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GOVERNMENT OF PAKISTAN
MINISTRY OF LAW

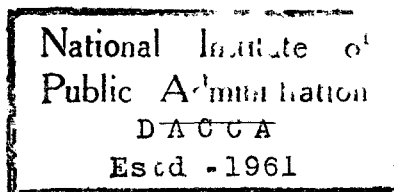


THE
UNREPEALED CENTRAL ACTS

WITH
CHRONOLOGICAL TABLE AND INDEX

VOLUME IX

From 1934 to 1939, both inclusive



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PREFACE

The Acts included in this Volume are printed as modified up to and including the 31st March, 1953.

Every reference in the Acts included in this Volume, to any other Central Act or Ordinance in force at the time of printing refers to that Act or Ordinance by its short title as in force at the time of printing.

A brief index is added at the end of the Volume.

Karachi:
The 20th May, 1953.

E. A. A. SNELSON,
Secretary
to the Government of Pakistan
in the Ministry of Law.

LIST OF ABBREVIATIONS USED

A. O., 1937	...	...	... for Government of India (Adaptation of Indian Laws) Order, 1937, as modified by the Government of India (Adaptation of Indian Laws) Supplementary Order, 1937.
A. O., 1949	...	...	... „ Adaptation of Central Acts and Ordinances Order, 1949 (G. G. O. No. 4 of 1949).
Amdt.	...	...	... „ Amendment.
Art. ...	...	...	... „ Article.
Ben. ...	...	...	... „ Bengal.
Bom.	...	...	... „ Bombay.
Ch. ...	...	...	... „ Chapter.
Cl. ...	...	...	... „ Clause.
E. B.	...	...	... „ East Bengal.
E. B. & A.	...	...	... „ Eastern Bengal and Assam.
Gen. R. & O.	...	...	... „ General Statutory Rules and Orders.
G. G. in C.	...	...	... „ Governor General in Council.
G. G. O.	...	...	... „ Governor General's Order.
G. G. of India in C.	...	...	... „ Governor General of India in Council.
G. in C.	...	...	... „ Governor in Council.
G. of I.	...	...	... „ Government of India.
Govt.	...	...	... „ Government.
Ins. ...	...	...	... „ Inserted.
L. G(s).	...	...	... „ Local Government (s).
N.-W. F. P.	...	...	... „ North-West Frontier Province.
P. ...	...	...	... „ Page.
Pp. ...	...	...	... „ Pages.
Pt. ...	...	...	... „ Part.
R. & O.	...	...	... „ Rules and Orders.
Reg. ...	...	...	... „ Regulation.
Rep. ...	...	...	... „ Repealed.
S. ...	...	...	... „ Section.
Sch. ...	...	...	... „ Schedule.
Ss. ...	...	...	... „ Sections.
Subs.	...	...	... „ Substituted.

Chronological Table of the Unrepealed Central Acts, 1934-1939

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¹ Governor-General's Act. No number was given.

Chronological Table of the Unrepealed Central Acts, 1934-1939—continued.

1 Year.	2 No.	3 Short title or Subject.	4 Page.
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	XX	The Criminal Law Amendment Act, 1938	367—
	XXIV	The Employers' Liability Act, 1938	368
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	XVI	The Registration of Foreigners Act, 1939	480
	XXVIII	The Medical Diplomas Act, 1939	483
	XXIX	The Indian Tariff (Fourth Amendment) Act, 1939	Not printed ²
	XXX	The Commercial Documents Evidence Act, 1939	484

¹ Governor-General's Act. No number was given.² Amending Act.

THE
UNREPEALED CENTRAL ACTS
VOLUME IX

THE KHADDAR (NAME PROTECTION)
ACT, 1934.

'ACT No. VIII OF 1934

[13th March, 1934]

An Act to regulate the use of the words “Khaddar” and “Khadi” when applied as a trade description of woven materials.

WHEREAS it is expedient to regulate the use of the words “Khaddar” and “Khadi” when applied as a trade description of woven materials ; It is hereby enacted as follows:—

1.—(1) This Act may be called the Khaddar (Name Protection) Act, 1934.

Short title,
extent and
commence-
ment.

²[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

(3) This section shall come into force at once, and section 2 shall come into force³ in any Province on such date as the ⁴[Central Government] may, by notification in the ⁵[official Gazette], appoint in this behalf.

2. The words “Khaddar” and “Khadi”, whether in English or in any ⁶[local] language, when applied to any woven material shall be deemed to be a trade description within the meaning of the Merchandise Marks Act, 1889, indicating that such material is cloth woven on handlooms ⁷[in Pakistan] from cotton yarn hand-spun ⁷[in Pakistan].

Words
“Khaddar”
and
“Khadi”
to be trade
description.

IV of
1889.

¹ For Statement of Objects and Reasons, see Gazette of India, 1932, Pt. V, p. 66; and for Report of Select Committee, see Gazette of India, 1933, Pt. V, pp. 255-256.

² Sub-section (2) has been amended by the A. O., 1949 and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

³ Section 2 came into force in the Punjab on the 6th August, 1934, see Punjab Gazette, 1934, Pt. I, p. 794; and in Sind on the 1st June, 1940, see Gazette of India, 1940, Pt. I, p. 797.

⁴ Subs. by the A. O., 1937, for “L. G.”.

⁵ Subs. *ibid.*, for “local official Gazette”.

⁶ Subs. by the A. O., 1949, for “Indian vernacular”.

⁷ Subs. *ibid.*, for “in India”.

THE FINANCE ACT, 1934

ACT NO. IX OF 1934

[29th March, 1934]

An Act ¹2* * *, to fix rates of income-tax and super-tax, 2* * *

WHEREAS it is expedient, ²2* * * to fix rates of income-tax and super-tax 2* * *; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the ³3* Finance Act, 1934.

⁴[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

2. [Fixation of salt duty.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Schedule II.

3. [Amendments of Schedule II and Schedule III to Act VIII of 1894.] Rep. by the Tariff Act, 1934 (XXXII of 1934), s. 13 and Schedule III.

4. [Inland postage rates.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Schedule II.

Income-tax
and super-
tax.

5.—(1) Income-tax for the year beginning on the 1st day of April, 1934, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees, by one-fourth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1934, shall, for the purposes of section 55 of the Income-tax Act, 1922, be those specified in Part II of the Second Schedule increased in each case by one-fourth of the amount of the rate.

(3) For the purposes of the Second Schedule “total income” means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, 1922.

XI of
1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in XI of Part III of the Second Schedule.

6 and 7. [Amendment of section 19, Act X of 1923. Excise duty on silver.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Schedule II.

¹ For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 90.

² Certain words rep. by the Tariff Act, 1934 (32 of 1934), s. 13 and Sch. III, and by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Sch. II.

³ The word “Indian” omitted by the Federal Laws (Revision and Declaration) Act, 1951, (26 of 1951), s. 3 and Sch. II.

⁴ Sub-section (2) has been amended by the A. O., 1949 and Act 26 of 1951 to read as above.

*SCHEDULE I.—Rep. by the Repealing and Amending Act, 1937
XX of 1937), s. 3 and Schedule II.*

SCHEDULE II

(See section 5)

PART I

Rates of Income-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—

Rate.

(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500...	Two pies in the rupee.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000...	Four pies in the rupee.
(3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000...	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Nine pies in the rupee.
(5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

PART II

Rates of Super-tax

In respect of the excess over thirty thousand rupees of total income—

(1) In the case of every company—

Rate.]

(a) In respect of the first twenty thousand rupees of such excess.

Nil.

(b) for every rupee of the remainder of such excess

One anna in the rupee.

(2)(a) in the case of every Hindu undivided family—

(i) in respect of the first forty-five thousand rupees of such excess

Nil.

(ii) for every rupee of the next twenty-five thousand rupees of such excess

One anna and three pies in the rupee.

Rates of Super-tax—contd.

	Rate.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess 	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess 	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess 	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess 	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess 	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess 	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess 	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess 	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess 	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess 	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess 	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.

PART III

Adaptations of the Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue, and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made, may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the Income-tax Officer may require, determine, by order in writing, the amount of the

1934 : Act IX]

Finance.

(*Schedule II*)

1934 : Act XI]

States (Protection) \

tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1934-35 of incomes of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1933-34.

THE STATES (PROTECTION) ACT, 1934

¹ACT NO. XI OF 1934

[20th April, 1934]

An Act to protect the Administrations of ²[Acceding States] from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations.

WHEREAS it is expedient to protect the Administrations of ²[Acceding States] from activities which tend to subvert, or to excite disaffection towards, or to obstruct such Administrations; It is hereby enacted as follows:—

1.—(1) This Act may be called the ³* States (Protection) Act, 1934.

Short title,
extent and
commence-
ment.

⁴[(2) It extends to all the Provinces and the Capital of the Federation including Baluchistan.]

(3) This section and sections 2 and 3 shall come into force at once; the remaining sections of this Act shall come into force in any district or area only when and for such time as the ⁵[Provincial Government], by notification in the ⁶[official Gazette], directs.

2. Whoever, within or without ⁷[the Provinces and the Capital of the Federation] conspires to overawe, by means of criminal force

Conspiracy
to overawe

¹ For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 112; and for Report of Select Committee, see *ibid.*, 1934, Pt. V, p. 36.

This 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.

² Subs. by the A. O., 1949, for "States in India which are under the suzerainty of His Majesty".

³ The word "Indian" omitted, *ibid.*

⁴ The original sub-section (2) has been amended by the A. O., 1949, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

⁵ Subs. by the A. O., 1937, for "L. G.".

⁶ Subs. *ibid.*, for "local official Gazette".

⁷ Subs. by the A. O., 1949, for "British India".

administration of on
Acceding State.

or the show of criminal force, the Administration of any ¹[Acceding State], shall be punished with imprisonment which may extend to seven years, to which fine may be added.

Application of Act XXIII of 1931.

3. The Press (Emergency Powers) Act, 1931, as amended by the Criminal Law Amendment Act, 1932, shall be interpreted—

(a) as if in sub-section (1) of section 4 of the Act, after clause (i) of the following word and clause were inserted, namely :—

“or

(j) to bring into hatred or contempt or to excite disaffection towards the Administration established in any ¹[Acceding State]”;

(b) as if in *Explanation 2* and *Explanation 3* to the said sub-section, after the word “Government” the words “or Administration”, and after the letter and brackets “(d)” the words, letter and brackets “or clause (j)” were inserted; and

(c) as if after *Explanation 4* to the said sub-section the following *Explanation* were inserted, namely:—

“*Explanation 5*.—Statements of fact made without malicious intention and without attempting to excite hatred, contempt or disaffection shall not be deemed to be of the nature described in clause (j) of this sub-section”.

2*

*

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Power to prohibit assemblies

4.—(1) When a District Magistrate ³* * * is of opinion that within his jurisdiction attempts are being made to promote assemblies of persons for the purpose of proceeding from ⁴[the Provinces and the Capital of the Federation] into the territory of ⁵[an Acceding State] and that the entry of such persons into the said territory or their presence therein is likely or will tend to cause obstruction to the Administration of the said State or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said territory, he may, by order in writing stating the material facts of the case, prohibit within the area specified in the order the assembly of five or more persons in furtherance of the said purpose.

(2) When an order under sub-section (1) has been made, and for so long as it remains in force, any assembly of five or more persons held in contravention of the order shall be an unlawful assembly within the meaning of section 141 of the Pakistan Penal Code, and the provisions of Chapter VIII of the Pakistan Penal Code and of Chapter IX of the Code of Criminal Procedure, 1898, shall apply accordingly.

XLV
1860
V of
1898.

(3) An order under sub-section (1) shall be notified by proclamation, published in the specified area in such places and in such manner as the Magistrate may think fit, and a copy of such order shall be forwarded to the ⁶[Provincial Government].

¹ Subs. by the A. O., 1949, for “State in India”.

² The second half of the section was omitted by the A. O., 1937.

³ The words “or in a Presidency-town the Chief Presidency Magistrate” omitted by the A. O., 1949.

⁴ Subs. *ibid.*, for “British India”.

⁵ Subs. *ibid.*, for “a State in India”.

⁶ Subs. by the A. O., 1937, for “L. G.”.

(4) No order under sub-section (1) shall remain in force for more than two months from the making thereof, unless the ¹[Provincial Government], by notification in the ²[official Gazette], otherwise directs.

5.—(1) Where, in the opinion of a District Magistrate ³* * *, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by written order stating the material facts of the case and served in the manner provided by section 134 of the Code of Criminal Procedure, 1898, direct any person to abstain from a certain act if such Magistrate considers that such direction is likely to prevent or tends to prevent obstruction to the Administration of ⁴[an Acceding State] or danger to human life or safety or a disturbance of the public tranquillity or a riot or an affray within the said State.

Power to issue directions prohibiting certain acts.

(2) An order under sub-section (1) may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex-parte*.

(3) An order under sub-section (1) may be directed to a particular individual, or to the public generally.

(4) A District Magistrate ⁵* * * may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under sub-section (1) by himself or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order; and if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

(6) No order under sub-section (1) shall remain in force for more than two months from the making thereof unless the ¹[Provincial Government], by notification in the ²[official Gazette], otherwise directs.

6.—(1) Whoever wilfully disobeys or neglects to comply with any direction contained in an order made under sub-section (1) of section 5, or in such order as altered under sub-section (4) of that section, shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

Penalty for disobeying order under section 5.

(2) An offence under this section shall be an offence for which a police-officer may arrest without warrant.

7. No Court shall take cognizance of any offence punishable under section 2 unless upon complaint made by order of, or under authority from ⁶[the Central Government, if the offence is committed outside ⁷[the Provinces and the Capital of the Federation], and the Provincial Government in other cases].

Cognizance of offences under section 2 by Courts.

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "local official Gazette".

³ The words "or in a Presidency-town the Chief Presidency Magistrate" omitted by the A. O., 1949.

⁴ Subs. *ibid.*, for "a State in India".

⁵ The words "or Presidency Magistrate" omitted, *ibid.*

⁶ Subs. by the A. O., 1937, for "the G. G. in C. or the L. G.".

⁷ Subs. by the A. O., 1949, for "British India".

THE SUGAR-CANE ACT, 1934

¹ACT No. XV OF 1934

[1st May, 1934]

An Act to regulate the price of sugar-cane intended for use in sugar factories.

WHEREAS it is expedient, for the purpose of assuring to sugar-cane growers a fair price for their produce, to regulate the price at which sugar-cane intended to be used in the manufacture of sugar may be purchased by or for factories; It is hereby enacted as follows:—

Short title,
extent and
commence-
ment.

1.—(1) This Act may be called the Sugar-cane Act, 1934.

(2) It extends to ²[all the Provinces and the Capital of the Federation], including ³[Baluchistan] ⁴ * * *.

(3) This section shall come into force at once ; the remaining sections of this Act shall come into force in any Province on such date as the ⁵[Provincial Government] may, by notification in the ⁶[official Gazette], appoint in that behalf.

Definitions.

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

(1) “controlled area” means any area specified in a notification issued under sub-section (1) of section 3;

(2) “factory” means any premises (including the precincts thereof) wherein twenty or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar is being carried on or is ordinarily carried on with the aid of power; and

(3) “sugar” means any form of sugar containing more than ninety per cent. of sucrose.

Declaration
of controlled
areas, and
fixing of
prices.

3.—(1) The ⁵[Provincial Government] may, by notification in the ⁶[official Gazette], declare any area specified in the notification to be a controlled area for the purposes of this Act.

(2) ⁷* * * the ⁵[Provincial Government] may, by notification in the ⁶[official Gazette], fix a minimum price or minimum prices for the purchase in any controlled area of sugar-cane intended for use in any factory.

(3) The ⁵[Provincial Government] may, by notification in the ⁶[official Gazette], prohibit in any controlled area the purchase of

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1934, Pt. V, p. 72. This Act has been amended in the Punjab by the Punjab Act IX of 1943.

² Subs. by the A. O., 1949, for “the whole of British India”.

³ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951). s. 8, for “British Baluchistan”.

⁴ The words “and the Sonthal Parganas” omitted by the A. O., 1949.

⁵ Subs. by the A. O., 1937, for “L. G.”.

⁶ Subs. *ibid.*, for “local official Gazette”.

⁷ The words “Subject to the control of the G. G. in C.” omitted, *ibid.*

sugar-cane intended for use in any factory otherwise than from the grower of the sugar-cane or from a person licensed by the ¹[Provincial Government] to act as a purchasing agent.

4. Not less than thirty days before the issue of any notification under sub-section (1) or sub-section (2) of section 3, the ~~¹[Provincial Government]~~ shall publish in the ~~²[official Gazette]~~ and in such other manner (if any) as it thinks fit a draft of the proposed notification specifying a date on or after which the draft will be taken into consideration, and shall consider any objection or suggestion which may be received from any person with respect to the draft before the date so specified.

Previous publication of notifications under section 3.

5. Whoever in any controlled area purchases any sugar-cane intended for use in a factory at a price less than the minimum price fixed therefor by notification under sub-section (2) of section 3 or in contravention of any prohibition made under sub-section (3) of section 3 shall be punishable with fine which may extend to two thousand rupees.

Penalty for purchase of sugar-cane in contravention of notification under section 3.

6. No Court shall take cognizance of any offence punishable under section 5 except upon complaint made by order of, or under authority from, the District Magistrate.

Sanction for prosecution under this Act.

7.—(1) The ¹[Provincial Government] may, by notification in the ²[official Gazette], make rules for the purpose of carrying into effect the objects of this Act.

Power of Provincial Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the carrying out of inquiries preliminary to the exercise of the powers conferred by section 3;
- (b) establishing Advisory Committees for any purpose connected with the administration of this Act and defining the powers, functions and procedure of such Committees;
- (c) the issue of licences to purchasing agents, the fees for such licences, and the regulation of the purchase and sale of sugar-cane by and to such agents;
- (d) the organisation of growers of sugar-cane into societies for the sale of sugar-cane to factories;
- (e) the authorities by which any functions under this Act or the rules made thereunder are to be performed; and
- (f) the records, registers and accounts to be maintained for ensuring compliance with the provisions of this Act.

(3) In making any rule under sub-section (1) or under clause (c) or clause (f) of sub-section (2), the ¹[Provincial Government] may provide that a breach of the rule shall, where no other penalty is provided by this Act, be punishable with fine not exceeding two thousand rupees.

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "local official Gazette".

Power of
Provincial
Government
to make
rules.

8. The ¹[Provincial Government] after previous publication may, by notification in the ²[official Gazette], make rules providing for the exemption of factories or any class of factories from the provisions of this Act.

THE DOCK LABOURERS ACT, 1934

³ACT No. XIX OF 1934

[19th August, 1934]

An Act to give effect in ⁴[the Provinces and the Capital of the Federation] to the Convention concerning the protection against accidents of workers employed in loading and unloading ships.

WHEREAS a Revised Draft Convention concerning the protection against accidents of workers employed in loading or unloading ships was adopted at Geneva on the twenty-seventh day of April, nineteen hundred and thirty-two;

AND WHEREAS it is expedient to give effect in ⁴[the Provinces and the Capital of the Federation] to the said Convention;

It is hereby enacted as follows:—

Short title,
extent, com-
mercement
and applica-
tion.

1.—(1) This Act may be called the ⁵* Dock Labourers Act, 1934.

(2) It extends to ⁶[all the Provinces and the Capital of the Federation].

(3) It shall come into force on such date⁷ as the ¹[Central Government] may, by notification in the ²[official Gazette], appoint.

(4) It shall not apply to any ship of war of any nationality.

Definitions.

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

(a) “the processes” includes all work which is required for or is incidental to the loading or unloading of cargo or fuel into or from a ship and is done on board the ship or alongside it; and

(b) “worker” means any person employed in the processes.

Inspectors.

3.—(1) The ⁸[Central Government] may, by notification in the ⁹[official Gazette], appoint such persons as it thinks fit to be Inspectors

¹ Subs. by the A. O., 1937 for “G. G. in C.”.

² Subs. *ibid.*, for “Gazette of India”.

³ For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 195; and for Report of Select Committee, see *ibid.*, 1934, Pt. V, p. 175.

⁴ Subs. by the A. O., 1949, for “British India”.

⁵ The word “Indian” omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and II Sch.

⁶ Subs. by the A. O., 1949, for “the whole of British India”.

⁷ The 10th February 1948, see Gazette of Pakistan, 1948, Pt. I, p. 14.

⁸ Subs. by the A. O., 1937, for “L. G.”.

⁹ Subs. *ibid.*, for “local official Gazette”.

for the purposes of this Act within such local limits as it may assign to them respectively.

(2) All Principal Officers of the Mercantile Marine Department shall be Inspectors under this Act, ex-officio, within the limits of their charges.

XLV of
1860.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code, and shall be officially subordinate to such authority as the ¹[Central Government] may direct.

4. Subject to any rules made in this behalf under section 6, an Inspector may, within the local limits for which he is appointed,—

Powers of
Inspectors.

- (a) enter, with such assistants (if any) as he thinks fit, any premises or ship where the processes are carried on;
- (b) make such examination of the premises or ship and the machinery and gear, fixed or loose, used for the processes, and of any prescribed registers and notices, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act; and
- (c) exercise any other powers which may be conferred upon him by the regulations made under section 5.

5.—(1) The ²[Central Government] may make regulations—

Power to
Central
Government
to make
regulations.

- (a) providing for the safety of working places on shore and of any regular approaches over a dock, wharf, quay or similar premises which workers have to use for going to or from a working place at which the processes are carried on, and for the lighting and fencing of such places and approaches;
- (b) prescribing the nature of the means of access which shall be provided for the use of workers proceeding to or from a ship which is lying alongside a quay, hulk or other vessel;
- (c) prescribing the measures to be taken to ensure the safe transport of workers proceeding to or from a ship by water and the conditions to be complied with by the vessels used for the purpose;
- (d) prescribing the nature of the means of access to be provided for the use of the workers from the deck of a ship to a hold in which the processes are carried on;
- (e) prescribing the measures to be taken to protect hatchways accessible to the workers and other openings in a deck which might be dangerous to them;
- (f) providing for the efficient lighting of the means of access to ships on which the processes are carried on and of all places on board at which the workers are employed or to which they may be required to proceed;
- (g) providing for the safety of the workers engaged in removing or replacing hatch coverings and beams used for hatch coverings;

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "G. G. in C.".

- (h) prescribing the measures to be taken to ensure that no hoisting machine, or gear, whether fixed or loose, used in connection therewith, is employed in the processes on shore or on board ship unless it is in a safe working condition;
- (i) providing for the fencing of machinery, live electric conductors and steam pipes;
- (j) regulating the provision of safety appliances on derricks, cranes and winches;
- (k) prescribing the precautions to be observed in regard to exhaust and live steam;
- (l) requiring the employment of competent and reliable persons to operate lifting or transporting machinery used in the processes, or to give signals to a driver of such machinery, or to attend to cargo falls on winch ends or winch drums, and providing for the employment of a signaller where this is necessary for the safety of the workers;
- (m) prescribing the measures to be taken in order to prevent dangerous methods of working in the stacking, unstacking, stowing and unstowing of cargo, or handling in connection therewith;
- (n) prescribing the precautions to be taken to facilitate the escape of the workers when employed in a hold or between decks in dealing with coal or other bulk cargo;
- (o) prescribing the precautions to be observed in the use of stages and trucks;
- (p) prescribing the precautions to be observed when the workers have to work where dangerous or noxious goods are, or have been, stowed or have to deal with or work in proximity to such goods;
- (q) providing for the rendering of first-aid to injured workers and removal to the nearest place of treatment;
- (r) prescribing the provision to be made for the rescue of immersed workers from drowning;
- (s) prescribing the abstracts of this Act and of the regulations required by section 8;
- (t) providing for the submission of notices of accidents and dangerous occurrences and prescribing the forms of such notices, the persons and authorities to whom they are to be furnished, the particulars to be contained in them and the time within which they are to be submitted;
- (u) specifying the persons and authorities who shall be responsible for compliance with regulations made under this Act;
- (v) defining the circumstances in which and conditions subject to which exemptions from any of the regulations made under this section may be given, specifying the authorities who may grant such exemptions and regulating their procedure;
- (w) defining the additional powers which Inspectors may exercise under clause (c) of section 4; and
- (x) providing generally for the safety of workers.

(2) Regulations made under this section may make special provision to meet the special requirements of any particular port or ports.

- (3) In making a regulation under this section, the ¹[Central Government] may direct that a breach of it shall be punishable with fine which may extend to five hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

6. 2* * *, the ³[Central Government] may make rules regulating—

Power to Central Government to make rules.

- (a) the inspection of premises or ships where the processes are carried on ; and
- (b) the manner in which Inspectors are to exercise the powers conferred on them by this Act.

7.—(1) The power to make regulations and rules conferred by sections 5 and 6 is subject to the condition of the regulations and rules being made after previous publication.

General provisions relating to regulations and rules.

(2) Regulations and rules shall be published in ⁴[the official Gazette].

8. There shall be affixed in some conspicuous place near the main entrance of every dock, wharf, quay or similar premises where the processes are carried on, in English and in the language of the majority of the workers, the abstracts of this Act and of the regulations made thereunder which may be prescribed by the regulations.

Abstracts of Act and regulations to be conspicuously posted.

9. Any person who—

Penalties.

- (a) wilfully obstructs an Inspector in the exercise of any power under section 4, or fails to produce on demand by an Inspector any registers or other documents kept in pursuance of the regulations made under this Act, or any gear, fixed or loose, used for the processes, or conceals or prevents or attempts to prevent any person from appearing before, or being examined by, an Inspector, or
- (b) unless duly authorised, or in case of necessity, removes any fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing required to be provided by or under the regulations made under this Act, or
- (c) having in case of necessity removed any such fencing, gangway, gear, ladder, life-saving means or appliance, light, mark, stage or other thing, omits to restore it at the end of the period for which its removal was necessary,

shall be punishable with fine which may extend to five hundred rupees.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² The words "Subject to the control of the G. G. in C." rep., *ibid.*

³ Subs. *ibid.*, for "L. G.".

⁴ Subs. *ibid.*, for "the Gazette of India and the local official Gazette, respectively".

provisions
relating to
jurisdiction.

10.—(1) No Court inferior to that of * * * a Magistrate of the first class shall try any offence under this Act or the regulations made thereunder.

(2) No prosecution for any offence under this Act or the regulations made thereunder shall be instituted except by or with the previous sanction of an Inspector.

(3) No Court shall take cognizance of any offence under this Act or the regulations made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

power to
exempt.

11. The ²[Central Government] may, by notification in the ³[official Gazette], exempt from all or any of the provisions of this Act and of the regulations made thereunder, on such conditions, if any, as ⁴[it] thinks fit,—

(a) any port or place, dock, wharf, quay or similar premises at which the processes are only occasionally carried on or the traffic is small and confined to small ships, or

(b) any specified ship or class of ship.

protection
of persons
acting under
this Act.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

THE CARRIAGE BY AIR ACT, 1934

⁵ACT No. XX OF 1934

[19th August, 1934]

An Act to give effect in ⁶[the Provinces and the Capital of the Federation] to a Convention for the unification of certain rules relating to international carriage by air.

WHEREAS a Convention for the unification of certain rules relating to international carriage by air (hereinafter referred to as the Convention) was, on the 12th day of October, 1929, signed at Warsaw;

AND WHEREAS it is expedient that ⁶[the Provinces and the Capital of the Federation] should accede to the Convention and should make provision for giving effect to the said Convention in ⁶[the Provinces and the Capital of the Federation];

¹ The words "a Presidency Magistrate or" omitted by the A. O., 1949.

² Subs. by the A. O., 1937, for "G. G. in C."

³ Subs. *ibid.*, for "Gazette of India".

⁴ Subs. *ibid.*, for "he".

⁵ For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, 78; and for Report of Select Committee, see *ibid.*, p. 189.

⁶ Subs. by the A. O. 1949, for "British India".

AND WHEREAS it is also expedient to make provision for applying the rules contained in the Convention (subject to exceptions, adaptations and modifications) to carriage by air in ¹[the Provinces and the Capital of the Federation] which is not international carriage within the meaning of the Convention;

It is hereby enacted as follows:—

1.—(1) This Act may be called the ²* Carriage by Air Act, 1934.

Short title,
extent and
commence-
ment.

³[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

(3) It shall come into force on such date⁴ as the ⁵[Central Government] may, by notification in the ⁶[official Gazette], appoint.

2.—(1) The rules contained in the First Schedule, being the provisions of the Convention relating to the rights and liabilities of carriers, passengers, consignors, consignees and other persons, shall, subject to the provisions of this Act, have the force of law in ¹[the Provinces and the Capital of the Federation] in relation to any carriage by air to which those rules apply, irrespective of the nationality of the aircraft performing the carriage.

Application
of the
Convention
to the
Provinces,
etc.

(2) The ⁵[Central Government] may, by notification in the ⁶[official Gazette], certify who are the High Contracting Parties to the Convention, in respect of what territories they are parties, and to what extent they have availed themselves of the Additional Protocol to the Convention, and any such notification shall be conclusive evidence of the matters certified therein.

(3) Any reference in the First Schedule to the territory of any High Contracting Party to the Convention shall be construed as a reference to all the territories in respect of which he is a party.

⁷[(3A) Any reference in the First Schedule to agents of the carrier shall be construed as including a reference to servants of the carrier.]

(4) Notwithstanding anything contained in the Fatal Accidents Act, 1855, or any other enactment or rule of law in force in any part of ¹[the Provinces and the Capital of the Federation], the rules contained in the First Schedule shall, in all cases to which those rules apply, determine the liability of a carrier in respect of the death of a passenger, and the rules contained in the Second Schedule shall determine the persons by whom and for whose benefit and the manner in which such liability may be enforced.

¹ Subs. by the A. O., 1949, for "British India".

² The word "Indian" omitted, *ibid.*

³ The original sub-section (2) has been amended by the A. O., 1949 and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

⁴ The 18th February, 1935, see Gazette of India, 1935, Pt. I, p. 320.

⁵ Subs. by the A. O., 1937, for "G. G. in C.".

⁶ Subs. *ibid.*, for "Gazette of India".

⁷ Ins. by the Indian Carriage by Air (Amendment) Act, 1939 (31 of 1939), section 2.

(5) Any sum in francs mentioned in rule 22 of the First Schedule shall, for the purpose of any action against a carrier, be converted into rupees at the rate of exchange prevailing on the date on which the amount of damages to be paid by the carrier is ascertained by the Court.

Provisions
regarding
suits
against
High
Contracting
Parties who
undertake
carriage by
air.

3.—(1) Every High Contracting Party to the Convention who has not availed himself of the provisions of the Additional Protocol thereto shall, for the purposes of any suit brought in a Court in ¹[the Provinces and the Capital of the Federation] in accordance with the provisions of rule 28 of the First Schedule to enforce a claim in respect of carriage undertaken by him, be deemed to have submitted to the jurisdiction of that Court and to be a person for the purposes of the Code of Civil Procedure, 1908.

V of
1908.

(2) The High Court may make rules of procedure providing for all matters which may be expedient to enable such suits to be instituted and carried on.

(3) Nothing in this section shall authorise any Court to attach or sell any property of a High Contracting Party to the Convention.

Application
of Act to
carriage by
air which is
not inter-
national.

4. The ²[Central Government] may, by notification in the ³[official Gazette], apply the rules contained in the First Schedule and any provision of section 2 to such carriage by air, not being international carriage by air as defined in the First Schedule, as may be specified in the notification, subject however to such exceptions, adaptations and modifications, if any, as may be so specified.

FIRST SCHEDULE

(See section 2)

RULES

CHAPTER I

SCOPE—DEFINITIONS

1.—(1) These rules apply to all international carriage of persons, luggage or goods performed by aircraft for reward. They apply also to such carriage when performed gratuitously by an air transport undertaking.

(2) In these rules “High Contracting Party” means a High Contracting Party to the Convention.

(3) For the purposes of these rules the expression “international carriage” means any carriage in which, according to the contract made by the parties, the place of departure and the place of destination, whether or not there be a break in the carriage or a transshipment, are situated either within the territories of two High Contracting Parties, or within the territory of a single High Contracting Party,

¹ Subs. by the A. O., 1949, for “British India”.

² Subs. by the A. O., 1937, for “G. G. in C.”.

³ Subs. *ibid.*, for “Gazette of India”.

if there is an agreed stopping place within a territory subject to the sovereignty, suzerainty, mandate or authority of another Power, even though that Power is not a party to the Convention. A carriage without such an agreed stopping place between territories subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party is not deemed to be international for the purposes of these rules.

(4) A carriage to be performed by several successive air carriers is deemed, for the purposes of these rules, to be one undivided carriage, if it has been regarded by the parties as a single operation, whether it has been agreed upon under the form of a single contract or of a series of contracts, and it does not lose its international character merely because one contract or a series of contracts is to be performed entirely within a territory subject to the sovereignty, suzerainty, mandate or authority of the same High Contracting Party.

2.—(1) These rules apply to carriage performed by the State or by legally constituted public bodies provided it falls within the conditions laid down in rule 1.

(2) These rules do not apply to carriage performed under the terms of any international postal Convention.

CHAPTER II

DOCUMENTS OF CARRIAGE

Part I.—Passenger ticket

3.—(1) For the carriage of passengers the carrier must deliver a passenger ticket which shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure, and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right, the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the carrier or carriers;
- (e) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(2) The absence, irregularity or loss of the passenger ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts a passenger without a passenger ticket having been delivered he shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

Part II.—Luggage ticket

4.—(1) For the carriage of luggage, other than small personal objects of which the passenger takes charge himself, the carrier must deliver a luggage ticket.

(2) The luggage ticket shall be made out in duplicate, one part for the passenger and the other part for the carrier.

(3) The luggage ticket shall contain the following particulars:—

- (a) the place and date of issue;
- (b) the place of departure and of destination;
- (c) the name and address of the carrier or carriers;
- (d) the number of the passenger ticket;
- (e) a statement that delivery of the luggage will be made to the bearer of the luggage ticket;
- (f) the number and weight of the packages;
- (g) the amount of the value declared in accordance with rule 22(2);
- (h) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

(4) The absence, irregularity or loss of the luggage ticket does not affect the existence or the validity of the contract of carriage, which shall none the less be subject to these rules. Nevertheless, if the carrier accepts luggage without a luggage ticket having been delivered, or if the luggage ticket does not contain the particulars set out at (d), (f) and (h) of sub-rule (3), the carrier shall not be entitled to avail himself of those provisions of this Schedule which exclude or limit his liability.

Part III.—Air consignment note

5.—(1) Every carrier of goods has the right to require the consignor to make out and hand over to him a document called an “air consignment note”; every consignor has the right to require the carrier to accept this document.

(2) The absence, irregularity or loss of this document does not affect the existence or the validity of the contract of carriage which shall, subject to the provisions of rule 9, be none the less governed by these rules.

6.—(1) The air consignment note shall be made out by the consignor in three original parts and be handed over with the goods.

(2) The first part shall be marked “for the carrier”, and shall be signed by the consignor. The second part shall be marked “for the consignee”; it shall be signed by the consignor and by the carrier and shall accompany the goods. The third part shall be signed by the carrier and handed by him to the consignor after the goods have been accepted.

(3) The carrier shall sign an acceptance of the goods.

(4) The signature of the carrier may be stamped; that of the consignor may be printed or stamped.

(5) If, at the request of the consignor, the carrier makes out the air consignment note, he shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

7. The carrier of goods has the right to require the consignor to make out separate consignment notes when there is more than one package.

8. The air consignment note shall contain the following particulars:—

- (a) the place and date of its execution;
- (b) the place of departure and of destination;
- (c) the agreed stopping places, provided that the carrier may reserve the right to alter the stopping places in case of necessity, and that if he exercises that right the alteration shall not have the effect of depriving the carriage of its international character;
- (d) the name and address of the consignor;
- (e) the name and address of the first carrier;
- (f) the name and address of the consignee, if the case so requires;
- (g) the nature of the goods;
- (h) the number of the packages, the method of packing and the particular marks or numbers upon them;
- (i) the weight, the quantity and the volume or dimensions of the goods;
- (j) the apparent condition of the goods and of the packing;
- (k) the freight, if it has been agreed upon, the date and place of payment and the person who is to pay it;
- (l) if the goods are sent for payment on delivery, the price of the goods and, if the case so requires, the amount of the expenses incurred;
- (m) the amount of the value declared in accordance with rule 22(2);
- (n) the number of parts of the air consignment note;
- (o) the documents handed to the carrier to accompany the air consignment note;
- (p) the time fixed for the completion of the carriage and a brief note of the route to be followed, if these matters have been agreed upon;
- (q) a statement that the carriage is subject to the rules relating to liability contained in this Schedule.

9. If the carrier accepts goods without an air consignment note having been made out, or if the air consignment note does not contain all the particulars set out in rule 8 (a) to (i) inclusive and (q), the carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability.

10.—(1) The consignor is responsible for the correctness of the particulars and statements relating to the goods which he inserts in the air consignment note.

(2) The consignor will be liable for all damage suffered by the carrier or any other person by reason of the irregularity, incorrectness or incompleteness of the said particulars and statements.

11.—(1) The air consignment note is *prima facie* evidence of the conclusion of the contract, of the receipt of the goods and of the conditions of carriage.

(2) The statements in the air consignment note relating to the weight, dimensions and packing of the goods, as well as those relating to the number of packages, are *prima facie* evidence of the facts stated; those relating to the quantity, volume and condition of the goods do not constitute evidence against the carrier except so far as they both have been, and are stated in the air consignment note to have been, checked by him in the presence of the consignor, or relate to the apparent condition of the goods.

12.—(1) Subject to his liability to carry out all his obligations under the contract of carriage, the consignor has the right to dispose of the goods by withdrawing them at the aerodrome of departure or destination, or by stopping them in the course of the journey on any landing, or, by calling for them to be delivered at the place of destination or in the course of the journey to a person other than the consignee named in the air consignment note, or by requiring them to be returned to the aerodrome of departure. He must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and he must repay any expenses occasioned by the exercise of this right.

(2) If it is impossible to carry out the orders of the consignor the carrier must so inform him forthwith.

(3) If the carrier obeys the orders of the consignor for the disposition of the goods without requiring the production of the part of the air consignment note delivered to the latter, he will be liable, without prejudice to his right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air consignment note.

