

EXTRAORDINARY
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ISLAMABAD, MON AY, 'NOVEMBER 'i, "1985
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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law
Orders and Regulations

SENATE SECRETARIAT

Islamabad, the \th November, 1985

'The following Acts of Majlis-c-Shoora (Parliament) received the assent of
the President on the 9th November, 1985, and are hereby published for general
information :—

oo ACT No. XVII oF 1985

An Act further to amend the Central Law Officers Ordinance, 1970

_ WHernas it is expedient further to amend the Central Law Officers Ordinance,
1970 (VIL of 1970), for the purpose hereinafter appearing ;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Central
Law Officers (Amendment) Act, 1985.

(2) It shall come into force at once.

2. Insertion of new section 4A, Ordinance VII of 1970.—In the Central Law
Officers Ordinance, 1970 (VII of 1970), after section 4, the following new section
shall be inserted, namely :—

"4A. Central Law Officers to be deemed to be public prosecutors, etc.—
Notwithstanding anything contained in any other law for the time
being in force, all Additional Attorneys-General, Deputy Attorneys-
General and Standing Counsel shall be deemed to be public pro-
secutors and shall be competent to institute, file and conduct any
proceedings, including appeal and revision, for and on behalf of the
Federal Government before any court or tribunal, including a
special court constituted under any law. ". _ .

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Price : Ps, 60 .

(3460 Ex. Gaz.)

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ACT No. XVII or 1985 ~

An Act further to amend the Constitution of the Islamic Republic of Pakistan

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Constitution (Eight Amendment) Act, 1985.

(2) it shall come into force at once, except section 19 which shall come into force on the day on which the Proclamation of the fifth day of July, 1977, is revoked.

2. Amendment of Article 48 of the Constitution—In the Constitution of the Islamic Republic of Pakistan, hereinafter referred to as the Constitution, in Article 48,—

(a) in clause (1),—

(i) for the words “the Prime Minister, or appropriate Minister” the words “or the Prime Minister” shall be substituted ; and

(ii) for the proviso. the following shall be substituted, namely :

“Provided that the President may require the Cabinet or, as the case may be, the Prime Minister to reconsider: such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration. ” ;

(b) in clause (2), after the words “do so”, at the end, the words “and the validity of anything done by the President in his discretion shall not be called in question on any ground whatsoever ” shall be added ;

(c) clause (3) shall be omitted; and

(d) in clause (5), in paragraph (a), for the words “one. hundred.” the word “ninety ” shall be substituted. 4

3. Amendment of Article 51 of the Constitution.—In the Constitution, in Article 51, in clause (4), for the word “ second ” the word “ third ” shall be substituted.

4. Amendment of Article 56 of the Constitution—In the Constitution,.. in Article 50, for clause (3) the following shall be substituted, namely :—

“(3) At the commencement of the first session after each general

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

5. Amendment of Article 58 of the Constitution.—In the Constitution, in Article 58, — —

(a) in clause (1), in the Explanation, for the words “resolution for a vote of no-confidence has been moved” the words “ notice of a resolution for a vote of no-confidence has been given” shall be substituted ; and oe

(b) for clause (2) the following shall be substituted, namely :—

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

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(a) a vote of no-confidence having been passed against the Prime Minister, no other member of the National Assembly being likely to command the confidence of the majority of the members of the National Assembly in accordance with the provisions of the Constitution, as ascertained in a session of the National Assembly summoned for the purpose; or

(b) a situation has arisen in which the Government of the

“—Fédération Cammet be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary.”

“6, Amendment of ‘Article 59 of the Constitution.—In the Constitution, in Article 59—

(a) in clause (1), in paragraph (c), for the word “chosen” the word “elected” shall be substituted ;

fb): . in clause (3),

. GQ for paragraphs (9), +b) and <2) the following shall be substituted,

wo namely :— .

vos 4° (a)- of the members referred to in paragraph (a) of clause (1),

cae seven shall retire after the expiration of the first three years

. and seven shall retire after the expiration of the next three

wot pe years ;

nrt;)) members referred to in paragraph (b) of the afore-

. i use, four shall retire after the expiration of the first

three years and four shall retire after the expiration of the

next three years ;

(c) of the members referred to in paragraph () of the aforesaid clause, one shall retire after the expiration of the first three years and two shall retire after the expiration of the next three years ; and

setete. + €d) of the members referred to in paragraph (d) of the afore-

wee said clause,-two shall retire after the expiration of the first

three years and three shall retire after the expiration of the

next three years ;” ; and

— Gi) in the proviso, the words “ or chosen” shall be omitted ; and

(c) clause (4) shall be omitted.

7: Amendment of Article 60 of the Constitution—In the Constitution, in

Article 60, in clause 2), for the word “two” the word “three” shall be substituted.... .

