieved person is entitled to use or enjoy by virtue of the domestic relationship including but not limited to household necessities for the aggrieved person and her children, any property jointly or separately owned by the aggrieved person, payment of rental related to the house hold, and maintenance;

- (f) entry into aggrieved person's residence without his or her consent, where the parties do not share the same residence;
- (g) "harassment" as defined in section 2(1) clause (j) of this Act;
- (h) "hurt as defined in section 332 of the said Code;
- (i) "mischief" as defined in section 425 of the said Code against the property of the aggrieved person;
- (j) "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or impair the health or development of the aggrieved person and includes assault, criminal force and criminal intimidation;
- (k) "stalking" includes, but is not limited to—
 - (i) following, pursuing or accosting the aggrieved person against his or her wishes; and
 - (ii) watching or loitering outside or near the building or place where the aggrieved person resides or works for gains or carries on business or visits frequently;
- (l) "sexual abuse" includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of the aggrieved person;
- (m) "verbal and emotional abuse" means any or persistent degrading or humiliating conduct of the accused towards the aggrieved person, including but not limited to—
 - (i) insults or ridicule;
 - (ii) threat to cause physical pain; and
 - (iii) threat of malicious prosecution;
- (n) willful or negligent abandonment of the aggrieved person;
- (o) "wrongful confinement" as defined in section 340 of the said Code; and
- (p) any other repressive or abusive behavior towards the aggrieved person where such a conduct harms or may cause imminent danger of harm to the safety, health or well-being of the aggrieved person.

5. Application to the Court.— (1) An aggrieved person or any other person authorized by the aggrieved person in writing in this behalf may present an application to the Court within whose jurisdiction offence was Committed for seeking any relief under this Act.

(2) The application under sub-section (1) shall be in such form and contain particulars as may be prescribed or as nearly as possible thereto.

(3) The court shall fix the first date of hearing, which shall not exceed three days from the date of the receipt of the application by the court.

(4) The application made under sub-section (1) shall be disposed of within a period of thirty days and any adjournment given during the hearing of the application shall be granted for reasons to be recorded in writing by the Court.

(5) For purpose of trial under this Act, the Court shall follow the procedure specified in Chapter XX of the Code.

6. Counseling.— (1) The court, at any stage of the proceedings under this Act, may direct the accused to undergo mandatory counseling with an appropriate service provider Where the court has issued any direction under sub-section (1), it shall fix the next date of hearing of the case within a period not exceeding thirty days.

7. Right to reside in a household.— (1) Notwithstanding anything contained in any other law for the time being in force, the aggrieved person shall not be evicted from the household without consent, whether or not he or she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted from the household or any part of it by the accused save in accordance with law:

Provided that where the domestic relationship is based on employment or domestic help, the provisions of this section shall not apply.

8. Passing of protection orders and residence orders.— (1) The court on being satisfied that domestic violence has taken place may pass a protection order in favour of the aggrieved person and prohibit the accused from—

- (a) committing any act of domestic violence;
- (b) aiding or abetting in the commission of acts of domestic violence;
- (c) entering the place of employment of the aggrieved person or, if the aggrieved person is a child, his or her educational institution or any other place frequented by the aggrieved person;

- (d) attempting to communicate in any form, whatsoever with the aggrieved person, including personal, oral or written electronic or telephonic or mobile phone contact;
- (e) causing violence to the dependents, other relatives or any person who gives the aggrieved person assistance against domestic violence; and
- (f) committing any other act as specified in the protection order.

(2) In addition to the order under sub-section (1), or otherwise, the court on being satisfied that domestic violence has taken place may pass a residence order to—

- (a) restrain the accused from dispossessing or in any other manner disturbing the possession of the aggrieved person from the household;
- (b) restrain the accused or any of his relatives from entering the household; and
- (c) direct the accused to secure alternative accommodation for the aggrieved person or if the circumstances so require to pay rent for the same.