(4) The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with rule 13. Nevertheless, if the consignee declines to accept the consignment note or the goods, or if he cannot be communicated with, the consignor resumes his right of disposition.

13.—(1) Except in the circumstances set out in rule 12, the consignee is entitled, on arrival of the goods at the place of destination, to require the carrier to hand over to him the air consignment note and to deliver the goods to him, on payment of the charges due and on complying with the conditions of carriage set out in the air consignment note.

(2) Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the goods arrive.

(3) If the carrier admits the loss of the goods, or if the goods have not arrived at the expiration of seven days after the date on which they ought to have arrived, the consignee is entitled to put into force against the carrier the rights which flow from the contract of carriage.

14. The consignor and the consignee can respectively enforce all the rights given them by rules 12 and 13, each in his own name, whether he is acting in his own interest or in the interest of another, provided that he carries out the obligations imposed by the contract.

15.—(1) Rules 12, 13 and 14 do not affect either the relations of the consignor or the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.

(2) The provisions of rules 12, 13 and 14 can only be varied by express provision in the air consignment note.

16.—(1) The consignor must furnish such information and attach to the air consignment note such documents as are necessary to meet the formalities of customs, octroi or police before the goods can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier or his agents.

(2) The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

CHAPTER III

LIABILITY OF THE CARRIER

17. The carrier is liable for damage sustained in the event of the death or wounding of a passenger or any other bodily injury suffered by a passenger, if the accident which caused the damage so sustained took place on board the aircraft or in the course of any of the operations of embarking or disembarking.

18.—(1) The carrier is liable for damage sustained in the event of the destruction or loss of, or of damage to, any registered luggage or any goods, if the occurrence which caused the damage so sustained took place during the carriage by air.

(2) The carriage by air within the meaning of the preceding paragraph comprises the period during which the luggage or goods are in charge of the carrier, whether in an aerodrome or on board an aircraft, or, in the case of a landing outside an aerodrome, in any place whatsoever.

(3) The period of the carriage by air does not extend to any carriage by land, by sea or by river performed outside an aerodrome. If, however, such a carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.

19. The carrier is liable for damage occasioned by delay in the carriage by air of passengers, luggage or goods.

20.—(1) The carrier is not liable if he proves that he and his agents have taken all necessary measures to avoid the damage or that it was impossible for him or them to take such measures.

(2) In the carriage of goods and luggage the carrier is not liable if he proves that the damage was occasioned by negligent pilotage or negligence in the handling of the aircraft or in navigation and that, in all other respects, he and his agents have taken all necessary measures to avoid the damage.

21. If the carrier proves that the damage was caused by or contributed to by the negligence of the injured person the Court may exonerate the carrier wholly or partly from his liability.

22.—(1) In the carriage of passengers the liability of the carrier for each passenger is limited to the sum of 125,000 francs. Where damages may be awarded in the form of periodical payments, the equivalent capital value of the said payments shall not exceed 125,000 francs. Nevertheless, by special contract the carrier and the passenger may agree to a higher limit of liability.

(2) In the carriage of registered luggage and of goods, the liability of the carrier is limited to a sum of 250 francs per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of the value at delivery and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless he proves that that sum is greater than the actual value to the consignor at delivery.

(3) As regards objects of which the passenger takes charge himself the liability of the carrier is limited to 5,000 francs per passenger.

(4) The sums mentioned in this rule shall be deemed to refer to the French franc consisting of 65½ milligrams gold of millesimal fineness 900.

23. Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in these rules shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Schedule.

24.—(1) In the cases covered by rules 18 and 19 any action for damages, however founded, can only be brought subject to the conditions and limits set out in this Schedule.

(2) In the cases covered by rule 17 the provisions of sub-rule (1) also apply, without prejudice to the questions as to who are the persons who have the right to bring suit and what are their respective rights.

25.—(1) The carrier shall not be entitled to avail himself of the provisions of this Schedule which exclude or limit his liability, if the damage is caused by his wilful misconduct or by such default on his part as is in the opinion of the Court equivalent to wilful misconduct.

(2) Similarly the carrier shall not be entitled to avail himself of the said provisions, if the damage is caused as aforesaid by any agent of the carrier acting within the scope of his employment.

26.—(1) Receipt by the person entitled to delivery of luggage or goods without complaint is *prima facie* evidence that the same have been delivered in good condition and in accordance with the document of carriage.

(2) In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within three days from the date of receipt in the case of luggage and seven days from the date of receipt in the case of goods. In the case of delay the complaint must be made at the latest within fourteen days from the date on which the luggage or goods have been placed at his disposal.

(3) Every complaint must be made in writing upon the document of carriage or by separate notice in writing despatched within the times aforesaid.

(4) Failing complaint within the times aforesaid, no action shall lie against the carrier, save in the case of fraud on his part.

27. In the case of the death of the person liable, an action for damages lies in accordance with these rules against those legally representing his estate.

28. An action for damages must be brought at the option of the plaintiff, either before the Court having jurisdiction where the carrier is ordinarily resident, or has his principal place of business, or has an establishment by which the contract has been made or before the Court having jurisdiction at the place of destination.

29. The right of damages shall be extinguished if an action is not brought within two years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

30.—(1) In the case of carriage to be performed by various successive carriers and falling within the definition set out in sub-rule (4) of rule 1, each carrier who accepts passengers, luggage or goods is subjected to the rules set out in this Schedule, and is deemed to be one of the contracting parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under his supervision.

(2) In the case of carriage of this nature, the passenger or his representative can take action only against the carrier who performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.

(3) As regards luggage or goods, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignee who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier who performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passenger or to the consignor or consignee.

CHAPTER IV

PROVISIONS RELATING TO COMBINED CARRIAGE

31.—(1) In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this

Schedule apply only to the carriage by air, provided that the carriage by air falls within the terms of rule 1.

(2) Nothing in this Schedule shall prevent the parties in the case of combined carriage from inserting in the document of air carriage conditions relating to other modes of carriage, provided that the provisions of this Schedule are observed as regards the carriage by air.

CHAPTER V

GENERAL AND FINAL PROVISIONS

32. Any clause contained in the contract and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Schedule, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void. Nevertheless for the carriage of goods arbitration clauses are allowed, subject to these rules, if the arbitration is to take place in the territory of one of the High Contracting Parties within one of the jurisdictions referred to in rule 28.

33. Nothing contained in this Schedule shall prevent the carrier either from refusing to enter into any contract of carriage, or from making regulations which do not conflict with the provisions of this Schedule.

34. This Schedule does not apply to international carriage by air performed by way of experimental trial by air navigation undertakings with the view to the establishment of a regular line of air navigation, nor does it apply to carriage performed in extraordinary circumstances outside the normal scope of an air carrier's business.

35. The expression "days" when used in these rules means current days, not working days.

36. When a High Contracting Party has declared at the time of ratification of or of accession to the Convention that the first paragraph of Article 2 of the Convention shall not apply to international carriage by air performed directly by the State, its colonies, protectorates or mandated territories or by any other territory under its sovereignty, suzerainty or authority, these rules shall not apply to international carriage by air so performed.

SECOND SCHEDULE

(*See section 2*)

PROVISIONS AS TO LIABILITY OF CARRIERS IN THE EVENT OF THE DEATH OF A PASSENGER.

1. The liability shall be enforceable for the benefit of such of the members of the passenger's family as sustained damage by reason of his death.

In this rule the expression "member of a family" means wife or husband, parent, step-parent, grandparent, brother, sister, half-brother, half-sister, child, step-child, grandchild:

Provided that, in deducing any such relationship as aforesaid any illegitimate person and any adopted person shall be treated as being,

or as having been, the legitimate child of his mother and reputed father or, as the case may be, of his adopters.

2. An action to enforce the liability may be brought by the personal representative of the passenger or by any person for whose benefit the liability is under the last preceding rule enforceable, but only one action shall be brought in ¹[the Provinces and the Capital of the Federation] in respect of the death of any one passenger, and every such action by whomsoever brought shall be for the benefit of all such persons so entitled as aforesaid as either are domiciled in ¹[the Provinces and the Capital of the Federation], or, not being domiciled there, express a desire to take the benefit of the action.

3. Subject to the provisions of the next succeeding rule the amount recovered in any such action, after deducting any costs not recovered from the defendant, shall be divided between the persons entitled in such proportions as the Court may direct.

4. The Court before which any such action is brought may at any stage of the proceedings make any such order as appears to the Court to be just and equitable in view of the provisions of the First Schedule to this Act limiting the liability of a carrier and of any proceedings which have been, or are likely to be, commenced outside ¹[the Provinces and the Capital of the Federation] in respect of the death of the passenger in question.

THE AIRCRAFT ACT, 1934

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¹ Subs. by the A. O., 1949, for " British India".

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ACT NO. XXII OF 1934

[19th August, 1934]

An Act to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft.

WHEREAS it is expedient to make better provision for the control of the manufacture, possession, use, operation, sale, import and export of aircraft; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the ²* Aircraft Act, 1934.

(2) It extends to ³[all the Provinces and the Capital of the Federation], including ⁴[Baluchistan] ⁵* * * ⁶[and applies also—

(a) to British subjects and servants of the Crown in any part of ⁷[Pakistan].

(b) to British subjects who are domiciled in any part of ⁷[Pakistan] wherever they may be;

¹ For Statement of Objects and Reasons, see Gazette of India, 1934, Pt.-V, p. 82; for Report of Select Committee, see *ibid.*, p. 195.

For temporary amendment of this Act during the continuation of the last war, see the Defence of India Act, 1939 (35 of 1939), s. 6, which expired on 30th September, 1946.

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., subject to certain modifications, see N.-W. F. P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950; 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.

² The word "Indian" omitted by the A. O., 1949.

³ Subs. *ibid.*, for "the whole of British India".

⁴ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, for "British Baluchistan".

⁵ The words "and the Sonthal Parganas" omitted by the A. O., 1949.

⁶ Added by the Indian Aircraft (Amendment) Act, 1939 (37 of 1939), s. 2.

⁷ Subs. by the A. O., 1949, for "India".

- (c) to, and to persons on, aircraft registered ¹[in any Province] wherever they may be].

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

- (1) "aircraft" means any machine which can derive support in the atmosphere from reactions of the air, and includes balloons whether fixed or free, airships, kites, gliders and flying machines;
- (2) "aerodrome" means any definite or limited ground or water area intended to be used, either wholly or in part, for the landing or departure of aircraft, and includes all buildings, sheds, vessels, piers and other structures thereon or appertaining thereto;
- (3) "import" means bringing into ²[the Provinces and the Capital of the Federation]; and
- (4) "export" means taking out of ²[the Provinces and the Capital of the Federation].

3. The ³[Central Government] may, by notification in the ⁴[official Gazette], exempt from ⁵[all or any of the provisions of this Act] any aircraft or class of aircraft and any person or class of persons, or may direct that such provisions shall apply to such aircraft or persons subject to such modifications as may be specified in the notification. Power of Central Government to exempt certain aircraft.

⁶[4. The Central Government may, by notification in the official Gazette, make such rules as appear to it to be necessary for carrying out the provisions of the Convention on International Civil Aviation signed in Chicago on the 7th December, 1944 with an Additional Protocol signed at Montreal on the 27th May, 1947 and any amendment which may be made thereto under the provision of Article 94 thereof.] Power of Central Government to make rules to implement the Convention of 1944.

5.—(1) The ³[Central Government] may, by notification in the ⁴[official Gazette], make rules regulating the manufacture, possession, use, operation, sale, import or export of any aircraft or class of aircraft. Power of Central Government to make rules.

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

- (a) the authorities by which any of the powers conferred by or under this Act are to be exercised;

¹ Subs. by the A. O., 1949, for "in British India".

² Subs. *ibid.*, for "British India".

³ Subs. by the A. O., 1937, for "G. G. in C.".

⁴ Subs. *ibid.*, for "Gazette of India".

⁵ Subs. by the Indian Aircraft (Amendment) Act, 1939 (37 of 1939), s. 3, for "the provisions of this Act and of the rules made thereunder, or from any of such provisions,".

⁶ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., for the original section 4.

- ¹[(*aa*) the regulation of air transport services, and the prohibition of the use of aircraft in such services except under the authority of and in accordance with a licence authorising the establishment of the service;
- (*ab*) the information to be furnished by an applicant for, or the holder of, a licence authorising the establishment of an air transport service to such authorities as may be specified in the rules;]
- (*b*) the licensing, inspection and regulation of aerodromes, the conditions under which aerodromes may be maintained and the fees which may be charged thereat, and the prohibition or regulation of the use of unlicensed aerodromes;
- (*c*) the inspection and control of the manufacture, repair and maintenance of aircraft and of places where aircraft are being manufactured, repaired or kept;
- (*d*) the registration and marking of aircraft;
- (*e*) the conditions under which aircraft may be flown, or may carry passengers, mails or goods; or may be used for industrial purposes and the certificates, licences or documents to be carried by aircraft;
- (*f*) the inspection of aircraft for the purpose of enforcing the provisions of this Act and the rules thereunder, and the facilities to be provided for such inspection;
- (*g*) the licensing of persons employed in the operation, manufacture, repair or maintenance of aircraft;
- (*h*) the air-routes by which and the conditions under which aircraft may enter or leave ²[the Provinces and the Capital of the Federation], or may fly over ²[the Provinces and the Capital of the Federation], and the places at which aircraft shall land;
- (*i*) the prohibition of flight by aircraft over any specified area, either absolutely or at specified times or subject to specified conditions and exceptions;
- (*j*) the supply, supervision and control of air-route beacons, aerodrome lights, and lights at or in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes;
- ³[(*jj*) the installation and maintenance of lights on private property in the neighbourhood of aerodromes or on or in the neighbourhood of air-routes, by the owners or occupiers of such property, the payment by the Central Government for such installation and maintenance, and the supervision and control of such installation and maintenance, including the right of access to the property for such purposes;]
- (*k*) the signals to be used for purposes of communication by or to aircraft and the apparatus to be employed in signalling;

¹ Clauses (*aa*) and (*ab*) ins. by the Indian Aircraft (Amendment) Act, 1944 (5 of 1944), s. 2.

² Subs. by the A. O., 1949, for "British India".

³ Clause (*jj*) ins. by the Indian Aircraft (Amendment) Act, 1939 (37 of 1939), section 4.

- (l) the prohibition and regulation of the carriage in aircraft of any specified article or substance;
- (m) the measures to be taken and the equipment to be carried for the purpose of ensuring the safety of life;
- (n) the issue and maintenance of log-books;
- (o) the manner and conditions of the issue or renewal of any licence or certificate under the Act or the rules, the examinations and tests to be undergone in connection therewith, the form, custody, production, endorsement, cancellation, suspension or surrender of such licence or certificate, or of any log-book;
- (p) the fees to be charged in connection with any inspection, examination, test, certificate or licence, made, issued or renewed under this Act;
- (q) the recognition for the purposes of this Act of licences and certificates issued elsewhere than in ¹[the Provinces and the Capital of the Federation] relating to aircraft or to the qualifications of persons employed in the operation, manufacture, repair or maintenance of aircraft; and
- (r) any matter subsidiary or incidental to the matters referred to in this sub-section.

²[(3) Every rule made under this section shall be laid as soon as may be after it is made before ³* * * the Central Legislature, while it is in session, for a total period of one month which may be comprised in one session or in two or more sessions, and if before the expiry of that period, ⁴[the Legislature modifies the rule or directs] that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.]

Rules to be laid before the Central Legislature.

6.—(1). If the ⁵[Central Government] is of opinion that in the interests of the public safety or tranquillity the issue of all or any of the following orders is expedient, ⁶[it] may, by notification in the ⁷[official Gazette],—

Power of Central Government to make orders in emergency.

- (a) cancel or suspend, either absolutely or subject to such conditions as ⁶[it] may think fit to specify in the order, all or any licences or certificates issued under this Act;
- (b) prohibit, either absolutely or subject to such conditions as ⁶[it] may think fit to specify in the order, or regulate in such manner as may be contained in the order, the flight of all or any aircraft or class of aircraft over the whole or any portion of ¹[the Provinces and the Capital of the Federation];

¹ Subs. by the A. O., 1949, for "British India".

² Sub-section (3) added by the Indian Aircraft (Amendment) Act, 1944 (5 of 1944), s. 3.

³ The words "each of the Chambers of" omitted by the A. O., 1949.

⁴ Subs. *ibid.*, for "or where the period for which the rule is so laid, before one Chamber does not coincide with that for which it is so laid before the other, before the expiry of the later of these periods, both Chambers agree in making any modification in the rule or both Chambers agree".

⁵ Subs. by the A. O., 1937, for "G. G. in C.".

⁶ Subs. *ibid.*, for "he".

⁷ Subs. *ibid.*, for "Gazette of India".

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- (c) prohibit, either absolutely or conditionally, or regulate the erection, maintenance or use of any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, or any class or description thereof; and
- (d) direct that any aircraft or class of aircraft or any aerodrome, aircraft factory, flying-school or club, or place where aircraft are manufactured, repaired or kept, together with any machinery, plant, material or things used for the operation, manufacture, repair or maintenance of aircraft shall be delivered, either forthwith or within a specified time, to such authority and in such manner as ¹[it] may specify in the order, to be at the disposal of His Majesty for the public service.

(2) Any person who suffers direct injury or loss by reason of any order made under clause (c) or clause (d) of sub-section (1) shall be paid such compensation as may be determined by such authority as the ²[Central Government] may appoint in this behalf.

(3) The ²[Central Government] may authorise such steps to be taken to secure compliance with any order made under sub-section (1) as appear to ³[it] to be necessary.

(4) Whoever knowingly disobeys, or fails to comply with, or does any act in contravention of, an order made under sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and the Court by which he is convicted may direct that the aircraft or thing (if any) in respect of which the offence has been committed, or any part of such thing, shall be forfeited to His Majesty.

Power of
Central
Government
to make
rules for
investigation
of accidents.

7.—(1) The ²[Central Government] may, by notification in the ⁴[official Gazette], make rules providing for the investigation of any accident arising out of or in the course of ⁵[the navigation—

- (a) in or over ⁶[the Provinces and the Capital of the Federation] of any aircraft, or
- (b) anywhere of aircraft registered in ⁶[the Provinces and the Capital of the Federation]].

(2) Without prejudice to the generality of the foregoing power, such rules may—

- (a) require notice to be given of any accident in such manner and by such person as may be prescribed;
- (b) apply for the purposes of such investigation, either with or without modification, the provisions of any law for the time being in force relating to the investigation of accidents;

¹ Subs. by the A. O., 1937, for "he".

² Subs. *ibid.*, for "G. G. in C.".

³ Subs. *ibid.*, for "him".

⁴ Subs. *ibid.*, for "Gazette of India".

⁵ Subs. by the Indian Aircraft (Amendment) Act, 1939 (37 of 1939), s. 5, for "air navigation in or over British India".

⁶ Subs. by the A. O., 1949, for "British India".

- (c) prohibit pending investigation access to or interference with aircraft to which an accident has occurred, and authorise any person so far as may be necessary for the purposes of an investigation to have access to, examine, remove, take measures for the preservation of, or otherwise deal with any such aircraft; and
- (d) authorise or require the cancellation, suspension, endorsement or surrender of any licence or certificate granted or recognised under this Act when it appears on an investigation that the licence ought to be so dealt with, and provide for the production of any such licence for such purpose.

8.—(1) Any authority authorised in this behalf by the ¹[Central Government] may detain any aircraft, if in the opinion of such authority—

Power to detain aircraft.

- (a) having regard to the nature of an intended flight, the flight of such aircraft would involve danger to persons in the aircraft or to any other persons or property; or
- (b) such detention is necessary to secure compliance with any of the provisions of this Act or the rules applicable to such aircraft; or such detention is necessary to prevent a contravention of any rule made under clause (h) or clause (i) of sub-section (2) of section 5.

(2) The ¹[Central Government] may, by notification in the ²[official Gazette], make rules regulating all matters incidental or subsidiary to the exercise of this power.

³8A. The ¹[Central Government] may, by notification in the ²[official Gazette], make rules for the prevention of danger arising to the public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome and in particular and without prejudice to the generality of this provision may make, with respect to aircraft and aerodromes or any specified aerodrome, rules providing for any of the matters for which rules under sub-clauses (i) to (viii) of clause (p) of sub-section (1) of section 6 of the Ports Act, 1908, may be made with respect to vessels and ports.]

Power of Central Government to make rules for protecting the public health.

XV of 1908.

⁴8B.—(1) If the Central Government is satisfied that ⁵[Pakistan] or any part thereof is visited by or threatened with an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force are insufficient for the prevention of danger arising to the public health through the introduction or spread of the disease by the agency of aircraft, the Central Government may take such measures as it deems necessary to prevent such danger.

Emergency powers for protecting the public health.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. *ibid.*, for "Gazette of India".

³ Section 8A ins. by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), section 2.

⁴ Section 8B ins. by the Indian Aircraft (Amendment) Act, 1938 (22 of 1938), section 2.

⁵ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., for "India".

(2) In any such case the Central Government may, without prejudice to the powers conferred by section 8A, by notification in the official Gazette, make such temporary rules with respect to aircraft and persons travelling or things carried therein and aerodromes as it deems necessary in the circumstances.

(3) Notwithstanding anything contained in section 14, the power to make rules under sub-section (2) shall not be subject to the condition of the rules being made after previous publication, but such rules shall not remain in force for more than three months from the date of notification:

Provided that the Central Government may by special order continue them in force for a further period or periods of not more than three months in all.]

Wreck and
Salvage.

9.—(1) The provisions of Part VII of the Merchant Shipping Act, XXI, of 1923, relating to Wreck and Salvage shall apply to aircraft on or over the sea or tidal waters as they apply to ships, and the owner of an aircraft shall be entitled to a reasonable reward for salvage services rendered by the aircraft in like manner as the owner of a ship.

(2) The ¹[Central Government] may, by notification in the ²[official Gazette], make such modifications of the said provisions in their application to aircraft as appear necessary or expedient.

Penalty for
act in con-
travention
of rule
made under
this Act.

10. In making any rule under section 5, section 7,³[section 8, section 8A or section 8B] the ¹[Central Government] may direct that a breach of it shall be punishable with imprisonment for any term not exceeding three months, or with fine of any amount not exceeding one thousand rupees, or with both.

Penalty for
flying so as
to cause
danger.

11. Whoever wilfully flies any aircraft in such a manner as to cause danger to any person or to any property on land or water or in the air shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for
abetment
of offences
and
attempted
offences.

12. Whoever abets the commission of any offence under this Act or the rules, or attempts to commit such offence, and in such attempt does any act towards the commission of the offence, shall be liable to the punishment provided for the offence.

Power of
Court to
order
forfeiture.

13. Where any person is convicted of an offence punishable under any rule made under clause (i) or clause (l) of sub-section (2) of section 5, the Court by which he is convicted may direct that the aircraft or article or substance, as the case may be, in respect of which the offence has been committed, shall be forfeited to His Majesty.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. *ibid.*, for "Gazette of India".

³ The original words and figure "or section 8" have been successively amended by the Indian Aircraft (Amendment) Act, 1936 (7 of 1936), s. 3, and the Indian Aircraft (Amendment) Act, 1938 (22 of 1938), s. 3, to read as above.

14. Any power to make rules conferred by this Act is subject to the condition of the rules being made after previous publication for a period of not less than ²[three weeks]. Rules to be made after publication.
- II of 1911. 15. The provisions of section 42 of the Patents and Designs Act, 1911, shall apply to the use of an invention on any aircraft not registered in ³[the Provinces and the Capital of the Federation] in like manner as they apply to the use of an invention in a foreign vessel. Use of patented invention on aircraft not required in the Provinces, etc.
- VIII of 1878. 16. The ⁴[Central Government] may, by notification in the ⁵[official Gazette], declare that any or all of the provisions of the Sea Customs Act, 1878, shall, with such modifications and adaptations as may be specified in the notification, apply to the import and export of goods by air. Power to apply customs procedure.
17. No suit shall be brought in any Civil Court in respect of trespass or in respect of nuisance by reason only of the flight of aircraft over any property at a height above the ground which having regard to wind, weather and all the circumstances of the case is reasonable, or by reason only of the ordinary incidents of such flight. Bar of certain suits.
18. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. Saving for acts done in good faith under the Act.
- 19.—(1) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any aircraft belonging to or exclusively employed in His Majesty's naval, military or air forces, or to any person in such forces employed in connection with such aircraft. Saving of application of Act.
- XVII of 1927. (2) Nothing in this Act or in any order or rule made thereunder shall apply to or in respect of any lighthouse to which the Lighthouse Act, 1927, applies or prejudice or affect any right or power exercisable by any authority under that Act.
20. [Repeals.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.*

¹ Section 14 remained suspended for six months from 15th August, 1947—see the Indian Aircraft Act, 1934 (Amendment) Order, 1947, Art. 4.

² Subs. by the Aircraft (Amendment) Ordinance, 1949 (6 of 1949), s. 2, for "three months".

³ Subs. by the A. O., 1949, for "British India".

⁴ Subs. by the A. O., 1937, for "G. G. in C.".

⁵ Subs. *ibid.*, for "Gazette of India".

THE FACTORIES ACT, 1934

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ACT NO. XXV OF 1934

[20th August, 1934]

An Act to consolidate and amend the law regulating labour in factories

WHEREAS it is expedient to consolidate and amend the law regulating labour in factories; It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

- 1.—(1) This Act may be called the Factories Act, 1934.
- 2[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]
- (3) It shall come into force on the 1st day of January, 1935.

Short title,
extent and
commence-
ment.

¹ For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, pp. 175 and 176; and for Report of Select Committee, see *ibid.*, 1934, Pt. V, pp. 44 and 45.

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., subject to certain modifications, see N.-W. F. P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950, 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.

The Act in its application in the Punjab has been amended by the Factories (Punjab Amendment) Act, 1940 (Punjab 7 of 1940), in N.-W. F. P., by the Factories (North-West Frontier Province Amendment) Act, 1946 (N.-W.F.P. 7 of 1947), and also temporarily in Bengal by the Bengal Civic Guards and Collective Fines Continuance Ordinance, 1946, (Ben. 2 of 1946).

² Sub-section (2) has been successively amended by the A. O., 1949, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

Definitions.

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

- (a) “adolescent” means a person who has completed his fifteenth but has not completed his seventeenth year;
 - (b) “adult” means a person who has completed his seventeenth year;
 - (c) “child” means a person who has not completed his fifteenth year;
 - (d) “day” means a period of twenty-four hours beginning at midnight;
 - (e) “week” means a period of seven days beginning at midnight on Saturday night;
 - (f) “power” means electrical energy, and any other form of energy which is mechanically transmitted and is not generated by human or animal agency;
 - (g) “manufacturing process” means any process—
 - (i) for making, altering, repairing, ornamenting, finishing or packing, or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal, or
 - (ii) for pumping oil, water or sewage, or
 - (iii) for generating, transforming or transmitting power;
 - (h) “worker” means a person employed, whether for wages or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work whatsoever incidental to or connected with the manufacturing process or connected with the subject of the manufacturing process, but does not include any person solely employed in a clerical capacity in any room or place where no manufacturing process is being carried on;
 - (j) “factory” means any premises including the precincts thereof whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the IV of 1923. Mines Act, 1923;
 - (k) “machinery” includes all plant whereby power is generated, transformed, transmitted or applied;
 - (l) “occupier” of a factory means the person who has ultimate control over the affairs of the factory:
- Provided that where the affairs of a factory are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;
- (m) where work of the same kind is carried out by two or more sets of workers working during different periods of the day, each of such sets is called a “relay”, and the period or periods for which it works is called a “shift”; and

(n) "prescribed" means prescribed by rules made by the [Provincial Government] under this Act.

3. References to time of day in this Act are references—

2* * *, 3* *, to Indian Standard Time, which is five and a half hours ahead of Greenwich Mean Time, 4* * *

References to time of day.

Provided that for any area 6* * * in which Indian Standard Time is not ordinarily observed the [Provincial Government] may make rules—

- (i) specifying the area,
- (ii) defining the local mean time ordinarily observed therein, and
- (iii) permitting such time to be observed in all or any of the factories situated in the area.

4.—(1) For the purposes of this Act, a factory which is exclusively engaged in one or more of the following manufacturing processes, namely, cotton ginning, cotton or jute pressing, the decortication of groundnuts, the manufacture of coffee, indigo, lac, rubber, sugar (including gur) or tea, or any manufacturing process which is incidental to or connected with any of the aforesaid processes, is a seasonal factory:

Seasonal factories.

Provided that the [Provincial Government] may, by notification in the [official Gazette], declare any such factory in which manufacturing processes are ordinarily carried on for more than one hundred and eighty working days in the year, not to be a seasonal factory for the purposes of this Act.

(2) The [Provincial Government] may, by notification in the [official Gazette], declare any specified factory in which manufacturing processes are ordinarily carried on for not more than one hundred and eighty working days in the year and cannot be carried on except during particular seasons or at times dependent on the irregular action of natural forces, to be a seasonal factory for the purposes of this Act.

5.—(1) The Provincial Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act applicable to factories shall apply to any place wherein a manufacturing process is being carried on or is ordinarily carried on whether

Power to apply provisions applicable to factories

¹ Subs. by the A. O., 1937, for "L. G.".

² The brackets, letter and words "(a) in British India" omitted by the A. O., 1949.

³ The words "excluding Burma" omitted by the A. O., 1937.

⁴ The word "and" omitted by the A. O., 1949.

⁵ Clause (b) omitted by the A. O., 1937.

⁶ The words "in British India" omitted by the A. O., 1949.

⁷ Subs. by the A. O., 1937, for "local official Gazette".

⁸ Subs. by the Factories (Amendment) Act, 1941 (16 of 1941), s. 2, for the original section 5.

to certain
other places.

with or without the use of power whenever ten or more workers are working therein or have worked therein on any one day of the twelve months immediately preceding.

(2) A notification under sub-section (1) may be made in respect of any one such place or in respect of any class of such places or generally in respect of all such places.

(3) Notwithstanding anything contained in clause (j) of section 2, a place, to which all or any of the provisions of this Act applicable to factories are for the time being applicable in pursuance of a declaration under sub-section (1), shall, to the extent to which such provisions are so made applicable but not otherwise, be deemed to be a factory.]

Power to
declare
departments
to be
separate
factories.

6. The ¹[Provincial Government] may, by order in writing, direct that the different departments or branches of a specified factory shall be treated as separate factories for all or any of the purposes of this Act.

Power to
exempt on
a change in
the factory.

7. Where the ¹[Provincial Government] is satisfied that, following upon a change of occupier of a factory or in the manufacturing processes carried on therein, the number of workers for the time being working in the factory is less than twenty and is not likely to be twenty or more on any day during the ensuing twelve months, it may, by order in writing, exempt such factory from the operation of this Act:

Provided that any exemption so granted shall cease to have effect on and after any day on which twenty or more workers work in the factory.

Power to
exempt dur-
ing public
emergency.

8. In any case of public emergency the ²[Provincial Government] may, by notification in the ³[official Gazette], exempt any factory from any or all of the provisions of this Act for such period as ⁴[it] may think fit.

Notice to
Inspector
before
commence-
ment of
work.

9.—(1) Before work is begun in any factory after the commencement of this Act, or before work is begun in any seasonal factory each season, the occupier shall send to the Inspector a written notice containing—

- (a) the name of the factory and its situation,
- (b) the address to which communications relating to the factory should be sent,
- (c) the nature of the manufacturing processes to be carried on in the factory,
- (d) the nature and amount of the power to be used, ⁵*

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "G. G. in C.".

³ Subs. *ibid.*, for "Gazette of India".

⁴ Subs. *ibid.*, for "he".

⁵ The word "and" at the end of clause (d) omitted by the Factories (Amendment) Act, 1944 (14 of 1944), s. 2.

(Chapter I.—Preliminary. Chapter II.—The Inspecting Staff)

- (e) the name of the person who shall be the manager of the factory for the purposes of this Act, ¹[and
(f) such other particulars as may be prescribed for the purposes of this Act.]

(2) Whenever another person is appointed as manager, the occupier shall send to the Inspector a written notice of the change, within seven days from the date in which the new manager assumes charge.

(3) During any period for which no person has been designated as manager of a factory under this section, or during which the person designated does not manage the factory, any person found acting as manager, or, if no such person is found, the occupier himself, shall be deemed to be the manager of the factory for the purposes of this Act.

CHAPTER II

THE INSPECTING STAFF

10.—(1) The ²[Provincial Government] may, by notification in the ³[official Gazette], appoint such persons as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively. Inspectors.

(2) The ²[Provincial Government] may, by notification as aforesaid, appoint any person to be a Chief Inspector, who shall, in addition to the powers conferred on a Chief Inspector under this Act, exercise the powers of an Inspector throughout the Province.

(3) No person shall be appointed to be an Inspector under sub-section (1) or a Chief Inspector under sub-section (2) or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in a factory or in any process or business carried on therein or in any patent or machinery connected therewith.

(4) Every District Magistrate shall be an Inspector for his district.

(5) The ²[Provincial Government] may also, by notification as aforesaid, appoint such public officers as it thinks fit to be additional Inspectors for all or any of the purposes of this Act, within such local limits as it may assign to them respectively.

(6) In any area where there are more Inspectors than one, the ²[Provincial Government] may, by notification as aforesaid, declare the powers which such Inspectors shall respectively exercise, and the Inspector to whom the prescribed notices are to be sent.

(7) Every Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code and shall be officially subordinate to such authority as the ²[Provincial Government] may specify in this behalf.

11. Subject to any rules made by the ²[Provincial Government] in this behalf, an Inspector may, within the local limits for which he Powers of Inspector.

¹ The word "and" and cl. (f) added by the Factories (Amendment) Act, 1944 (14 of 1944), s. 2.

² Subs. by the A. O., 1937, for "L. G."

³ Subs. *ibid.*, for "local official Gazette".

is appointed,—

- (a) enter, with such assistants (if any), being persons ¹[in the service of the Crown] or of any municipal or other public authority, as he thinks fit, any place which is, or which he has reason to believe to be, used as a factory or capable of being declared to be a factory under the provisions of section 5;
- (b) make such examination of the premises and plant and of any prescribed registers, and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Act; and
- (c) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

Certifying
surgeons.

12.—(1) The ²[Provincial Government] may appoint such registered medical practitioners as it thinks fit to be certifying surgeons for the purposes of this Act within such local limits as it may assign to them respectively.

(2) A certifying surgeon may authorise any registered medical practitioner to exercise any of his powers under this Act:

Provided that a certificate of fitness for employment granted by such authorised practitioner shall be valid for a period of three months only, unless it is confirmed by the certifying surgeon himself after examination of the person concerned.

Explanation.—In this section a “registered medical practitioner” means any person registered under the Medical Act, 1858, or any subsequent enactment amending it, or under any Act of ³[the Central Legislature or any Provincial Legislature] providing for the maintenance of a register of medical practitioners, and includes, in any area where no such register is maintained, any person declared by the ⁴[Provincial Government], by notification in the ⁵[official Gazette], to be a registered medical practitioner for the purposes of this section.

CHAPTER III

HEALTH AND SAFETY

Cleanliness.

13. Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and shall be cleansed at such times and by such methods as may be prescribed, and these methods may include lime-washing or colour-washing, painting, varnishing, disinfecting and deodorising.

Ventilation.

14.—(1) Every factory shall be ventilated in accordance with such standards and by such methods as may be prescribed.

¹ Subs. by the A. O., 1937, for “in the employment of Govt.”.

² Subs. *ibid.*, for “L. G.”.

³ Subs. by the A. O., 1949, for “any legislature in British India”.

⁴ Subs. by the A. O., 1937, for “local official Gazette”.

(Chapter III.—Health and Safety)

(2) Where gas, dust or other impurity is generated in the course of work, adequate measures shall be taken to prevent injury to the health of workers.

(3) If it appears to the Inspector that in any factory gas, dust or other impurity generated in the course of work is being inhaled by the workers to an injurious extent, and that such generation or inhalation could be prevented by the use of mechanical or other devices, he may serve on the manager of the factory an order in writing, directing that mechanical or other devices for preventing such generation or inhalation shall be provided before a specified date, and shall thereafter be maintained in good order and used throughout working hours.

(4) The ¹[Provincial Government] may make rules for any class of factories requiring mechanical or other devices to be provided and maintained for preventing the generation or inhalation of gas, dust or other impurities, which may be injurious to workers and specifying the nature of such devices.

15.—(1) The ¹[Provincial Government] may make rules—

Artificial
humidifica-
tion.

- (a) prescribing standards for the cooling properties of the air in factories in which the humidity of the air is artificially increased;
- (b) regulating the methods used for artificially increasing the humidity of the air; and
- (c) directing prescribed tests for determining the humidity and cooling properties of the air to be carried out and recorded.

(2) In any factory in which the humidity of the air is artificially increased, the water used for the purpose shall be taken from a public supply or other source of drinking water, or shall be effectively purified before it is so used.

(3) If it appears to the Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) is not effectively purified, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

16. If it appears to the Chief Inspector or to an Inspector specially authorised in this behalf by the ¹[Provincial Government] that the cooling properties of the air in any factory are at times insufficient to secure workers against injury to health or against serious discomfort, and that they can be to a great extent increased by measures which will not involve an amount of expense which is unreasonable in the circumstances, the Chief Inspector may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

Cooling.

17. In order that no room in a factory shall be crowded during working hours to a dangerous extent or to an extent which may be

Overcrowd-
ing.

¹ Subs. by the A. O., 1937, for "L. G.".

injurious to the health of the workers, the proportion which the number of cubic feet of space in a room and the number of superficial feet of its floor area bears to the number of workers working at any time therein shall not be less than such standards as may be prescribed either generally or for the particular class of work carried on in the room.

Lighting. **18.**—(1) A factory shall be sufficiently lighted during all working hours.

(2) If it appears to the Inspector that any factory is not sufficiently lighted, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(3) The ¹[Provincial Government] may make rules requiring that all factories of specified classes shall be lighted in accordance with prescribed standards.

Water. **19.**—(1) In every factory a sufficient supply of water fit for drinking shall be provided for the workers at suitable places.

(2) The supply required by sub-section (1) shall comply with such standards as may be prescribed.

