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EXTRAORDINARY

"UBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, AUGUST 25, 1987

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PART I

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

SENATE SECRETARIAT

Islamabad, the 25th August, 1987

The following Acts of Majlis-e-Shoora (Parliament) received the assent of
the President on the 3rd August, 1987. and are hereby published for general
information :—

Act No. VI of 1987

An Act to amend the Literacy Ordinance, 1985

WHEREAS it is expedient to amend the Literacy Ordinance, 1985
(XXVII of 1985), for the purpose hereinafter appearing :

It is hereby enacted as follows :—

1, Short title and commencement.—(1) This Act may be called the Literacy
(Amendment) Act, 1987.

(2) It shall come into force at once,

2. Amendment of section 1, Ordinance XX VII of 1985.—In the Literacy Ordinance, 1985 (XXVII of 1985). in section 1, for sub-section (3) the following shall be substituted and shall be deemed always to have been so — substituted, namely :—

“(3) It shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint. *

(63)

Price + Rs. 1.10

14224 Ex. Gaz.]

64. THE GAZETTE OF PAKISTAN, EXTRA., AUGUST 25, 1987 [Part I

Act No. VIII of 1987

as amended

An Act further to amend the Legal Practitioners and Bar Councils Act, 1973

WHEREAS it is expedient further to amend the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

L. Short title and commencement—(1) 'This Act may be called the Legal Practitioners and Bar Councils (Amendment) Act, 1987.

(2) It shall come into force at once.

2. Amendment of section 2, Act XXXV of 1973.—In the Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1973), hereinafter referred to as the said Act, in section 2, for clause (a) the following shall be substituted, namely :—

“(a) “advocate” means an advocate entered in any roll under the provisions of this Act :”.

3. Amendment of section 11, Act XXXV of 1973.—In the said Act, in section 11, sub-section (1A) shall be omitted.

4. Amendment of section 13, Act XXXV of 1973.—In the said Act, in section 13—

(a) in sub-section (1), after clause (a), the following new clauses shall be added namely :—

“(b) to admit persons as advocates entitled to practise before the Supreme Court and to prepare and maintain a roll of such advocates and to remove advocates from such roll ;

(c) to entertain and determine cases of misconduct against advocates of the Supreme Court and to award punishment in such cases ;” +

(b) in sub-section (2), after the words “ Provincial Bar Council”, the comma and words “, the Supreme Court, Bar Association or a Bar Association at the national level” shall be inserted : and

(c) for sub-section (3) of the following shall be substituted, namely :—

“(3) The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX. of 1908). shall apply to appeals under sub-section (2).”

5. Amendment of section 16, Act XXXV of 1973.—In the said Act, in section 16, for clauses (a) and (b) the following shall be substituted, namely :—

“(a) in the case of the Pakistan Bar Council, the vacancy shall be filled by 4 persons elected in accordance with the provisions of section 11: and

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(b) in the case of a Provincial Bar Council, the vacancy shall be filled by the person who received, in the same election and from the same district or, as the case may be, group of districts, the highest number of votes next after the member the vacancy in whose seat is to be filled, or if there be no such person, by a person eligible for election to that Council from the same district or, as the case may be, group of districts who is co-opted by the Provincial Bar Council, ”.

6. Amendment of section 22, Act XXXV of 1973.—In the said Act, in section 22, for sub-section (2) the following shall be substituted, namely :—

(2) Subject to Article 207 of the Constitution and the provisions of this Act, the rules made thereunder and any other Law for the time being in force.—

{a} and advocate of the Supreme Court or a High Court shall be entitled as of right to practise throughout Pakistan, and to appear, act and plead before any court or tribunal in Pakistan ; and

(b) any other advocate shall be entitled as of right to practise throughout the Province for which the Bar Council on whose roll his name is entered has been constituted, and to appear, act and plead before any court or tribunal in such Province other than the High Court."

7, Insertion of new section 23, Act XXXV of 1973.—In the said Act, after section 22, amended as aforesaid, the following new section shall be added, namely —

“23. Preparation, etc. of roll of advocates of the Supreme Court.—The Pakistan Bar Council shall prepare and maintain a roll of advocates of the Supreme Court in which shall be entered the names of—

(a) all persons who were, as advocates, senior advocates or advocates on record, entitled to practise in the Supreme Court immediately before the commencement of the Bar Councils and Legal Practitioners (Amendment) Act, 1987 ; and

(b) all persons who are admitted as advocates of the Supreme Court under the provisions of this Act;

Provided that no person shall call himself, or hold himself out as, an Advocate of the Supreme Court until he has signed the roll of advocates kept under the Rules of the Supreme Court, and the right of a person to appear, act and plead before that Court shall be subject to the said Rules. ”.