8. Amendment of Article 75 of the Constitution.—In the Constitution, in Article 75,—

— fa), in clause (), for the word “forty-five” the word. “thirty” shall be substituted ; and

(b) for clause (2) the following shall be substituted, namely :— “

“(2) When the President has returned a Bill to the Majlis-e-Shoora (Parliament), it shall be reconsidered by the Majlis-e-Shoora (Parliament) in joint sitting and, if it is again passed, with or, without amendment, by the Majlis-e-Shoora (Parliament), by the “Votes of the majority of the members of both Houses present and voting, it shall be deemed for the purposes of the Constitution to have been

passed by both Houses and shall be presented to the President and the President shall not withhold assent therefrom. ”.

9. Amendment of Article 98 of the Constitution.—In the Constitution, Article 90 shall be renumbered as clause (1) of that Article and, after clause (1), renumbered as aforesaid, the following new clause shall be added, namely :—

“(2) Nothing contained in clause (1) shall—
(a) be deemed to transfer to the President any functions by any existing law on the Government of Pakistan other authority ; or

(b) prevent the Majlis-e-Shoora (Parliament) from conferring by law functions on authorities other than the President. ”.

10. Amendment of Article 91 of the Constitution.—In the Constitution, in Article 91,—

(a) after clause (2), the following new clause shall be inserted, namely :—

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

(b) in clause (3), after the brackets and figure “(2)”, the words, commas, brackets, figure and letter “or, as the case may be, invited under clause (2A)” shall be inserted ; and

(c) for clause (5) the following shall be substituted, namely :—

(5) The Prime Minister shall hold office during the pleasure of the President, but the President shall not exercise his powers under this clause unless he is satisfied that the Prime Minister does not command the confidence of the majority of the members of the National Assembly.

Assembly, in which case he shall summon the National Assembly and require the Prime Minister to obtain a vote of confidence from the Assembly. ”.

II. Amendment of Article 161 of the Constitution.—In the Constitution, in Article 101,—

- (a) in clause (1), for the words “in his discretion” the words “ after consultation with the Prime Minister ” shall be substituted ;
- (aa) in clause (2), the proviso shall be omitted ;
- (b) clause (2A) shall be omitted ; and
- (o) in clause (5), after the word “Governor”, at the end, the word: “in any contingency not provided for in this Part” shall be added.

12. Amendment of Article 105 of the Constitution.—In the Constitution, in Article 105,—

(a) in clause (1),—

(i) for the comma and words “Chief Minister or appropriate Minister” the words “or the Chief Minister” shall be substituted ;

(ii) for the first proviso, the following shall be substituted, namely :—

“ Provided that the Governor may require the Cabinet or, as the case may be, the Chief Minister to reconsider such advice, whether generally or otherwise, and the Governor shall act in

7 accordance with the advice tendered after such reconsideration.” ; and :

(iii) the second proviso shall be omitted ;

(b) in clause (2), for the comma and words “, the Cabinet or a Minister © ..the swords “or the Cabinet” shall be substituted ; and

(c) in clause (5), for the brackets and figure “(3)” the brackets and figure “(2)” shall be substituted.

13. Amendment of Article 106 of the Constitution—In the Constitution, in Article 106, in clause (4), for the word “second” the word “third” shall be substituted.

14. Amendment of Article 112 of the Constitution—in the Constitution, Article 12 shall be renumbered as clause (1) of that Article and,—

(a) in clause (1), renumbered as aforesaid, in the Explanation, for the words “resolution for a vote of no-confidence has been moved” the word “notice of a resolution for a vote of no-confidence has been given” shall be substituted ; and

(b)

after clause (i), renumbered and amended as aforesaid, the following new clause shall be added, namely :—

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

(a) a vote of no-confidence having been passed against the Chief Minister, no other member of the provincial Assembly is likely to command the confidence of the majority of the members of the Provincial Assembly in accordance with the provisions of the Constitution, as ascertained in a session of the Provincial Assembly summoned for the purpose ; or

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

15. Amendment of Article 116 of the Constitution.—In the Constitution, in Article 116,—

{a) in clause (2), for the word “ forty-five ” the word “ thirty ” "shall be substituted ; and

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408 THE GAZETTE OF PAKISTAN, EXTRA., NOV. 11, 1985 [Parr I

(b) for clause (3) the following shall be substituted, namely :— bal

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

16. Amendment of Article 130 of the Constitution.—In the Constitution, in Article 130,—

(a) after Clause 2°, the following new clause shall be inserted, namely—..

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

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

(b) in clause (3), after the brackets and figure “(2)”, the words, commas, brackets, figure and letter “or, as the case may be, invited under clause A)”, shall be inserted ; and.