(3) In every factory ²* * *, a sufficient supply of water suitable for washing shall be provided for the use of workers, at suitable places and with facilities for its use, according to such standards as may be prescribed.

Latrines and urinals. **20.** For every factory sufficient latrines and urinals, according to the prescribed standards, shall be provided, for male workers and for female workers separately, of suitable patterns and at convenient places as prescribed, and shall be kept in a clean and sanitary condition during all working hours.

Doors to open outwards. **21.** In every factory the doors of each room in which more than twenty persons are employed shall, except in the case of sliding doors, be constructed so as to open outwards, or, where the door is between two rooms, in the direction of the nearest exit from the building, and no such door shall be locked or obstructed while any work is being carried on in the room.

Precautions against fire. **22.** In every factory such precautions against fire shall be taken as may be prescribed.

Means of escape. **23.**—(1) Every factory shall be provided with such means of escape in case of fire ³[as may be prescribed].

¹ Subs. by the A. O., 1937, for “L. G.”.

² The words “in which any process involving contact by the workers with injurious or obnoxious substances is carried on” omitted by the Factories (Amendment) Act, 1944 (14 of 1944), s. 3.

³ Subs. *ibid.*, s. 4, for “as can reasonably be required in the circumstances of each factory”.

(Chapter III.—Health and Safety)

(2) If it appears to the Inspector that any factory is not so provided, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(3) The means of escape shall not be obstructed while any work is being carried on in the factory.

24.—(1) In every factory the following shall be kept adequately fenced, namely:—

- (a) every exposed moving part of a prime-mover and every flywheel directly connected to a prime-mover,
- (b) every hoist or lift, hoist-well or lift-well, and every trap-door or similar opening near which any person may have to work or pass, and
- (c) every part of the machinery which the [Provincial Government] may prescribe.

(2) If it appears to the Inspector that any other part of the machinery in a factory is dangerous if not adequately fenced, he may serve on the manager of the factory an order in writing, specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(3) All fencing required by or under this section or under subsection (1) of section 26 shall be maintained in an efficient state at all times when the workers have access to the parts required to be fenced except where they are under repair or are under examination in connection with repair or are necessarily exposed for the purpose of cleaning or lubricating or altering the gearing or arrangements of the machinery.

(4) Such further provisions as may be prescribed shall be made for the protection from danger of persons employed in attending to the machinery in a factory.

25. If it appears to the Inspector that any building or part of a building, or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may serve on the manager of the factory an order in writing requiring him before a specified date—

Power to require specifications of defective parts or tests of stability.

- (a) to furnish such drawings, specifications and other particulars as may be necessary to determine whether such building, ways, machinery or plant can be used with safety, or
- (b) to carry out such tests as may be necessary to determine the strength or quality of any specified parts and to inform the Inspector of the results thereof.

26.—(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the manager of the factory an order in writing

Safety of buildings and machinery.

specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the manager of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

Restrictions
on work
near
machinery
in motion.

27.—(1) No woman or child shall be allowed to clean or oil any part of the machinery of a factory while that part is in motion under power, or to work between moving parts or between fixed and moving parts of any machinery which is in motion under power.

(2) The ¹[Provincial Government] may, by notification in the ²[official Gazette], prohibit, in any specified factory or class of factories, the cleaning or oiling by any person of specified parts of machinery when these parts are in motion under power.

Power to
exclude
children.

28.—(1) The ¹[Provincial Government] may make rules prohibiting the admission to any specified class of factories, or to specified parts thereof, of children who cannot be lawfully employed therein.

(2) If it appears to the Inspector that the presence in any factory or part of a factory of children who cannot be lawfully employed therein may be dangerous to them or injurious to their health, he may serve on the manager of the factory an order in writing directing him to prevent the admission of such children to the factory or any part of it.

Prohibition
of employ-
ment of
women and
children
near cotton-
openers.

29. No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work:

Provided that, if the feed-end of a cotton-opener is in a room separated from the delivery end by a partition extending to the roof, or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.

Notice of
certain
accidents.

30. Where in any factory an accident occurs which causes death, or which causes any bodily injury whereby any person injured is prevented from resuming his work in the factory during the forty-eight hours after the accident occurred, or which is of any nature which may be prescribed in this behalf, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.

Appeals.

31.—(1) The manager of a factory on whom an order in writing by an Inspector has been served under the provisions of this Chapter, or the occupier of the factory, may, within thirty days of the service of the order, appeal against it to the ¹[Provincial Government], or to such authority as the ¹[Provincial Government] may appoint in this behalf, and the ¹[Provincial Government] or appointed authority may,

¹ Subs. by the A. O., 1937, for " L. G. ".

² Subs. *ibid.*, for " local official Gazette".

subject to rules made in this behalf by the '[Provincial Government], confirm, modify or reverse the order.

²(2) The appellate authority may, and if so required in the petition or appeal shall, hear the appeal with the aid of assessors, one of whom shall be appointed by the appellate authority and the other by such body representing the industry concerned as the '[Provincial Government] may prescribe in this behalf:

Provided that if no assessor is appointed by such body, or if the assessor so appointed fails to attend at the time and place fixed for hearing the appeal, the appellate authority may, unless satisfied that the failure to attend is due to sufficient cause, proceed to hear the appeal without the aid of such assessor, or, if it thinks fit, without the aid of any assessor.

(3) In the case of an appeal against an order under section 16 the appellate authority shall, and in any other case except an appeal against an order under sub-section (2) of section 26 or sub-section (2) of section 28 the appellate authority may, suspend the order appealed against pending the decision of the appeal, subject however to such conditions as to partial compliance or the adoption of temporary measures as it may choose to impose in any case.

32. The '[Provincial Government] may make rules—

- (a) providing for any matter which, according to any of the provisions of this Chapter, is or may be prescribed;
- (b) requiring the managers of factories to maintain stores of first-aid appliances and provide for their proper custody;
- (c) providing against danger arising from the use of mechanical transport in factories, other than railways subject to the Railways Act, 1890;
- (d) prescribing the manner of the service of orders under this Chapter on managers of factories;
- (e) regulating the procedure to be followed in presenting and hearing appeals under section 31, and the appointment and remuneration of assessors;
- (f) regulating the exercise by Inspectors of their powers under this Chapter; and
- (g) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

Power of Provincial Government to make rules to supplement this Chapter.

33.—(1) The '[Provincial Government] may make rules requiring that in any specified factory wherein more than one hundred and fifty workers are ordinarily employed, an adequate shelter shall be provided for the use of workers during periods of rest, and such rules may prescribe the standards of such shelters.

Additional power to make health and safety rules relating to — shelters during rest,—

¹ Subs. by the A. O., 1937, for " L. G. ".

² This sub-section has been amended in its application to Baluchistan by the British Baluchistan Factories (Amendment) Regulation, 1939 (Reg. 2 of 1939).

rooms for
children,—

(2) The ¹[Provincial Government] may also make rules—

- (a) requiring that in any specified factory, wherein more than fifty women workers are ordinarily employed, a suitable room shall be reserved for the use of children under the age of six years belonging to such women, and
- (b) prescribing the standards for such rooms and the nature of the supervision to be exercised over the children therein.

certificates of
stability,—

(3) The ¹[Provincial Government] may also make rules, for any class of factories and for the whole or any part of the Province, requiring that work on a manufacturing process carried on with the aid of power shall not be begun in any building or part of a building erected or taken into use as a factory after the commencement of this Act, until a certificate of stability in the prescribed form, signed by a person possessing the prescribed qualifications, has been sent to the Inspector.

hazardous
operations.

(4) Where the ²[Provincial Government] is satisfied that any operation in a factory exposes any persons employed upon it to a serious risk of bodily injury, poisoning or disease, ³[it] may make rules⁴ applicable to any factory or class of factories in which the operation is carried on—

- (a) specifying the operation and declaring it to be hazardous,
- (b) prohibiting or restricting the employment of women, adolescents or children upon the operation,
- (c) providing for the medical examination of persons employed or seeking to be employed upon the operation and prohibiting the employment of persons not certified as fit for such employment, and
- (d) providing for the protection of all persons employed upon the operation or in the vicinity of the places where it is carried on.

Power to
make rules
for the pro-
vision of
canteens.

⁵[33A.—(1) The Provincial Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, an adequate canteen shall be provided for the use of the workers.

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

- (a) the date by which such canteen shall be provided;
- (b) the standards in respect of construction, accommodation, furniture and other equipment of the canteen;
- (c) the foodstuffs to be served therein and the charges which may be made therefor;

¹ Subs. by the A. O., 1937, for “L. G.”.

² Subs. *ibid.*, for “G. G. in C.”.

³ Subs. *ibid.*, for “he”.

⁴ For such rules applicable to certain hazardous occupations (*e.g.*, lead, aerated waters, rubber, chromium, cellulose spraying, blasting, etc.) made by the G. G. in C. before the 1st April, 1937, see Gazette of India, 1937, Pt. I, pp. 627 to 630 and 776 to 778.

⁵ S. 33A ins. by the Factories (Amendment) Act, 1947 (5 of 1947), s. 2.

(Chapter III.—Health and Safety. Chapter IV.—Restrictions
on Working Hours of Adults.)

- (d) representation of the workmen in the management of the canteens;
- (e) enabling, subject to such conditions, if any, as may be specified, the power to make rules under clause (c) to be exercised also by the Chief Inspector.]

CHAPTER IV

RESTRICTIONS ON WORKING HOURS OF ADULTS

34. No adult worker shall be allowed to work in a factory for more than ¹[forty-eight] hours in any week, or, where the factory is a seasonal one, for more than ²[fifty] hours in any week: Weekly hours.

Provided that an adult worker in a ³* factory engaged in work which for technical reasons must be continuous throughout the day may work for fifty-six hours in any week.

35.—(1) No adult worker shall be allowed to work in a factory on a Sunday unless— Weekly holiday.

- (a) he has had or will have a holiday for a whole day on one of the three days immediately before or after that Sunday, and
- (b) the manager of the factory has, before that Sunday or the substituted day, whichever is earlier,—
 - (i) delivered a notice to the office of the Inspector of his intention to require the worker to work on the Sunday and of the day which is to be substituted, and
 - (ii) displayed a notice to that effect in the factory:

Provided that no substitution shall be made which will result in any worker working for more than ten days consecutively without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered to the office of the Inspector and a notice displayed in the factory not later than the day before the Sunday or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on a Sunday and has had a holiday on one of the three days immediately before it, that Sunday shall, for the purpose of calculating his weekly hours of work, be included in the preceding week.

⁴[35A.—(1) Where, as a result of the passing of an order or the making of a rule under the provisions of this Act exempting a factory or the workers therein from the provisions of section 35, a worker is deprived of any of the weekly holidays for which provision is made by Compensatory holidays.

¹ Subs. by the Factories (Amendment) Act, 1946 (10 of 1946), s. 2 (with effect from the 1st August, 1946), for "fifty-four".

² Subs. *ibid.*, for "sixty".

³ The word "non-seasonal" omitted by the Factories (Amendment) Act, 1947 (5 of 1947), s. 3.

⁴ S. 35A ins. by the Factories (Amendment) Act, 1945 (3 of 1945), s. 2 (with effect from the 1st January, 1946).

(Chapter IV.—Restrictions on Working Hours of Adults)

sub-section (1) of that section, he shall be allowed, as soon as circumstances permit, compensatory holidays of equal number to the holidays so lost.

(2) The Provincial Government may make rules prescribing the manner in which the holidays, for which provision is made in sub-section (1), shall be allowed.]

Daily hours.

36. No adult worker shall be allowed to work in a factory for more than ¹[nine] hours in any day:

Provided that a male adult worker in a seasonal factory may work for ²[ten] hours in any day.

Intervals for rest.

37. The periods of work of adult workers in a factory during each day shall be fixed either—

- (a) so that no period shall exceed six hours, and so that no worker shall work for more than six hours before he has had an interval for rest of at least one hour; or
- (b) so that no period shall exceed five hours and so that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour, or for more than eight and a half hours before he has had at least two such intervals.

Spread over.

38. The periods of work of an adult worker in a factory shall be so arranged that along with his intervals for rest under section 37, they shall not spread over more than ³[ten and a half] hours, or where the factory is a seasonal one, eleven and a half] hours in any day, save with the permission of the ⁴[Provincial Government] and subject to such conditions as it may impose, either generally or in the case of any particular factory.

Notice of Periods for Work for Adults and preparation thereof.

39.—(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of section 76 a Notice of Periods for Work for Adults showing clearly the periods within which adult workers may be required to work.

(2) The periods shown in the Notice required by sub-section (1) shall be fixed beforehand in accordance with the following provisions of this section and shall be such that workers working for those periods would not be working in contravention of any of the provisions of sections 34, 35, 36, 37 and 38.

(3) Where all the adult workers in a factory are required to work within the same periods, the manager of the factory shall fix those periods for such workers generally.

¹ Subs. by the Factories (Amendment) Act, 1946 (10 of 1946), s. 3 (with effect from the 1st August, 1946), for "ten".

² Subs. *ibid.*, for "eleven".

³ Subs. *ibid.*, s. 4, for "thirteen".

⁴ Subs. by the A. O., 1937, for "L. G.".

(Chapter IV.—Restrictions on Working Hours of Adults)

(4) Where all the adult workers in a factory are not required to work within the same periods, the manager of the factory shall classify them into groups according to the nature of their work.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods within which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shift, the manager of the factory shall fix the periods within which each relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts whereunder the periods within which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The ¹[Provincial Government] may make rules prescribing forms for the Notice of Periods for Work for Adults and the manner in which it shall be maintained.

40.—(1) A copy of the Notice referred to in sub-section (1) of section 39 shall be sent in duplicate to the Inspector within fourteen days after the commencement of this Act, or, if the factory begins work after the commencement of this Act, before the day on which it begins work.

Copy of
Notice of
Periods for
Work to be
sent to
Inspector.

(2) Any proposed change in the system of work in a factory which will necessitate a change in the Notice shall be notified to the Inspector in duplicate before the change is made, and, except with the previous sanction of the Inspector, no such change shall be made until one week has elapsed since the last change.

41.—(1) The manager of every factory shall maintain a Register of Adult Workers showing—

Register of
Adult
Workers.

- (a) the name of each adult worker in the factory,
- (b) the nature of his work,
- (c) the group, if any, in which he is included,
- (d) where his group works on shifts, the relay to which he is allotted, and
- (e) such other particulars as may be prescribed:

Provided that, if the Inspector is of opinion that any muster roll or register maintained as part of the routine of a factory gives in respect of any or all of the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster roll or register shall to the corresponding extent be maintained in place of and be treated as the Register of Adult Workers in that factory:

Provided further that, where the ¹[Provincial Government] is satisfied that the conditions of work in any factory or class of factories

¹ Subs. by the A. O., 1937, for "L. G.".

(Chapter IV.—Restrictions on Working Hours of Adults)

are such that there is no appreciable risk of contravention of the provisions of this Chapter in the case of that factory or factories of that class, as the case may be, the ¹[Provincial Government] may, by written order, exempt, on such conditions as it may impose, that factory or all factories of that class, as the case may be, from the provisions of this section.

(2) The ¹[Provincial Government] may make rules prescribing the form of the Register of Adult Workers, the manner in which it shall be maintained and the period for which it shall be preserved.

Hours of work to correspond with Notice under section 39 and Register under section 41.

Power to make rules exempting from restrictions.

42. No adult worker shall be allowed to work otherwise than in accordance with the Notice of Periods for Work for Adults displayed under sub-section (1) of section 39 and the entries made beforehand against his name in the Register of Adult Workers maintained under section 41.

43.—(1) The ¹[Provincial Government] may make rules² defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory, and the provisions of this Chapter, ³[other than the provisions of clause (b) of sub-section (1) of section 45 and of the provisos to that sub-section], shall not apply to any person so defined.

(2) The ¹[Provincial Government] may make rules for adult workers providing for the exemption, to such extent and subject to such conditions as may be prescribed in such rules,—

- (a) of workers engaged on urgent repairs—from the provisions of sections 34, 35, 36, 37 and 38;
- (b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory—from the provisions of sections 34, 36, 37 and 38;
- (c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required under section 37—from the provisions of sections 34, 36, 37 and 38;
- (d) of workers engaged in any work which for technical reasons must be carried on continuously throughout the day—from the provisions of sections 34, 35, 36, 37 and 38;
- (e) of workers engaged in making or supplying articles of prime necessity which must be made or supplied every day—from the provisions of section 35;
- (f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons—from the provisions of section 35;

¹ Subs. by the A. O., 1937, for "L. G.".

² For rules made by the Government of East Bengal, see Dacca Gazette, 1952, Pt. I, pp. 175-182.

³ Ins. by the Factories (Amendment) Act, 1935 (11 of 1935), s. 2.

(Chapter IV.—Restrictions on Working Hours of Adults)

(g) of workers engaged in a manufacturing process which *not be carried on except at times dependent on the irregular action of natural forces—from the provisions of section 35 and section 37; and*

(h) of workers engaged in engine-rooms or boiler-houses—from the provisions of section 35.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of sections 39 and 40 which the [Provincial Government] may deem to be expedient, subject to such conditions as it may impose.

(4) In making rules under this section the [Provincial Government] shall prescribe the maximum limits for the weekly hours of work for all classes of workers, and any exemption given, other than an exemption under clause (a) of sub-section (2), shall be subject to such limits.

(5) Rules made under this section shall remain in force for not more than three years.

44.—(i) Where the [Provincial Government] is satisfied that, owing to the nature of the work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult workers in any factory or class of factories should be fixed beforehand, it may, by written order, relax or modify the provisions of sections 39 and 40 in respect of such workers to such extent and in such manner as it may think fit, and subject to such conditions as it may deem expedient to ensure control over periods of work.

Power to make orders exempting from restrictions.

(2) The [Provincial Government], or subject to the control of the [Provincial Government] the Chief Inspector, may, by written order², exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory, or group or class of factories, from any or all of the provisions of sections 34, 35, 36, 37, 38, 39 and 40, on the ground that the exemption is required to enable the factory or factories to deal with an exceptional press of work.

(3) Any exemption given under sub-section (2) in respect of weekly hours of work shall be subject to the maximum limits prescribed under sub-section (4) of section 43.

³[(4) An order under sub-section (2) shall remain in force for such period, not exceeding two months from the date on which notice thereof is given to the manager of the factory, as may be specified in the order:

Provided that if in the opinion of the Provincial Government the public interest so requires, the Provincial Government may from time to time, by notification in the official Gazette, extend the operation of any such order for such period, not exceeding six months at any one time, as may be specified in the notification.]

¹ Subs. by the A. O., 1937, for "L. G.".

² For an instance of such order, see the Punjab Gazette, 1951, Pt. I, p. 87.

³ Subs. by the Factories (Amendment) Act, 1946 (10 of 1946), s. 5 (with effect from the 1st August, 1946), for the original sub-section (4).

(Chapter IV.—Restrictions on Working Hours of Adults)

Further
restrictions
on the
employment
of women.

45.—(1) The provisions of this Chapter shall, in their application to women workers in factories, be supplemented by the following further restrictions, namely:—

(a) no exemption from the provisions of section 36 may be granted in respect of any woman; and

(b) no woman shall be allowed to work in a factory except between 6 A.M. and 7 P.M.:

Provided that the ¹[Provincial Government] may, by notification in the ²[official Gazette], in respect of any class or classes of factories and for the whole year or any part of it, vary the limits laid down in clause (b) to any span of ³[ten and a half hours, or where the factory is a seasonal one, of eleven and a half hours] between 5 A.M. and 7-30 P.M.⁴ :

Provided further that, in respect of any seasonal factory or class of seasonal factories in a specified area, the ¹[Provincial Government] may make rules imposing a further restriction by defining the period or periods of the day within which women may be allowed to work, such that the period or periods so defined shall lie within the span fixed by clause (b) or under the above proviso and shall not be less than ten hours in the aggregate.

(2) The ¹[Provincial Government] may make rules providing for the exemption from the above restrictions, to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories where the employment of women beyond the said hours is necessary to prevent damage to or deterioration in any raw material.

(3) Rules made under sub-section (2) shall remain in force for not more than three years.

Special
provision for
night-shifts.

46. Where a worker works on a shift which extends over midnight, the ensuing day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted towards the previous day:

Provided that the ¹[Provincial Government] may, by order in writing, direct that in the case of any specified factory or any specified class of workers therein the ensuing day shall be deemed to be the period of twenty-four hours beginning when such shift begins and that the hours worked before midnight shall be counted towards the ensuing day.

Extra pay
or overtime.

47.—⁵(1) Where a worker—

(a) in a non-seasonal factory works for more than nine hours in any day or for more than forty-eight hours in any week, or

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "local official Gazette".

³ Subs. by the Factories (Amendment) Act, 1946 (10 of 1946), s. 6, for "thirteen hours".

⁴ For these figures and letters the figures and letters "8-30 P. M." were temporarily subs. for the duration of the last war by the Factories (Amendment) Act, 1944 (14 of 1944), s. 5.

⁵ Subs. by Act 10 of 1946, s. 7, for the original sub-sections (1) and (2) (with effect from the 1st August, 1946).

(Chapter IV.—Restrictions on Working Hours of Adults.

Chapter IVA.—Holidays with Pay.)

- (b) in a seasonal factory works for more than nine hours in any day or for more than fifty hours in any week,—

he shall be entitled in respect of the overtime worked to pay at the rate of twice his ordinary rate of pay.]

(3) Where any workers are paid on a piece rate basis, the ¹[Provincial Government] in consultation with the industry concerned may for the purposes of this section fix time rates as nearly as possible equivalent to the average rate of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of pay of those workers for the purposes of this section..

(4) The ¹[Provincial Government] may prescribe the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

48. No adult worker shall be allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed. Restriction on double employment.

49. The ¹[Provincial Government] may make rules providing that in any specified class or classes of factories work shall not be carried on by a system of shifts so arranged that more than one relay of workers is engaged in work of the same kind at the same time save with the permission of the ¹[Provincial Government] and subject to such conditions as it may impose, either generally or in the case of any particular factory. Control of overlapping shifts.

2[CHAPTER IVA

HOLIDAYS WITH PAY

49A.—(1) The provisions of this Chapter shall not apply to a seasonal factory. Application of Chapter.

(2) The provisions of this Chapter shall not operate to the prejudice of any rights to which a worker may be entitled under any other enactment, or under the terms of any award, agreement/or contract of service.

49B.—(1) Every worker who has completed a period of twelve months continuous service in a factory shall be allowed, during the subsequent period of twelve months, holidays for a period of ten or, if a child, fourteen consecutive days, inclusive of the day or days, if any, on which he is entitled to a holiday under sub-section (1) of section 35. Annual holidays.

(2) If a worker fails in any one such period of twelve months to take the whole of the holidays allowed to him under sub-section (1), any holidays not taken by him shall be added to the holidays to be

¹ Subs. by the A. O., 1937, for "L. G.".

² Chapter IVA ins. by the Factories (Amendment) Act, 1945 (3 of 1945), s. 3 (with effect from the 1st January, 1946).

(Chapter IVA.—Holidays with Pay)

allowed to him under sub-section (1) in the succeeding period of twelve months, so however that the total number of days holidays which may be carried forward to a succeeding period shall not exceed ten or, in the case of a child, fourteen.

(3) If a worker entitled to holidays under sub-section (1) is discharged by his employer before he has been allowed the holidays, or if, having applied for and having been refused the holidays, he quits his employment before he has been allowed the holidays, the employer shall pay him the amount payable under section 49C in respect of the holidays.

Explanation.—A worker shall be deemed to have completed a period of twelve months continuous service in a factory notwithstanding any interruption in service during those twelve months brought about by sickness, accident or authorised leave not exceeding ninety days in the aggregate for all three, or by a lock-out, or by a strike which is not an illegal strike, or by intermittent periods of involuntary unemployment not exceeding thirty days in the aggregate; and authorised leave shall be deemed not to include any weekly holiday allowed under section 35 which occurs at the beginning or end of an interruption brought about by the leave.

Pay during
annual
holidays.

49C. Without prejudice to the conditions governing the day or days, if any, on which the worker is entitled to a holiday under sub-section (1) of section 35, the worker shall, for the remaining days of the holidays allowed to him under section 49B, be paid at a rate equivalent to the daily average of his wages as defined in the Payment of Wages Act, 1936, for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime. IV of 1936.

Payment
when to be
made.

49D: A worker who has been allowed holidays under section 49B shall, before his holidays begin, be paid half the total pay due for the period of holidays.

Power of
Inspector to
act for
worker.

49E. Any Inspector may institute proceedings on behalf of any worker to recover any sum required to be paid under this Chapter by an employer which the employer has not paid.

Power to
make rules.

49F.—(1) The Provincial Government may make rules to carry into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power rules may be made under this section prescribing the keeping by employers of registers showing such particulars as may be prescribed and requiring such registers to be made available for examination by Inspectors.

(3) The Central Government may give directions to a Province as to the carrying into execution of the provisions of this section.

Exemption
of factories

49G. Where the Provincial Government is satisfied that the leave rules applicable to workers in a factory provide benefits substantially

(Chapter IVA.—Holidays with Pay. Chapter V.—Special Provisions for Adolescents and Children.)

similar to those for which this Chapter makes provision, it may, by written order, exempt the factory from the provisions of this Chapter.]

from provisions of this Chapter.

CHAPTER V

SPECIAL PROVISIONS FOR ADOLESCENTS AND CHILDREN

50. No child who has not completed his twelfth year shall be allowed to work in any factory.

Prohibition of employment of young children.

51. No child who has completed his twelfth year and no adolescent shall be allowed to work in any factory unless—

Non-adult workers to carry tokens giving reference to certificates of fitness.

- (a) a certificate of fitness granted to him under section 52 is in the custody of the manager of the factory, and
- (b) he carries while he is at work a token giving a reference to such certificate.

52.—(1) A certifying surgeon shall, on the application of any young person who wishes to work in a factory, or of the parent or guardian of such person, or of the manager of the factory in which such person wishes to work, examine such person and ascertain his fitness for such work.

Certificates of fitness.

(2) The certifying surgeon, after examination, may grant to such person, in the prescribed form,—

- (a) a certificate of fitness to work in a factory as a child, if he is satisfied that such person has completed his twelfth year, that he has attained the prescribed physical standards (if any), and that he is fit for such work; or
- (b) a certificate of fitness to work in a factory as an adult, if he is satisfied that such person has completed his fifteenth year and is fit for a full day's work in a factory.

(3) A certifying surgeon may revoke any certificate granted under sub-section (2) if, in his opinion, the holder of it is no longer fit to work in the capacity stated therein in a factory.

(4) Where a certifying surgeon or a practitioner authorised under sub-section (2) of section 12 refuses to grant a certificate or a certificate of the kind requested, or revokes a certificate, he shall, if so requested by any person who could have applied for the certificate, state his reasons in writing for so doing.

53.—(1) An adolescent who has been granted a certificate of fitness to work in a factory as an adult, under clause (b) of sub-section (2) of section 52, and who, while at work in a factory, carries a token giving reference to the certificate, shall be deemed to be an adult for all the purposes of Chapter IV.

Effect of certificate granted to adolescent.

(2) An adolescent who has not been granted a certificate of fitness to work in a factory as an adult under sub-section (2) of section 52

(Chapter V.—Special Provisions for Adolescents and Children)

shall, notwithstanding his age, be deemed to be a child for the purposes of this Act.

Restrictions
on the
working
hours of a
child.

54.—(1) No child shall be allowed to work in a factory for more than five hours in any day.

(2) The hours of work of a child shall be so arranged that they shall not spread over more than seven-and-a-half hours in any day.

(3) No child shall be allowed to work in a factory except between 6 A. M. and 7 P. M.:

Provided that the ¹[Provincial Government] may, by notification in the ²[official Gazette], in respect of any class or classes of factories and for the whole year or any part of it, vary these limits to any span of thirteen hours between 5 A. M. and ³[7-30 P. M.].

(4) The provisions of section 35 shall apply also to child workers,⁴ but no exemption from the provisions of that section may be granted in respect of any child.

(5) No child shall be allowed to work in any factory on any day on which he has already been working in another factory.

Notice of
Periods for
Work for
Children.

55.—(1) There shall be displayed and correctly maintained in every factory, in accordance with the provisions of sub-section (2) of section 76, a Notice of Periods for Work for Children, showing clearly the periods within which children may be required to work.*

(2) The periods shown in the Notice required by sub-section (1) shall be fixed beforehand in accordance with the method laid down for adults in section 39 and shall be such that children working for those periods would not be working in contravention of section 54.

(3) The provisions of section 40 shall apply also to the Notice of Periods for Work for Children.

(4) The ¹[Provincial Government] may make rules prescribing forms for the Notice of Periods for Work for Children and the manner in which it shall be maintained.

Register of
Child
Workers.

56.—(1) The manager of every factory in which children are employed shall maintain a Register of Child Workers showing—

- (a) the name of each child worker in the factory,
- (b) the nature of his work,
- (c) the group, if any, in which he is included,
- (d) where his group works on shifts, the relay to which he is allotted,
- (e) the number of his certificate of fitness granted under section 52, and
- (f) such other particulars as may be prescribed.

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "local official Gazette".

³ For these figures and letters the figures and letters "8-30 P.M." were temporarily subs. for the duration of the war by the Factories (Amendment) Act, 1944 (14 of 1944), s. 5.

(Chapter.V.—*Special Provisions for Adolescents and Children.*
Chapter VA.—*Small Factories.*)

(2) The ¹[Provincial Government] may make rules prescribing the form of the Register of Child Workers, the manner in which it shall be maintained, and the period for which it shall be preserved.

57. No child shall be allowed to work otherwise than in accordance with the Notice of Periods for Work for Children displayed under sub-section (1) of section 55 and the entries made beforehand against his name in the Register of Child Workers maintained under sub-section (1) of section 56.

Hours of work to correspond with Notice and Register.

58. Where an Inspector is of opinion—

- (a) that any person working in a factory without a certificate of fitness is a child or an adolescent, or
- (b) that a child or adolescent working in a factory with a certificate is no longer fit to work in the capacity stated therein,

Power to require medical examination.

he may serve on the manager of the factory a notice requiring that such person, or that such child or adolescent, as the case may be, shall be examined by a certifying surgeon or by a practitioner authorised under sub-section (2) of section 12, and such person, child or adolescent shall not, if the Inspector so directs, be allowed to work in any factory until he has been so examined and has been granted a certificate of fitness or a fresh certificate of fitness, as the case may be.

59. The ¹[Provincial Government] may make rules—

- (a) prescribing the forms of certificates of fitness to be granted under section 52, providing for the grant of duplicates in the event of loss of the original certificates, and fixing the fees which may be charged for such certificates and such duplicates;
- (b) prescribing the physical standards to be attained by children and adolescents;
- (c) regulating the procedure of certifying surgeons under this Chapter, and specifying other duties which they may be required to perform in connection with the employment of children and adolescents in factories; and
- (d) providing for any other matter which may be expedient in order to give effect to the provisions of this Chapter.

Power to make rules.

²[CHAPTER VA

SMALL FACTORIES

59A.—(1) In this Act, unless there is anything repugnant in the subject or context, “small factory” means any premises including the precincts thereof whereon ten or more but less than twenty workers are working or were working on any day of the preceding six months, and in any part of which a manufacturing process is being

Small Factories.

¹ Subs. by the A. O., 1937, for “L. G.”.

² Chapter VA ins. by the Factories (Amendment) Act, 1940 (17 of 1940), section 2.

(Chapter VA.—Small Factories. Chapter VI.—Penalties and Procedure.)

carried on with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Mines Act, 1923: IV of 1923.

Provided that the Provincial Government may, by notification in the official Gazette, declare any premises to be a small factory, notwithstanding that less than ten workers are working thereon, if such premises would otherwise be a small factory.

(2) For the purposes of this Chapter an adolescent holding a certificate granted under this Act to work as an adult shall be deemed to be an adult.

Certain provisions of this Act to apply to small factories wherein child labour is employed.

59B.—(1) All the provisions of this Act, except clause (j) of section 2, sections 4, 5, 6 and 7, sub-sections (1) and (4) of section 14, sections 15, 21, 22 and 25, sub-sections (1), (2) and (3) of section 33 and Chapter IV shall apply to, and in relation to, all small factories wherein any worker who is not, or is not deemed to be, an adult is employed; and in the provisions hereby made so applicable every reference to a factory shall be deemed to include, so far as may be, a reference to a small factory.

(2) The aforesaid provisions shall cease to apply to a small factory on the expiry of six months from the receipt by the Inspector of a notice in writing from the occupier that he has ceased to employ therein any worker who is not, or is not deemed to be, an adult, unless any such worker is employed therein on any day of the said six months:

Provided that if any such worker is thereafter employed in the small factory, the said provisions of this Act shall again apply thereto.

Certain other provisions of law not barred.

59C. The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of the Employment of Children Act, 1938.] XXVI of 1938.

CHAPTER VI

PENALTIES AND PROCEDURE

Penalty for contraventions of Act and rules.

60. If in any factory—

(a) there is any contravention—

- (i) of any of the provisions of sections 13 to 29 inclusive, or
- (ii) of any order made under any of the said sections, or
- (iii) of any of the said sections read with rules made in pursuance thereof under clause (a) of section 32, or
- (iv) of any rule made under any of the said sections or under clause (b), clause (c), or clause (g) of section 32 or section 33, or
- (v) of any condition imposed under sub-section (3) of section 31, or

(Chapter VI.—Penalties and Procedure)

- (b) any person is allowed to work in contravention—
 - (i) of any of the provisions of sections 34 to 38 inclusive, 42, 45 and 48, or
 - (ii) of any rule made under any of the said sections, or under section 49, or
 - (iii) of any condition attached to any exemption granted under section 43 or section 44 or section 45 or to any permission granted under section 38 or section 49, or
- (c) there is any contravention of any of the provisions of sections 39 to 41 inclusive or of any rule made under section 39, section 41 or section 47, or of any condition attached to any exemption granted under section 41 or to any modification or relaxation made under section 44, or
- (d) any person is not paid any extra pay to which he is entitled under the provisions of section 47, or
- (e) any adolescent or child is allowed to work in contravention of any of the provisions of sections 50, 51, 54, 55, 57 and 58, or
- (f) there is any contravention of section 55 or section 56 or of any rules made under either of these sections, or under clause (d) of section 59, ¹[or]
- ²[(g) there is any contravention of section 49B, 49C, or 49D, or of any rule made under section 49F,]

the manager and occupier of the factory shall each be punishable with fine which may extend to five hundred rupees:

Provided that if both the manager and the occupier are convicted, the aggregate of the fines inflicted in respect of the same contravention shall not exceed this amount.

61. If any person who has been convicted of any offence punishable under clauses (b) to ³[(g)] inclusive of section 60 is again guilty of an offence involving a contravention of the same provision, he shall be punishable on the second conviction with fine which may extend to seven hundred and fifty rupees and shall not be less than one hundred rupees, and if he is again so guilty, shall be punishable on the third or any subsequent conviction with fine which may extend to one thousand rupees and shall not be less than two hundred and fifty rupees:

Enhanced penalty in certain cases after previous conviction.

Provided that for the purposes of this section no cognizance shall be taken of any conviction made more than two years before the commission of the offence which is being punished:

Provided further that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

¹ The word "or" added by the Factories (Amendment) Act, 1945 (3 of 1945), s. 4 (with effect from the 1st January, 1946).

² Clause (g) ins., *ibid.*

³ Subs. *ibid.*, s. 5, for the brackets and letter "(f)".

(Chapter VI.—Penalties and Procedure)

Penalty for failure to give notice of commencement of work or of change of manager.

62. An occupier of a factory who fails to give any notice required by sub-section (1) or sub-section (2) of section 9 shall be punishable with fine which may extend to five hundred rupees.

Penalty for obstructing Inspector.

63. Whoever wilfully obstructs an Inspector in the exercise of any power under section 11, or fails to produce on demand by an Inspector any registers or other documents in his custody kept in pursuance of this Act or of any of the rules made thereunder, or conceals or prevents any worker in a factory from appearing before or being examined by an Inspector, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to give notice of accidents.

64. A manager of a factory who fails to give notice of an accident as required under section 30 shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to make returns.

65. If in respect of any factory any return is not furnished as required under section 77, the manager and the occupier of the factory shall each be liable to fine which may extend to five hundred rupees:

Provided that if both the manager and the occupier are convicted, the aggregate of the fines inflicted shall not exceed this amount.

Penalty for smoking or using naked light in vicinity of inflammable material.

66. Whoever smokes, or uses a naked light or causes or permits any such light to be used in the vicinity of any inflammable material in a factory shall be punishable with fine which may extend to five hundred rupees.

Exception.—This provision does not extend to the use, in accordance with such precautions as may be prescribed, of a naked light in the course of a manufacturing process.

Penalty for using false certificate.

67. Whoever knowingly uses or attempts to use, as a certificate granted to himself under section 52, a certificate granted to another person under that section, or who, having procured such a certificate, knowingly allows it to be used, or an attempt to use it to be made, by another person, shall be punishable with fine which may extend to twenty rupees.

Penalty on guardian for permitting double employment of a child.

68. If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child or the person having custody of or control over him, or obtaining any direct benefit from his wages, shall be punishable with fine which may extend to twenty rupees, unless it appears to the Court that the child so worked without the consent, connivance or wilful default of such parent, guardian or person.

Penalty for failure to display certain notices.

69. A manager of a factory who fails to display the notice required under sub-section (1) of section 76 or by any rule made under this Act, or to display or maintain any such notice as required by sub-section (2) of that section, shall be punishable with fine which may extend to five hundred rupees.

(Chapter VI.—Penalties and Procedure)

70.—(1) Where the occupier of a factory is a firm or other association of individuals; any one of the individual partners or members thereof may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Determina-
tion of
"occupier"
for purposes
of this
Chapter.

Provided that the firm or association may give notice to the Inspector that it has nominated one of its number who is resident in [the Provinces and the Capital of the Federation] to be the occupier of the factory for the purposes of this Chapter, and such individual shall so long as he is so resident be deemed to be the occupier for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(2) Where the occupier of a factory is a company, any one of the directors thereof, or, in the case of a private company, any one of the shareholders thereof, may be prosecuted and punished under this Chapter for any offence for which the occupier of the factory is punishable:

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a shareholder, who is resident in either case in [the Provinces and the Capital of the Federation], to be the occupier of the factory for the purposes of this Chapter, and such director or shareholder shall so long as he is so resident be deemed to be the occupier of the factory for the purposes of this Chapter until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or shareholder.