8. Amendment of section 26, Act XXXV of 1973.—By the said Act, in sec-

tion 26, in sub-section (3),—

(a) after the word “ Council * , occurring for the first lime. the words “as an adyocate of the Supreme Court or” shall be inserted ; and

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(b) after the word and comma "Court," the words and commas " the Supreme Court or, as the case may be," shall be inserted.

9. Insertion of new section 28, Act XXXV of 1973.—In the said Act, after section 27, the following new section shall be inserted, namely :—

"28. Persons, qualified for admission as advocates of the Supreme Court.— Subject to the provisions of this Act and the rules made thereunder, # person shall be qualified to be admitted as an advocate of the Supreme Court if he fulfils such conditions as may be laid down in - this behalf from time to time by the Rules of the Supreme Court and has paid to the Pakistan Bar Council such enrolment fee as may be prescribed by that Council. ", «

10. Amendment of section 30, Act XXXV of 1973.—In the said Act, in section 30, after the word " generally", the semicolon and words " ; and an appli-

cation for admission as an advocate of the Supreme Court shall be made in the prescribed form to the Pakistan Bar Council" shall be added.

11. Amendment of section 34, Act XXXV of 1973.—In the said Act, in section 34,—

(a) in sub-section (1),—

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

"(b) fee for enrolment as an advocate of the Supreme Court, , which shall be fixed after consultation with the Supreme Court, to be paid to the Pakistan Bar Council; and"; and

(ii) in the proviso, alter the figure "24", the words, brackets, letter and figure "or clause (a) of section 23". and after the words "High Court", the words "or an advocate of the Supreme Court", shall be inserted ; and

(b) in sub-section (2), after the brackets and letter "(a)" the words, brackets and letter " or clause (b)" shall be inserted.

12. Amendment of section 35, Act XXXV of 1973.—In the said Act, in section 35, in sub-section (1).—

(a) after the words "to in", the words, brackets, letter, figure and comma * clause (a) of section 23," shall be inserted; and

(b) after the words "the High Court", the words " or-an advocate of the Supreme Court" shall be inserted. ~

13. Amendment of section 37, Act XXXV of 1973.—In the said Act, in section 37,—

(i) in the marginal heading, after the word " with", the words " Supreme

Court and” shall be inserted ; and

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Gi) ailer the figure "37, the folowing new sub-section shali be inserted, namely :—

ECL) The Pakistan Bar Council shall send to the Supreme Court an authenticated copy of the roll as prepared under section 23 and shall therealir communicate to the Supreme Court ali alterations in, and additions to, the roli as soon as-the same have been made. ”.

14. Substitution of Chapter Vil, Act XXXV of 1973.--In the said Act, for Chapter VII the following shall be substituted, namely :—

= "CHAPTER VII
CONDUCT OF ADVOCATES

41. Punishment of advocates for misconduct—(1) An advocate may, in the manner hereinafier provided, be reprimanded, suspended or removed from practice if he is found guilty of professional or other misconduct.

(2) A complaint that an advocate has been guilty of misconduct may be made by any court or person—

(a) in the case of an advocate of the Supreme Court, to the Pakistan Bar Council ; and

(b) in any other case, to the Provincial Bar Council,

(3) Every complaint against an advocate made under 'sub-section (2), except where the complaint has been made by a court, shall be accompanied by a fee of fen rupees,

(4) Upon receipt of a complaint under sub-section (2) against any advocate, the disciplinary committee of the Bar Council may, unless it summarily rejects the complaint, after making such enquiry and giving the parties such opportunity of being heard as it may consider necessary, either reject the complaint or refer the same to a Tribunal for decision :

Provided that the disciplinary committee shall not 'summarily teject a complaint made by the Supreme Court or a High Court.

(5) Any person whose complaint is rejected by the disciplinary committee under sub-section (4) may. within thirty days of the day on which the order of the committee is communicated to him, prefer an appeal to the Tribunal, whose decision in such appeal shall be final.

42. Tribunals of Bar Councils—(1) The Pakistan Bar Council may constitute one or more Tribunals each consisting of two of its Members elected by it for the purpose and a 'udge of the Supreme Court nominated by the Chief Justice of Pakistan, who shall be the Chairman.

(2)-A Provincial Bar Council may constitute one or more Tribunals each

consisting of two of its members elected by it for the purpose and a Judge of the High Court nominated by the Chief Justice of that Court, who shall be the Chairman,

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43. Procedure in inquiries.-(1) In inquiries relating to conduct of advocates, the Tribunal shall, except as hereinafter provided, follow such procedure as may be prescribed,

— (2) The Tribunal shall fix a date for the hearing of the case and shall cause notice of the day so fixed to be given to the complainant, to the advocate concerned and to the Advocate-General of the Province and shall afford to the complainant, the advocate concerned and the Advocate-General an opportunity of leading evidence, if any, and of being heard before orders are passed in the case.