(3) The court may impose any additional conditions or pass any other direction which it may deem reasonably necessary to protect and provide for the safety of the aggrieved person or any child of such aggrieved person.

(4) The court may require from the accused to execute a bond, with or without sureties, for preventing the commission of domestic violence.

(5) While making an order under sub-sections (1), (2) or (3), the court may also pass an order directing the officer in charge of the nearest police station to give protection to the aggrieved person or to assist the aggrieved person or the person making an application on his or her behalf in the implementation of the order.

(6) While making an order under sub-section (2), the court may impose on the accused obligations relating to the discharge of rent or other payments, having regards to the financial needs and resources of the parties.

(7) The court may direct the officer in charge of the police station in whose jurisdiction the court has been approached to assist in the implementation of the protection order

(8) The court may direct the accused to return to the possession of the aggrieved person any property or valuable security to which she is entitled to.

(9) The court shall in all cases where it has passed any order under this section, order that a copy of such order, shall be given to the parties to the application, the officer in charge of the police

station in the jurisdiction of which the court has been approached as well as to the service provider located within the local limits of the jurisdiction of the court:

Provided that where the domestic relationship is based on employment or domestic help the provisions of this section shall not apply

9. Monetary relief.— (1) The court may, at any stage of the trial on an application by the aggrieved person, direct the accused to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and such relief may include, but is not limited to—

- (a) loss of earning;
- (b) medical expense;
- (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and
- (d) the maintenance for the aggrieved person as well her children, if any, including an order under or in addition to an order of maintenance under family laws.

(2) The accused shall pay monetary relief to the person aggrieved within the period specified in the order made in terms of sub-section (1) and in accordance with terms thereof.

(3) The court may, upon failure on part of the accused to make payment in terms of the order under sub-section (2) direct an employer or debtor, of the accused, to directly pay the aggrieved person or to deposit with the court a portion of the wages or salaries or debt due to or accrued to the credit of the accused, which amount may be adjusted towards the monetary relief payable by the accused.

10. Custody orders.— The court may, at any stage of the application for protection order or for any other relief under this Act grant temporary custody of an aggrieved person who is;

- (a) a child to a person under the Guardians and Wards Acts 1890(VIII of 1890); and
- (b) an adult to a service provider in accordance with the will of the aggrieved person to some other person:

Provided that in any case where a complaint of sexual abuse of a child has been made and the court is *prima facie* satisfied that such allegation is true, the court shall grant custody to the aggrieved person or the person making an application on his or her behalf and no order for arrangements for visitation by the accused shall be made:

Provided further that where the domestic relationship is based on employment

or domestic help, the provisions of this section shall not apply.

11. Power to grant interim order.— (1) In any proceeding before him under this Act, the court may pass such interim order as it deems just and proper.

(2) If the court is satisfied that application *prima facie* discloses that the accused is committing, or has committed an act of domestic violence or that there is a likelihood that the accused may commit an act of domestic violence, it may issue order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under sections 8, 9 and 10 against the accused.

12. Duration and alteration of protection and residence orders. - (1) The protection order made under section 8 shall remain in force until the aggrieved person applies for discharge of such order.

(2) If the court on receipt of an application from the aggrieved person or the accused, is satisfied that there is a change in the circumstance requiring alteration, modification or revocation of any order made under this Act, it may, for reasons to be recorded in writing pass such order, as it may deem appropriate.

(3) The residence order shall remain in force until such time it is altered.

(4) Nothing contained in sub-section (1) or sub-section (2) shall prevent an aggrieved person from applying for an order under sections 8, 9 and 10 notwithstanding that an order under these sections has been previously refused, if sufficient cause is made out for the grant of such an order.

(5) Nothing contained in sub-sections (1) and (2) shall prevent aggrieved person from making a fresh application after the previous order has been discharged.