71.—(1) Where the occupier or manager of a factory is charged with an offence against this Act, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the commission of the offence has been proved, the occupier or manager of the factory proves to the satisfaction of the Court—

Exemption
of occupier
or manager
from
liability in
certain cases.

(a) that he has used due diligence to enforce the execution of this Act, and

(b) that the said other person committed the offence in question without his knowledge, consent or connivance,

that other person shall be convicted of the offence and shall be liable to the like fine as if he were the occupier or manager, and the occupier or manager shall be discharged from any liability under this Act.

(2) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(a) that the occupier or manager of the factory has used all due diligence to enforce the execution of this Act, and

(b) by what person the offence has been committed, and

(c) that it has been committed without the knowledge, consent or connivance of the occupier or manager, and in contravention of his orders,

*(Chapter VI.—Penalties and Procedure. Chapter VII.—
Supplemental.)*

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding against the occupier or manager of the factory, and such person shall be liable to the like fine as if he were the occupier or manager.

Presumption
as to em-
ployment.

72. If a child over the age of six years is found inside any part of a factory in which children are working, he shall, until the contrary is proved, be deemed to be working in the factory.

Evidence as
to age.

73.—(1) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(2) A declaration in writing by a certifying surgeon relating to a worker that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of that worker.

Cognizance
of offences.

74.—(1) No prosecution under this Act, except a prosecution under section 66, shall be instituted except by or with the previous sanction of the Inspector.

(2) No Court inferior to that ¹* * * of a Magistrate of the first class shall try any offence against this Act or any rule or order made thereunder, other than an offence under section 66 or section 67.

Limitation
of prosecu-
tions.

75. No Court shall take cognizance of any offence under this Act or any rule or order thereunder, other than an offence under section 62 or section 64, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed:

Provided that when the offence consists of disobeying a written order made by an Inspector, complaint thereof may be made within twelve months of the date on which the offence is alleged to have been committed.

CHAPTER VII

SUPPLEMENTAL

Display of
factory
notices.

76.—(1) In addition to the notices required to be displayed in any factory by this Act or the rules made thereunder, there shall be displayed in every factory a notice containing such abstracts of this Act and of the rules made thereunder, in English and in the vernacular of the majority of the workers as the ²[Provincial Government] may prescribe.

(2) All notices required to be displayed in a factory shall be displayed at some conspicuous place at or near the main entrance to the factory, and shall be maintained in a clean and legible condition.

¹ The words "of a Presidency Magistrate or" omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and II Sch.

² Subs. by the A. O., 1937, for "L. G."

77. The [Provincial Government] may make rules requiring occupiers or managers of factories to submit such returns, occasional or periodical, as may in [its] opinion be required for the purposes of this Act.

Power of Provincial Government to make rules.

78. [Control of rules made by L. Gs.] Rep. by the A. O., 1937.

X of
1897.

79.—(1) all rules made under this Act shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which the draft of the proposed rules was published.

Publication of rules.

(2) All such rules shall be published in ³* * * the ⁴[official Gazette] ⁵* * * and shall, unless some later date is appointed, come into force on the date of such publication.

80. This Act shall apply to factories belonging to the Crown.

Application to Crown factories.

81. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Protection to persons acting under this Act.

82. [Repeal and savings.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Second Schedule.

THE SCHEDULE.—Rep. by Act XX of 1937, s. 3 and Sch. II.

THE ASSAM CRIMINAL LAW AMENDMENT (SUPPLEMENTARY) ACT, 1934.

⁶ACT NO. XXVII OF 1934

[25th August, 1934]

An Act to supplement the Assam Criminal Law Amendment Act, 1934.

Assam III
of 1934.

WHEREAS it is expedient to supplement the Assam Criminal Law Amendment Act, 1934; It is hereby enacted as follows:—

1. This Act may be called the Assam Criminal Law Amendment (Supplementary) Act, 1934.

Short title.

Assam III
of 1934.

2.—(1) Any person convicted on a trial held by Commissioners under the Assam Criminal Law Amendment Act, 1934, may appeal to the High Court of Judicature at Fort William in Bengal, and such appeal shall be disposed of by the said High Court in the manner provided in Chapter XXXI of the Code of Criminal Procedure, 1898.

Appeals and confirmations.

of
898.

(2) When the said Commissioners pass a sentence of death, the record of the proceedings before them shall be submitted to the said High Court, and the sentence shall not be executed unless it is confirmed by the High Court which shall exercise in respect of such

1 Subs. by the A. O., 1937, for "G. G. in C."

2 Subs. *ibid.*, for "his".

3 The words "the Gazette of India or" omitted, *ibid.*

4 Subs. *ibid.*, for "local official Gazette".

5 The words "as the case may be," omitted, *ibid.*

6 For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, page 180.

proceedings all the powers conferred on the High Court by Chapter XXVII of the Code of Criminal Procedure, 1898. V of 1898.

Bar of certain legal proceedings.

3. The powers conferred by section 491 of the Code of Criminal Procedure, 1898, shall not be exercised in respect of any person arrested, committed to or detained in custody under the Assam Criminal Law Amendment Act, 1934. V of 1898. Assam III of 1934.

Retrospective effect of sections 2 and 3.

4. Section 2 and section 3 shall have effect from the commencement of the Assam Criminal Law Amendment Act, 1934. Assam III of 1934.

THE PETROLEUM ACT, 1934

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SECTIONS

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2. Definitions.
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4. Rules for the import, transport and storage of petroleum.
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11. Exemption of heavy oils.
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17. Testing officers.
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20. Right to require re-test.
21. Power to make rules regarding tests.
22. Special rules for testing viscous or solid forms of petroleum.
23. General penalty for offences under this Act.
24. Confiscation of petroleum and receptacles.
25. Jurisdiction.
26. Power of entry and search.
27. Reports of accidents with petroleum.
28. Inquiries into serious accidents with petroleum.
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30. Power to apply Act to other substances.
31. Power to limit powers of local authorities over petroleum.
32. [Repealed.]

THE SCHEDULE,—[Repealed.]

ACT NO. XXX OF 1934

[6th September, 1934]

An Act to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances.

WHEREAS it is expedient to consolidate and amend the law relating to the import, transport, storage, production, refining and blending of petroleum and other inflammable substances; It is hereby enacted as follows:—

PRELIMINARY

1.—(1) This Act may be called the Petroleum Act, 1934.

Short title,
extent and
commence-
ment.

²[(2) It extends to all the Provinces and the Capital of the Fēderation, including Baluchistan.]

(3) It shall come into force on such date³ as the ⁴[Central Government] may, by notification in the ⁵[official Gazette], appoint.

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

- (a) “petroleum” means any liquid hydrocarbon or mixture of hydrocarbons, and any inflammable mixture (liquid, viscous or solid) containing any liquid hydrocarbon;
- (b) “dangerous petroleum” means petroleum having its flashing-point below seventy-six degrees Fahrenheit;
- (c) “flashing-point” of any petroleum means the lowest temperature at which it yields a vapour which will give a momentary flash when ignited, determined in accordance with the provisions of Chapter II and the rules made thereunder;
- (d) “to transport” petroleum means to move petroleum from one place to another in ⁶[the Provinces and the Capital of the Federation], and includes moving from one place to another in ⁶[the Provinces and the Capital of the Federation] by sea or across territory ⁷[in Pakistan] which is not part of ⁶[the Provinces and the Capital of the Federation];

¹ For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 104; and for Report of Select Committee, see *ibid.*; 1934, Pt. V, pp. 235-236.

² This 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., subject to certain modifications, see N.-W. F. P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950; 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 *ibid.*

³ The original sub-section (2) has been amended by the A. O., 1949 and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

⁴ The 30th March, 1937, see Gazette of India, 1937, Pt. I, p. 632.

⁵ Subs. by the A. O., 1937, for “G. G. in C.”.

⁶ Subs. *ibid.*, for “Gazette of India”.

⁷ Subs. by the A. O., 1949, for “British India”.

⁸ Subs. *ibid.*, for “in India”.

(Preliminary. Chapter I.—Control over Petroleum)

- (e) "to import" petroleum means to bring it into ¹[the Provinces and the Capital of the Federation] by land, sea or air, otherwise than during the course of transport;
- (f) "to store" petroleum means to keep it in any one place, but does not include any detention happening during the ordinary course of transport;
- (g) "motor conveyance" means any vehicle, vessel or aircraft for the conveyance of human beings, animals or goods, by land, water or air, in which petroleum is used to generate the motive power;
- (h) "prescribed" means prescribed by rules made under this Act.

CHAPTER I

CONTROL OVER PETROLEUM

Import,
transport
and storage
of petrol-
eum.

3.—(1) No one shall import, transport or store any petroleum save in accordance with the rules made under section 4.

(2) Save in accordance with the conditions of any licence for the purpose which he may be required to obtain by rules made under section 4, no one shall import any dangerous petroleum, and no one shall transport or store any petroleum.

Rules for
the import,
transport
and storage
of petrol-
eum.

4. The ²[Central Government] may make rules³—

- (a) prescribing places where petroleum may be imported and prohibiting its import elsewhere;
- (b) regulating the import of petroleum;
- (c) prescribing the periods within which licences for the import of dangerous petroleum shall be applied for, and providing for the disposal, by confiscation or otherwise, of any dangerous petroleum in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported;
- (d) regulating the transport of petroleum;
- (e) specifying the nature and condition of all receptacles and pipe-lines in which petroleum may be transported;
- (f) regulating the places at which and prescribing the conditions subject to which petroleum may be stored;
- (g) specifying the nature, situation and condition of ⁴receptacles in which petroleum may be stored;
- (h) prescribing the form and conditions of licences for the import of dangerous petroleum, and for the transport or storage of any petroleum, the manner in which applications for such licences shall be made, the authorities which may grant such licences and the fees which may be charged for such licences;

¹ Subs. by the A. O., 1949, for "British India".

² Subs. by the A. O., 1937, for "G. G. in C.".

³ See the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775.

(Chapter I.—Control over Petroleum)

- (i) determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier;
- (j) providing for the granting of combined licences for the import, transport and storage of petroleum, or for any two of such purposes;
- (k) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion; and
- (l) generally, providing for any matter which in [its] opinion is expedient for proper control over the import, transport and storage of petroleum.

5.—(1) No one shall produce, refine or blend petroleum save in accordance with the rules made under sub-section (2).

Production,
refining and
blending of
petroleum

(2) The [Central Government] may make rules—

- (a) prescribing the conditions subject to which petroleum may be produced, refined or blended; and
- (b) regulating the removal of petroleum from places where it is produced, refined or blended and preventing the storage therein and removal therefrom, except as dangerous petroleum, of any petroleum which has not satisfied the prescribed tests.

* * * * *

6. All receptacles containing dangerous petroleum shall have a stamped, embossed, painted or printed warning, either on the receptacle itself or, where that is impracticable, displayed near the receptacle, exhibiting in conspicuous characters the words "Petrol" or "Motor Spirit", or an equivalent warning of the dangerous nature of the petroleum:

Receptacles
of dangerous
petroleum to
show a
warning.

Provided that this section shall not apply to—

- (a) any securely stoppered glass, stoneware or metal receptacle of less than two gallons capacity containing dangerous petroleum which is not for sale, or
- (b) a tank incorporated in a motor conveyance, or attached to an internal combustion engine, and containing petroleum intended to be used to generate motive power for the motor conveyance or engine, or
- (c) a pipe-line for the transport of petroleum, or
- (d) any tank which is wholly underground, or

¹ Subs. by the A. O., 1937, for "his".

² Subs. *ibid.*, for "G. G. in C.".

³ See the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775.

⁴ Sub-section (3) omitted by the A. O., 1937.

(Chapter I.—Control over Petroleum)

- (é) any class of receptacles which the ¹[Central Government] may, by notification² in the ³[official Gazette], exempt from the operation of this section.

No licence needed for small stocks of non-dangerous petroleum not in bulk.

7. Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the transport or storage of non-dangerous petroleum if the total quantity in his possession at any one place does not exceed five hundred gallons and none of it is contained in a receptacle exceeding two hundred gallons in capacity.

No licence needed for small quantities of dangerous petroleum.

8.—(1) Notwithstanding anything contained in this Chapter, a person need not obtain a licence for the import, transport or storage of dangerous petroleum not intended for sale if the total quantity in his possession does not exceed six gallons.

(2) Dangerous petroleum possessed without a licence under this section shall be kept in securely stoppered receptacles of glass, stoneware or metal which shall not in the case of receptacles of glass or stoneware exceed one quart in capacity or in the case of receptacles of metal five gallons in capacity.

Exemptions for motor conveyances and stationary engines.

9.—(1) The owner of a motor conveyance, who complies with requirements of the law for the time being in force relating to the registration and licensing of such conveyance and its driver or pilot and the owner of any stationary internal combustion engine, shall not be required to obtain a licence—

- (a) for the import, transport or storage of any petroleum contained in any fuel tank incorporated in the conveyance or attached to the internal combustion engine, or
- (b) for the transport or storage of dangerous petroleum, not exceeding twenty gallons in quantity in addition to any quantity possessed under clause (a),

provided the petroleum is intended to be used to generate motive power for the motor conveyance or engine:

⁴[Provided further that the total quantity of dangerous petroleum which may be stored without a licence under clause (b) shall not exceed twenty gallons, notwithstanding that such owner may possess other motor conveyances or engines.]

(2) The dangerous petroleum transported or stored without a licence under clause (b) ⁵[of sub-section (1)] shall be kept as provided in sub-section (2) of section 8, and, if it exceeds six gallons in quantity, shall be stored in an isolated place which does not communicate with any room where any person resides or works or in any room where persons assemble.

10. Notwithstanding anything contained in this Chapter, a railway administration, as defined in section 3 of the Railways Act, 1890, IX of 1890.

¹ Subs. by the A. O., 1937, for "G. G. in C."

² For notification exempting tanks within installations or refineries or at or near oil wells, and receptacles in the possession of His Majesty's forces, see Gazette of India, 1937, Pt. I, p. 632.

³ Subs. by the A. O., 1937, for "Gazette of India".

⁴ Proviso added by the Petroleum (Amendment) Act, 1940 (25 of 1940), s. 2.

⁵ Ins., *ibid.*

(Chapter I.—Control over Petroleum. Chapter II.—The Testing of Petroleum.)

need not obtain any licence for the import or transport of any petroleum in its possession in its capacity as carrier.

administration acting as carrier.

11. Nothing in this Chapter shall apply to any petroleum which has its flashing-point not below two hundred degrees Fahrenheit.

Exemption of heavy oils.

12. The ¹[Central Government] may, by notification² in the ³[official Gazette], exempt any petroleum specified in the notification from all or any of the provisions of this Chapter.

General power of exemption.

13.—(1) The ¹[Central Government] may authorise⁴ any officer by name or by virtue of office to enter any place where petroleum is being imported, stored, produced, refined or blended, or is under transport, and inspect all receptacles, plant and appliances used in connection with petroleum in order to ascertain if they are in accordance with the provisions of this Chapter and the rules made thereunder.

Inspection of places.

(2) The ¹[Central Government] may make rules regulating the procedure of officers authorised under this section.

CHAPTER II

THE TESTING OF PETROLEUM

14.—(1) The ¹[Central Government] may, by notification in the ³[official Gazette], authorise⁴ any officer by name or by virtue of office to enter any place where petroleum is being imported, transported, stored, produced, refined or blended and to inspect and take samples for testing of any petroleum found therein.

Inspection and sampling of petroleum.

(2) The ¹[Central Government] may make rules⁵—

- (a) regulating the taking of samples of petroleum for testing,
- (b) determining the cases in which payment shall be made for the value of samples taken, and the mode of payment, and
- (c) generally, regulating the procedure of officers exercising powers under this section.

15.—(1) A standard apparatus for determining the flashing-point of petroleum shall be deposited with an officer to be appointed in this behalf by the ¹[Central Government], by notification in the ³[official Gazette].

Standard Test Apparatus.

(2) Such apparatus shall be engraved with the words "Standard Test Apparatus", and shall be verified and corrected from time to time and replaced when necessary, in accordance with rules made under section 21.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² For instance of such a notification, see Gazette of India, 1937, Pt. I, page 632.

³ Subs. by the A. O., 1937, for "Gazette of India".

⁴ For instance of such authorisation, see Gazette of India, 1937, Pt. I, p. 631.

⁵ For the Petroleum Rules, 1937, see Gazette of India, 1937, pp. 720 to 775.

(Chapter II.—The Testing of Petroleum)

(3) The Standard Test Apparatus shall, on payment of the prescribed fee, be open to inspection at all reasonable times by any person wishing to inspect it.

Certification
of other test
apparatus.

16.—(1) The officer appointed under section 15 shall, on payment of the prescribed fee, if any, compare with the Standard Test Apparatus any apparatus for determining the flashing-point of petroleum which may be submitted to him for this purpose.

(2) If any apparatus is found by him to agree with the Standard Test Apparatus within prescribed limits, the officer shall engrave such apparatus with a special number and with the date of the comparison, and shall give a certificate in respect of it in the prescribed form, certifying that on the said date the apparatus was compared with the Standard Test Apparatus and was found to agree with it within the prescribed limits, and specifying any corrections to be made in the results of tests carried out with the apparatus.

(3) A certificate granted under this section shall be valid for such period as may be prescribed.

(4) A certificate granted under this section shall, during the period for which it is valid, be proof, until the contrary is proved, of any matter stated therein.

(5) The officer shall keep a register in the prescribed form of all certificates granted by him under this section.

Testing
officers.

17. The [Central Government] may authorise any officer by name or by virtue of office to test petroleum of which samples have been taken under this Act, or which may have been submitted to him for test by any person, and to grant certificates of the results of such tests.

Manner
of test.

18. All tests of petroleum made under this Act shall be made with a test apparatus in respect of which there is a valid certificate under section 16, shall have due regard to any correction specified in that certificate, and shall be carried out in accordance with rules made under section 21.

Certificate
of testing.

19.—(1) The testing officer after testing samples of petroleum shall make out a certificate in the prescribed form, stating whether the petroleum is dangerous or non-dangerous, and, if the petroleum is non-dangerous, the flashing-point of the petroleum.

(2) The testing officer shall furnish the person concerned, at his request, with a certified copy of the certificate, on payment of the prescribed fee, and such certified copy may be produced in any Court in proof of the contents of the original certificate.

(3) A certificate given under this section shall be admitted as evidence in any proceedings which may be taken under this Act in respect of the petroleum from which the samples were taken, and shall, until the contrary is proved, be conclusive proof that the

¹ Subs. by the A. O., 1937, for "G. G. in C."

(Chapter II.—The Testing of Petroleum)

petroleum is dangerous or non-dangerous, as the case may be, and, if the petroleum is non-dangerous, of its flashing-point.

20.—(1) The owner of any petroleum, or his agent, who is dissatisfied with the result of the test of the petroleum may, within seven days from the date on which he received intimation of the result of the test, apply to the officer empowered under section 14 to have fresh samples of the petroleum taken and tested.

Right to
require
re-test.

(2) On such application and on payment of the prescribed fee, fresh samples of the petroleum shall be taken in the presence of such owner or agent or person deputed by him, and shall be tested in the presence of such owner or agent or person deputed by him.

(3) If, on such re-test, it appears that the original test was erroneous, the testing officer shall cancel the original certificate granted under section 19, shall make out a fresh certificate, and shall furnish the owner of the petroleum, or his agent, with a certified copy thereof, free of charge.

21. The [Central Government] may make rules¹—

Power to
make rules
regarding
tests.

- (a) for the specification, verification, correction and replacement of the Standard Test Apparatus;
- (b) prescribing fees for the inspection of the Standard Test Apparatus;
- (c) regulating the procedure in comparing a test apparatus with the Standard Test Apparatus;
- (d) prescribing the form of certificate to be given in respect of a test apparatus so compared, and the period for which such certificates shall be valid;
- (e) prescribing the form of the register of such certificates;
- (f) prescribing fees for comparing a test apparatus with the Standard Test Apparatus;
- (g) regulating the procedure of testing officers in carrying out tests of petroleum, providing for the averaging of results where several samples of the same petroleum are tested, and prescribing the variations from standard temperatures which may be allowed;
- (h) prescribing the form of certificates of tests of petroleum and the fees which may be charged therefor;
- (i) providing, where the results of the testing of samples raise a doubt as to the uniformity of the quality of the petroleum in any lot under test, for the division of the lot into sub-lots, and for the selection and testing of samples of each sub-lot and for the averaging of results in accordance with the results of tests of those samples;
- (j) prescribing fees for re-tests under section 20 and providing for their refund where the original test was erroneous; and
- (k) generally, regulating the procedure of all officers performing

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² See the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775.

(Chapter II.—*The Testing of Petroleum.* Chapter III.—*Penalties and Procedure.*)

duties connected with the testing of petroleum, and providing for any matter incidental to such testing.

Special rules for testing viscous or solid forms of petroleum.

22. The ¹[Central Government] may also make rules² providing specially for the testing of any form of petroleum which is viscous or solid or contains sediment or thickening ingredients, and such rules may modify or supplement any of the provisions of this Chapter or of the rules made under section 21 in order to adapt them to the special needs of such tests.

CHAPTER III

PENALTIES AND PROCEDURE

General penalty for offences under this Act.

23.—(1) Whoever—

- (a) in contravention of any of the provisions of Chapter I or of any of the rules made thereunder, imports, transports, stores, produces, refines or blends any petroleum, or
- (b) contravenes any rule made under section 4 or section 5, or
- ³[(c) being the holder of a licence issued under section 4 or a person for the time being placed by the holder of such licence in control or in charge of any place where petroleum is being imported or stored, or is under transport, contravenes any condition of such licence or suffers any condition of such licence to be contravened, or]
- (d) being for the time being in control or in charge of any place where petroleum is being imported, stored, produced, refined or blended or is under transport, refuses or neglects to show to any officer authorised under section 13 any receptacle, plant or appliance used in such place in connection with petroleum, or in any way obstructs or fails to render reasonable assistance to such officer during an inspection, or
- (e) being for the time being in control or in charge of any place where petroleum is being imported, transported, stored, produced, refined or blended, refuses or neglects to show to any officer authorised under section 14 any petroleum in such place, or to give him such assistance as he may require for the inspection of such petroleum, or refuses to allow him to take samples of the petroleum, or
- (f) being required, under section 27, to give information of an accident fails to give such information as so required by that section,

shall be punishable with fine which may extend to five hundred rupees.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² See the Petroleum Rules, 1937, published in the Gazette of India, 1937, Pt. I, pp. 720 to 775.

³ Subs. by the Petroleum (Amendment) Act, 1941 (3 of 1941), s. 2, for the original clause (c).

(Chapter III.—Penalties and Procedure)

(2) If any person, having been convicted of an offence punishable under sub-section (1), is again guilty of any offence punishable under that sub-section, he shall be punishable for every such subsequent offence with fine which may extend to two thousand rupees.

24.—(1) In any case in which an offence under clause (a) or clause (b) or clause (c) of sub-section (1) of section 23 has been committed, the convicting Magistrate may direct that—

Confiscation
of petroleum
and
receptacles.

(a) the petroleum in respect of which the offence has been committed, or

(b) where the offender is convicted of importing, transporting or storing petroleum exceeding the quantity he is permitted to import, transport or store, as the case may be, the whole of the petroleum in respect of which the offence was committed,

shall, together with the receptacles in which it is contained, be confiscated.

(2) This power may also be exercised by the High Court in the exercise of its appellate or revisional powers.

25. Offences punishable under this Act shall be triable, ¹* * * by a Magistrate of the first class, or by a Magistrate of the second class who has been specially empowered by the ²[Central Government] in this behalf.

Jurisdiction.

26.—(1) The ³[Central Government] may, by notification in the ⁴[official Gazette], authorise any officer by name or by virtue of office to enter and search any place where he has reason to believe that any petroleum is being imported, transported, stored, produced, refined or blended otherwise than in accordance with the provisions of this Act and the rules made thereunder, and to seize, detain or remove any or all of the petroleum in respect of which in his opinion an offence under this Act has been committed.

Power of
entry and
search.

V of
1898. (2) The provisions of the Code of Criminal Procedure, 1898, relating to searches shall, so far as they are applicable, apply to searches by officers authorised under this section.

(3) The ³[Central Government] may make rules regulating the procedure of authorised officers in the exercise of their powers under this section subject, however, to the provisions of sub-section (2).

27. Where any accident by explosion or fire, which is attended with loss of human life or serious injury to person or property, occurs as the result of the ignition of petroleum or petroleum vapour, or occurs in or near any place where petroleum is kept and under circumstances making it likely that it was the result of such ignition,

Reports
of accidents
with
petroleum.

¹ The words "in the Presidency-towns, by a Presidency Magistrate, and elsewhere" omitted by the A. O., 1949.

² Subs. by the A. O., 1937, for "L. G.".

³ Subs. *ibid.*, for "G. G. in C.".

⁴ Subs. *ibid.*, for "Gazette of India".

⁵ For instance of such authorisation, see Gazette of India, 1937, Pt. I, p. 632.

the person for the time being in charge of the petroleum shall forthwith give information to the nearest Magistrate or to the officer in charge of the nearest police station.

Inquiries
into
serious
accidents
with
petroleum.

28.—(1) The inquiry mentioned in section 176 of the Code of Criminal Procedure, 1898, shall [unless section 8 of the Coroners Act, 1871, is applicable to the circumstances] be held in all cases where any person has been killed by an accident which the Magistrate has reason to believe was the result of the ignition of petroleum or petroleum vapour.

(2) Any Magistrate empowered to hold an inquest may also hold an inquiry under the said section into the cause of any accident which he has reason to believe was the result of the ignition of petroleum or petroleum vapour, if such accident was attended by serious injury to person or property, notwithstanding that no person was killed thereby.

2* * * * *

(4) The result of all inquiries held in pursuance of this section [and of any inquiry held by a coroner in a case to which sub-section (1) refers] shall be submitted as soon as may be to the [Central Government, [the [Chief Inspector of Explosives in Pakistan]] and the Provincial Government].

CHAPTER IV

SUPPLEMENTAL

Provisions
relating
to rules.

29.—(1) In making any rules under this Act, the [Central Government] may—

- (a) provide for any matter ancillary to such rules for which in [its] opinion provision is necessary to protect the public from danger arising from the import, transport, storage, production, refining or blending of petroleum, and
- (b) make special provision for the special circumstances of any Province or place.

(2) Every power to make rules conferred by this Act is subject to the condition of previous publication.

(3) All rules made under this Act shall be published in the [official Gazette] 8* * *.

Power to
apply Act

30.—(1) The [Central Government] may, by notification⁹ in the [official Gazette], apply any or all of the provisions of this Act,

¹ Ins. by the Petroleum (Amendment) Act, 1940 (25 of 1940), s. 3.

² Sub-section (3) which was amended by the A. O., 1937 and Act 25 of 1940, s. 3, has been omitted by the A. O., 1949.

³ Subs. by the A. O., 1937, for "L. G.".

⁴ Subs. by the A. O., 1949, for "Chief Inspector of Explosives in India".

⁵ Subs. by the A. O., 1937, for "G. G. in C.".

⁶ Subs. *ibid.*, for "his".

⁷ Subs. *ibid.*, for "Gazette of India".

⁸ The words "and in the local official Gazette" omitted, *ibid.*

⁹ For notification extending certain sections of the Act to calcium phosphide, see Gazette of India, 1937, Pt. I, p. 632.

and of the rules made thereunder with such modifications as ¹[it] may specify, to any dangerously inflammable substance, other than an explosive, and thereupon the provisions so applied shall have effect as if such substance had been included in the definition of petroleum. to other substances.

(2) The ²[Central Government] may make rules providing specially for the testing of any substance to which any of the provisions of this Act have been applied by notification under sub-section (1), and such rules may supplement any of the provisions of Chapter II in order to adapt them to the special needs of such tests.

31. Where any enactment confers powers upon any local authority in respect of the transport or storage of petroleum, the ²[Central Government] may, by notification in the ³[official Gazette],—

Power to limit powers of local authorities over petroleum.

(a) limit the operation of such enactment, or

(b) restrict the exercise of such powers, in any manner ¹[it] deems fit.

32. [Repeals.] Rep. by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.

THE SCHEDULE.—[ENACTMENTS REPEALED.] Rep. by the Repealing Act 1938 (I of 1938), s. 2 and Schedule.

THE TARIFF ACT, 1934

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SECTIONS

1. Short title, extent and commencement.
2. Duties specified in Schedules to be levied.
3. [Omitted.]
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5. Duties on imports and exports by land.
6. Duty on salt, opium and spirit, when protected by a certificate.
7. [Repealed.]
8. Additional import duty on bounty-fed articles.
9. Special import duty on sugar in certain cases.
10. [Repealed.]
11. Duration of protective duties and power of Central Government to modify or remit certain duties.
12. Power to cancel notifications.
13. [Repealed.]

¹ Subs. by the A. O., 1937, for "he".

² Subs. *ibid.*, for "G. G. in C.".

³ Subs. *ibid.*, for "Gazette of India".

SECTIONS

THE FIRST SCHEDULE

Import Tariff

- I. Live animals and products of the animal kingdom.
- II. Products of the vegetable kingdom.
- III. Fatty substances, greases, oils and products of their decomposition; prepared alimentary fats; waxes of animal or vegetable origin.
- IV. Products of the food-preparing industries; beverages, alcoholic liquors and vinegars; tobacco.
- V. Mineral products.
- VI. Chemical and pharmaceutical products; colours and varnishes; perfumery; soap; candles and the like, glues and gelatines; explosives; fertilisers.
- VII. Hides, skins, leather, fur skins and manufactures of these materials.
- VIII. Rubber and articles made of rubber.
- IX. Wood and cork and wares of these materials; goods made of plaiting materials.
- X. Paper and its applications.
- XI. Textile materials and textile goods.
- XII. Footwear, hats, umbrellas and parasols; articles of fashion.
- XIII. Wares of stone and of other mineral materials; ceramic products; glass and glassware.
- XIV. Real pearls, precious stones, precious metals and wares of those materials; coin (specie).
- XV. Base metals and articles made therefrom.
- XVI. Machinery and apparatus; electrical material.
- XVII. Transport material.
- XVIII. Scientific and precision instruments and apparatus; watch-makers' and clock-makers' wares; musical instruments.
- XIX. Arms and ammunition.
- XX. Miscellaneous goods and products not elsewhere included.
- XXI. Works of art and articles for collections.
- XXII. Articles not otherwise specified.

THE SECOND SCHEDULE

Export Tariff

THE THIRD SCHEDULE.—[Repealed.]

ACT No. XXXII OF 1934

[8th September, 1934]

An Act to consolidate the law relating to customs duties

WHEREAS it is expedient to consolidate the law relating to customs duties on goods imported into or exported from ²[the Provinces and the Capital of the Federation] by sea and to customs duties on goods imported into or exported from ²[the Provinces and the Capital of the Federation] by land; It is hereby enacted as follows:—

1.—(1) This Act may be called the ³* Tariff Act, 1934.

Short title,
extent and
commence-
ment.

(2) It extends to ⁴[all the Provinces and the Capital of the Federation] ⁵* * *.

(3) It shall come into force on such date⁶ as the ⁷[Central Government] may, by notification in the ⁸[official Gazette], appoint in this behalf.

2.—(1) There shall be levied and collected in every port to which this Act applies, the duties specified in the First and Second Schedules.

Duties
specified in
Schedules to
be levied.

(2) The ⁷[Central Government] may, by notification in the ⁸[official Gazette] fix, for the purpose of levying the said duties, tariff values of any articles enumerated, either specifically or under general headings, in the said Schedules as chargeable with duty *ad valorem* and may alter any tariff values for the time being in force.

(3) Different tariff values may be fixed for different classes or descriptions of the same article.

(4) Nothing in this Act shall authorise the levy of customs duties on any article carried from one customs port in ²[the Provinces and the Capital of the Federation] to another such port except salt, opium and spirit.

⁹3. [*Levy of duty where standard rate and preferential rate are specified.*] Omitted by the Tariff (Third Amendment) Act, 1951 (XLI of 1951), s. 2.

4.—(1) Where, in respect of any article chargeable under the First Schedule with a duty characterised in the third column thereof as

Power of
Central

* 1 For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. V, page 329.

2 Subs. by the A. O., 1949, for "British India".

3 The word, "Indian" omitted, *ibid.*

4 Subs. *ibid.*, for "the whole of British India".

5 The words "except the Chief Commissionership of Aden" were omitted by the A. O., 1937.

6 The 1st January 1935, see Gazette of India, 1934, Pt. I, p. 1377.

7 Subs. by the A. O., 1937, for "Governor-General in Council".

8 Subs. *ibid.*, for "Gazette of India".

9 This section was amended by the A. O., 1937.

Government
to alter
protective
duties.

protective, the ¹[Central Government] is satisfied, after such inquiry as ²[it] thinks necessary, that such duty has become ineffective or excessive for the purpose of securing the protection intended to be afforded by it to a similar article manufactured in ³[Pakistan], ²[it] may, by notification in the ⁴[official Gazette] increase or reduce such duty to such extent as ²[it] thinks necessary either generally or in respect of such article when imported from or manufactured in any country or countries specified in the notification:

5*	*	*	*	*	*	*
6*	*	*	*	*	*	*
7*	*	*	*	*	*	*

Duties on
imports and
exports by
land.

⁸5. Where a customs duty at any rate prescribed by or under this Act or any other law for the time being in force is leviable on any article when imported into, or on any article when exported from, a port in ⁹[the Provinces and the Capital of the Federation], the ¹[Central Government] may, by notification in the ⁴[official Gazette] direct that a duty of customs at the like rate shall be leviable on any such article when imported or exported, as the case may be, by land from or to any territory outside ⁹[the Provinces and the Capital of the Federation] which ²[it] may, by a like notification, declare to be foreign territory for the purposes of this section.

Duty on
salt, opium
and spirit,
when pro-
tected by a
certificate.

6.—(1) Salt, opium and spirit imported from any port in ⁹[the Provinces and the Capital of the Federation] and protected by the certificate of any officer empowered in that behalf by the ¹[Central Government] ¹⁰* * *, are chargeable with only the amount, if any, by which the duty leviable thereon under the First Schedule exceeds the duty shown by such certificate to have been already paid in respect thereof.

(2) The amount, if any, paid to the Government as the price of such salt or opium is not duty within the meaning of this section.

(3) Nothing in this section applies to spirit which is exported under bond for excise duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea Customs VIII of
1878.

7. [Application of certain provisions as to duties and goods.] *Rep. by the Land Customs (Amendment) Act, 1937 (III of 1937), s. 6, and Schedule.*

¹ Subs. by the A. O., 1937, for "G. G. in C.":

² Subs. *ibid.*, for "he".

³ Subs. by the A. O., 1949, for "India".

⁴ Subs. by the A. O., 1937, for "Gazette of India".

⁵ Proviso omitted by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 3.

⁶ Sub-section (2) which was ins. by the Indian Tariff (Third Amendment) Act, 1939, omitted, *ibid.*

⁷ The original sub-section (2) which was re-numbered as sub-section (3) by the Indian Tariff (Third Amendment) Act, 1939, omitted by Act 41 of 1951, s. 3.

⁸ S. 5 has been applied to Khyber Agency, *see* Gazette of India, 1939, Pt. I, p. 40 and also applied to the State of Bahawalpur with effect from the 19th January 1949, *see* Gazette of Pakistan, 1950, Pt. I, p. 253.

⁹ Subs. by the A. O., 1949, for "British India".

¹⁰ The words "or the Local Government" were omitted by the A. O., 1937.

8.—(1) Where any country, dependency or colony pays or bestows, directly or indirectly, any bounty or grant upon the production therein or the exportation therefrom of any article and the article is chargeable with duty under the provisions of this Act, then, upon the importation of any such article into ¹[the Provinces and the Capital of the Federation], whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the ²[Central Government] may, by notification in the ³[official Gazette], impose an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed.

Additional import duty on bounty-fed articles.

(2) The net amount of any such bounty or grant as aforesaid shall be, from time to time, ascertained, determined and declared by the ²[Central Government], and the ²[Central Government] may, by notification in the ³[official Gazette], make rules for the identification of such articles and for the assessment and collection of any additional duty imposed upon the importation thereof under sub-section (1).

9.—(1) Where the rate of duty or other taxation imposed in any country, dependency or colony upon sugar not produced therein exceeds the rate of duty or other taxation imposed upon sugar produced therein by more than the equivalent of six francs per one hundred kilogrammes in the case of refined sugar or five francs and fifty centimes per one hundred kilogrammes in the case of other sugar, then, upon the importation of any sugar from such country, dependency or colony into ¹[the Provinces and the Capital of the Federation], whether the same is imported directly from the country of production or otherwise, and whether it is imported in the same condition as when exported from the country of production or has been changed in condition by manufacture or otherwise, the ²[Central Government] may, by notification in the ³[official Gazette], impose, in addition to any other duty or taxation imposed under this Act or any other law for the time being in force, a special duty not exceeding one moiety of such excess.

Special import duty on sugar in certain cases.

(2) The ²[Central Government] may, from time to time, by general or special order, declare, for the purposes of sub-section (1),—

- (a) what articles or substances containing any saccharine matter shall be deemed to be “sugar” and what kinds of sugar shall be deemed to be “refined sugar” or “other sugar”, respectively; and
- (b) what sums in the currency of ¹[the Provinces and the Capital of the Federation] shall be deemed to be the equivalent of “francs” and “centimes”, respectively.

(3) The amount of the excess referred to in sub-section (1) shall be from time to time ascertained, determined and declared by the ²[Central Government], and the ²[Central Government] may, by notification in the ³[official Gazette], make rules for the identification of sugar and for the assessment and collection of any special duty imposed upon the importation thereof under sub-section (1).

¹ Subs. by the A. O., 1949, for “British India”.

² Subs. by the A. O., 1937, for “G. G. in C.”.