(c) for clause (5) the following shall be substituted, namely :—

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

17. Amendment of Article 144 of the Constitution.—In the Constitution, in Article 144, clause (2) shall be omitted.

18. Omission of Article 152A of the Constitution.—In the Constitution, Article 152A shall be omitted.

19. Substitution of Article 270A of the Constitution.—In the Constitution, for Article 270A the following shall be substituted, namely :—

“270A. Affirmation of President's Orders, etc.—(1) The Proclamation of the fifth day of July, 1977, all President's Orders, Ordinances, Martial

Law Regulations, Martial Law Orders, including the 'Referendum Order, 1984 (P.O. No. 11 of 1984), under which, in consequence of the result of the referendum held on the nineteenth day of December, 1984, General Mohammad Zia-ul-Haq became the President of Pakistan on the day of the first meeting of the Majlis-e-Shoora (Parliament) in joint sitting for the term specified in clause (7) of Article 41, the Revival of the Constitution of 1973 Order, 1985 (P.O. No. 14 of 1985), the Constitution (Second Amendment) Order, 1985 (P.O. No. 20 of 1985), the Constitution

Amendment) Order, 1985 (P.O. No. 24 of 1985), and all other laws made between the fifth day of July, 1977, and the date on which

this Article comes into force are hereby affirmed, adopted and declared, notwithstanding any judgement of any court, to have been validly made by competent authority and, notwithstanding anything contained in the Constitution, shall not be called in question in any court on any ground whatsoever :

Provided that_a President's Order, Martial Law Regulation or Martial Law Order made"after the thirtieth day of September, 1985, shall be confined only to making such provisions as facilitate, or are incidental to, the revocation of the Proclamation of the fifth day of July, 1977.

- (2) All orders made, proceedings taken and acts done by any authority or by any person, which were made, taken or done, or purported to have been made, taken or done, between the fifth day of July, 1977, and the date on which this Article comes into force, in exercise of the powers derived from any Proclamation, President's Orders, Ordinances, Martial Law Regulations, Martial Law Orders, enactments, notifications, rules, orders or bye-laws, or in execution of or in compliance with any order made or sentence passed by any authority in the exercise or purported exercise of powers as aforesaid, shall, notwithstanding any judgement of any court, be deemed to be and always to have been validly made, taken or done and shall not be called in question in any court on any ground whatsoever.

(3) All President's Orders, Ordinances, Martial Law Regulations, Martial Law Orders, enactments, notifications, rules, orders or bye-laws in force immediately before the date on which this Article comes into force shall continue in force until altered or repealed or amended by competent authority.

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Explanation —In this clause, " competent authority" means,—

(a) in respect of President's Orders, Ordinances, Martial Law Regulations, Martial Law Orders and enactments, the appropriate Legislature ; and

(b) in respect of notifications, rules, orders and bye-laws, the authority in which the power to make, alter, repeal or amend the same vests under the law.

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

(5) For the purposes of clauses (1), (2) and (4), all orders made, proceedings taken, acts done or purporting to be made, taken or done by

any authority or person shall be deemed to have been made, taken or done in good faith and for the purpose intended to be served thereby.

(6) Such of the President's Orders and Ordinances referred to in clause (1) as are specified in the Seventh Schedule may be amended in the manner provided for amendment of the Constitution, and all other laws referred to in the said clause may be amended by the appropriate Legislature in the manner provided for amendment of such laws.

Explanation. —in this Article, "President's Orders" includes "President and Chief Martial Law Administrator's Orders" and "Chief Martial Law Administrator's Orders".".

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20, Addition of new Schedule to the Constitution—In the Constitution®, after the Sixth Schedule, the following new Schedule shall be added, namely :—

“ SEVEN1 “1 SCHEDE

[Article 270A (6).]

Laws to be amended in the manner provided for amendment of the Constitution.

PRESIDENT'S ORDERS

The Zulfiqar Ali Bhutto Trust and Peoples Foundation Trust (e-naming and Administration) Order, 1978 (P. O. No. 4 of 1978).

(2) The Cantonments (Urban Immovable Property Tax and Entertainments Duty) Order, 1979 (P. O. No. 13 of 1979).

(3) The Pakistan Defence Officers Housing Authority Order, 1980 (P. O. No. 7 of 1980).

(4) The Foreign Currency Loans (Rate of Exchange) Order, 1982 (P. O. No. 3 of 1982).

(5) The Establishment of the office of Wafagi Mohtasib (Ombudsman) Order, 1983 (P.O. No. 1 of 1983).

(6) The Aga Khan University Order, 1983 (P. O. No. 3 of 1983).

(1) The National College of Textile Engineering (Governing Body and Cess) Order, 1983 (P. O. No. 11 of 1983).

(8) The Lahore University of Management Sciences Order, 1985 (P. O. No. 25 of 1985),

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“ ORDINANCES ,

(1) The International Islamic University Ordinance, 1985 (XXX of 1985).

M. A. HAQ,
Secretary.

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CORRIGENDA

[to the : azette of Pakistan. 1985, Extravrdin-ry, Past I. dated 5th May, 1985, containing Ordinance No. XXXII of 1985]

Page 346: In fine 13 from the bottam, for * purchase of hares " read" purchise

of shares".

" 348 : In lire 2C. for " to included " read " to be included ".

340 + In line 7 from the bottom, fer " to be he * read " to be the".

352 : In line 21, for "« wholly, or " reed " w nolly or".

353 «In line 8 from the bettom, for " (Act XIV of 1960) " read " (Act XLV of 1860)".

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