13. Penalty for Breach of protection order by the accused.— (1) A breach of protection order, or of the interim protection order, by the accused shall be an offence and shall be punished with imprisonment which may extend to one year but shall not be less than six months and with fine which may not be less than one hundred thousand rupees. The court shall order that the amount of fine shall be given to the aggrieved person. A person who is guilty of violation of protection order second or third time or more, he shall be punished with imprisonment which may extend to two years but shall not be less than one year and also be liable to fine which may not be less than two hundred thousand rupees. The court shall order that the amount of fine shall be given to the aggrieved person.

(2) Notwithstanding anything contained in the Code the offence under this section shall be cognizable, non-bailable and compoundable.

(3) Any person convicted by a court under sub-section (1) or sub-section (2) may file an appeal to the court of Session within thirty days of the passing of the order of sentence and the court of sessions shall decide the appeal within sixty days.

14. Protection Committee.— (1) The Provincial Government shall, by notification constitute a Protection Committee in every District for the purposes of this Act.

(2) A Protection Committee shall comprise of a Deputy Commissioner, Deputy Director Social Welfare, Deputy Superintendent Police (DSP), female medical officer and the Protection Officer who shall also act as the Secretary of the Protection Committee. Till such time the Protection Officer is appointed, the Deputy Director Social Welfare shall perform the duties of Protection Officer.

15. Duties and functions of Protection Committee. - The Protection Committee may:

- (a) inform the aggrieved person of her or his rights provided under this Act or any other law for the time being in force and the remedies and the help that may be provided;
- (b) assist the aggrieved person in obtaining any medical treatment necessitated due to the domestic violence;
- (c) if necessary, and with the consent of the aggrieved person, assist the aggrieved person in relocating to a safer place acceptable to the aggrieved person, which may include the house of any relative or family friend or other safe place, if any, established by a service provider;
- (d) assist the aggrieved person in the preparation of and filing of any application or report under this Act, the Code or any other law for the time being in force;
- (e) file an application for a protection order, if so desired by the aggrieved person;
- (f) coordinate with Family Conciliatory Committee in performing its duties; and
- (g) keep official record of the incidents of domestic violence in its area of jurisdiction, whether on the basis of information received or *suo moto* inquiry, irrespective of whether or not action is taken under this Act. Such record shall include:
 - (i) the first information received about the incident of domestic violence;
 - (ii) the assistance, if any, offered or provided by the Protection Committee to the aggrieved person;
 - (iii) where applicable the reason for not taking action under this Act when an incident was brought to the notice of the protection committee;
 - (iv) where applicable, the reason for the aggrieved person refusal to take

assistance from the Protection Committee;

- (v) the names and contact details of the service provider, if any, from whom the aggrieved person sought help;
- (vi) maintenance of the record of applications, protection orders and the service providers operating in the area of jurisdiction; and
- (vii) perform any other duties that may be assigned to the Protection Committee under this Act or the rules made there under.

16. Powers, privileges and immunities of Protection Committee.—(1) Members of the Protection Committee shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(2) The Protection Committee may file an application for obtaining a protection order under section 8, if so desired by the aggrieved person.

(3) The Protection Committee may procure the assistance of any person or authority; and any person or authority so required by the Protection Committee, shall be under legal obligation to provide the desired assistance to the Protection Committee.

(4) The Members of the Protection Committee shall attend the meetings of the committee. The quorum for the meeting of the Committee shall be two-third of its members.

17. Delegation of Functions and powers. - The Protection Committee may delegate any of its functions and powers to any of its member or members.

18. Protection Officer. -(1) The Provincial Government shall, by notification in the official gazette, appoint an officer not below the rank of grade 17, to act as Protection Officer in each Tehsil for the purposes of this Act.

(2) The Protection Officer shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the protection Officer shall be such as may be prescribed.