³ Subs. *ibid.*, for “Gazette of India”.

10. [In contracts amount of increased or decreased duty to be added or deducted.] Rep. by the Indian Sale of Goods (Amendment) Act, 1940 (XLI of 1940), s. 3.

Duration of protective duties and power of Central Government to modify or remit certain duties.

11.—(1) When the duty specified for any article in the First Schedule is characterised as protective in the third column of that Schedule, that duty shall have effect only up to the date, if any, specified in the ¹[fifth] column of that Schedule.

(2) If, after such inquiry as ²[it] thinks necessary, the ³[Central Government] is of opinion that the duty specified in the First Schedule in respect of wheat has become unnecessary or excessive, ⁴²[it] may, by notification in the ⁴[official Gazette], remit such duty or reduce it to such extent as ²[it] thinks fit.

(3) If, after such inquiry as ²[it] thinks necessary, the ³[Central Government] is of opinion that the duty specified in the First Schedule in respect of wheat flour is excessive, ²[it] may, by notification in the ⁴[official Gazette], reduce such duty to such extent as ²[it] thinks fit, but not so as to make it lower than an *ad valorem* duty of twenty per cent.

Power to cancel notifications.

12. All notifications published under this Act may be cancelled by the authority publishing the same.

13. [Repeals.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Second Schedule.

THE FIRST SCHEDULE

IMPORT TARIFF

Item No.	Name of article.	Nature of duty.	⁵ [Rate of duty.]	⁶ Duration of protective rates of duty.
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[SECTION I

LIVE ANIMALS AND PRODUCTS OF THE ANIMAL KINGDOM

1	Animals, living, all sorts	...	Free ...	...
2	Bacon and Ham, not canned or bottled.	Revenue	25 per cent. <i>ad valorem</i>	...
3	Fish, not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...

¹ Subs. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 4, for "seventh".

² Subs. by the A. O., 1937, for "he".

³ Subs. *ibid.*, for "G. G. in C.".

⁴ Subs. *ibid.*, for "Gazette of India".

⁵ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the heading "Standard rate of duty.".

⁶ The original columns 5 and 6 and all entries therein, omitted, *ibid.*

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
3 (1)	Fish, salted, wet ...	Revenue	Such rate or rates of duty not exceeding one rupee per ¹ * maund of 82 $\frac{2}{7}$ lbs. avoirdupois weight as the ² [Central Government] may, by notification in the ³ [official Gazette] from time to time prescribe, plus $6\frac{1}{2}$ per cent. <i>ad valorem</i> .	...
⁴ [3 (2)]	Fish, salted, dry ...	Revenue	15 per cent. <i>ad valorem</i>	...]
3 (3)	Fish, unsalted, dry ...	⁵ [Revenue]	30 per cent. <i>ad valorem</i>	...
3 (4)	Fishmaws, including singly and sozille and sharkfins.	Revenue	25 per cent. <i>ad valorem</i>	...
4	Butter, Cheese and Ghee	Revenue	25 per cent. <i>ad valorem</i>	...
4 (1)	Milk, condensed or preserved, including milk cream.	⁶ [Revenue]	⁷ [25] per cent. <i>ad valorem</i> .	...
5	Coral, unprepared ...	Revenue	25 per cent. <i>ad valorem</i>	...
5 (1)	Cowries and Shells ...	Revenue	25 per cent. <i>ad valorem</i>	...
5 (2)	Ivory, unmanufactured ...	⁵ [Revenue]	30 per cent. <i>ad valorem</i>	...

SECTION II

PRODUCTS OF THE VEGETABLE KINGDOM

6	Plants, living, not otherwise specified.	...	Free ...	...
6 (1)	Rubber stumps ...	...	Free ...	...
7	Vegetables, all sorts, fresh, dried, salted or preserved, not otherwise specified.	⁵ [Revenue]	30 per cent. <i>ad valorem</i>	...
8	Fruits, all sorts, fresh, dried, salted or preserved, not otherwise specified.	⁵ [Revenue]	30 per cent. <i>ad valorem</i>	...

¹ The word "Indian" omitted by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5.

² Subs. by the A. O., 1937, for "G. G. in C.".

³ Subs. *ibid.*, for "Gazette of India".

⁴ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for Item No. 3 (2).

⁵ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

⁶ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁷ Subs. *ibid.*, for "30".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
8 (1)	Currants	Revenue	Re. 1-4 per cwt. ...	...
9	Coffee not otherwise specified.	¹ [Revenue]	25 per cent. <i>ad valorem</i> plus one anna per pound.	...
9 (1)	Coffee, canned or bottled	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
9 (2)	Tea	¹ [Revenue]	² [40 per cent. <i>ad valorem</i> .]	...
³ [9 (3)]	The following Spices, whether ground or unground, namely :— Cardamoms, cassia, cinnamon, cloves, nutmegs and pepper.	¹ [Revenue]	45 per cent. <i>ad valorem</i>	...
9 (4)	The following unground Spices, namely :— Chillies, ginger and mace	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
9 (5)	Betelnuts	¹ [Revenue]	⁴ [Five annas per lb.] ...	...
9 (6)	Vanilla beans	⁵ [Revenue]	⁶ [25] per cent. <i>ad valorem</i> .	...
10	Grain and Pulse not otherwise specified, including broken grains and pulse, but excluding flour.	...	Free	...
⁷ [10 (1)]	Wheat	Revenue	Free	...]
8*	* * *	*	* * *	*
11	Flour not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
⁷ [11 (1)]	Wheat flour	Revenue	Free	...]

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Finance Act, 1951 (1 of 1951), s. 5 and Second Sch. for "five annas per pound".

³ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original Item No. 9 (3).

⁴ Subs. by the Finance Act, 1946 (7 of 1946), s. 6, for "45 per cent. *ad valorem*".

⁵ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁶ Subs. *ibid.*, for "30".

⁷ The original Items Nos. 10 (1) and 11 (1) were omitted by s. 2 of the Indian Tariff (Second Amendment) Act, 1937 (27 of 1937) (with effect from the 1st April, 1937). The present Items were subsequently inserted by the Indian Tariff (Amendment) Act, 1939 (1 of 1939), as amended from time to time, to read as above.

⁸ Item No. 10 (2) omitted by the Repealing and Amending Act, 1945 (6 of 1945), s. 3 and Second Schedule.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
11 (2)	Sago flour	...	Free	...
11 (3)	¹ [Sago, Tapioca and Tapioca flour.]	² [Revenue]	30 per cent. <i>ad valorem</i> ¹	...
11 (4)	Starch and farina ...	Revenue	15 per cent. <i>ad valorem</i>	...
12	Seeds all sorts not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
12 (1)	Oilseeds imported into ³ [the Provinces and the Capital of the Federation] by sea from the territories of any Prince or Chief in ⁴ [Pakistan].	...	Free	...
12 (2)	Oilseeds, non-essential, all sorts not otherwise specified, including copra or coconut kernel.	² [Revenue]	⁵ [42 per cent. <i>ad valorem</i> .]	...
12 (3)	Rubber seeds	...	Free	...
12 (4)	Hops	...	Free	...
12 (5)	Fodder, bran and pollards.	Revenue	2½ per cent. <i>ad valorem</i>	...
13	Dyeing and Tanning substances, all sorts not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
13 (1)	Barks for tanning ...	⁶ *	⁷ [Free]	...
13 (2)	Cutch and gambier, all sorts.	² [Revenue]	30 per cent. <i>ad valorem</i>	...
13 (3)	Gums, Resins and Lac, all sorts not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Sago and Tapioca".

² Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

³ Subs. by the A. O., 1949, for "British India".

⁴ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "India".

⁵ Subs. by the Finance Act, 1950 (26 of 1950), s. 5, for "30 per cent. *ad valorem*".

⁶ The word "Revenue" which was ins. by the Indian Tariff (Amendment) Act, 1940 (21 of 1940), s. 2, omitted by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5.

⁷ The original word "Free" was subs. first by Act 21 of 1940 and then by Act 41 of 1951, to read as above.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
13 (4)	Gums, Arabic, Benjamin (ras and cowrie) and Dammer (including unrefined batu) and rosin.	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
13 (5)	Stick or Seed Lac ...	...	Free ...	...
13 (6)	Opium ...	Revenue	Rs. 30 per seer of 80 tolas or 18½ per cent. <i>ad valorem</i> , whichever is higher.	...
13 (7)	Cinchona bark ...	...	Free ...	...
14	Canes and Rattans ...	Revenue	25 per cent. <i>ad valorem</i>	...

SECTION III

FATTY SUBSTANCES, GREASES, OILS AND PRODUCTS OF THEIR DECOMPOSITION;
PREPARED ALIMENTARY FATS; WAXES OF ANIMAL OR VEGETABLE ORIGIN.

15	All sorts of Stearine, wax, grease and Animal fat not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
15 (1)	Lard, not canned or bottled.	Revenue	25 per cent. <i>ad valorem</i>	...
15 (2)	Beeswax ...	² [Revenue]	³ [25] per cent. <i>ad valorem</i>	...
15 (3)	Tallow ...	...	Free ...	...
15 (4)	Fish oil including whale oil not otherwise specified.	² [Revenue]	³ [25] per cent. <i>ad valorem</i>	...
15 (5)	Fish oil and whale oil, hardened or hydrogenated.	Revenue	Rs. 10 per cwt. ...	...
15 (6)	Vegetable Non-essential oils not otherwise specified.	¹ [Revenue]	35 per cent. <i>ad valorem</i>	...
15 (7)	⁴ [The following Vegetable, Non-essential oils, namely:—			
	(a) Coconut ...	¹ [Revenue]	⁴ [48 per cent. ...	...
	(b) Groundnut ...	...	42 per cent. ...	...
	(c) Linseed] ...	...	15 per cent.] ...	...

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, for "Preferential revenue".

³ Subs. *ibid.*, for "30".

⁴ Subs. by the Finance Act, 1950 (26 of 1950), s. 5, for the original entry.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
15 (8)	All sorts of Animal oils not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...

SECTION IV

PRODUCTS OF THE FOOD-PREPARING INDUSTRIES; BEVERAGES, ALCOHOLIC LIQUORS AND VINEGARS; TOBACCO.

16	Canned or bottled bacon, ham and lard.	Revenue	25 per cent. <i>ad valorem</i>	...
16 (1)	Fish, canned	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
16 (2)	Isinglass, canned or bottled	Revenue	25 per cent. <i>ad valorem</i>	...
³ [17]	Sugar excluding confectionery.	⁴ [Revenue]	⁵ [Rs. 20 per cwt.] ...	⁶ * * *]
17 (1)	Molasses	Revenue	31½ per cent. <i>ad valorem</i>	...
17 (2)	Confectionery	¹ [Revenue]	50 per cent. <i>ad valorem</i>	...
17 (3)	Sugar-candy	Revenue	⁵ [Rs. 21 per cwt.] ...	...
18	Cocoa and chocolate other than confectionery.	⁷ [Revenue]	² [25] per cent. <i>ad valorem</i> .	⁸ * * *
19	Biscuits, cakes and farinaceous and patent foods, canned or bottled.	Revenue	25 per cent. <i>ad valorem</i>	...
20	Vegetable product, jams, jellies, pickles, chutnies, sauces and condiments, canned or bottled.	Revenue	25 per cent. <i>ad valorem</i>	...
20 (1)	Fruit Juices	⁹ [Revenue]	30 per cent. <i>ad valorem</i>	...
20 (2)	Fruits and Vegetables, canned or bottled.	⁹ [Revenue]	30 per cent. <i>ad valorem</i>	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

³ This item was subs. by the Sugar Industry Protection (Temporary Extension) Act, 1938 (14 of 1938), s. 3 [with effect from the 26th March, 1938 by virtue of a declaration under the Provisional Collection of Taxes Act, 1931 (16 of 1931)].

⁴ Subs. by the Finance Act, 1948 (1 of 1948), s. 5, for "Protective".

⁵ Subs., *ibid.*

⁶ The figures and words "March 31st, 1948." omitted, *ibid.*

⁷ Subs. by the Tariff (Amendment) Act, 1950 (38 of 1950), s. 2, for "Protective".

⁸ The words and figures "March 31st, 1950." which were ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2(c), omitted, *ibid.*

⁹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
21	Canned or Bottled Provisions, not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
21 (1)	Provisions and Oilman's Stores and Groceries; all sorts not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
21 (2)	All sorts of Food not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
22	All sorts of Drink not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
3*	* * *	*	* * *	*
22 (2)	⁴ [Ale, beer, porter, cider and other fermented liquors—]			
	(a) In barrels or other containers containing 27 oz. or more.	Revenue	⁵ [Rs. two, annas four per Imperial gallon.]	...
	(b) In bottles containing less than 27 oz. but not less than 20 oz.	Revenue	⁵ [Six annas per bottle]	...
	(c) In bottles containing less than 13½ oz. but not less than 10 oz.	Revenue	⁵ [Three annas per bottle]	...
	(d) In bottles containing less than 6½ oz. but not less than 5 oz.	Revenue	⁵ [One anna, six pies per bottle.]	...
	(e) In other containers...	Revenue	⁵ [Rs. three per Imperial gallon.]	...
22 (3)	Wines, not containing more than 42 per cent. of proof spirit—			
	(a) Champagne and other sparkling wines.	Revenue	Rs. 13-2 per Imperial gallon.	...
	(b) Other sorts ...	Revenue	Rs. 7-8 per Imperial gallon.	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

³ Item No. 22 (1), omitted, *ibid.*

⁴ Subs. *ibid.*, for "Porter, cider and other fermented liquors except ale and beer".

⁵ Subs. by the Finance Act, 1952 (4 of 1952), s. 5 and Second Sch., for the original entry.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
22 (4)	Spirits (other than denatured spirit)—			
	(a) Brandy, gin, whisky and other sorts of spirits not otherwise specified, including wines containing more than 42 per cent. of proof spirit.	Revenue	¹ [Rs. 100 per Imperial gallon of the strength of London proof.]	...
	(b) Liqueurs, cordials, mixtures and other preparations containing spirit not otherwise specified—			
	(i) entered in such a manner as to indicate that the strength is not to be tested,	Revenue	¹ [Rs. 133½ per Imperial gallon.]	...
	(ii) not so entered ...	Revenue	¹ [Rs. 100 per Imperial gallon of the strength of London proof.]	...
	Provided that—			
	² [(a) the duty on any article included in this item shall in no case be less than the duty which would be charged if the article were liable to a duty of 66½ per cent. <i>ad valorem</i> .]			
	(b) where the unit of assessment is the Imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof.			
22 (5)	Spirits—			
	(a) Bitters—			
	(i) entered in such a manner as to indicate that the strength is not to be tested.	³ [Revenue]	Rs. 50 per Imperial gallon.	...

¹ Subs. by the Finance Act, 1952 (4 of 1952), s. 5 and Second Sch.² Subs. *ibid.*, for clause (a) of the proviso.³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
22 (5)— <i>contd.</i>	Spirits— <i>contd.</i>			
	(a) Bitters— <i>contd.</i>			
	(ii) not so entered ...	¹ [Revenue]	Rs. 37-8 per Imperial gallon of the strength of London proof.	...
	(b) Drugs and medicines containing spirit—			
	(i) entered in such a manner as to indicate that the strength is not to be tested.	¹ [Revenue]	Rs. 40 per Imperial gallon.	...
	(ii) not so entered ...	¹ [Revenue]	Rs. 29 per Imperial gallon of the strength of London proof.	...
	(c) Perfumed spirits ...	² [Revenue]	Rs. 60 per Imperial gallon ³ [or 25 per cent. <i>ad valorem</i> , whichever is higher].	...
	(d) Rum ...	¹ [Revenue]	Rs. 37-8 per Imperial gallon of the strength of London proof.	...
	Provided that—			
	(a) on any article chargeable under this item with the lower rate of duty, the duty levied shall in no case be less than 20 per cent. <i>ad valorem</i> , and on any article chargeable under this item with the higher rate of duty, the duty levied shall in no case be less than 30 per cent. <i>ad valorem</i> ;			
	(b) where the unit of assessment is the Imperial gallon of the strength of London proof, the duty shall be increased or reduced in proportion as the strength is greater or less than London proof.			

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

³ Added by the Indian Tariff (Fourth Amendment) Act, 1939 (29 of 1939), s. 2.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
22 (6)	Denatured Spirit ...	Revenue	9½ per cent. <i>ad valorem</i>	...
22 (7)	Vinegar in casks ...	Revenue	2½ per cent. <i>ad valorem</i>	...
23	Oilcakes ...	Revenue	25 per cent. <i>ad valorem</i>	...
24	Tobacco, manufactured, not otherwise specified.	Revenue	¹ [Rs. 16-4-0 per lb.] ...	...
24 (1)	Cigars ...	Revenue	² [37½ per cent. <i>ad valorem plus</i> Rs. 15-10-0 per lb.]	...
24 (2)	Cigarettes ...	Revenue	³ [45 per cent. <i>ad valorem plus</i> Rs. 46-14-0 per thousand or Rs. 18-12-0 per lb., whichever is higher.]	...
24 (3)	Tobacco, unmanufactured	⁴ [Revenue]	⁵ [Rs. 9 per lb.]	...

SECTION V

MINERAL PRODUCTS

25	China clay ...	...	Free ...	...
25 (1)	Salt, excluding salt exempted under Item No. 25 (2).	Revenue	The rate at which excise duty is for the time being leviable on salt manufactured in the place where the import takes place.	...
25 (2)	⁶ [Salt imported into Pakistan and issued, in accordance with rules made with the previous sanction of the Central Government, for use in any process of manufacture; also salt imported	...	Free ...	...

¹ Subs. by the Pakistan Finance Act, 1949 (9 of 1949), s. 5, for "Rs. 9-8-0 per lb."

² The original entry has been successively amended by the Finance Act, 1945, Act 9 of 1949 and the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5, to read as above:

³ The original entry has been successively amended by the Finance Act, 1945, Act 9 of 1949, and the Finance Act, 1951 (1 of 1951), to read as above.

⁴ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

⁵ Subs. by the Pakistan Finance Act, 1948 (1 of 1948), Second Sch., Pt. I, for "Rs. 7-8 per lb."

⁶ Subs. by the A. O., 1949, for the original entry as amended by the A. O., 1937.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
25 (2)— <i>contd.</i>	into any port in East Bengal and issued, in accordance with rules made with the previous sanction of the Central Government, for use in curing fish in that Province.]			
25 (3)	The following Building and Engineering materials, namely, chalk, lime and clay.	Revenue	25 per cent. <i>ad valorem</i>	...
25 (4)	Cement not otherwise specified.	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
² [25 (5)]	Portland Cement excluding white Portland cement.	Revenue	³ [Free]	...]
25 (6)	Stone prepared as for road metalling.	...	Free	...
25 (7)	Marble and Stone not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
26	Metallic Ores, all sorts except ochres and other pigment ores.	...	Free	...
27	Coal, Coke and patent fuel.	Revenue	Ten annas per ton ...	...
27 (1)	Asphalt	¹ [Revenue]	25 per cent. <i>ad valorem</i>	...
27 (2)	Pitch and Tar	Revenue	⁴ [Free]	...
27 (3)	All sorts of Mineral Oils not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
27 (4)	Kerosene; also any Mineral Oil other than kerosene and motor spirit which has its flashing point below one hundred degrees of Fahrenheit's thermometer by Abel's close test.	Revenue	⁵ [Two annas six pies per Imperial gallon.]	...

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original item.

³ Subs. by the Finance Act, 1952 (4 of 1952), s. 5, and Second Sch., for "Rs. 13-12 per ton".

⁴ Subs. by the Finance Act, 1951 (1 of 1951), s. 5, and Second Sch., for "25 per cent. *ad valorem*".

⁵ Subs. by the Finance Act, 1952 (4 of 1952), s. 5, and Second Sch., for the existing entry.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
27 (5)	Mineral Oil, not included in Item No. 27 (4) or Item No. 27 (6) which is suitable for use as an illuminant in wick lamps.	Revenue	¹ [Two annas six pies per Imperial gallon.]	...
27 (6)	Motor Spirit ...	Revenue	² [The rate at which excise duty is for the time being leviable on motor spirit.]	...
27 (7)	Mineral Oil—			
	(a) which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer, and is ordinarily used for the batching of jute or other fibre;	Revenue	Rs. 15-10 per ton	...
	(b) which has its flashing point at or above one hundred and fifty degrees of Fahrenheit's thermometer, is not suitable for use as an illuminant in wick lamps, and is such as is not ordinarily used except as fuel or for some sanitary or hygienic purposes.	Revenue	12½ per cent. <i>ad valorem</i> .	...
27 (8)	Lubricating Oil, that is, oil such as is not ordinarily used for any other purpose than lubrication, excluding any mineral oil which has its flashing point below two hundred degrees of the Fahrenheit's thermometer by Abel's close test.	³ [Revenue]	⁴ [Three annas per Imperial gallon.]	...

¹ Subs. by the Finance Act, 1952 (4 of 1952), s. 5, and Second Sch., for the existing entry.

² Subs. by the Finance Act, 1940 (16 of 1940), s. 5, for "Ten annas per Imperial gallon.". This amendment came into effect on the 1st March 1940 by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

³ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁴ Subs. by the Finance Act, 1950 (26 of 1950), s. 5 and Second Sch., for the original entry as amended by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
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SECTION VI

CHEMICAL AND PHARMACEUTICAL PRODUCTS; COLOURS AND VARNISHES;
PERFUMERY; SOAP; CANDLES AND THE LIKE; GLUES AND GELATINES;
EXPLOSIVES; FERTILISERS.

28	Chemicals, Drugs and Medicines, all sorts not otherwise specified.	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
28 (1)	Bleaching paste and bleaching powder.	...	Free ...	...
28 (2)	Copperas, green (ferrous sulphate).	Revenue	2½ per cent. <i>ad valorem</i>	...
28 (3)	Sulphur ...	...	Free ...	...
² [28 (4)]	Soda Ash, including calcined natural soda and manufactured sesquicarbonates.	¹ [Revenue]	25 per cent. <i>ad valorem</i>	...]
28 (5)	Heavy Chemicals, the following namely:— Magnesium chloride ...	³ [Revenue]	⁴ [Twelve annas per cwt.] or 25 per cent. <i>ad valorem</i> , whichever is higher.	⁵ * * *
28 (6)	The following Chemicals, namely:— (a) Alum (ammonia alum, potash alum and soda alum). (b) Magnesium sulphate or hydrated magnesium sulphate.	Revenue Revenue	25 per cent. <i>ad valorem</i> or Re. 1-6 per cwt., whichever is higher. 25 per cent. <i>ad valorem</i> or Re. 1-4 per cwt., whichever is higher.	
² [28 (7)]	The following Chemicals, namely, cadmium sulphide, cobalt oxide, liquid gold for glass-making, selenium and uranium oxide.	Revenue	25 per cent. <i>ad valorem</i>	...]

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original item.

³ Subs. by G. G. O. 16 of 1948, for "Protective" (with effect from the 1st April, 1948).

⁴ Subs. by the Indian Tariff (Second Amendment) Act, 1939 (18 of 1939), s. 2, for "Re. 1-5 per cwt.".

⁵ The words and figures "March 31st, 1948." omitted by G. G. O. 16 of 1948 (with effect from the 1st April, 1948).

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
28 (8)	¹ [The following Chemicals, Drugs and Medicines, namely, acetic, carbolic, citric, hydrochloric, nitric, oxalic, sulphuric, tartaric and other acids, anhydrous ammonia, naphthalene, 2* * potassium chlorate, potassium cyanide and other potassium compounds, bicarbonate of soda, borax, 3* * sodium cyanide, sodium silicate, arsenic, calcium carbide, glycerine, lead, magnesium and zinc compounds not otherwise specified, aloe, asafoetida, cocaine, sarsaparilla and storax.]	Revenue	25 per cent. <i>ad valorem</i>	...
28 (9)	Saccharine (except in tablets) and such other substances as the ⁴ [Central Government] may, by notification in the ⁵ [official Gazette] declare to be of a like nature or use to saccharine.	Revenue	Rs. 6-4 per lb. ...	...
28 (10)	Saccharine tablets ...	Revenue	18½ per cent. <i>ad valorem</i> or Rs. 6-4 per pound of saccharine contents, whichever is higher.	...
28 (11)	Alkaloids of Opium and their derivatives.	Revenue	Rs. 30 per seer of 80 tolas or 18½ per cent. <i>ad valorem</i> , whichever is higher.	...
28 (12)	Alkaloids extracted from Cinchona Bark including Quinine and alkaloids derived from other sources which are chemically identical with alkaloids extracted from cinchona bark.	...	Free ...	...
28 (13)	Anti-plague Serum ...	...	Free ...	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original entry.

² The words "Potassium bichromate" omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

³ The words "Sodium bichromate", omitted, *ibid.*

⁴ Subs. by the A. O., 1937, for "G. G. in C."

⁵ Subs. *ibid.*, for "Gazette of India".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
28 (14)	Toilet Requisites not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
³ 28 (15)	⁴ [Calcium chloride ...	Revenue	Rs. 4-14 per cwt.] ...	5* * *
28 (16)	Phosphoric acid ...	⁶ [Revenue]	Rs. 23 per cwt. ...	7* * *
28 (17)	Potassium bichromate, Sodium bichromate and all Chrome compounds.	⁸ [Revenue]	⁹ [Free] ...	5* * *
28 (18)	⁴ [The following Sodium compounds, namely:—			
	(a) Sodium phosphates...	Revenue	Rs. 11 per cwt. ...	7* * *
	(b) Sodium sulphite and sodium bisulphite,	Revenue	Rs. 12 per cwt. ...	10* * *
	(c) Sodium thiosulphate	Revenue	Rs. 7-8 per cwt.] ...	10* * *]
¹¹ [29	Cinematograph Films, not exposed.	Revenue	¹² [Three pies per linear foot.]	...]
29 (1)	Cinematograph Films, exposed.	Revenue	¹³ [Four annas per linear foot.]	...
30	Paints, colours and painters' materials, all sorts not otherwise specified, including paints, solutions and compositions containing dangerous petroleum within the meaning of the ¹⁴ [Petroleum Act, 1934].	¹⁵ [Revenue.]	30 per cent. <i>ad valorem</i>	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

³ Items. 28(15) to 28(18) ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

⁴ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in the 2nd, 3rd and 4th columns.

⁵ The words and figures "March 31st, 1948." omitted by G. G. O. 16 of 1948, (with effect from the 1st April, 1948).

⁶ Subs. by Act 38 of 1950, s. 2, for "Protective."

⁷ The words and figures "March 31st, 1949." omitted, *ibid.*

⁸ Subs. by G. G. O. 16 of 1948, for "Protective" (with effect from the 1st April, 1948).

⁹ Subs. by the Finance Act, 1951 (1 of 1951), s. 5 and Second Sch., for "30 per cent. *ad valorem*".

¹⁰ The words and figures "March 31st, 1950." omitted by Act 38 of 1950, s. 2.

¹¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original item.

¹² Subs. by the Finance Act, 1946 (7 of 1946), s. 6, for "20 per cent. *ad valorem*".

¹³ Subs. *ibid.*, for "37½ per cent. *ad valorem*".

¹⁴ Subs. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5, for "Indian Petroleum Act, 1899".

¹⁵ Subs. by Act 15 of 1951, s. 2, for "Preferential revenue".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
30 (1)	Dyes derived from coal-tar, and coal-tar derivatives, used in any dyeing process.	Revenue	10 per cent. <i>ad valorem</i>	...
30 (2)	Paints, colours and painters' materials, the following, namely:—			
	(a) Red lead, genuine dry, genuine moist and reduced moist.	¹ [Revenue]	30 per cent. <i>ad valorem</i> or Rs. 4-12 per cwt., whichever is higher.	...
	(b) White lead, genuine dry.	¹ [Revenue]	30 per cent. <i>ad valorem</i> or Rs. 5-12 per cwt., whichever is higher.	...
	(c) Zinc white, genuine dry.	¹ [Revenue]	30 per cent. <i>ad valorem</i> or Rs. 6 per cwt., whichever is higher.	...
	(d) Paints, other sorts, coloured, moist—			
	(i) in packing of 1 lb. or over.	¹ [Revenue]	30 per cent. <i>ad valorem</i> or Rs. 8-8 per cwt., whichever is higher.	...
	(ii) in packing of $\frac{1}{2}$ lb. and over but less than 1 lb.	¹ [Revenue]	30 per cent. <i>ad valorem</i> or Rs. 11-4 per cwt., whichever is higher.	...
	(iii) in packing of $\frac{1}{4}$ lb. and over but less than $\frac{1}{2}$ lb.	¹ [Revenue]	30 per cent. <i>ad valorem</i> or Rs. 17 per cwt., whichever is higher.	...
	(iv) in packing of less than $\frac{1}{4}$ lb.	¹ [Revenue]	30 per cent. <i>ad valorem</i> or Rs. 24 per cwt., whichever is higher.	...
30 (3)	Paints, colours and painters' materials, the following, namely:—			
	(a) Red lead, reduced dry.	Revenue	25 per cent. <i>ad valorem</i> or Rs. 4-12 per cwt., whichever is higher.	...
	(b) White lead, genuine moist, and reduced dry or moist.	Revenue	25 per cent. <i>ad valorem</i> or Rs. 5-12 per cwt., whichever is higher.	...
	(c) Zinc white, genuine moist.	Revenue	25 per cent. <i>ad valorem</i> or Rs. 6 per cwt., whichever is higher.	...
	(d) Zinc white, reduced dry or moist.	Revenue	25 per cent. <i>ad valorem</i> or Rs. 4-4 per cwt., whichever is higher.	...

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
30 (4)	The following Paints, Colours and painters' materials, namely, barytes, turpentine, turpentine substitute, and varnish not containing dangerous petroleum within the meaning of the ¹ [Petroleum Act, 1934].	Revenue	25 per cent. <i>ad valorem</i>	...
30 (5)	Plumbago and graphite ...	² [Revenue]	³ [Free] ...	...
30 (6)	Printers' Ink ...	Revenue	10 per cent. <i>ad valorem</i>	...
30 (7)	Lead pencils ...	⁴ [Revenue]	⁵ [25] per cent. <i>ad valorem</i> or one anna per dozen, whichever is higher.	...
30 (8)	Slate pencils ...	Revenue	25 per cent. <i>ad valorem</i>	...
⁶ [30 (9)]	⁷ [Abrasive papers and rolls, coils, discs, belts, shapes and tapes, made of abrasive paper, when imported as stores apart from machinery.	Revenue	36 per cent. <i>ad valorem</i>	...
30 (10)	Emery cloth and abrasive rolls, coils, discs, belts, shapes and tapes, made of emery cloth or a combination of emery cloth and paper.	⁹ [Revenue]	30 per cent. <i>ad valorem</i>	⁸ * * *]
31	Natural Essential Oils, all sorts not otherwise specified.	⁴ [Revenue]	⁵ [25] per cent. <i>ad valorem</i> .	...

¹ Subs. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5, for "Indian Petroleum Act, 1899".

² Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

³ Subs. by the Finance Act, 1951 (1 of 1951), s. 5 and Second Sch., for "30 per cent. *ad valorem*".

⁴ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁵ Subs. *ibid.*, for "30".

⁶ Items 30 (9) and 30 (10) ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

⁷ Subs. by the Tariff (Amendment) Act, 1951 15 of 1951, s. 2, for the entries in 2nd, 3rd and 4th columns.

⁸ The words and figures "March 31st, 1949", omitted by the Tariff (Amendment) Act, 1950 (38 of 1950), s. 2.

⁹ Subs. *ibid.*, for "Protective".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of Duty.	Rate of duty.	Duration of protective rates of duty.
31 (1)	The following Natural Essential Oils, namely, citronella, cinnamon and cinnamon leaf.	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
31 (2)	The following Natural Essential Oils, namely, almond, bergamot, gajupatti, camphor, cloves, eucalyptus, lavender, lemon, ottorose and peppermint.	Revenue	25 per cent. <i>ad valorem</i>	...
31 (3)	Essential Oils, synthetic	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
31 (4)	Camphor	Revenue	50 per cent. <i>ad valorem</i>	...
31 (5)	Perfumery not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
32	Soap not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
32 (1)	Soap, Toilet	² [Revenue]	⁴ [25] per cent. <i>ad valorem</i> or Rs. 20 per cwt., whichever is higher.	...
32 (2)	Soap (Household) and Laundry—			
	(a) in plain bars of not less than one pound in weight.	Revenue	Rs. 4 per cwt. ...	...
	(b) other sorts	Revenue	Rs. 6-8 per cwt. ...	...
32 (3)	Polishes and compositions.	Revenue	25 per cent. <i>ad valorem</i>	...
32 (4)	Candles	Revenue	25 per cent. <i>ad valorem</i>	...
33	Glue, not otherwise specified.	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
33 (1)	Glue, clarified, liquid ...	Revenue	10 per cent. <i>ad valorem</i>	...
34	Gunpowder for cannons, rifles, guns, pistols and sporting purposes.	Revenue	50 per cent. <i>ad valorem</i>	...

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

³ Subs. *ibid.*, for "30".

⁴ Subs. *ibid.*, for "35".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
34 (1)	Explosives, namely, blasting gunpowder, blasting gelatine, blasting dynamite, blasting roburite, blasting tonite, and all other sorts, including detonators and blasting fuse.	Revenue	25 per cent. <i>ad valorem</i>	...
34 (2)	Fireworks, specially prepared as danger or distress lights for the use of ships.	Revenue	25 per cent. <i>ad valorem</i>	...
34 (3)	Fireworks, not otherwise specified.	Revenue	50 per cent. <i>ad valorem</i>	...
34 (4)	Matches, undipped splints and veneers— (a) Matches—			
	(1) In boxes or booklets containing on an average not more than 40 matches.	Protective	The rate at which excise duty is for the time being leviable on such matches manufactured in ¹ [the Provinces and the Capital of the Federation] <i>plus</i> ten annas per gross of boxes or booklets.	...
	(2) In boxes or booklets containing on an average more than 40 but not more than 60 matches.	Protective	The rate at which excise duty is for the time being leviable on such matches manufactured in ¹ [the Provinces and the Capital of the Federation] <i>plus</i> fifteen annas per gross of boxes or booklets.	...
	(3) In boxes or booklets containing on an average more than 60 but not more than 80 matches.	Protective	The rate at which excise duty is for the time being leviable on such matches manufactured in ¹ [the Provinces and the Capital of the Federation] <i>plus</i> Re. 1-4 per gross of boxes or booklets.	...
	(4) All other matches	Protective	The rate at which excise duty is for the time being leviable on such matches manufactured in ¹ [the Provinces and the Capital of the Federation] <i>plus</i> one pie for every 48 matches or fraction thereof.	...

¹ Subs. by the A. O., 1949, for "British India".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
34 (4)— <i>contd.</i>	Matches, undipped splints and veneers— <i>contd.</i>			
	(b) Undipped splints such as are ordinarily used for match making.	Protective	Five annas and seven and a half pies per lb.	...
	(c) Veneers such as are ordinarily used for making boxes, including boxes and parts of boxes made of such veneers.	Protective	Seven annas and six pies per lb.	...
35	Manures, all sorts, including animal bones and the following chemical manures:—Basic slag, nitrate of ammonia, nitrate of soda, muriate of potash, sulphate of ammonia, sulphate of potash, kainit salts, carbolic lime, urea, nitrate of lime, calcium cyanamide, ammonium phosphates, mineral phosphates and mineral superphosphates.	...	Free ...	...

SECTION VII

HIDES, SKINS, LEATHER, FUR SKINS AND MANUFACTURES OF THESE MATERIALS

36	Hides and Skins not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
36 (1)	Hides and skins, raw or salted.	...	Free ...	...
36 (2)	Skins (other than fur Skins), tanned or dressed, and unwrought leather.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
37	The following leather manufactures, namely, saddlery, harness, trunks and bags.	Revenue	25 per cent. <i>ad valorem</i>	...
37 (1)	Leather cloth including artificial leather, and other manufactures of leather not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
38	Fur Skins, dressed ...	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
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SECTION VIII

RUBBER AND ARTICLES MADE OF RUBBER

39	Rubber, raw	...	Free	...
39 (1)	Rubber Tyres and Tubes and other manufactures of rubber, not otherwise specified, excluding apparel and boots and shoes.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...

SECTION IX

WOOD AND CORK AND WARES OF THESE MATERIALS; GOODS MADE OF PLAITING MATERIALS.

40	Wood and Timber, all sorts, not otherwise specified, including all sorts of ornamental wood.	Revenue	25 per cent. <i>ad valorem</i>	...
40 (1)	Firewood	Revenue	2½ per cent. <i>ad valorem</i>	...
40 (2)	Furniture and cabinetware, not otherwise specified, excluding mouldings.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
40 (3)	Tea chests and parts and fittings thereof.	Revenue	25 per cent. <i>ad valorem</i>	...
41	Cork manufactures not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
42	Furniture of wicker work or bamboo.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...

SECTION X

PAPER AND ITS APPLICATIONS

³ [43]	Wood pulp	Revenue	18 per cent. <i>ad valorem</i>	...
44	Paper, all sorts, not otherwise specified.	Revenue	30 per cent. <i>ad valorem</i>	...]
44 (4)	Paste Board, Millboard, Cardboard and Strawboard, all sorts.	Revenue	25 per cent. <i>ad valorem</i>	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

³ Subs. by the Indian Tariff (Second Amendment) Act, 1939 (18 of 1939), for items contained in Section X. Such amendments as relate to protective duties came into effect on the 1st April, 1939, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

⁴ Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2, for Item Nos. 43, 44, 44 (1), 44 (2) and 44 (3).

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
44 (5)	Trade Catalogues and Advertising Circulars imported by packet, book or parcel post.	...	Free ...	...
44 (6)	Paper Money... ..	...	Free ...	...
44 (7)	Newspapers old, in bales and bags.	Revenue	25 per cent. <i>ad valorem</i>	...
45	Articles made of Paper and Papier Mache; Stationery, including drawing and copy books, labels, advertising circulars, sheet or card almanacs and calendars, Christmas, Easter and other cards, including cards in booklet forms; including also waste paper * * *	Revenue	25 per cent. <i>ad valorem</i>	...
45 (1)	Books, printed including covers for printed books, maps, charts and plans, proofs, music manuscripts and illustrations specially made for binding in books.	...	Free ...	...
45 (2)	Prints, Engravings and pictures (including photographs and picture post cards) on paper or card-board.	Revenue	50 per cent. <i>ad valorem</i>	...]