(3) The Chairman of the Tribunal may empower one of the members of the Tribunal to consider and decide preliminary issues and to record evidence. .

(4) The Tribunal may, where it considers it necessary so to do, require the person making a complaint, except where the complaint has been made by a court, to deposit with the Tribunal, as security for costs, such sum as it may specify.

(5) On completion of the inquiry, the Tribunal may either dismiss the complaint or, where the complaint referred to the Tribunal was made at the motion of a Bar Council, direct that the proceedings be filed ; or it may make an order imposing any of the penalties referred to in sub-section (1) of section 41.

(6) Where the Tribunal makes an order for the suspension of an advocate from practice, it shall specify the period of suspension, and for that period the advocate shall be debarred from practising in any court or before any authority or person in Pakistan.

(7) The Tribunal may, of its own motion or on application made to it in this behalf, review any order passed under sub-section (5) and maintain, vary or rescind the same, as it thinks fit, may

(8) When any advocate is reprimanded or suspended from practice under this Act, a record of the punishment shall be entered against his name in the Provincial roll or, as the case may be, the roll of advocates of the Supreme Court maintained by the Pakistan Bar Council, and the common roll, and when an advocate is removed from practice his name shall forthwith be struck off the roll ; and the certificate of any advocate so suspended or removed shall be recalled.

44. Order as to costs--(1) A disciplinary committee and a Tribunal may make such order as to costs of proceedings before it as it may deem fit; and where the committee or, as the case may be, the Tribunal is of the opinion that a complaint made against an advocate is false and vexatious, it may, without prejudice to any other remedy available to the advocate, impose upon the complainant compensatory costs not exceeding a sum of five hundred rupees :

Provided that no order under this sub-section shall be made against a court or the presiding officer of a court. :

it may, on an application made to it in this behalf within the One month, after any order passed by a disciplinary committee under sub-section (1) or, of its own motion or on application so made, any order passed by the Tribunal under that sub-section and may, in either case, main-

tain, vary or rescind the same, as it thinks fit.

(3) Subject to sub-section (2), every order of the disciplinary committee or the Tribunal under sub-section (1) shall be executable—

(a) if the committee is appointed, or the Tribunal is constituted, by the

the Sane Bar Council, as if it were an order of the Supreme Court :-

(b) if the committee is appointed, or the Tribunal is constituted, by a Provincial Bar Council, as if it were an order of the High Court.

45. Powers of the Tribunal and disciplinary committee in inquiries (1)

For the purposes of any such inquiry as aforesaid, a disciplinary committee, and

a Tribunal shall have the same powers as are vested in a court under the Code.

of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely :—

(a) enforcing the attendance of any person,

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(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses :

Provided that the disciplinary committee, or the Tribunal shall not have power to require the attendance of the presiding officer of any civil or criminal

court save with the previous sanction of the High Court or, in the case of the

presiding officer of a Revenue Court, of the Provincial Government.

(2) Every such inquiry shall be deemed to be a judicial proceeding with in the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860), and a disciplinary committee and a Tribunal shall be deemed to be a civil court for the purpose of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(3) For the purpose of enforcing the attendance of any person or of compelling the production of documents or issuing commissions—

(a) the local limits of the jurisdiction of a disciplinary committee and a Tribunal shall be those of the jurisdiction of the Bar Council 'by which the committee has been appointed or, as the case may be, the Tribunal has been constituted : and

(b) a disciplinary committee and a Tribunal may send to any civil court having jurisdiction in the place where the committee or, as the case may be, the Tribunal is sitting, any summons or other process 'for the attendance of a witness or the production of a document required by the committee or Tribunal or any commission which it desires to issue, and the civil court shall serve such process or issue such commission, as the case may be, and may enforce any such process as if it were a process for attendance or production before itself.

(4) Proceedings before a disciplinary committee. or a Tribunal in any such inquiry shall be deemed to be civil proceedings for the purposes of Article: 15 of the Oanun-c-Shahadat, 1984 (P.O. No, 10 of 1984), and the provisions of that Article shall apply accordingly.

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46. Disciplinary powers of the Pakistan Bar Council—(1) Notwithstanding anything contained in this Chapter, the disciplinary committee of the Pakistan

Bar Council may of its own motion or on the application of any person aggrieved by an order of a Tribunal under section 43 may, within sixty days from the date on which such order is communicated to him, prefer an appeal to the Pakistan Bar

(2) In disposing of any case under this section the disciplinary committee of the Pakistan Bar Council shall observe, so far as may be, the procedure laid down in section 43, the reference to the "Advocate-General" in that section being construed as reference to the "Attorney-General for Pakistan",

(3) In disposing of any case under this section, the disciplinary committee of the Pakistan Bar Council may make any order which the Tribunal can make under section 43, and the Tribunal shall give effect to any such order,

47. Appeal to the Pakistan Bar Council—(1) Any person aggrieved by an order of a Tribunal under section 43 may, within sixty days from the date on which such order is communicated to him, prefer an appeal to the Pakistan Bar

(2) Every such appeal shall be heard by the disciplinary committee of the Pakistan Bar Council which may pass such order thereon as it may deem fit.