19. Duties of Protection Officer. - It shall be the duty of the Protection Officer—

- (a) to make a domestic incident report to the Protection Committee, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the Protection Committee within the local limits of whose jurisdiction domestic violence is alleged to

have been committed and to the service providers in that area;

- (b) to make an application in such form and in such manner may be prescribed to the court, if the aggrieved person so desires, claiming relief for issuance of a protection order;
- (c) to ensure that the aggrieved person is provide legal aid;
- (d) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the court;
- (e) to make available a safe place of residence, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person a shelter home to the Protection Committee;
- (f) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the Protection Committee having jurisdiction in the area where the domestic violence is alleged to have been taken place;
- (g) to ensure that the order for monetary relief under section 10 is complied with and executed in accordance with the procedure prescribed; and
- (h) to perform such other duties as may be prescribed.

20. Assistance of service provider.— In any proceeding under this Act, the court may secure the services of a service provider.

21. Powers of the service provider.— A Service Provider shall have the power to—

- (a) record the domestic incident in a prescribed form if the aggrieved person so desires, and forward a copy thereof to the Protection Officer having jurisdiction in the area where the domestic violence took place;
- (b) get the aggrieved person medically examined and forward a copy of the medical report to the protection Officer within the local limits of which the domestic violence took place;
- (c) ensure that the aggrieved person is provided shelter in a safe place of residence, if she so requires and forward a report of the lodging of the aggrieved person in a safe place of residence to the protection Committee within the local limits of the place where the domestic violence took place; and provide the aggrieved person with any aid or assistance he may so require;

- (d) record the domestic incident in a prescribed form if the aggrieved person so desires, and forward a copy thereof to the Protection Officer having jurisdiction in the area where the domestic violence took place;
- (e) get the aggrieved person medically examined and forward a copy of the medical report to the protection Officer within the local limits of which the domestic violence took place;
- (f) ensure that the aggrieved person is provided shelter in a safe place of residence, if she so requires and forward a report of the lodging of the aggrieved person in a safe place of residence to the protection Committee within the local limits of the place where the domestic violence took place; and
- (g) provide the aggrieved person with any aid or assistance he may so require.

22. Procedure.— Save as otherwise provided in this Act, all proceeding specially under sections 8, 9 and an offence under section 16 shall be governed by the Code.

23. Protection of actions taken in good faith.— No suit, prosecution or other legal proceedings shall lie against any Protection Committee, Protection Officer or service provider for anything which is in good faith done or purported to be done under this Act.

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

25. Penalty for filing a false Complaint.— Whoever gives an application to the court containing information about the commission of domestic violence which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

26. Revision.— Chapter XXXII of the Code shall apply to an order passed under sections 8, 9 and 10.

27. Power to make rules.— 27. (1) The Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely:

- (a) the form in which an application by the aggrieved person under sub-section (1) of section 5 seeking relief under this Act, may be made and the particulars which such application shall contain under sub-section (2) of that section; and
- (b) the form in which an affidavit may be filed by the aggrieved person under sub-section (2) of section 11.

(2) Notwithstanding anything contained in sub-sections (1) and (2), the Government may make rules for the appointment and functioning of the Protection Committees and Protection Officers

28. Removal of difficulties.— If any difficulty arises in giving effect to any provision of this Act, the Government may make an order not inconsistent with the provisions of this Act to remove the difficulty.

**THE BALOCHISTAN DOMESTIC VIOLENCE (PREVENTION AND
PROTECTION) RULES, 2021**

CONTENTS

Rule	Heading
	Preamble
20.	Short title, extent and commencement
21.	Definitions.
22.	Contents of the application
23.	Meeting of the Protection Committee
24.	Procedure of Appointment of Two Prominent Women at Tehsil level
25.	Duties and Functions of a Protection Committee
26.	Appointment of Protection Officer
27.	Committees of Protection Officer

THE BALOCHISTAN DOMESTIC VIOLENCE (PREVENTION AND PROTECTION) RULES, 2021

In exercise of the powers conferred by section 27 of the Domestic Violence (Prevention and Protection) Act, 2014 (Act VII of 2014) the Government of Balochistan is pleased to make the following rules, namely: -

1. Short title and Commencement. (1) These rules may be called “The Balochistan Domestic Violence (Prevention and Protection) Rules, 2021.