SECTION XI

TEXTILE MATERIALS AND TEXTILE GOODS

46	Silk, raw (excluding silk waste and noils), and silk cocoons.	² [Revenue]	25 per cent. <i>ad valorem</i> plus 14 annas per lb.	³ * * *
46 (1)	Silk waste and noils ...	² [Revenue]	25 per cent. <i>ad valorem</i>	³ * * *
46 (2)	Wool, raw, and wooltops.	...	Free ...	...
46 (3)	Cotton, raw ...	Revenue	⁴ [Two annas per lb.] ...	...

¹ Certain words omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

² Subs. by G. G. O. 16 of 1948, (with effect from the 1st April, 1948), for "Protective".

³ The words and figures "March 31st, 1948." omitted, *ibid.*

⁴ Subs. by the Finance Act, 1946 (7 of 1946), s. 6, for "one anna".

Item No.	Name of article.,	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
46 (4)	Textile materials, the following:— Raw flax, hemp, jute and all other unmanufactured textile materials not otherwise specified.	Revenue	Raw hemp—18½ per cent. <i>ad valorem</i> ; all others—25 per cent. <i>ad valorem</i> .	...
46 (5)	Sisal and aloe fibre ...	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
47	² [Silk yarn including thrown silk warps and yarn spun from silk waste or noils, but excluding sewing thread.]	³ [Revenue]	25 per cent. <i>ad valorem</i> plus 14 annas per lb.	4* * *
47 (1)	² [Silk sewing thread] ...	³ [Revenue]	25 per cent. <i>ad valorem</i>	4* * *
47 (2)	Artificial silk yarn and thread.	Revenue	⁵ [25 per cent. <i>ad valorem</i> or 5 annas per lb., whichever is higher.]	...
47 (3)	Woollen yarn not otherwise specified.	⁶ [Revenue]	⁷ [25] per cent. <i>ad valorem</i> .	...
47 (4)	Woollen yarn for weaving and knitting wool.	⁶ [Revenue]	⁸ [25] per cent. <i>ad valorem</i> .	...
47 (5)	Cotton thread other than sewing or darning thread.	Revenue	25 per cent. <i>ad valorem</i>	...
47 (5)	⁹ [Cotton twist and yarn, and cotton sewing or darning thread— (a) of counts above 50's.	Revenue	6½ per cent. <i>ad valorem</i>	10* * *

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), s. 2, for the original entry.

³ Subs. by G. G. O. 16 of 1948, for "Protective" (with effect from the 1st April, 1948).

⁴ The words and figures "March 31st, 1948" omitted, *ibid*.

⁵ Subs. by the Finance Act, 1941 (7 of 1941), s. 5, for the original entry. This amendment came into effect on the 1st March, 1941, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

⁶ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁷ Subs. *ibid*., for "35".

⁸ Subs. *ibid*., for "30".

⁹ Subs. by Act 15 of 1951, s. 2, for the entries in 2nd, 3rd and 4th columns.

¹⁰ The words and figures "March 31st, 1947." omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
47 (6)— <i>contd.</i>	Cotton twist and yarn, and cotton sewing or darning thread— <i>contd.</i>			
	(b) of counts 50's and below.	Revenue	6½ per cent. <i>ad valorem</i> or 1½ annas per lb., whichever is higher.]	1* * *
47 (7)	Twist and yarn of flax or jute.	Revenue	25 per cent. <i>ad valorem</i>	...
47 (8)	Yarn (excluding cotton yarn) such as is ordinarily used for the manufacture of belting for machinery.	Revenue	6½ per cent. <i>ad valorem</i>	...
48	Fabrics, not otherwise specified, containing more than 90 per cent. of silk, including such fabrics embroidered with artificial silk—			
	(a) Pongee ...	² [Revenue]	50 per cent. <i>ad valorem</i> plus Re. 1 per lb.	3* * *
	(b) Fuji, Boseki and corded (excluding white cord).	² [Revenue]	50 per cent. <i>ad valorem</i> plus Re. 1-8 per lb.	3* * *
	(c) Other sorts ...	² [Revenue]	50 per cent. <i>ad valorem</i> plus Rs. 2 per lb.	3* * *
48 (1)	⁴ [Fabrics, not otherwise specified, containing more than 90 per cent. artificial silk.	Revenue	50 per cent. <i>ad valorem</i> or 4 annas per square yard, whichever is higher.]	3* * *
48 (2)	Woollen fabrics, not otherwise specified, containing more than 90 per cent. of wool, excluding felt and fabrics made of shoddy or waste wool.	⁵ [Revenue]	⁶ [25] per cent. <i>ad valorem</i> or Re. 1-2 per lb., whichever is higher.	...

¹ The words and figures "March, 31st, 1947." omitted, by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

² Subs. by G. G. O. 16 of 1948, for "Protective" (with effect from the 1st April, 1948).

³ The words and figures "March 31st, 1948." omitted, *ibid.*

⁴ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

⁵ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁶ Subs. *ibid.*, for "35".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
¹ [48(3)]	² [Cotton fabrics, not otherwise specified, containing more than 90 per cent. cotton—			
	(a) Grey piece-goods (excluding bordered grey chadars, dhuties, saris and scarves);	Revenue	50 per cent. <i>ad valorem</i> or 5½ annas per lb., whichever is higher.	3* * *
	(b) Printed piece-goods and printed fabrics;	Revenue	50 per cent. <i>ad valorem</i> .	3* * *
	(c) Cotton piece goods and fabrics not otherwise specified.	Revenue	50 per cent. <i>ad valorem</i> .]	3* * *]
48 (4)	Fabrics, not otherwise specified, containing more than 10 per cent. and not more than 90 per cent. silk—			
	(a) containing more than 50 per cent. of silk or artificial silk or of both.	⁴ [Revenue]	50 per cent. <i>ad valorem</i> plus Rs. 2 per lb.	5* * *
	(b) containing not more than 50 per cent. of silk or artificial silk or of both—			
	(i) containing more than 10 per cent. artificial silk.	⁴ [Revenue]	50 per cent. <i>ad valorem</i> or Re. 1-8 per lb., whichever is higher.	5* * *
	(ii) containing no artificial silk or not more than 10 per cent. artificial silk.	⁴ [Revenue]	50 per cent. <i>ad valorem</i>	5* * *
48 (5)	² [Fabrics, not otherwise specified, containing not			

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, for Item No. 48(3). This amendment came into effect on the 1st April, 1939, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

² Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

³ The words and figures "March 31st, 1947." omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

⁴ Subs. by G. G. O. 16 of 1948, for "Protective" (with effect from the 1st April, 1948).

⁵ The words and figures "March 31st, 1948." omitted, *ibid*.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
48 (5)— <i>contd.</i>	more than 10 per cent. silk but more than 10 per cent. and not more than 90 per cent. artificial silk—			
	(a) containing 50 per cent. or more cotton;	Revenue	50 per cent. <i>ad valorem</i> or 3½ annas per square yard, whichever is higher	1* * *
	(b) containing no cotton or containing less than 50 per cent. cotton.	Revenue	50 per cent. <i>ad valorem</i> or 4 annas per square yard, whichever is higher.]	1* * *
48 (6)	Fabrics, not otherwise specified, containing not more than 10 per cent. silk or 10 per cent. artificial silk, but containing more than 10 per cent. but not more than 90 per cent. wool.	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
48 (7)	¹ [Fabrics, not otherwise specified, containing not more than 10 per cent. silk or 10 per cent. artificial silk or 10 per cent. wool, but containing more than 50 per cent. cotton and not more than 90 per cent. cotton.	Revenue	50 per cent. <i>ad valorem</i>]	1* * *
48 (8)	Fabrics, not otherwise specified, containing not more than 10 per cent. silk or 10 per cent. artificial silk or 10 per cent. wool or 50 per cent. cotton.	Revenue	25 per cent. <i>ad valorem</i> .	
⁴ [48 (9)]	¹ [The following Cotton Fabrics, namely, sateens			

¹ The words and figures "March 31st, 1948." omitted by G. G. O. 16 of 1948.

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

³ Subs. *ibid.*, for "35".

⁴ Subs. *ibid.*, for Item No. 48 (9). This amendment came into effect on the 1st April, 1939, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
48 (9)— <i>contd.</i>	including <i>Italians</i> of sateen weave, velvets and velveteens and embroidered <i>all-overs</i> —			
	(a) printed fabrics	Revenue	35 per cent. <i>ad valorem</i>	1* * *
	(b) other fabrics	Revenue	35 per cent. <i>ad valorem</i>]	1* * *]
48 (10)	Fabrics containing gold or silver thread.	² [Revenue]	50 per cent. <i>ad valorem</i>	3* * *
⁴ [49	⁵ [Textile manufactures, the following articles when made wholly or mainly of any of the fabrics specified in Item Nos. 48, 48 (1), 48 (3), 48 (4), 48 (5), 48 (7), 48 (9) or 48 (10):— Bed sheets. Bed spreads. Bolster cases. Counterpanes. Cloths, table. Cloths, tray. Covers, bed. Covers, table. Dusters. Glass cloths. Handkerchiefs. Napkins.	Revenue	The <i>ad valorem</i> rate of duty applicable to the fabric of which the article is wholly or mainly made.]	...]

¹ The words and figures "March 31st, 1947." omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

² Subs. by G. G. O. 16 of 1948, for "Protective" (with effect from the 1st April, 1948).

³ The words and figures "March 31st, 1948." omitted, *ibid.*

⁴ Subs. *ibid.*, for the original Item No. 49 as amended by Act 25 of 1947, s. 2.

⁵ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2 and Schedule, for the existing entries.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
51(1)	Woollen hosiery and woollen knitted apparel, that is to say, all hosiery and knitted apparel containing not less than 15 per cent. of wool by weight.	¹ [Revenue]	² [25]per cent. <i>ad valorem</i> or Re. 1-2 per lb. whichever is higher	...
³ [51(2)]	Cotton knitted Apparel, including apparel made of cotton interlocking material, cotton under-vests, knitted or woven, and cotton socks and stockings—			
	(a) of a weight not exceeding 4 lbs. per dozen.	⁴ [Revenue]	25 per cent. <i>ad valorem</i> or 12 annas per lb., whichever is higher.	5* * *
	(b) of a weight exceeding 4 lbs. per dozen.	⁴ [Revenue]	25 per cent. <i>ad valorem</i> or 10 annas per lb., whichever is higher.	5* * *]
51 (3)	Cotton knitted fabric ...	⁴ [Revenue]	50 per cent. <i>ad valorem</i> or 12 annas per lb., whichever is higher.	5* * *
52	Apparel, hosiery, haberdashery, millinery and drapery, not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
52 (1)	Silk or Artificial silk goods used or required for medical purposes, namely:—silk or artificial silk ligatures ; elastic silk or artificial silk hosiery, elbow pieces, thigh pieces, knee caps, leg-gings, socks, anklets stockings, suspensory bandages, silk or artificial silk abdominal belts, silk or artificial silk web catheter tubes, and oiled silk or artificial silk.	Revenue	25 per cent. <i>ad valorem</i>	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "35".

³ Subs. by the Indian Tariff (Second Amendment) Act, 1936 (12 of 1936), s. 2, for the original item.

⁴ Subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2, for "Protective".

⁵ The words and figures "March 31st, 1947." omitted, *ibid.*.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
52 (2)	Uniforms and Accoutrements appertaining thereto imported by a public servant for his personal use.	...	Free	...
52 (3)	Insignia and Badges of official British and Foreign Orders.	...	Free	...
53	Textile manufactures, not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i>	...
53 (1)	Rags and other paper making materials excluding wood pulp.	...	Free	...

SECTION XII

FOOTWEAR, HATS, UMBRELLAS AND PARASOLS; ARTICLES OF FASHION

54	Boots and Shoes ³ * * *...	Revenue	25 per cent. <i>ad valorem</i> or 6 annas per pair, whichever is higher.	...
< *	* * *	*	* * *	
54 (2)	Uppers for boots and shoes unless entirely made of leather.	Revenue	25 per cent. <i>ad valorem</i> or 3 annas per pair, whichever is higher.	...
55	Hats, caps, bonnets and Hatters' ware, not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
56	Parasols and sunshades and fittings for umbrellas, parasols and sunshades.	¹ [Revenue]	⁵ [25] per cent. <i>ad valorem</i> .	...
56 (1)	Umbrellas	¹ [Revenue]	⁵ [25] per cent. <i>ad valorem</i> or eight annas each, whichever is higher.	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "35".

³ The words "not otherwise specified" omitted, *ibid.*

⁴ Item No. 54 (1) omitted, *ibid.*

⁵ Subs. *ibid.*, for "30".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
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SECTION XIII

WARES OF STONE AND OF OTHER MINERAL MATERIALS; CERAMIC PRODUCTS; GLASS AND GLASSWARE.

58	Articles made of Stone or Marble.	Revenue	25 per cent. <i>ad valorem</i>	...
58 (1)	Asbestos manufactures, not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
58 (2)	Packing—Engine and Boiler—all sorts not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
59	Building and Engineering materials, all sorts not of iron, steel or wood not otherwise specified, including tiles other than glass, earthenware or porcelain tiles, and firebricks not being component parts of any articles included in Item No. 72 or No. 74 (2).	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
59 (1)	Building and Engineering bricks.	Revenue	25 per cent. <i>ad valorem</i>	...
59 (2)	Earthenware, china and porcelain, all sorts not otherwise specified.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
59 (3)	Earthenware pipes and sanitary ware.	Revenue	25 per cent. <i>ad valorem</i>	...
59 (4)	Tiles of earthenware and porcelain.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or two annas per square foot, whichever is higher.	...
59 (5)	Domestic earthenware, china and porcelain, the following, namely:— (a) Tea cups and coffee cups— (i) having a capacity of more than 7½ ozs. (ii) having a capacity of not more than 7½ ozs.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or ten annas per dozen; whichever is higher.	...
		¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or four annas per dozen; whichever is higher.	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".² Subs. *ibid.*, for "30".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
59 (5)— <i>contd.</i>	Domestic earthenware, china and porcelain, the following, namely:— <i>contd.</i>			
	(b) Saucers—			
	(i) for use with tea-cups or coffee cups having a capacity of more than 7½ ozs.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or five annas per dozen, whichever is higher.	...
	(ii) for use with tea-cups or coffee cups having a capacity of not more than 7½ ozs.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or two annas per dozen, whichever is higher.	...
	(c) Tea-pots—			
	(i) having a capacity of more than 20 ozs.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or Rs. 3 per dozen, whichever is higher.	...
	(ii) having a capacity of more than 10 ozs. and not more than 20 ozs.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or Re. 1-8 per dozen, whichever is higher.	...
	(iii) having a capacity of not more than 10 ozs.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or twelve annas per dozen, whichever is higher.	...
	(d) Sugar-bowls	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or Re. 1-8 per dozen, whichever is higher.	...
	(e) Jugs having a capacity of over 10 ozs.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or twelve annas per dozen, whichever is higher.	...
	(f) Plates over 5½ inches in diameter—			
	(i) over 8½ inches in diameter.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or Re. 1 per dozen, whichever is higher.	...
	(ii) not over 8½ inches in diameter.	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> or ten annas per dozen, whichever is higher.	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939; s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

(First Schedule.—Import Tariff.)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
59 (6)	Covered crucibles for glass making.	¹ [Revenue]	25 per cent. <i>ad valorem</i>	...
60	Glass and Glassware [not otherwise specified, and lacquered ware.	Revenue	25 per cent. <i>ad valorem</i>	...
60 (1)	Glass globes and chimneys for lamps and lanterns—			
	(a) Globes for hurricane lanterns.	Revenue	25 per cent. <i>ad valorem</i> or four annas and six pies per dozen, whichever is higher.	...
	(b) Other globes and chimneys having an external base diameter of over one inch.	Revenue	25 per cent. <i>ad valorem</i> or three annas per dozen, whichever is higher.	...
60 (2)	Electric lighting bulbs ...	¹ [Revenue]	50 per cent. <i>ad valorem</i>	...
60 (3)	Glass Bangles, glass beads and false pearls.	Revenue	50 per cent. <i>ad valorem</i>	..

SECTION XIV

REAL PEARLS, PRECIOUS STONES, PRECIOUS METALS AND WARES OF THOSE MATERIALS; COIN (SPECIE).

61	Precious Stones, unset and imported uncut, and Pearls, unset.	...	Free ...	...
61 (1)	Precious Stones, unset and imported cut.	Revenue	25 per cent. <i>ad valorem</i>	...
61 (2)	Silver bullion and silver sheets and plates which have undergone no process of manufacture subsequent to rolling.	Revenue	2[³ eight] annas per ounce.]	...
61 (3)	Gold bullion and gold sheets and plates which have undergone no process of manufacture subsequent to rolling.	⁴ [Revenue]	⁵ [Rs. 25 per tola of 180 grains fine.].	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² These words wre subs. for the words "Two annas per ounce" by the Finance Act, 1937, s. 4, (with effect from the 28th February, 1937, by virtue of a declaration under the Provisional Collection of Taxes Act, 1931).

³ Subs. by the Finance Act, 1946 (7 of 1946), s. 6, for "three".

⁴ Ins., *ibid.*

⁵ Subs. *ibid.*, for "Free".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
61 (4)	Silver plate and silver manufactures, all sorts not otherwise specified.	Revenue	50 per cent. <i>ad valorem</i>	...
61 (5)	Silver thread and wire (including so-called gold thread and wire mainly made of silver) and silver leaf including also imitation gold and silver thread and wire, lametta and metallic spangles and articles of a like nature, of whatever metal made.	¹ [Revenue]	62½ per cent. <i>ad valorem</i>	2* * *
61 (6)	Gold plate, gold leaf and gold manufactures, all sorts not otherwise specified.	Revenue	50 per cent. <i>ad valorem</i>	..
61 (7)	Gold or goldplated pen nibs.	³ [Revenue]	50 per cent. <i>ad valorem</i>	...
61 (8)	Articles, other than cutlery and surgical instruments, plated with gold or silver.	Revenue	50 per cent. <i>ad valorem</i>	...
61 (9)	Cutlery plated with gold or silver.	³ [Revenue]	50 per cent. <i>ad valorem</i>	...
61 (10)	Jewellery and jewels	Revenue	50 per cent. <i>ad valorem</i>	...
62	Current coin of the ⁴ [Government of Pakistan].	...	Free ...	...
62 (1)	Silver coin, not otherwise specified.	Revenue	⁵ [eight] annas per ounce.]	...
62 (2)	Gold coin ...	⁷ [Revenue]	⁸ [Rs. 25 per tola of 180 grains fine.]	...

¹ Subs. by the Pakistan (Adaptation of Indian Tariff Act) Order, 1948 (G. G. O. 16 of 1948), for "Protective".

² The words and figures "March 31st, 1948," omitted, *ibid.*

³ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁴ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and III Sch., for "Government of India".

⁵ These words were subs. for the words "Two annas per ounce." by the Finance Act, 1937, s. 4 (with effect from the 28th February, 1937, by virtue of a declaration under the Provisional Collection of Taxes Act, 1931).

⁶ Subs. by the Finance Act, 1946 (7 of 1946), s. 6, for "three".

⁷ Ins., *ibid.*

⁸ Subs. *ibid.*, for "Free".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
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SECTION XV

BASE METALS AND ARTICLES MADE THEREFROM

63	Iron or Steel, old ...	Revenue	15½ per cent. <i>ad valorem</i>	...
63 (1)	Iron alloys <i>viz.</i> , ferro-manganese, ferro-silicon, ferro-chrome, spiegeleisen and the like as commonly used for steel making.	¹ [Revenue]	² [Free] ...	...
63 (2)	³ [Iron or steel angle, channel, tee, flat (other than alloy, tool or special steel), beam, zed, trough and piling—			
	(a) not fabricated ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 43 per ton.	4* * *
	(b) fabricated ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 40 per ton.]	4* * *
63 (3)	³ [Iron or steel (other than alloy, tool or special steel) bar and rod.	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 39 per ton; or 20 per cent. <i>ad valorem</i> , whichever is higher.]	4* * *
63 (4)	Iron, pig ...	¹ [Revenue]	² [Free] ...	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² The original entry "20 per cent. *ad valorem*." has been successively amended by the Indian Tariff (Third Amendment) Act, 1939, s. 3 and the Finance Act, 1951 (1 of 1951), s. 5, and Second Schedule to read as above.

³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

⁴ The words and figures "March 31st, 1947.", omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63 (5)	Iron rice bowls ...	¹ [Revenue]	² [15 $\frac{3}{4}$] per cent. <i>ad valorem</i> .	...
63 (6)	³ [Cast-iron pipes and tubes also cast-iron fittings therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks and the like.	Revenue	Rs. 57-8 per ton] ...	4* * *
63 (7)	Cast-iron plates ...	¹ [Revenue]	² [15 $\frac{3}{4}$] per cent. <i>ad valorem</i> .	...
63 (8)	Steel ingots ... Iron or steel blooms, billets and slabs, provided that no piece less than 1 $\frac{1}{2}$ inches square or thick shall be included in this item.	¹ [Revenue]	⁵ [Free]	...
63 (9)	³ [Iron or steel structures, fabricated partially or wholly, not otherwise specified, it made mainly or wholly of iron or steel bars, sections, plates or sheets, for the construction of buildings, bridges, tanks, well curbs, tre-tles, towers and similar structures or for parts thereof, but not including builders' hardware, or any of the articles specified in Item Nos. 72, 72(3), 74(1), 75(3), 75(4) or 76(1).	Revenue	1 $\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 40 per ton.]	4* * *
63 (10)	³ [Steel, tinplates and tinned sheets, including tin taggers, and cuttings of such plates, sheets or taggers.	Revenue	1 $\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 59 per ton.]	4* * *

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "20".

³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

⁴ The words and figures "March 31st, 1947", omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

⁵ Subs. by the Finance Act, 1952 (4 of 1952), s. 5 and Second Sch., for the original entry.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63 (11)	Iron or Steel anchors and cables.	¹ [Revenue]	² [15 $\frac{1}{2}$] per cent. <i>ad valorem</i> .	
63 (12)	³ [A—Iron or steel bolts and nuts, including hook-bolts and nuts for roofing but excluding fish bolts and nuts.	Revenue	1 $\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 1-9 per cwt.	
	B—Iron or Steel fish bolts and nuts.	Revenue	1 $\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 4-5 per cwt.]	
63 (13)	Iron or Steel expanded metal.	¹ [Revenue]	² [15 $\frac{1}{2}$] per cent. <i>ad valorem</i> .	
63 (14)	Iron or Steel hoops and strips.	⁵ [Revenue]	20 per cent. <i>ad valorem</i>	
63 (15)	³ [Iron or Steel rivets ...	Revenue	1 $\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 1-14 per cwt.]	
63 (16)	Iron or Steel nails and washers, all sorts not otherwise specified.	¹ [Revenue]	² [15 $\frac{1}{2}$] per cent. <i>ad valorem</i> .	
63 (17)	³ [Iron or steel pipes and tubes and fittings therefor, if riveted or otherwise built up of plates or sheets.	Revenue	1 $\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 35 per ton.]	
63 (18)	⁶ [(a) Iron or Steel pipes and tubes also fittings	Revenue	18 $\frac{3}{4}$ per cent. <i>ad valorem</i> .	

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "20".

³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

⁴ The words and figures "March 31st, 1947.", omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

⁵ Subs. by Act 15 of 1951, s. 2, for "Preferential revenue".

⁶ Subs. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5, for the entries in 2nd, 3rd and 4th columns.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63 (18)— <i>contd.</i>	therefor, that is to say, bends, boots, elbows, tees, sockets, flanges, plugs, valves, cocks, and the like, excluding pipes, tubes and fittings therefor otherwise specified.			
	(b) Iron or steel tubular structures not otherwise specified, if made wholly or mainly of iron or steel pipes and tubes for the construction of buildings, bridges, tanks, well curbs, trestles, towers and similar structures or for parts thereof, but not including builders' hardware or any of the articles specified in items 72, 73(3), 74(1), 75(3), 75(4) or 76(1).	Revenue	18½ per cent. <i>ad valorem</i>]	...
63 (19)	¹ [Iron or steel plates excluding cast-iron plates—			
	(a) not fabricated ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 25 per ton.	2* * *
	(b) fabricated ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 40 per ton.]	2* * *
63 (20)	¹ [Iron or Steel sheets (other than high silicon electrical steel sheets)—			
	(a) not fabricated—			
	(I) not galvanized ...	Revenue	1½ times the excise duty leviable for the time	2* * *

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

² The words and figures "March 31st, 1947.", omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63(20)— <i>contd.</i>	Iron or steel sheets (other than high silicon electrical steel sheets)— <i>contd.</i> (a) not fabricated— <i>contd.</i>		being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 32 per ton.	
	(2) galvanized ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 40 per ton.	1* * *
	(b) fabricated— (1) not galvanized ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 35 per ton.	1* * *
	(2) galvanized ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 44 per ton.]	1* * *
63 (21)	² [Iron or Steel Railway Track Material— A—Rails (including tramway rails the heads of which are not grooved)— (a) 30 lbs. per yard and over, and fish-plates therefor; (b) under 30 lbs. per yard and fish-plates therefor.	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation or 20 per cent. <i>ad valorem</i> , whichever is higher.	1* * *

¹ The words and figures "March 31st, 1947." omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

² Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63 (21)— <i>contd.</i>	Iron or Steel Railway Track Material—<i>contd.</i> A—Rails (including tramway rails the heads of which are not grooved)—<i>contd.</i> (b) under 30 lbs. per yard and fish-plates therefor.—<i>contd.</i> B—Switches and crossings including stretcher-bars and other component parts and switches and crossings including stretcher-bars and other component parts for tramway rails the heads of which are not grooved— (a) for rails 30 lbs. per yard and over; (b) for rails under 30 lbs. per yard. C—Sleepers, and sleeper-bars, other than cast-iron. D—Spikes (other than dogspikes) and tie-bars.		time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 39 per ton. Revenue $1\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; or 20 per cent. <i>ad valorem</i>, whichever is higher. Revenue $1\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 43 per ton. Revenue $1\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; or 20 per cent. <i>ad valorem</i>, whichever is higher. ... $1\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the	* * * * * * * * * * * *

The words and figures "March 31st, 1947." omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63(21)— <i>concl.</i>	Iron or Steel Railway Track Material— <i>concl.</i>		Provinces and the Capital of the Federation; <i>plus</i> Rs. 39 per ton.]	
	E—Dogspikes ...	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 2-15 per cwt.	1* * *
	F—Gibs, cotters keys (including tapered key-bars), distance pieces and other fastenings for use with iron or steel sleepers.	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 2-15 per cwt.]	1* * *
63 (22)	Iron or Steel Railway Track Materials not otherwise specified, including bearing plates, cast iron sleepers and lever boxes.	² [Revenue]	³ [15½] per cent. <i>ad valorem</i> .	...
63 (23)	Iron or Steel Tramway Track Materials not otherwise specified, including rails, fish-plates, tie-bars, switches, crossings and the like materials of shapes and sizes specially adapted for tramway tracks.	² [Revenue]	³ [15½] per cent. <i>ad valorem</i> .	...
63 (24)	Iron or Steel barbed or stranded wire and wire rope.	⁴ [Revenue]	20 per cent. <i>ad valorem</i>	...
63 (25)	⁵ [Iron or Steel wire, other than (high carbon or spring steel wire) barbed or stranded wire, wire rope or wire netting; and iron or steel wire nails.	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 60 per ton.]	* * *

¹ The words and figures "March 31st, 1947." omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

³ Subs. *ibid.*, for "20".

⁴ Subs. by Act 15 of 1951, s. 2, for "Preferential revenue".

⁵ Subs. *ibid.*, for the entries in 2nd, 3rd and 4th columns.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63 (26)	Iron or Steel (other than bar or rod) specially designed for the reinforcement of concrete.	¹ [Revenue]	² [15 $\frac{1}{2}$] per cent. <i>ad valorem</i> .	...
63 (27)	³ [Iron or Steel, the original material (but not including machinery) of any ship or other vessel intended for inland or harbour navigation which has been assembled abroad, taken to pieces and shipped for re-assembly in Pakistan: Provided that the articles dutiable under this item shall not be deemed to be dutiable under any other item.	Revenue	1 $\frac{1}{2}$ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 27-8 per ton; or 20 per cent. <i>ad valorem</i> , whichever is higher.]	4 * * *
63 (28)	All sorts of Iron and Steel and manufactures thereof not otherwise specified.	¹ [Revenue]	⁵ [25] per cent. <i>ad valorem</i> .	..
63 (29)	Enamelled ironware, the following, namely:—			
	(a) Signboards ...	¹ [Revenue]	⁵ [25] per cent. <i>ad valorem</i> or four and a half annas per square foot, whichever is higher.	...
	(b) Domestic hollow-ware, the following, namely, basins, bowls, dishes, plates and thalas, including rice-cups, rice-bowls and rice-plates—			
	(i) having no diameter exceeding 19 centimetres.	¹ [Revenue]	⁵ [25] per cent. <i>ad valorem</i> or per dozen four annas <i>plus</i> one anna for every two centimetres or part thereof	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "20".

³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

⁴ The words and figures "March 31st, 1947." omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

⁵ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "30".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
63 (29) — <i>contd.</i>	Enamelled ironware, the following, namely:— <i>contd.</i> (b) Domestic hollow-ware, etc.— <i>contd.</i> (i) having no diameter exceeding 19 centimetres — <i>contd.</i> (ii) having any diameter exceeding 19 centimetres.		by which any diameter exceeds 11 centimetres, whichever is higher. 2[25] per cent. <i>ad valorem</i> or per dozen eight annas <i>plus</i> two annas for every two centimetres or part thereof by which any diameter exceeds 19 centimetres, whichever is higher.	...
3[63(30)	4[Alloy, Tool or Special Steel rod, bar and flat.	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 39 per ton; or 20 per cent. <i>ad valorem</i> , whichever is higher; <i>plus</i> one-fifth of such higher amount.]	5* * *
363 (31)	4[High Silicon Electrical Steel Sheets.	Revenue	6[Free]] ...	5* * *
363 (32)	4[High Carbon or Spring Steel Wire.	Revenue	1½ times the excise duty leviable for the time being on steel ingots, produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 60 per ton, <i>plus</i> one-fifth of the total of such amounts.]	5* * *
363 (33)	Iron or Steel Woodscrews	7[Revenue]	30 per cent. <i>ad valorem</i>	8* * *]

1 Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

2 Subs. *ibid.*, for "30".

3 Items Nos. 63 (30), 63 (31), 63 (32) and 63 (33), ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

4 Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

5 The words and figures "March 31st, 1948." omitted by G. G. O. 16 of '1948, with effect from the 1st April, 1948.

6 Subs. by the Finance Act, 1952 (4 of 1952), s. 5 and Second Schedule.

7 Subs. by Act 38 of 1950, s. 2, for "Protective".

8 The words and figures "March 31st, 1950." omitted, *ibid.*

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
64	Copper, wrought, and manufactures of copper, all sorts not otherwise specified.	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
64 (1)	Copper, scrap	Revenue	25 per cent. <i>ad valorem</i>	...
65	German silver including nickel silver.	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
66	Aluminium—circles, sheets and other manufactures not otherwise specified.	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
66 (1)	Unwrought ingots, blocks and bars of Aluminium.	Revenue	25 per cent. <i>ad valorem</i>	...
67	Lead, wrought—the following articles namely, pipes and tubes and sheets other than sheets for tea chests.	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
67 (1)	Lead sheets for tea chests	Revenue	25 per cent. <i>ad valorem</i>	...
68	Zinc or spelter, wrought or manufactured, not otherwise specified.	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
68 (1)	Zinc, unwrought, including cakes, ingots, tiles (other than boiler tiles), hard or soft slabs and plates, dust, dross and ashes; and broken zinc.	...	Free	...
69	Tin, Block	Revenue	Rs. 312-8 per ton ...	...
70	Brass, bronze and similar alloys, wrought, and manufactures thereof not otherwise specified.	² [Revenue]	³ [25] per cent. <i>ad valorem</i> .	...
70 (1)	All sorts of metals other than iron and steel, and manufactures thereof, not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
⁴ [70 (2)]	Crude Antimony	⁵ [Revenue]	20 per cent. <i>ad valorem</i>	⁶ * * *

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

³ Subs. *ibid.*, for "30".

⁴ Item; Nos. 70(2), and 70(3), ins. by Act 25 of 1947, s. 2.

⁵ Subs. by the Tariff (Amendment) Act 1950 (38 of 1950), s. 2, for "Protective".

⁶ The words and figures "March 31st, 1949.", omitted, *ibid.*

(First Schedule.—Import Tariff.)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
70 (3)	Antimony, other than crude antimony.	¹ [Revenue]	30 per cent. <i>ad valorem</i>	² * * *]
71	Hardware, ironmongery and tools all sorts not otherwise specified, including incandescent mantles but excluding machine tools and agricultural implements.	³ [Revenue]	⁴ [25] per cent. <i>ad valorem</i>	...
71 (1)	The following Hardware, ironmongery and tools, namely, agricultural implements not otherwise specified, buckets of tinned or galvanized iron, and pruning-knives.	Revenue	25 per cent. <i>ad valorem</i>	...
71 (2)	Cutlery, all sorts not otherwise specified.	³ [Revenue]	⁴ [25] per cent. <i>ad valorem</i> .	...
71 (3)	Metal furniture and cabinetware.	³ [Revenue]	⁴ [25] per cent. <i>ad valorem</i> .	...
71 (4)	Printing type ...	Revenue	One anna and three pies per lb.	...
71 (5)	The following printing materials, namely, leads, brass rules, wooden and metal quoins, shooting sticks and galleys and metal furniture.	Revenue	2½ per cent. <i>ad valorem</i>	...
71 (6)	Racks for the withering of tea leaf.	Revenue	2½ per cent. <i>ad valorem</i>	...
⁵ 71(7)	Hurricane lanterns ...	⁶ [Protective.]	⁷ [40 per cent. <i>ad valorem</i>]	⁸ [March 31st, 1953.]]

¹ Subs. by the Tariff (Amendment) Act, 1950 (38 of 1950), s. 2, for "Protective".

² The words and figures "March 31st, 1949.", omitted, *ibid*.

³ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁴ Subs. *ibid.*, for "30".

⁵ Item 71(7) ins. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

⁶ Subs. by the Tariff (Second Amendment) Act, 1951 (24 of 1951), s. 2, for "Revenue" which was subs. by the Tariff (Amendment) Act, 1950 (38 of 1950), s. 2, for "Protective".

⁷ Subs. by Act 24 of 1951, s. 2, for "30 per cent. *ad valorem*"; for additional custom duty at 10 per cent. *ad valorem* see Gazette of Pakistan Extraordinary, 1951, p. 51.

⁸ Subs. by the Tariff (Amendment) Act, 1952 (3 of 1952), s. 2, for "March 31st 1952."

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
¹ [71(8)]	Grinding wheels of diameter up to and including 14 inches.	Protective	80 per cent. <i>ad valorem</i>	October 19th, 1954.]
² [71(9)]	Foot pumps and hand pumps for motor cars.	Protective	100 per cent. <i>ad valorem</i>	March 31st, 1955.]

SECTION XVI

MACHINERY AND APPARATUS; ELECTRICAL MATERIAL

72	Machinery, namely, such of the following articles as are not otherwise specified:— (a) prime-movers, boilers, locomotive engines and tenders for the same, portable engines (including power-driven road rollers, fire engines and tractors), and other machines in which the prime-mover is not separable from the operative parts; (b) machines and sets of machines to be worked by electric, steam, water, fire or other power, not being manual or animal labour, or which before being brought into use require to be fixed with reference to other moving parts; (c) apparatus and appliances, not to be operated by manual or animal labour, which are designed for use in an industrial system as parts indispensable for its operation and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose;	Revenue	10 per cent, <i>ad valorem</i>	...
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¹ Item 71(8) added by the Tariff (Third Amendment) Act, 1951 (41 of 1951). section 5.

² Item 71(9) added by the Tariff (Amendment) Act, 1952, (3 of 1952).

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
72— <i>contd.</i>	Machinery, namely, such of the following articles as are not otherwise specified—<i>contd.</i> (d) control gear, self-acting or otherwise, and transmission-gear designed for use with any machinery above specified, including belting of all materials (other than cotton, hair and canvas ply) and driving chains, but excluding driving ropes not made of cotton; ¹[(dd) industrial type power switchboards;] (e) bare hard-drawn electrolytic copper wires and cables and other electrical wires and cables, insulated or not, and poles, troughs, conduits and insulators designed as parts of a transmission system, and the fittings thereof. Note.—The term “Industrial system” used in sub-item (c) means an installation designed to be employed directly in the performance of any process or series of processes necessary for the manufacture, production or extraction of any commodity.			
72 (1)	The following Textile Machinery and apparatus by whatever power operated, namely, healds, heald cords and heald knitting needles; reeds and shuttles; warp and weft preparation machinery and looms; bobbins and pirns; dobbies; Jacquard machines; ² [Jacquard harness linen cords];	Revenue	10 per cent. <i>ad valorem</i>	...

¹ Cl. (dd) ins. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5.

² Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and First Sch., for the words “Jacquard harness linen cards”.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
72(1)— <i>contd.</i>	Jacquard cards; punching plates for Jacquard cards; warping mills; multiple box sleys; solid border sleys; tape sleys; swivel sleys; tape looms; wool carding machines; wool spinning machines; hosiery machinery; coir mat shearing machines; coir fibre wil- lowing machines; heald knitting machines; dobby cards; lattices and lags for dobbies; wooden winders; silk looms; silk throwing and reeling machines; cotton yarn reeling machines; sizing machines; doubling machines; silk twisting machines; cone winding machines; piano card cutting machines; harness building frames; card lacing frames; drawing and denting hooks; sewing thread balls making machines; cumbli finishing machinery; hank boilers; cotton carding and spinning machines; mail eyes, lingoes, comber boards and comber board frames; take-up motions, temples and pickers; picking bands; picking sticks; printing machines; roller cloth; clearer cloth; sizing flannel; and roller skins.			
72 (2)	Printing and Lithographic Material, namely, presses, lithographic plates, composing sticks, chases, imposing tables, lithographic stones, stereo-blocks, wood blocks, half-tone blocks, ¹ [electro-type blocks], process blocks and highly polished copper or zinc sheets specially prepared for making process blocks, roller moulds, roller frames and stocks, roller composition, lithographic map	Revenue	10 per cent. <i>ad valorem</i>]	...