48. Appeal to the Supreme Court, -Any person aggrieved by an order made by the disciplinary committee of the Pakistan Bar Council under sub-section (3) of section 46 may, within sixty days from the date on which the order is communicated to him, prefer an appeal to the Supreme Court which may pass such order thereon as it may deem fit. '

49. Application of sections 5 and 12 of the Limitation Act, 1908—The provisions of sections 5 and 12 of the Limitation Act, 1908 (IX of 1908), shall, so far as may be, apply to appeals made under section 47 or section 48,

50. Stay of order—An appeal made under section 47 or section 48 shall not operate as a stay of the order appealed against but the disciplinary committee of the Pakistan Bar Council or the Supreme Court, as the case may be, may, for sufficient cause, direct the stay of such order on such terms and conditions as it may deem fit.

51. Powers of the disciplinary committee—The disciplinary committee of the Pakistan Bar Council shall have the same powers as are vested in a Tribunal by section 45 and that section shall apply to the disciplinary committee. the reference to the "Tribunal" in that section being construed as a reference to the "disciplinary committee of the Pakistan Bar Council",

52. Cost of proceedings before a disciplinary committee.—The disciplinary committee of the Pakistan Bar Council may make such order as to the costs of proceedings before it as it may deem fit and any such order shall be executable as if it were an order of the Supreme Court.

53. Review of order by disciplinary committee—The disciplinary committee

of the Pakistan Bar Council may of its own motion or otherwise review any order passed by it under this Chapter.

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54. Power of Supreme Court and High Court to suspend advocates from practice—(1) The Supreme Court or a High Court may, while making a com- under sub-section (2) of section 41 against an advocate, make an order the suspension of the advocate from practice if, after hearing such advocate, the Court is of the opinion that he has committed an act of grave indiscipline in the view of the Court or grave professional misconduct in relation to any proceed- ing before it, and his immediate suspension is expedient or necessary in the interest of administration of justice.

"Q) On a complaint made to it against an advocate by a court sub ordinate fo it, the High Court may :—

(a) 'make an order under sub-section (1) in respect of such advocate if, after hearing him, it is of the opinion that he has committed grave professional or other misconduct in relation to any proceeding before such subordinate Court and his immediate suspension, pending the proceedings before the Bar Council, is expedient or necessary in the public interest and forward the complaint to the Provincial Bar Council for action in accordance with section 41; or

(b) without making any order under sub-section (1), forward the com- plaint to the Provincial Bar Council for action in accordance with section 41; or

(ce) direct that no further action need be taken in respect of the com- plaint. ”.

15, Omission of Chapter VITA, Act XXXV of 1973.—In the said Act, Chapter VHA shall be omitted.

16, Amendment of section 55, Act XXXV of 1973.—In the said Act, in section 55—

(a) after clause (1), the following new clause shall be inserted, namely :—

*(m) the form and manner in which applications for admission as an advocate of the Supreme Court are to be made and the manner in which such applications are to be disposed of :” :

{b) in clause (0), after the word “ Court”. at the end. the words “or an advocate of the Supreme Court” shall be added . and

(c) after clause (r), the following new clause shall be inserted, namely —

* fs) the procedure to be followed by Tribunals constituted by the Pakistan Bar Council in enquiries relating to the conduct of an advocate ;”.

17, Amendment of section 56, Act XXXV of 1973.—In the said Act, in section 56, for the words and comma “ Subject to the previous approval of the Pakistan Bar Council. a” the word “A” shall be substituted.

18. Omission of section 59A, Act XXXV of 1973.—In the said Act. soction
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19. Amendment of section 59B, Act XXXV of 1973.—In the said Act, in section 59B, sub-section (2) shall be omitted.

20. Amendment of section 62, Act XXXV of 1973.—In the said Act, in section 62, in sub-section (2), in clause (a), after the words “ Supreme Court”, the words “ borne on its roll” shall be inserted.

21. Transfer of proceedings in respect of disciplinary matters—On the coming into force of the Legal Practitioners and Bar Councils (Amendment) Act, 1987, all proceedings pending before any person or authority nominated by the Chief Justice of Pakistan in respect of an advocate of the Supreme Court shall stand transferred to the Pakistan’ Bar Council and all proceedings pending before a person or authority nominated by the Chief Justice of a High Court in respect of any other advocate shall stand transferred to the Provincial Bar Council.

AZIZ AHMAD QURESHI,
Secretary.

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