(2) These rules shall come into force at once.

2. Definition.—(1) In these rules, unless is anything repugnant in the subject or context,—

- (a) “Act” means the Balochistan Domestic Violence (Prevention and Protection) Act, 2014;
- (b) “Rules” means the Balochistan Domestic Violence (Prevention and Protection) Rules, 2021;
- (c) “Prominent Women” means a woman widely known having good reputation and well respected by the local community to be appointed member of the Protection Committee under section 14 of the Act;
- (d) “Interim Order” means temporary order issued under section 11 of the Act;
- (e) “Protection Committee” means the committee constituted under section 14 of the Act.

3. Contents of the application. – (1) An application under sub-section (1) of section 5 of the Act shall contain:

- (a) Name of the court in which the application is filled;
- (b) Name description and place of residence of the aggrieved person;
- (c) Domestic relationship between accused and aggrieved person;
- (d) The facts constituting the domestic violence;
- (e) The facts showing that the court has jurisdiction;

- (f) Name of witnesses and material details of evidence in support of the application (if any);
- (g) The application shall verify that the information contained in the application is true and correct to the best of knowledge and belief of the applicant;
- (h) The applicant shall sign or affix the thumb impetration on the application;
- (i) To support the application, the agreed person, under the sub-section (2) of section 11 of the Act shall file an affidavit mention is schedule-I appended with these rules.

4. Meeting of the Protection Committee.— (1) The meeting of the Protection Committee shall be held on monthly basis.

(2) A meeting shall be chaired by the Tehsildar, who shall be the chair of the committee, while the Protection Officer shall act as the Secretary of the Protection committee.

(3) The Secretary of the Protection Committee on the direction of the Tehsildar shall call a meeting of the Protection Committee and shall mention the minutes of each meeting.

(4) The Committee shall meet quarterly at such times and as such place as the Chairperson may decide.

(5) All decisions of the committee shall be authenticated by the signature of the Chairperson or any person authorized in this behalf by the Chairperson.

(6) The quorum for the meeting of the committee shall not be less than one third of the total voting strength of the committee.

(7) The decision of the committee shall be taken by the majority of the member present. In case of a tie, the chairperson of the meeting shall have the casting vote.

(8) No act or the proceedings of the committee shall be invalid on the ground merely of the existence of any vacancy in or defect in the constitution of the Committee.

(9) In case of an emergency, chairperson shall call emergency meeting to meet and respond as the situation may require. If deemed necessary, the committee may constitute a sub-committee to respond to the situation at hand.

5. Procedure of Appointment of Two Prominent Women at Tehsil level.— (1) The Director of the Women Development Department through Protection Officer invite

applications for appointment of prominent women at Tehsil level as members of the Protection Committee for a period of one year.

(2) After short listing on merit the Women Development Department shall their names of the Government, for approval.

(3) In the case of death, illness, and resignation or otherwise the Government shall appoint a woman member of the Committee in the manner provided above.

6. Duties and Functions of a Protection Committee.— The Secretary of Protection Committee shall maintain the record of every complainant and shall report the Directorate of Women Development Department on monthly basis.

7. Appointment of Protection Officer.— (1) The Protection Officer shall possess such qualification and experience and his appointment shall be made as mentioned in the Schedule II, appended with these rules, terms and conditions of the service of the Protection Officer shall be governed under the Balochistan Civil Servants Act, 1974 (Act IX of 1974) and rules made there under.

8. Duties of Protection Officer.— Under section 19 (h) of the Act, Protection Officer shall coordinate with the relevant SHO/ Representative of the area. Police Station / Levies Authorities in order to collect the date of Domestic Violence cases, as specified in schedule III; and referral desks in the area shall maintain and collect the data with regard to Domestic Violence cases, as specified in Schedule-IV appended with these rules.