¹ Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and First Sch., for "electric type blocks".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
72(2)— <i>cond.</i>	rollers, standing screw and hot presses, perforating machines, gold blocking presses, galley presses, proof presses, arming presses, copper plate printing presses, rolling presses, ruling machines, ruling pen making machines, lead cutters, rule cutters, slug cutters, type casting machines, type setting and casting machines, paper in rolls with side perforations to be used after further perforation for type-casting, rule bending machines, rules mitreing machines, bronzing machine, stereotyping apparatus, paper folding machines, paging machines but excluding ink and paper.			
72 (3)	Component parts of Machinery as defined in Item Nos. 72, 72(1) and 72(2), namely, such parts only as are essential for the working of the machine or apparatus and have been given for that purpose some special shape or quality which would not be essential for their use or any other purpose : Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the machine to which they belong if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable.	Revenue	10 per cent. <i>ad valorem</i>	...
72 (4)	Passenger Lifts and component parts and accessories thereof.	Revenue	25 per cent. <i>ad valorem</i>	...
72 (5)	Domestic Refrigerators	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
72 (6)	Machinery and component parts thereof, meaning machines or parts of machines to be worked by manual or animal labour, not otherwise specified, and any machines (except such as are designed to be used exclusively in industrial processes) which require for their operation less than one-quarter of one brake-horse-power.	¹ [Revehue]	² [25] per cent. <i>ad valorem</i> .	...
72 (7)	Water-Lifts, Sugar-mills, sugar centrifuges, sugar pugmills, oil-presses and parts thereof, when constructed so that they can be worked by manual or animal power and pans for boiling sugar-cane juice.	...	Free ...	...
72 (8)	The following Agricultural Implements, namely, winnowers, threshers, mowing and reaping machines, binding machines, elevators, seed and corn crushers, chaff cutters, root-cutters, ensilage-cutters, horse and bullock gear, ploughs, cultivators, scarifiers, harrows, clod-crushers seed-drills, hay tedders, hay presses, potato-diggers, latex spouts, spraying machines, powder-blowers, white-ant exterminating machines, beet pullers, broadcast seeders, corn pickers, corn shellers, cultipackers, drag scrapers, stalk cutters, huskers and shredders, potato planters, lime sowers, manure spreaders, listers, soil graders, and rakes; also agricultural tractors, also component parts of these implements, machines or tractors,	* ...	Free ...	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for the figure "30".

(First Schedule.—Import Tariff)

Item No.	Name of article	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
72(8)— <i>contd.</i>	provided that they can be readily fitted into their proper places in the implements, machines or tractors for which they are imported, and that they cannot ordinarily be used for purposes unconnected with agriculture.			
72 (9)	The following Dairy and Poultry Farming Appliances, namely, cream separators, milking machines, milk sterilizing or pasteurizing plant, milk aerating and cooling apparatus, churns, butter dryers, butter workers, milk-bottle fillers and cappers, apparatus specially designed for testing milk and other dairy produce, and incubators; also component parts of these appliances, provided that they can be readily fitted into their proper places in the appliances for which they are imported, and that they cannot ordinarily be used for other than dairy and poultry farming purposes.	...	Free	...
¹ [72 (10)]	² * * *. Knitting machines (and parts thereof) to be worked by manual labour or which require for their operation less than one-quarter of one brake-horse-power.	³ [Revenue]	30 per cent. <i>ad valorem</i>	...]
⁴ [72 (11)]	⁵ [Sewing machines (and parts thereof) to be worked by manual labour or which require for their operation less	Revenue	40 per cent. <i>ad valorem</i>]	

¹ Item 72(10) ins. by the Indian Tariff (Third Amendment) Act, 1939, s. 3.² The words "Sewing and" omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".⁴ Item 72 (11) ins. by Act 25 of 1947, s. 2.⁵ Subs. by Act 15 of 1951, s. 2, for the entries in the 2nd, 3rd and 4th columns.⁶ The words and figures "March 31st, 1949" omitted by the Tariff (Amendment) Act, 1950 (38 of 1950), s. 2.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
72(11)— <i>contd.</i>	than one-quarter of one brake-horse-power.			
73	Electrical instruments, apparatus and appliances, not otherwise specified, excluding telegraphic and telephonic.	¹ [Revenue]	² [45 per cent.] ...	...
73(1)	The following Electrical Instruments, Apparatus and Appliances namely:— Electrical Control Gear and Transmission Gear, namely, switches (excluding switch-boards), fuses and current breaking devices of all sorts and descriptions, designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts; and regulators for use with motors designed to consume less than 187 watts; bare or insulated copper wires and cables, any one core of which, not being one specially designed as a pilot core, has a sectional area of less than one-eightieth part of a square inch, and wires and cables of other metals of not more than equivalent conductivity, and line insulators, including also cleats, connectors, leading in tubes and the like of types and sizes such as are ordinarily used in connection with the transmission of power for other than industrial purposes, and the fittings thereof but excluding electrical earthenware and porcelain otherwise specified.	¹ [Revenue]	30 per cent. <i>ad valorem</i>	...
73 (2)	The following Electrical Instruments, Apparatus and Appliances, namely,	Revenue	25 per cent. <i>ad valorem</i>	...

¹ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

² Subs. by the Finance Act, 1950 (26 of 1950), s. 5, and Second Sch., for "60 per cent. *ad valorem*".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
73(2)— <i>contd.</i>	telegraphic and telephonic instruments, apparatus and appliances not otherwise specified, flash lights, carbons, condensers, and bell apparatus, and switch-boards designed for use in circuits of less than ten amperes and at a pressure not exceeding 250 volts, ¹ [also accumulators, batteries and electro-medical apparatus].			
73 (3)	Telegraphic Instruments and Apparatus and parts thereof imported by, or under the orders of, a Railway Administration.	Revenue	15½ per cent. <i>ad valorem</i>	...
73 (4)	² [(i) Wireless reception Instruments and Apparatus not otherwise specified and component parts thereof, including all electric valves, amplifiers and loudspeakers which are not specially designed for purposes other than wireless reception or are not original parts of and imported along with instruments and apparatus so designed.	³ [Revenue]	² [50 per cent. <i>ad valorem</i> .	...
	(ii) Combination radio phonographs.]	...	260 per cent. <i>ad valorem</i>]	...
73 (5)	Electrical earthenware and porcelain, the following, namely:— (a) Insulators, Shackle, Sinclair, Cordeaux or Pintype, not otherwise specified— (i) fitted ...	...	⁴ [Revenue] ⁵ [25] per cent. <i>ad valorem</i> or Re. 1-2 per dozen, whichever is higher.	...

¹ Added by the Indian Tariff (Third Amendment) Act, 1939, s. 3.² Subs. by the Finance Act, 1952 (4 of 1952), s. 5 and Second Sch., for the original entry.³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 3, for "Preferential revenue".⁴ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".⁵ Subs. *ibid.*, for "30".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
73 (5)— <i>contd.</i>	Electrical earthenware and porcelain, the following, namely— <i>contd.</i>			
	(a) Insulators, Shackle, Sinclair, Cordeaux or Pintype, not otherwise specified— <i>contd.</i>			
	(ii) not fitted ...	¹ [Revenue]	2[25] per cent. <i>ad valorem</i> or fourteen annas per dozen, whichever is higher.	...
	(b) Two-way cleats ...	¹ [Revenue]	2[25] per cent. <i>ad valorem</i> or four annas per gross of pairs, whichever is higher.	...
	(c) Spacing insulators ...	¹ [Revenue]	2[25] per cent. <i>ad valorem</i> or two annas per gross, whichever is higher.	...
	(d) Ceiling roses—			
	(i) fitted ...	¹ [Revenue]	2[25] per cent. <i>ad valorem</i> or ten annas per dozen, whichever is higher.	...
	(ii) not fitted ...	¹ [Revenue]	2[25] per cent. <i>ad valorem</i> or eight annas per dozen, whichever is higher.	...
	(e) Joint-box cut-outs—			
	(i) fitted ...	¹ [Revenue]	2[25] per cent. <i>ad valorem</i> or eight annas per dozen, whichever is higher.	...
	(ii) not fitted ...	¹ [Revenue]	2[25] per cent. <i>ad valorem</i> or six annas per dozen, whichever is higher.	...
373 (6)	Rubber Insulated Copper Wires and Cables, no core of which, other than one specially designed as a pilot core, has a sectional area of less than	Revenue	6½ per cent. <i>ad valorem</i>	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

³ The entries in the second column of Item No. 73 (6), have been exempted from so much of the customs duty leviable thereon as is in excess of five per cent. *ad valorem*, see Gazette of Pakistan 1950, Pt. I, p. 578.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
73(6)— <i>contd.</i>	one-eightieth part of a square inch, whether made with any additional insulating or covering material or not.			
¹ [73(7)]	Electric fans ...	Protective	45 per cent. <i>ad valorem</i>	² [March 31st, 1953.]

SECTION XVII

TRANSPORT MATERIAL

74	³ [Coal tubs, tipping wagons and the like conveyances designed for use on light rail track, if adapted to be worked by manual or animal labour and if made mainly of iron or steel; and component parts thereof made of iron or steel.]	Revenue	1½ times the excise duty leviable for the time being on steel ingots produced in the Provinces and the Capital of the Federation; <i>plus</i> Rs. 40 per ton; or 20 per cent. <i>ad valorem</i> , whichever is higher.]	4* * *
74 (1)	Tramcars and component parts and accessories thereof.	Revenue	25 per cent. <i>ad valorem</i>	...
74 (2)	Railway Materials for permanent-way and rolling-stock, namely, sleepers, other than iron and steel and fastenings thereof; bearing plates, chairs, inter-locking apparatus, brake-gear, shunting skids, couplings and springs, signals, turntables, weigh-bridges, carriages, wagons, traversers, rail removers, scooters, trollies, trucks; also cranes, water-cranes and water-tanks when imported by or under the orders of a railway administration: Provided that for the purpose of this entry 'railway' means a line of railway subject to the provisions of the Railways	Revenue	15½ per cent. <i>ad valorem</i>	...

¹ Item 73(7) added by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5.² Subs. by the Tariff (Amendment) Act, 1952 (3 of 1952), s. 2, for "March 31st, 1952".³ See foot-note 5 on page 133, *supra*.⁴ The words and figures "March 31st, 1941," omitted by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2.

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
74(2)— <i>contd.</i>	Act, 1890, and includes a railway constructed in a State in ¹ [Pakistan] and also such tramways as the ² [Central Government] may, by notification in the ³ [official Gazette] specifically include therein: Provided also that articles of machinery as defined in Item No. 72 or No. 72(3) shall not be deemed to be included hereunder.			
74 (3)	Component parts of Railway Materials, as defined in Item No. 74 (2), namely, such parts only as are essential for the working of railways and have been given for that purpose some special shape or quality which would not be essential for their use for any other purpose: Provided that articles which do not satisfy this condition shall also be deemed to be component parts of the railway material to which they belong, if they are essential to its operation and are imported with it in such quantities as may appear to the Collector of Customs to be reasonable.	Revenue	15½ per cent. <i>ad valorem</i>	...
75	Conveyances not otherwise specified and component parts and accessories thereof; also motor vans and motor lorries imported complete.	Revenue	25 per cent. <i>ad valorem</i>	...
75 (1)	⁴ [(1) Motor cars including	⁵ [Revenue]	⁶ [54 per cent.] ⁷ [<i>ad valorem</i>]	...

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "India".

² Subs. by the A. O., 1937, for "G. G. in C.".

³ Subs. *ibid.*, for "Gazette of India".

⁴ Subs. by the Finance Act, 1950 (26 of 1950), s. 5 and Second Sch., for the original entry as amended by the Central Excises and Salt and the Indian Tariff Acts (Amendment) Ordinance, 1948 (16 of 1948), s. 3.

⁵ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

⁶ Subs. by Act 26 of 1950, s. 5 and Second Sch., "for 37½ per cent. *ad valorem*".

⁷ Added by Act 15 of 1951, s. 2.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
75(1)— <i>contd.</i>	taxi-cabs and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof provided that such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles included in this item or in Items Nos. 75(2) and 75(3) shall be dutiable at the rate of duty specified for such articles except motor cars including taxi-cabs whose landed cost is more than Rs. 7,500.			
	(2) Motor cars including taxi-cabs whose landed cost is more than Rs. 7,500.]	...	¹ [60 per cent.] ² <i>ad valorem.</i>	...
75 (2)	Motor cycles and motor scooters and articles (other than rubber tyres and tubes) adapted for use as parts and accessories thereof except such articles as are also adapted for use as parts and accessories of motor cars.	³ [Revenue]	⁴ [57½ per cent.] ² <i>ad valorem.</i>	...
75 (3)	Motor Omnibuses; chassis of motor omnibuses, motor vans and motor lorries; and parts of mechanically propelled vehicles and accessories not otherwise specified, excluding rubber tyres and tubes and such parts and accessories of motor vehicles included in this item as are also adapted for use as parts and accessories of motor cars.	³ [Revenue]	⁵ [37½ per cent.] ² <i>ad valorem.</i>	...

¹ Ins. by the Finance Act, 1950 (26 of 1950), s. 5 and Second Sch.² Added by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2.³ Subs. by Act 15 of 1951, s. 2, for "Preferential revenue" which was subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Revenue".⁴ Subs. by Act 26 of 1950, s. 5 and Second Schedule, for "37½ per cent. *ad valorem*".⁵ Subs. *ibid.*, for "25 per cent. *ad valorem*".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
¹ [75 (4)]	Carriages and carts which are not mechanically propelled, not otherwise specified, and parts and accessories thereof ; excluding rubber tyres and tubes.	Revenue	25 per cent. <i>ad valorem</i>	...
² [75 (5)]	³ [Cycles (other than motor cycles) imported entire or in sections.	Revenue	Rs. 25 per cycle] ...	4* * *
275 (6)	³ [Frames for cycles (other than motor cycles).	Revenue	45 per cent. <i>ad valorem</i>]	4* * *
275 (7)	³ [Handlebars for cycles (other than motor cycles).	Revenue	45 per cent. <i>ad valorem</i>]	4* * *
275 (8)	³ [All other parts and accessories of cycles (other than motor cycles) not otherwise specified (excluding rubber tyres and tubes).	Revenue	45 per cent. <i>ad valorem</i>]	4* * *]
⁵ [75 (9)]	Cycle pumps made of metal or plastic material.	Protective	100 per cent. <i>ad valorem</i>	March 31st, 1955.]
76	Aeroplanes, aeroplane parts, aeroplane engines, aeroplane engine parts and rubber tyres and tubes used exclusively for aeroplanes.	Revenue	2½ per cent. <i>ad valorem</i>	...
76 (1)	Ships and other vessels for inland and harbour navigation, including steamers, launches, boats and barges imported entire or in sections: Provided that articles of	Revenue	⁶ [Free] ...	...

¹ Items Nos. 75(4) and 75(5) have been subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for the original Item No. 75 (4).

² Items Nos. 75 (5), 75(6), 75(7) and 75(8) have been subs. by the Indian Tariff (Amendment) Act, 1947 (25 of 1947), s. 2, for Item No. 75(5).

³ Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for the entries in 2nd, 3rd and 4th columns.

⁴ The words and figures "March 31st, 1949," omitted by the Tariff (Amendment) Act, 1950 (38 of 1950), s. 2.

⁵ Item 75 (9) added by the Tariff (Amendment) Act, 1952 (3 of 1952), s. 2.

⁶ Subs. by the Finance Act, 1951 (1 of 1951), s. 5 and Second Sch., for "15½ per cent. *ad valorem*".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
76 (1)— <i>contd.</i>	machinery as defined in Item No. 72 or No. 72(3) shall, when separately imported not be deemed to be included hereunder.			
76 (2)	Light Ships	...	Free	...
76 (3)	Furniture tackle and apparel, not otherwise described, for steam sailing, rowing and other vessels.	Révenue	25 per cent. <i>ad valorem</i>	...

SECTION XVIII

SCIENTIFIC AND PRECISION INSTRUMENTS AND APPARATUS; WATCHMAKERS' AND CLOCKMAKERS' WARES; MUSICAL INSTRUMENTS.

77	Instruments, apparatus and Appliances other than electrical, all sorts not otherwise specified, including photographic; 1* * *	² [Revenue]	³ [42 per cent.]	
77 (1)	Instruments, apparatus and appliances, imported by a passenger as part of his personal baggage and in actual use by him in the exercise of his profession or calling.	...	Free	...
77 (2)	Optical, ⁴ [Scientific, Philosophical and Surgical] Instruments, apparatus and appliances.	Revenue	25 per cent. <i>ad valorem</i>	...
⁴ [77 (3)]	Artificial Teeth	² [Revenue]	25 per cent. <i>ad valorem</i>	...]
78	Clocks and Watches and parts thereof.	Revenue	50 per cent. <i>ad valorem</i>	...
79	Musical Instruments and parts thereof, all sorts ⁵ [and records for talking machines].	⁶ [Revenue]	50 per cent. <i>ad valorem</i>	...

¹ The words "scientific, philosophical and surgical" omitted by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

² Subs. by the Tariff (Amendment) Act, 1951 (15 of 1951), s. 2, for "Preferential revenue".

³ Subs. by the Finance Act, 1950 (26 of 1950), s. 5 and Second Sch., for "30 per cent. *ad valorem*".

⁴ Ins. by the Indian Tariff (Third Amendment) Act, 1939, s. 3.

⁵ Subs. *ibid.*, for "not otherwise specified".

⁶ Subs. *ibid.*, for "Preferential revenue".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
1*	* * *	* *	* *	* *

SECTION XIX

ARMS AND AMMUNITION

80	Save where otherwise specified, all articles which are arms or parts of arms within the meaning of the Arms Act, 1878 (excluding springs used for air guns), all tools used for cleaning or putting together the same, all machines for making, loading, closing or capping cartridges for arms other than rifled arms and all other sorts of ammunition and military stores, and any articles which the ² [Central Government] may, by notification in the ³ [official Gazette] declare to be ammunition or military stores for the purposes of this Act.	Revenue	50 per cent. <i>ad valorem</i>	...
80 (1)	Subject to the exemptions specified in Item No. 80 (3)—Firearms, including gas and air guns, gas and air rifles and gas and air pistols, not otherwise specified, but excluding parts and accessories thereof.	⁴ [Revenue]	⁵ [Rs. 18-12 each or 37½ per cent. <i>ad valorem</i> , whichever is higher, plus 12½ per cent. <i>ad valorem</i> .]	...
80 (2)	Subject to the exemptions specified in Item No. 80(3)— (a) Barrels, whether single or double, for firearms, including gas and air guns, gas and air rifles, and gas and air pistols, not otherwise specified.	Revenue	Rs. 18-12 each or 37½ per cent. <i>ad valorem</i> whichever is higher, plus 12½ per cent. <i>ad valorem</i> .	...

¹ Item No. 79 (1) omitted, by the Indian Tariff (Third Amendment) Act, 1939, section 3.

² Subs. by the A. O., 1937, for "G. G. in C."

³ Subs. *ibid.*, for "Gazette of India".

⁴ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

⁵ Subs. *ibid.*, for "Rs. 18-12 each plus 10 per cent. *ad valorem*, or 50 per cent. *ad valorem*, whichever is higher".

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
80(2)— <i>contd.</i>	Subject to the exemption specified in Item No. 80 (3)— <i>contd.</i>			
	(b) Main springs and magazine springs for firearms, including gas guns, gas rifles and gas pistols.	Revenue	Rs. 6-4 each.	} or 37½ per cent. <i>ad valorem</i> , whichever is higher, plus 12½ per cent. <i>ad valorem</i> .
	(c) Gun stocks and breech blocks.	Revenue	Rs. 3-12 each.	
	(d) Revolver cylinders, for each cartridge they will carry.	Revenue	Rs. 2-8 each.	
	(e) Actions (including skeleton and waster), breech bolts and their heads, cocking pieces, and locks for muzzle loading arms.	Revenue	Rs. 1-4 each.	
	(f) Machines for making, loading, or closing cartridges for rifled arms.	Revenue	50 per cent. <i>ad valorem</i>	
	(g) Machines for capping cartridges for rifled arms.	Revenue	50 per cent. <i>ad valorem</i>	...
80 (3)	The following arms, ammunitions and Military Stores :—	...	Free ...	...
	(a) Arms forming part of the regular equipment of a commissioned or gazetted officer in ¹ [the service of the Crown in Pakistan entitled to wear diplomatic, military, naval, air force] or police uniform.			
	² [(b) A revolver and an automatic pistol and ammunition for such revolver and pistol up to a maximum of 100 rounds per revolver or			

¹ Subs. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5, for "His Majesty's Service entitled to wear diplomatic, military, naval, Royal Air Force".

² Subs. *ibid.*, for cl. (b).

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
80 (3)— <i>contd.</i>	The following arms, ammunitions and Military Stores—<i>contd.</i> pistol, (i) when accompanying a commissioned officer of the naval, military or air forces of Pakistan or of the Pakistan Territorial Forces, or the Pakistan National Guard or a gazetted police officer, or (ii) certified by the commandant of the corps or unit to which such officer belongs or, in the case of an officer not attached to any corps or unit, by the officer commanding the naval, military or air force station in which such officer is serving or any higher naval, military, or air force authority, as the case may be, or in the case of a police officer, by an Inspector General, to be imported by the officer for the purpose of his equipment.] ¹[(c) Swords for presentation as naval, military or air force prizes or as prizes in relation to service in the Pakistan Territorial Force or the Pakistan National Guard.] (d) Arms, ammunition and military stores imported with the sanction of the ²[Central Government] for the use of any portion of the military forces of ³[an Acceding State]. (e) Morris tubes and patent ammunition			

¹ Subs. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5, for cl. (c).

² Subs. by the A. O., 1937, for "Government of India".

³ Subs. by Act 41 of 1951, s. 5, for certain words.

(First Schedule.—Import Tariff)

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
80 (3)— <i>concl.</i>	The following arms, ammunitions and Military Stores— <i>concl.</i> imported by officers commanding [units of the naval, military or air forces of Pakistan or of the Pakistan Territorial force or the Pakistan National Guard] for the instruction of their men.			
80 (4)	Ornamental arms of an obsolete pattern possessing only an antiquarian value; masonic and theatrical and fancy dress swords, provided they are virtually useless for offensive or defensive purposes; and <i>dahs</i> intended exclusively for domestic, agricultural and industrial purposes.	Revenue	25 per cent. <i>ad valorem</i>	...
81	Cartridge cases filled and empty.	² [Revenue]	50 per cent. <i>ad valorem</i>	...

SECTION XX

MISCELLANEOUS GOODS AND PRODUCTS NOT ELSEWHERE INCLUDED

82	Coral, prepared ...	Revenue	25 per cent. <i>ad valorem</i>	...
82(1)	Ivory, manufactured, not otherwise specified.	Revenue	50 per cent. <i>ad valorem</i>	...
82 (2)	Bangles and beads, not otherwise specified.	Revenue	50 per cent. <i>ad valorem</i>	...
83	Brushes, all sorts ...	² [Revenue]	³ [25] per cent. <i>ad valorem</i>	...
84	Toys, games, playing cards and requisites for games and sports, bird shot, toy cannons, air guns and air pistols for the time being excluded in any part of ⁴ [the Provinces and the	² [Revenue]	50 per cent. <i>ad valorem</i>	...

¹ Subs. by the Tariff (Third Amendment) Act, 1951 (41 of 1951), s. 5, for "British and Pakistan regiments or volunteer corps" as amended by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Schedule.

² Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

³ Subs. *ibid.*, for "30".

⁴ Subs. by the A. O., 1949, for "British India".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
84— <i>contd.</i>	Capital of the Federation] from the operation of all the prohibitions and directions contained in the Arms Act, 1878, and bows and arrows.			
85	Buttons, metal ...	¹ [Revenue]	² [25] per cent. <i>ad valorem</i> .	...
85 (1)	Smoker's requisites excluding tobacco and matches: Provided that mechanical lighters as defined in ³ [Central Excises and Salt Act, 1944], shall be liable in addition to a duty equal to the amount of the excise duty imposed by that Act on mechanical lighters manufactured in ⁴ [the Provinces and the Capital of the Federation].	¹ [Revenue]	50 per cent. <i>ad valorem</i>	...

SECTION XXI

WORKS OF ART AND ARTICLES FOR COLLECTIONS

86	Prints, Engravings and Pictures (including photographs and picture post cards), not otherwise specified.	Revenue	50 per cent. <i>ad valorem</i>	...
86 (1)	Art, works of, not otherwise specified.	Revenue	25 per cent. <i>ad valorem</i>	...
86 (2)	Art.—the following works of:—(1) statuary and pictures intended to be put up for the public benefit in a public place; and (2) memorials of a public character intended to be put up in a public place, including the materials used, or to be used in their construction, whether worked or not.	...	Free ...	...

¹ Subs. by the Indian Tariff (Third Amendment) Act, 1939, s. 3, for "Preferential revenue".

² Subs. *ibid.*, for "30".

³ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "the Mechanical Lighters (Excise Duty) Act, 1934".

⁴ Subs. by the A. O., 1949, for "British India".

Item No.	Name of article.	Nature of duty.	Rate of duty.	Duration of protective rates of duty.
86 (3)	Specimens, Models and Wall Diagrams illustrative of natural science, and medals and antique coins.	...	Free ...	...
86 (4)	Postage Stamps, whether used or unused.	...	Free ...	...

SECTION XXII

ARTICLES NOT OTHERWISE SPECIFIED

87	All other articles not otherwise specified, including articles imported by post.	Revenue	25 per cent. <i>ad valorem</i>	...
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[THE SECOND SCHEDULE

Export Tariff

Item No.	Name of article.	Rate of duty.
1	² [Meshta fibre and raw jute] (other than Bimlipatam Jute)—	
	(1) Cuttings ...	³ [At such rate not exceeding ⁴ [Rs. 10 per bale of 400 lbs.] as the Central Government by notification in the official Gazette may from time to time determine.]
	(2) All other descriptions ...	³ [At such rate not exceeding ⁵ [Rs. 35 per bale of 400 lbs.] as the Central Government by notification in the official Gazette may from time to time determine.]

¹ Subs. by the Finance Act, 1947 (20 of 1947), s. 5, for the original Second Schedule.

² Subs. by the Tariff Act (Second Amendment) Ordinance, 1948 (21 of 1948), s. 2, for "Raw Jute".

³ Subs. by the Pakistan Finance Act, 1948 (1 of 1948), s. 5, Second Sch., Pt. II, for the existing entry.

⁴ Subs. by the Tariff (Fourth Amendment) Act, 1951 (42 of 1951), s. 2, for "Rs. 8 per bale of 400 lbs." with effect from the 1st November, 1951.

⁵ Subs. *ibid.* for "Rs. 25 per bale of 400 lbs." (from the 1st November, 1951).

Item No.	Name of article.	Rate of duty.
	Jute Manufactures (other than of Bimlipatam jute), when not in actual use as coverings, receptacles or bindings for other goods—	
	(1) Sacking (cloth, bags, twist, yarn, rope and twine)	Rs. 50 per ton.
	(2) Hessians and all other descriptions of jute manufactures not otherwise specified	Rs. 80 per ton.
3	Raw Cotton	¹ [At such rate not exceeding Rs. 300 per bale of 400 lbs. as the Central Government by notification in the official Gazette may from time to time determine.]
4	Rice, with or without husk, including rice flour but excluding rice bran and rice dust, which are free	Two annas and three pies per standard maund.
5	Tea	² [Three annas per lb.]]
³ [6	Hides, raw	10 per cent. <i>ad valorem</i> .
7	Skins, raw	⁴ [5 per cent. <i>ad valorem</i> .]
8	Cotton seed	10 per cent. <i>ad valorem</i> .]
⁵ [9	Cement	Rs. 10 per ton.
10	Fish—	
	(1) Fresh	Rs. 5 per maund.
	(2) Salted, dry	Rs. 4 per cwt.
	(3) Unsalted, dry	Rs. 8 per cwt.
11	Bamboos	10 per cent. <i>ad valorem</i> .]
⁶ [12	Wool, raw	25 per cent. <i>ad valorem</i> .]

THE THIRD SCHEDULE.—[ACTS REPEALED.] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Second Schedule.*

¹ Subs. by the Tariff (Second Amendment) Act, 1950 (75 of 1950), s. 2, for the original entry in the third column (with effect from the 23rd October, 1950).

² Subs. by the Finance Act, 1952 (4 of 1952), s. 5, and Second Sch., for "Four annas per lb.".

³ Added by the Pakistan Finance Act, 1948 (1 of 1948), s. 5.

⁴ Subs. by the Pakistan Finance Act, 1949 (9 of 1949), s. 5, and Second Sch., Pt. II, for "10 per cent. *ad valorem*".

⁵ Added, *ibid*.

⁶ Added by Act 24 of 1951, s. 3 (with effect from the 5th December, 1950).

THE PAKISTAN NAVY (DISCIPLINE) ACT, 1934

¹ACT NO. XXXIV OF 1934

[8th September, 1934]

An Act to provide for the application of the Naval Discipline Act to the ²[Pakistan Navy].

WHEREAS by section 66 of the Government of India Act it is among other things enacted that provision may be made by the Indian Legislature for the application to the naval forces raised by the Governor General in Council of the Naval Discipline Act subject to such modifications and adaptations as may be made by the said Legislature to adapt the Act to the circumstances of India;

AND WHEREAS it is expedient to make ³[provision for the application of the said Act to the Naval Forces raised by the Government of Pakistan];

It is hereby enacted as follows :—

- 1.—(1) This Act may be called the ²[Pakistan Navy] (Discipline) Act, 1934. Short title and commencement.
- (2) It shall come into force on such date⁴ as the ⁵[Central Government] may, by notification in the ⁶[official Gazette], appoint.
2. In this Act, unless there is anything repugnant in the subject or context,— Definition.

“the ²[Pakistan Navy]” means the naval forces and ships raised and provided by the ⁵[Central Government].
- 3.—(1) The Naval Discipline Act shall apply to the ²[Pakistan Navy] as if that Act were in the form in which it is set forth in the First Schedule to this Act. Application of the Naval Discipline Act to the Pakistan Navy.
- (2) In the application to the ²[Pakistan Navy] of the Naval Discipline Act as so set forth—
 - (a) “the ²[Pakistan Navy]” has the same meaning as in this Act, and
 - (b) references to His Majesty’s Navy and His Majesty’s ships shall be deemed to include the forces and ships constituting the ²[Pakistan Navy].

¹ For Statement of Objects and Reasons, see Gazette of India, 1933, Pt. V, p. 252, and for Report of Select Committee, see *ibid.*, 1934, Pt. V, p. 257.

This Act has been supplemented by the Criminal Law Amendment Act, 1938 (20 of 1938).

For temporary amendment of this Act, during the continuance of war, see the Defence of India Act, 1939 (35 of 1939), s. 6, as amended from time to time.

² Subs. by the A. O., 1949, for “Indian Navy”.

³ Subs. *ibid.*, for “such provision”.

⁴ The 2nd October, 1934, see Gazette of India, 1934, Extraordinary, p. 227.

⁵ Subs. by the A. O., 1937, for “G. G. in C.”.

⁶ Subs. *ibid.*, for “Gazette of India”.

4. [Repeals.] *Rep. by the Repealing Act, 1938 (I of 1938), s. 2, and Schedule.*

THE FIRST SCHEDULE

(See section 3)

THE NAVAL DISCIPLINE ACT

(29 and 30 Vict., c. 109)

(as modified for application to the 'Pakistan Navy].)

An Act to make Provision for the Discipline of the Navy

WHEREAS it is expedient to amend the law relating to the Government of the Navy, whereon, under the good Providence of God, the wealth, safety, and strength of the Kingdom chiefly depend:

Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lord Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

PART I

ARTICLES OF WAR

Public Worship

Facilities
for the
performance
of religious
duties.

1. All officers in command of ships of the 'Pakistan Navy] shall give reasonable facilities for the performance of religious duties by the officers and members of the crews of their respective ships to each man according to his religion.

Misconduct in the Presence of the Enemy

Penalty for
misconduct
in action.

2. Every flag officer, captain, commander or officer commanding subject to this Act who upon signal of battle, or on sight of a ship of an enemy which it may be his duty to engage shall not,

- (1) use his utmost exertion to bring his ship into action;
- (2) or shall not during such action, in his own person and according to his rank, encourage his inferior officers and men to fight courageously;
- (3) or who shall surrender his ship to the enemy when capable of making a successful defence, or who in time of action shall improperly withdraw from the fight,

shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is hereinafter mentioned; and if he has acted from negligence or through other default, he shall be dismissed from His Majesty's service with or without disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for
not pursuing
the enemy,

3. Every officer subject to this Act who shall forbear to pursue the chase of any enemy, pirate, or rebel, beaten or flying, or shall not relieve and assist a known friend in view to the utmost of his

¹ Subs. by the A. O., 1949, for "Indian Navy".

power, or who shall improperly forsake his station, shall, if he has therein acted traitorously, suffer death; if he has acted from cowardice, suffer death or such other punishment as is hereinafter mentioned; if he has acted from negligence or through other default, shall be dismissed from His Majesty's service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

and of not assisting a friend in view.

4. When any action or any service is commanded, every person subject to this Act who shall presume to delay or discourage the said action or service upon any pretence whatsoever, or in the presence or vicinity of the enemy shall desert his post or sleep upon his watch, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for delaying or discouraging the service or deserting his post, etc.

5. Every person subject to this Act, and not being a commanding officer, who shall not use his utmost exertions to carry the orders of his superior officers into execution when ordered to prepare for action, or during the action, shall, if he has acted traitorously, suffer death; if he has acted from cowardice, shall suffer death, or such other punishment as is hereinafter mentioned; and if he has acted from negligence or through other default, be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for misconduct of subordinate officers and men in action.

Communications with the Enemy

6. All spies for the enemy shall be deemed to be persons subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for spies.

7. Every person subject to this Act who shall—

- (1) traitorously hold correspondence with or shall give intelligence to the enemy;
- (2) or fail to make known to the proper authorities any information he may have received from the enemy;
- (3) or who shall relieve the enemy with any supplies, shall suffer death, or such other punishment as is hereinafter mentioned.

Penalty for corresponding, etc., with the enemy.

8. Every person subject to this Act who shall, without any treacherous intention, hold any improper communication with the enemy, shall be dismissed with disgrace from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for improper communication with the enemy.

Neglect of duty

9. Every person subject to this Act who shall desert his post or sleep upon his watch, or negligently perform the duty imposed on him, shall be dismissed from His Majesty's service, with disgrace, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for abandoning post, etc.

Mutiny

10. Where mutiny is accompanied by violence, every person subject to this Act who shall join therein shall suffer death or such other punishment as is hereinafter mentioned; and every person

Penalty for mutiny

accompan-
ied by
acts of
violence.

subject to this Act who shall not use his utmost exertions to suppress such mutiny shall, if he has acted traitorously, suffer death or such other punishment as is hereinafter mentioned; if he has acted from cowardice, shall suffer penal servitude or such other punishment as is hereinafter mentioned; if he has acted from negligence, he shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for
mutiny not
accompa-
nied by
acts of
violence.

11. Where a mutiny is not accompanied by violence, the ringleader or ringleaders of such mutiny shall suffer death, or such other punishment as is hereinafter mentioned; and all other persons who shall join in such mutiny, or shall not use their utmost exertions to suppress the same, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for
inciting to
mutiny.

12. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act from his duty or allegiance to His Majesty, or endeavour to incite him to commit any act of mutiny, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for
civilians
endeavour-
ing to seduce
from
allegiance.

13. Every person, not otherwise subject to this Act, who, being on board any ship of His Majesty, shall endeavour to seduce from his duty or allegiance to His Majesty any person subject to this Act, shall so far as respects such offence be deemed to be a person subject to this Act, and shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for
making
mutinous
assemblies
or uttering
seditious
words.

14. Every person subject to this Act who shall make or endeavour to make any mutinous assembly, or shall lead or incite any other person to join in any mutinous assembly or shall utter any words of sedition or mutiny, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Penalty for
concealing
any traitor-
ous or muti-
nous prac-
tice, design,
or words.

15. Every person subject to this Act who shall wilfully conceal any traitorous or mutinous practice or design or any traitorous or mutinous words spoken against His Majesty, or any words, practice, or design tending to the hinderance of the service, shall suffer penal servitude or such other punishment as is hereinafter mentioned.

Punishment
for striking
or attempt-
ing to strike,
etc., superior
officer.

16. Every person subject to this Act who shall strike or attempt to strike, or draw or lift up any weapon against, or use or attempt to use any violence against, his superior officer whether or not such superior officer is in the execution of his office, shall be punished with penal servitude or such other punishment as is hereinafter mentioned.

Insubordination

Penalty for
disobedience
or using
threatening
language to
superior
officer.

17. Every person subject to this Act who shall wilfully disobey any lawful command of his superior officer, or shall use threatening or insulting language, or behave with contempt to his superior officer, shall be punished with dismissal with disgrace from His Majesty's service, or suffer such other punishment as is hereinafter mentioned.

18. Every person subject to this Act who shall quarrel or fight with any other person, whether such other person be or be not subject to this Act, or shall use reproachful or provoking speeches or gestures tending to make any quarrel or disturbance, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for quarrelling, etc., or using reproachful speech or gestures.

Desertion and Absence without Leave

19. Every person subject to this Act who shall absent himself from his ship, or from the place where his duty requires him to be, with an intention of not returning to such ship or place, or who shall at any time and under any circumstances when absent from his ship or place of duty, do any act which shows that he has an intention of not returning to such ship or place, shall be deemed to have deserted, and shall be punished accordingly; that is to say,

Penalty for desertion.

- (1) if he has deserted to the enemy, he shall be punished with death or such other punishment as is hereinafter mentioned;
- (2) if he has deserted under any other circumstances, he shall be punished with penal servitude or such other punishment as is hereinafter mentioned;

and in every such case he shall forfeit all pay, head money, bounty, salvage, prize money, and allowances that have been earned by him and all annuities, pensions, gratuities, medals, and decorations that may have been granted to him, and also all clothes and effects which he may have left on board the ship or at the place from which he has deserted, unless the tribunal by which he is tried, or the ¹[Central Government], shall otherwise direct.

20. Every person subject to this Act who shall endeavour to seduce any other person subject to this Act to desert shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for inducing any person to desert.

21. Every officer in command of any ship of His Majesty who shall receive or entertain any deserter from His Majesty's naval, military, or air forces, after discovering him to be a deserter, and shall not with all convenient speed, in the case of a deserter from His Majesty's naval forces, give notice to the commanding officer of the ship to which such deserter belongs, or, if such ship is at a distance, to the ¹[Central Government] or to the Officer Commanding the ²[Pakistan Navy], or, in case of a deserter from His Majesty's military or air forces, give notice to the ¹[Central Government], or the commanding officer of the regiment or unit to which such deserter belongs, the officer so offending shall be dismissed from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned.

Penalty for entertaining a deserter.

22. If any person subject to this Act (without being guilty of desertion) improperly leaves his ship or place of duty, he shall be liable to imprisonment or to such other punishment as is hereinafter mentioned, and to such other punishment by forfeiture of wages or of other benefits as the ¹[Central Government] from time to time by regulations prescribes.

Punishment for breaking out of ship.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the A. O., 1949, for "Indian Navy".

Penalty for
absence
without
leave.

23. Every person subject to this Act who (without being guilty of desertion or of improperly leaving his ship or place of duty) shall be absent without leave shall be liable in time of war to imprisonment or such other punishment as is hereinafter mentioned, and at other times to imprisonment or detention for any period not exceeding ten weeks, or such other punishment as the circumstances of the case may require, and to such other punishment by forfeiture of wages or of other benefits as the ¹[Central Government] from time to time by regulations prescribes.

Forfeiture
of effects
for absence
without
leave.

24. If any person subject to this Act is absent without leave for a period of one month (whether he is guilty of desertion or of improperly leaving his ship or place of duty or not), but is not apprehended and tried for his offence, he shall be liable to forfeiture of wages and other benefits as the ¹[Central Government] from time to time by regulations prescribes, and the ¹[Central Government] may by an order containing a statement of the absence without leave direct that the clothes and effects (if any) left by him on board ship or at his place of duty be forfeited, and the same may be sold, and the proceeds of the sale shall be disposed of as the ¹[Central Government] may direct; and every order under this provision for forfeiture or sale shall be conclusive as to the fact of the absence without leave as therein stated of the person therein named; but in any case the ¹[Central Government] may, if it seems fit on sufficient cause being shown at any time after forfeiture and before sale, remit the forfeiture, or after sale pay or dispose of the proceeds of the sale or any part thereof to or for the use of the person to whom the clothes or effects belonged, or his representatives.

Penalty for
assisting,
etc.,
desertion.

25. If any person not subject to this Act assists or procures any person subject to this Act to desert or improperly absent himself from his duty, or conceals, employs or continues to employ any person subject to this Act, who is a deserter or improperly absent from his duty, knowing him to be a deserter or so improperly absent, he shall for every such offence of assistance, procurement, concealment, employment or continuance of employment, be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the ¹[Central Government] directs. V of 1898.

Penalty for
persuad-
ing to deser-
tion, etc.

26. If any person not subject to this Act by words or otherwise persuades any person subject to this Act to desert or improperly absent himself from his duty, he shall for every such offence be liable, on conviction in a summary trial before a Magistrate empowered under section 260 of the Code of Criminal Procedure, 1898, or before any person or persons or court, exercising like authority in any part of His Majesty's dominions, to a penalty not exceeding two hundred rupees; and every such penalty shall be applied as the ¹[Central Government] directs. V of 1898.

¹ Subs. by the A. O., 1937, for "G. G. in C."

Miscellaneous Offences

27. Every person subject to this Act who shall be guilty of any profane oath, cursing, execration, drunkenness, uncleanness or other scandalous action in derogation of God's honour and corruption of good manners, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for profane swearing and other immoralities.

28. Every officer subject to this Act who shall be guilty of cruelty, or of any scandalous or fraudulent conduct, shall be dismissed with disgrace from His Majesty's service; and every officer subject to this Act who shall be guilty of any other conduct unbecoming the character of an officer shall be dismissed, with or without disgrace, from His Majesty's service.

Penalty on officer for cruelty or oppression.

29. Every person subject to this Act who shall either designedly or negligently or by any default lose, strand, or hazard or suffer to be lost, stranded, or hazarded, any ship of His Majesty or in His Majesty's service, or lose or suffer to be lost any aircraft of His Majesty or in His Majesty's service, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for suffering ships or aircraft to be improperly lost.

30. The officers of all ships of His Majesty appointed for the convoy and protection of any ships or vessels shall diligently perform their duty without delay according to their instructions in that behalf; and every officer who shall fail in his duty in this respect, and shall not defend the ships and goods under his convoy, without deviation to any other objects, or shall refuse to fight in their defence if they are assailed, or shall cowardly abandon and expose the ships in his convoy to hazard, or shall demand or exact any money or other reward from any merchant or master for convoying any ships or vessels intrusted to his care, or shall misuse the masters or mariners thereof, shall make such reparation in damages to the merchants, owners, and others as the Court of Admiralty may adjudge, and also shall be punished criminally according to the nature of his offence, by death or such other punishment as is hereinafter mentioned.

Penalty for not taking care of and defending ships under convoy.

31. Every master or other officer in command of any merchant or other vessel under the convoy of any ship of His Majesty shall obey the commanding officer thereof in all matters relating to the navigation or security of the convoy; and shall take such precautions for avoiding the enemy as may be directed by such commanding officer, and if he shall fail to obey such directions such commanding officer may compel obedience by force of arms without being liable for any loss of life or of property that may result from his using such force.

Master of merchant vessel to obey orders of convoying officer.

32. Every officer in command of any of His Majesty's ships who shall receive on board or permit to be received on board such ship any goods or merchandises whatsoever, other than for the sole use of the ship, except gold, silver, or jewels, and except goods and merchandise belonging to any merchant, or on board any ship which may be shipwrecked or in imminent danger, either on the high seas

Penalty for taking any goods on board other than for the use of the vessel except

gold, silver,
jewels, etc.

or in some port, creek, or harbour, for the purpose of preserving them for their proper owners, or except such goods or merchandise as he may at any time be ordered to take or receive on board by order of the ¹[Central Government] or his superior officer, shall be dismissed from His Majesty's service, or suffer such other punishment as is hereinafter mentioned.

Penalty for
embezzling
public stores.

33. Every person subject to this Act who shall wastefully expend, embezzle, or fraudulently buy, sell, or receive any ammunition provisions, or other public stores, and every person subject to this Act, who shall knowingly permit any such wasteful expenditure, embezzlement, sale, or receipt, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for
burning any
magazine or
vessel, etc.,
not belonging
to an
enemy.

34. Every person subject to this Act who shall unlawfully set fire to any dockyard, victualling yard or steam factory yard, arsenal, magazine, building, stores, or to any ship, vessel, hoy, barge, boat, or other craft or furniture thereunto belonging, not being the property of an enemy, pirate, or rebel, shall suffer death or such other punishment as is hereinafter mentioned.

Penalty for
making or
signing false
musters.

35. Every person subject to this Act who shall knowingly make or sign a false muster or record or other official document, or who shall command, counsel, or procure the making or signing thereof, or who shall aid or abet any other person in the making or signing thereof, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for
misconduct
in hospital.

36. Every person subject to this Act who shall wilfully do any act or wilfully disobey any orders, whether in hospital or elsewhere, with intent to produce or to aggravate any disease or infirmity, or to delay his cure, or who shall feign any disease, infirmity, or inability to perform his duty, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

Penalty for
endeavouring
to stir up any
disturbance
on account
of unwhole-
someness of
the victuals
or other just
grounds.

37. Every person subject to this Act who shall have any cause of complaint, either of the unwholesomeness of the victuals or upon any other just ground, shall quietly make the same known to his superior, or captain, or to the officer commanding the ²[Pakistan Navy], and the said superior, captain, or officer, shall, as far as he is able, cause the same to be presently remedied; and no person subject to this Act upon any pretence whatever shall attempt to stir up any disturbance, upon pain of such punishment as a court-martial may think fit to inflict, according to the degree of offence.

Penalty for
not sending
to the Court
of Admiralty
all papers
found
aboard prize
ships.

38. All the papers, charter-parties, bills of lading, passports, and other writings whatsoever that shall be taken, seized, or found aboard any ship or ships which shall be taken as prize shall be duly preserved, and the commanding officer of the ship which shall take such prize shall send the originals entire and without fraud to the Court of Admiralty, or such other court or commissioners as shall be authorised to determine whether such prize be lawful capture, there

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the A. O., 1949, for "Indian Navy".

~~to be viewed~~, made use of, and proceeded upon according to law, upon pain that every person offending herein shall be dismissed from His Majesty's service, or shall suffer such other punishment as is hereinafter mentioned, and in addition thereto shall forfeit and lose his share of the capture.

39. No person subject to this Act shall take out of any prize or ship seized for prize any money, plate, or goods, unless it shall be necessary for the better securing thereof, or for the necessary use and service of any of His Majesty's ships and vessels of war, before the same be adjudged lawful prize in some Admiralty Court; but the full and entire account of the whole without embezzlement shall be brought in and judgment passed entirely upon the whole, without fraud, upon pain that every person offending herein shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned, and in addition thereto forfeit and lose his share of the capture.

Penalty for taking money or other effects out of any prize before the same shall be condemned.

40. If any ship or vessel shall be taken as prize, none of the officers, mariners, or other persons on board her shall be stripped of their clothes, or in any sort pillaged, beaten, or evil intreated, upon pain that the person or persons so offending shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for stripping or ill-using persons taken on board as prize.

41. If the commanding officer of any of His Majesty's ships does any of the following things, namely,

- (1) by collusion with the enemy takes as prize any vessel, goods, or thing;
- (2) unlawfully agrees with any person for the ransoming of any vessel, goods, or thing taken as prize; or
- (3) in pursuance of any unlawful agreement for ransoming or otherwise by collusion actually quits or restores any vessel, goods, or thing taken as prize;

he shall be liable to dismissal from His Majesty's service, with disgrace, or to such other punishment as is hereinafter mentioned.

Penalty on commanders capturing as prize by collusion or collusively restoring ships or goods.

42. If any person subject to this Act breaks bulk on board any vessel taken as prize, or detained in the exercise of any belligerent right, or under any Act relating to piracy or to the slave trade or to the Customs, with intent to embezzle anything therein or belonging thereto, he shall be liable to dismissal from His Majesty's service, with disgrace, or to such other punishment as is hereinafter mentioned, and in addition thereto to forfeit and lose his share of the capture.

Penalty for breaking bulk on board prize ship with a view to embezzlement.

43. Every person subject to this Act who shall be guilty of any act, disorder, or neglect to the prejudice of good order and naval discipline, not hereinbefore specified, shall be dismissed from His Majesty's service, with disgrace, or suffer such other punishment as is hereinafter mentioned.

Penalty for offences against naval discipline not particularly mentioned.

44. Any person subject to this Act committing any offence against this Act, such offence not being punishable with death or

Crimes to be punished

according
to laws and
customs in
use.

penal servitude, shall, save where this Act expressly otherwise provides, be proceeded against and punished according to the laws and customs in such cases used at sea.

OFFENCES PUNISHABLE BY ORDINARY LAW

Penalty for
offences
punishable
by ordinary
law.

45. Every person subject to this Act who shall be guilty of an offence punishable under section 302, 304, 304A, 377, 377 read with 511, 379, 380, 381, 382, or 392 of the Pakistan Penal Code shall be punishable with the punishment provided in that Code for the offence ¹[or, except in the case of an offence punishable under the said section 302 or 377, with such other punishment as is hereinafter mentioned].

XLV
of
1860.

If any such person shall be guilty of any other criminal offence which if committed in ²[Pakistan] would be punishable by the law of ²[Pakistan], he shall, whether the offence be or be not committed in ²[Pakistan], be punished either in pursuance of the first part of this Act as for an act to the prejudice of good order and naval discipline not otherwise specified, or the offender shall be subject to the same punishment as might for the time being be awarded by any ordinary criminal tribunal competent to try the offender if the offence had been committed in ²[Pakistan].

Offences
when
punishable.

46. For all offences specified or referred to in this Act, if committed by any person subject thereto in any harbour, haven, or creek, or on any lake or river, whether in or out of ²[Pakistan], or anywhere within the jurisdiction of the Admiralty, or at any place on shore out of ²[Pakistan], or in any of His Majesty's dockyards, victualling yards, steam factory yards, or on any gun wharf, or in any arsenal, barrack, or hospital belonging to His Majesty or in any other premises held by or on behalf of the Crown for naval or military purposes, or in any canteen or sailors' home or any place of recreation placed at the disposal of or used by officers or men of His Majesty's Navy which may be prescribed by the ³[Central Government], whether in or out of ²[Pakistan], the offender may be tried and punished under this Act; and for all offences hereinbefore specified under the headings "misconduct in the presence of the enemy", "communications with the enemy", "neglect of duty", "mutiny", "insubordination", "desertion and absence without leave", or "miscellaneous offences", if committed by any person subject to this Act at any place on shore, whether in or out of ²[Pakistan], the offender may be tried and punished under this Act.

Provisions
where
offender has
ceased to
be subject
to the Act.

46A.—(1) Where an offence under this Act has been committed by any person while subject to this Act, such person may be taken into and kept in custody and tried and punished for such offence although he has ceased to be subject to this Act in like manner as he might have been taken into and kept in custody, tried, or punished if he had continued so subject:

Provided that where a person has since the commission of an

¹ Added by the Indian Navy (Discipline) Amendment Act, 1940 (29 of 1940), section 2.

² Subs. by the A. O., 1949, for "British India".

³ Subs. by the A. O., 1937, for "G. G. in C.".

offence ceased to be subject to this Act, he shall not be tried for such offence, except in case of offences of mutiny or desertion, unless proceedings against him are instituted within three months after he has ceased to be subject to this Act, but this section shall not affect the jurisdiction of a civil court in the case of any offence triable by such court as well as by court-martial.

(2) Where a person subject to this Act is sentenced under this Act to penal servitude, imprisonment, or detention, this Act shall apply to him during the term of his sentence notwithstanding that he is discharged or dismissed from His Majesty's service, or has otherwise ceased to be subject to this Act, and he may be kept in custody, removed, imprisoned, made to undergo detention and punished accordingly, as if he had continued to be subject to this Act.

PART II

GENERAL PROVISIONS

47. Where the amount of punishment for any offence under this Act depends upon the intent with which it has been committed, and any person is charged with having committed such offence with an intent involving a greater degree of punishment, a court-martial may find that the offence was committed with an intent involving a less degree of punishment, and award such punishment accordingly.

Power of court-martial to find intent with which offence committed.

48. Where any person shall be charged with any offence under this Act he may, upon failure of proof of the commission of the greater offence, be found guilty of another offence of the same class involving a less degree of punishment, but not of any offence involving a greater degree of punishment.

Power of court-martial to find prisoner guilty of lesser offence on charge of greater.

49. All armed rebels, armed mutineers, and pirates shall be deemed to be enemies within the meaning of this Act.

Rebels and mutineers to be deemed enemies.

50. Every officer in command of a fleet or squadron of His Majesty's ships, or of one of His Majesty's ships, or the senior officer present at a port, or an officer having by virtue of sub-section (3) of section fifty-six of this Act power to try offences, may, by warrant under his hand, authorise any person to arrest any offender subject to this Act for any offence against this Act mentioned in such warrant; and any such warrant may include the names of more persons than one in respect of several offences of the same nature; and any person named in any such warrant may forthwith, on his apprehension, if the warrant so directs, be taken on board the ship to which he belongs, or some other of His Majesty's ships; and any person so authorised may use force, if necessary, for the purpose of effecting such apprehension, towards any person subject to this Act.

Power to arrest offenders.

51. Every person subject to this Act who shall not use his utmost endeavours to detect, apprehend and bring to punishment all offenders against this Act, and shall not assist the officers appointed for

Penalty for not assisting in detection of prisoners.

that purpose, shall suffer imprisonment or such other punishment as is hereinafter mentioned.

PART III

REGULATIONS AS TO PUNISHMENTS

Punish-
ments.

52. The following punishments may be inflicted in His Majesty's Navy:—

- (1) Death:
- (2) Penal servitude:
- (3) Dismissal with disgrace from His Majesty's service:
- (4) Imprisonment or corporal punishment:
- (4A) Detention:
- (5) Dismissal from His Majesty's service:
- (6) Forfeiture of seniority as an officer for a specified time, or otherwise:
- (7) Dismissal from the ship to which the offender belongs:
- (8) Severe reprimand, or reprimand:
- (9) Disrating a subordinate or petty officer:
- (10) Forfeiture of pay, head money, bounty, salvage, prize money and allowances earned by, and of all annuities, pensions, gratuities, medals, and decorations granted to, the offender, or of any one or more of the above particulars; also, in the case of desertion, of all clothes and effects left by the deserter on board the ship to which he belongs:
- (11) Such minor punishments as are now inflicted according to the custom of the navy, or may from time to time be allowed by the [Central Government]:

And each of the above punishments shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Regulations
as to infliction
of
punishments.

53. The following regulations are hereby made with respect to the infliction of punishments in His Majesty's Navy:—

- (1) The powers to suspend, remit or commute sentences of punishment shall be the powers conferred by and shall be exercised in accordance with the provisions of sections 401 and 402 of the Code of Criminal Procedure, 1898, save¹ that such powers² [shall be exercisable by the Central Government and not by the Provincial Government], and any sentence so modified shall (subject to the provisions of this Act) be valid, and shall be carried into execution, as if it had been originally passed, with such modification, by the court-martial; but so that neither the degree nor the duration of the punishment involved in any sentence be increased by any such modification:

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the Repealing and Amending Act, 1942 (25 of 1942), s. 3 and Second Sch., for "shall not be exercisable by the [Provincial Government]". The words in brackets were subs. by the A. O., 1937, for "L. G.".

- (2) Judgment of death shall not be passed on any prisoner unless four at least of the officers present at the court-martial, where the number does not exceed five, and in other cases a majority of not less than two-thirds of the officers present, concur in the sentence:
- (3) Except in case of mutiny, the punishment of death shall not be inflicted on any prisoner until the sentence has been confirmed by the ¹[Central Government]:
- (4) The punishment of penal servitude may be inflicted for the term of life or for any other term of not less than three years:
- (5) The punishment of penal servitude shall in all cases involve dismissal with disgrace from His Majesty's service:
- (6) A sentence of dismissal with disgrace shall involve in all cases a forfeiture of all pay, head money, bounty, salvage, prize money and allowances that have been earned by, and of all annuities, pensions, gratuities, medals, and decorations that may have been granted to the offender, and an incapacity to serve His Majesty again in any military, naval, air force, or civil service, and may also in all cases be accompanied by a sentence of imprisonment:
- (7) The punishment of imprisonment ²[shall, except as provided in section 45, be limited to a term] not exceeding two years and may be accompanied with a sentence of dismissal from His Majesty's service:
- (8) A sentence of imprisonment may be accompanied with a direction that the prisoner shall be kept in solitary confinement for any period of such term not exceeding fourteen days at any one time, and not exceeding eighty-four days in any one year, with intervals between the periods of solitary confinement of not less duration than the periods of solitary confinement; and when the imprisonment awarded exceeds eighty-four days, the solitary confinement shall not exceed seven days in any twenty-eight days of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods:
- (9) A sentence of imprisonment may be rigorous or simple, or partly rigorous and partly simple, and corporal punishment may be awarded in addition to any sentence of imprisonment, whether such imprisonment is or is not to be accompanied with solitary confinement ³* * *:
- (9A) The punishment of detention may be inflicted for any term not exceeding two years:

Provided that, until naval detention quarters shall have been set apart and declared to be such by the ¹[Central Government] by notification in the ⁴[official Gazette], no sentence of detention shall be awarded:

¹ Subs. by the A. O., 1937, for "G. G. in C.". .

² Subs. by the Indian Navy (Discipline) Amendment Ordinance, 1943 11 of 1943), s. 2, for "may be inflicted for any term".

³ The words "and hard labour or either of them", omitted by the Repealing and Amending Act, 1942 (25 of 1942), s. 3 and Second Schedule.

⁴ Subs. by the A. O., 1937, for "Gazette of India".

- (10) The punishment of imprisonment, or detention whether on board ship or on shore, shall involve disrating in case of a petty officer and reduction to the ranks in case of a non-commissioned officer of marines, and shall in all cases be accompanied by stoppage of pay or wages during the term of imprisonment or detention: provided that where the punishment awarded is detention for a term not exceeding fourteen days, the sentence may direct that the punishment shall not be accompanied by stoppage of pay or wages during the term of detention:
- (11) In any case of corporal punishment not more than forty-eight lashes shall be inflicted: no officer shall be subject to detention or to corporal punishment: no petty or non-commissioned officer shall be subject to corporal punishment except in case of mutiny.

All other punishments authorised by this Act may be inflicted in the manner heretofore in use in the navy.

Substitution of "imprisonment" for "penal servitude" in certain cases.

53A.—(1) Where a person other than a European or American is sentenced to penal servitude, the authority sentencing him shall record such sentence and the term thereof and at the same time shall record an order substituting for such sentence a sentence of transportation which may be for life, or of rigorous imprisonment not exceeding fourteen years.

(2) For the purposes of this Act, unless there is anything repugnant in the subject or context, "penal servitude" includes transportation or rigorous imprisonment substituted for penal servitude in accordance with this section.

Limitation of time for trials.

54. No person, unless he be an offender who has avoided apprehension or fled from justice, shall be tried or punished in pursuance of this Act for any offence committed by him unless such trial shall take place within three years from the commission of such offence or within one year after the return of such offender to ¹[Pakistan], where he has been absent from ¹[Pakistan] during such period of three years.

Scale of punishment.

55. Subject to the foregoing regulations, where any punishment is specified by this Act as the penalty for any offence, and it is further declared that another punishment may be awarded in respect of the same offence, the expression "other punishment" shall be deemed to comprise any one or more of the punishments inferior in degree to the specified punishment, according to the scale hereinbefore mentioned; but ²[transportation shall be deemed equal in degree to penal servitude, and corporal punishment shall be deemed equal in degree to imprisonment and] may in all cases, subject to the foregoing regulations, be inflicted as a substitute for or in addition to imprisonment.

Authorities having power

56.—(1) Any offence triable under this Act may be tried and punished by court-martial.

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "India".

² Subs. by the Indian Navy (Discipline) Amendment Act, 1940 (29 of 1940), s. 2, for "corporal punishment shall be deemed equal in degree to imprisonment, and".

(2) Any offence not capital which is triable under this Act, and (except in the cases by this Act expressly provided for) is not committed by an officer, may, under such regulations as the ¹[Central Government] from time to time issues, be summarily tried and punished by the officer in command of the ship to which the offender belongs at the time either of the commission or of the trial of the offence, subject to the restriction that the commanding officer shall not have power to award penal servitude or to award imprisonment or detention for more than three months.

to try offences.

(3) The power by this section vested in an officer commanding a ship may,—

- (a) as respects persons on board a tender to the ship, be exercised in the case of a single tender absent from the ship, by the officer in command of such tender, and in the case of two or more tenders absent from the ship in company or acting together, by the officer in immediate command of such tenders; and
- (b) as respects persons on board any boat or boats belonging to the ship, be exercised when such boat or boats is or are absent on detached service, by the officer in command of the boat or boats; and
- (c) as respects persons subject to this Act on detached service either on shore or otherwise, or such of those persons as are not for the time being made subject to military law by an order under section one hundred and seventy-nine of the Army Act, 1881, be exercised by the officer in immediate command of those persons; and
- (d) as respects persons subject to this Act quartered in naval barracks, be exercised by the officer in command of those barracks.

(4) Except in case of mutiny, no man shall be sentenced by the commanding officer to corporal punishment until his offence has been inquired into by one or more officers appointed by such commanding officer, and his or their opinion as to the guilt or innocence of the person charged reported to such commanding officer, and the commanding officer shall thereupon act as according to his judgment may seem right.

57. The ¹[Central Government] may impose the punishment of forfeiture of time or seniority of not more than twelve months on any subordinate officer.

Forfeiture of time or seniority.

57A.—(1) Where any officer borne on the books of any of His Majesty's ships in commission is in time of war alleged to have been guilty of a disciplinary offence, that is to say, a breach of section ²[nine,] seventeen, eighteen, nineteen, twenty-two, twenty-three, twenty-seven, or forty-three of this Act, the officer having power to order a court-martial may, if he considers that the offence is of such a character as not to necessitate trial by court-martial, in lieu of

Trial of officers for disciplinary offences in time of war.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Ins. by the Indian Navy (Discipline) Amendment Ordinance, 1941 (9 of 1941), s. 2.

ordering a court-martial order a disciplinary court constituted as hereinafter mentioned.

(2) A disciplinary court shall be composed of not less than three nor more than five officers, of whom one shall be a commander or of higher rank.

(3) A disciplinary court shall have power to impose any punishment inferior to detention in the scale hereinbefore contained, but no greater punishment.

(4) The ¹[Central Government] may from time to time frame general orders for regulating the assembling, constitution and procedure and practice of disciplinary courts under this section, and may by those regulations apply, with the necessary modifications, to disciplinary courts the provisions of sections sixty-two, to sixty-four and sections sixty-six to sixty-nine of this Act relating to courts-martial, and the regulations shall provide for evidence being taken on oath and empower the court to administer oaths for that purpose.

PART IV

COURTS-MARTIAL

Constitution of Courts-Martial

Constitution
of courts-
martial.

58. The following regulations are hereby made with respect to courts-martial:—

- (1) A court-martial shall consist of not less than five nor more than nine officers:
- (2) No officer shall be qualified to sit as a member of any court-martial held in pursuance of this Act unless he be a flag officer, captain, commander, lieutenant-commander, or lieutenant of His Majesty's navy on full pay:
- (3) A court-martial shall not be held unless at least two of His Majesty's ships, not being tenders, and commanded by captains, commanders, lieutenant-commanders, or lieutenants of His Majesty's navy on full pay, are together at the time when such court-martial is held:
- (4) No officer shall sit on a court-martial who is under twenty-one years of age:
- (5) No court-martial for the trial of a flag officer shall be duly constituted unless the president is a flag officer, and the other officers composing the court are of the rank of captain, or of higher rank:
- (6) No court-martial for the trial of a captain in His Majesty's navy shall be duly constituted unless the president is a captain or of higher rank, and the other officers composing the court are commanders or officers of higher rank:
- (7) No court-martial for the trial of a person below the rank of captain in His Majesty's navy shall be duly constituted, unless ²[the president is a substantive or acting commander]

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the Indian Navy (Discipline) Amendment Ordinance, 1946 (24 of 1946), s. 2, for "the president is a captain".

or of higher rank, nor, if the person to be tried is of the rank of commander, unless in addition to the president two other members of the court are of the rank of commander or of higher rank:

- (8) The prosecutor shall not sit on any court-martial for the trial of a person whom he prosecutes:
- (9) The ¹[Central Government] shall have power to order courts-martial to be held for the trial of offences under this Act, and to grant commissions to any officer of His Majesty's navy on full pay authorising him to order courts-martial to be held for the trial of such offences:
- (10) An officer holding a commission from the ¹[Central Government] to order courts-martial shall not be empowered to do so if there is present at the place where such court-martial is to be held any officer superior in rank to himself on full pay and in command of one or more of His Majesty's ships or vessels, although such last-mentioned officer may not hold a commission to order courts-martial; and in such a case such last-mentioned officer may order a court-martial, although he does not hold any commission for the purpose:
- (11) If any officer holding a commission from the ¹[Central Government] to order courts-martial, having the command of a fleet or squadron, and being in foreign parts, die, be re-called, leave his station, or be removed from his command, the officer upon whom the command of the fleet or squadron devolves, and so from time to time the officer who shall have the command of the fleet or squadron, shall, without any commission from the ¹[Central Government], have the same power to order courts-martial as the first-mentioned officer was invested with:
- (12) If any officer holding a commission from the ¹[Central Government] to order courts-martial, and having the command of any fleet or squadron of His Majesty's ships in foreign parts shall detach any part of such fleet or squadron, or separate himself from any part of such fleet or squadron, he may, by commission under his hand, empower, in the first-mentioned case, the commanding officer of the squadron or detachment ordered on such separate service, and in case of his death or ceasing so to command, the officer to whom the command of such separate squadron or detachment shall belong, and in the secondly-mentioned case the senior officer of His Majesty's ships on the division of the station from which he is absent, to order courts-martial during the time of such separate service, or during his absence from that division of the station (as the case may be), and every such authority shall continue in force until revoked, or until the officer holding it returns to ²[Pakistan], or until he comes into the presence of a superior officer, empowered to order courts-martial in the same squadron, detachment, or division of a station, but so

¹ Subs. by the A. O., 1937, for "G. G. in C."

² Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), 4 and Third Sch., for "India".

that such authority shall revive on the officer holding it ceasing to be in the presence of such a superior officer, and so from time to time as often as the case so requires:

- (13) The officer ordering a court-martial shall not sit thereon:
- (14) The President of every court-martial shall be named by the authority ordering the same, or by any officer empowered by such authority to name the president:
- (15) No commander, lieutenant-commander, or lieutenant shall be required to sit as a member of any court-martial when four officers of a higher rank and junior to the president can be assembled at the place where the court-martial is to be holden (but the regularity or validity of any court-martial or of the proceedings thereof shall not be affected by any commander, lieutenant-commander, or lieutenant being required to sit, or sitting, thereon, under any circumstances); and when any commander, lieutenant-commander or lieutenant sits on any court-martial the members of it shall not exceed five in number:
- (16) Subject to the foregoing regulations, whenever a court-martial shall be held the officer appointed to preside thereat shall summon all the officers next in seniority to himself present at the place where the court-martial shall be held to sit thereon, until the number of nine, or such number, not less than five, as is attainable, is complete; subject to this proviso, that the admirals and captains being superintendents of His Majesty's dockyards shall not be summoned to sit on courts-martial unless specially directed to do so by orders from the ¹[Central Government].
- ²(17) References in the foregoing regulations to officers of the Pakistan Navy include officers of the Royal Navy who are attached to, or serving with, the Pakistan Navy.]

Proceedings of Courts-Martial

59. A court-martial under this Act shall be held on board one of His Majesty's ships or vessels of war, unless the ¹[Central Government] or the officer who ordered the court-martial in any particular case for reasons to be recorded on the proceedings otherwise direct, in which case the court-martial shall be held at a port at such convenient place on shore as the ¹[Central Government] or the officer who ordered the court-martial shall direct.

As to time
of sittings
of courts-
martial.

60. A court-martial held in pursuance of this Act may, if it appears to the court that an adjournment is desirable, be adjourned for a period not exceeding six days, but except where such an adjournment is ordered shall sit from day to day, with the exception of Sundays, until sentence is given, unless prevented from so doing by stress of weather or unavoidable accident, and its proceedings shall not be delayed by the absence of any member, so that not less than four are present; and no member shall absent himself unless compelled so to do by sickness or other just cause, to be approved of by

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Regulation (17) ins. by the A. O. 1940

the other members of the court, and if any member of a court-martial shall absent himself therefrom, in contravention of this section, he shall be dismissed from His Majesty's service, or shall suffer such other punishment as may be awarded by a court-martial.

61. In the absence of the judge advocate of the fleet or his deputy, and in default of any appointment in this behalf by the ¹[Central Government], or by the ²[Officer Commanding the Pakistan Navy], the officer who is to be the president of the court-martial shall appoint a person to officiate as deputy judge advocate at the trial; and the judge advocate of the fleet for the time being, or his deputy, or the person officiating as deputy judge advocate, at any trial shall administer an oath to every witness appearing at the trial.

Appointment of officiating judge advocate.

62. As soon as the court is assembled, the names of the officers composing the court shall be read over to the person charged, who shall be asked if he objects to being tried by any member of the court; if the person charged shall object to any member, the objection shall be decided by the court; if the objection shall be allowed, the place of the member objected to shall be filled up by the officer next in seniority who is not on the court-martial, subject to the regulations hereinbefore contained.

Proceedings at trial.

The person charged may then raise any other objection which he desires to make respecting the constitution of the court-martial, and the objection shall then be decided by the court, which decision shall be final, and the constitution of the court-martial shall not be afterwards impeached, and it shall be deemed to have been in all respects duly constituted.

63. Before the court shall proceed to try the person charged, the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate of the fleet, shall administer to every member of the court the following oath; that is to say,

Oaths to be administered to members of courts-martial.

"I do swear, that I will duly administer justice according to law, without partiality, favour, or affection; and I do further swear that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

So help me God."

Provided that an affirmation to the same effect in such terms as the ¹[Central Government] may prescribe in this behalf may be substituted for such oath.

64. As soon as the said oath shall be administered to the members of the court-martial, the president shall administer to the judge advocate of the fleet, or his deputy, or the person officiating as deputy judge advocate, the following oath:

Oaths to be administered to judge advocate, etc.

"I do swear that I will not upon any account, at any time whatsoever, disclose or discover the vote or opinion of any

¹ Subs. by the A. O., 1937, for "G. G. in C."

² Subs. by the A. O., 1949, for "Officer Commanding the Indian Navy".

particular member of the court-martial, unless thereunto required in due course of law.

So help me God.”:

Provided that an affirmation to the same effect in such terms as the ¹[Central Government] may prescribe in this behalf may be substituted for such oath.

Power to
Central
Government
to apply
general
orders
framed by
admiralty for
practice of
courts-
martial.

65. The ¹[Central Government] may apply to the ²[Pakistan Navy] such general orders altering and regulating the procedure and practice of courts-martial as may from time to time be framed by the Admiralty and approved by His Majesty in Council subject to such modifications as the ¹[Central Government] may deem necessary to adapt them to the circumstances of the ²[Pakistan Navy]:

Provided that no modification shall be made which involves any racial discrimination.

Summoning
witnesses.

66. Every person, civil, naval, and military, or belonging to the air force who may be required to give evidence before a court-martial shall be summoned by writing under the hand of a Secretary to the ³[Central Government], or by the deputy judge advocate, or the person appointed to officiate as deputy judge advocate at the trial; and all persons so summoned and attending as witnesses before any court-martial shall, during their necessary attendance in or on such court, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged by the court out of which the writ or process issued by which such witness was arrested, or if such court be not sitting, then by any judge of the Superior Courts of Westminster or Dublin, or the Court of Session in Scotland, or of the courts of law in the East or West Indies or elsewhere, according as the case shall require, upon its being made to appear to such court or judge, by any affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such court-martial; and all witnesses so duly summoned as aforesaid who make default in attending on such courts, or attending refuse to be sworn or make affirmation, or being sworn or having made affirmation refuse to give evidence or to answer all such questions as the court may legally demand of them, or prevaricate in giving their evidence, shall, upon certificate thereof under the hand of the president of such court-martial, be liable to be attached in the Court of Queen's Bench in London or Dublin, or the Court of Session, or Sheriff depute or stewards depute, or their respective substitutes, within their several shires and stewardries in Scotland, or courts of law in the East or West Indies, or in any of His Majesty's colonies, garrisons, or dominions in Europe or elsewhere, respectively, upon complaint made, in like manner as if such witness after having been duly summoned and subpœnaed had neglected to attend on a trial in any proceeding in the court in which such complaint is made, or had refused to be sworn, or on being sworn had refused to give evidence, or to answer all such questions as the court may legally demand, or had prevaricated in giving evidence, or, if the court-martial shall think fit, in case any such

¹ Subs. by the A. O., 1937, for “G. G. in C.”.

² Subs. by the A. O., 1949, for “Indian Navy”.

³ Subs. by the A. O., 1937, for “G. of I.”.

person, who is subject to this Act, being called upon to give evidence at any court-martial, shall refuse or neglect to attend to give his evidence upon oath or affirmation, or shall prevaricate in his evidence, or behave with contempt to the court, such court-martial may punish every such offender by imprisonment, or, if the offender is a person liable to be sentenced to detention under this Act, by detention not longer than three months in case of such refusal, neglect, or prevarication, nor longer than one month in the case of such contempt; and every person not subject to this Act who may be so summoned to attend shall be allowed and paid his reasonable expenses for such attendance, under the authority of the ¹[Central Government], or of the president of the court-martial on a foreign station.

67. Every person who, upon any examination upon oath or upon affirmation before any court-martial held in pursuance of this Act, shall make any statement which is false and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have committed the offence of giving false evidence; and every such offence, wheresoever committed, shall be triable and punishable in ²[any Province].

Penalty on persons giving false evidence.

68. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the court shall deem fit until the directions of the ¹[Central Government] thereupon are known, and it shall be lawful for the ¹[Central Government] to give orders for the safe custody of such person during His Majesty's pleasure in such place and in such manner as ³[it] shall think fit.

Where persons are insane at the time of offence or trial.

69. Every judge advocate, or deputy judge advocate, or person officiating as deputy judge advocate, shall transmit with as much expedition as may be the original proceedings, or a complete and authenticated copy thereof, and the original sentence of every court-martial attended by him, to the ⁴[Officer Commanding the Pakistan Navy] or senior officer, who shall transmit them to the ¹[Central Government] for the time being; and any person tried by a court-martial shall be entitled, on demand, to a copy of such proceedings and sentence (upon payment for the same at the rate of three anhas per folio of seventy-two words), but no such demand shall be allowed after the space of three years from the date of the final decision of such court.

Report of proceedings of courts-martial to be transmitted.

69A. A Navy List or Gazette, purporting to be published by authority and either to be printed by a Government printer or to be issued by His Majesty's Stationery Office, shall be evidence of the status and rank of the officers therein mentioned and of any appointment held by such officers until the contrary is proved.

Evidence of rank, etc., of officers.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the A. O., 1949, for "British India".

³ Subs. by the A. O., 1937, for "they".

⁴ Subs. by the A. O., 1949, for "Officer Commanding the Indian Navy".

PART V

PENAL SERVITUDE AND PRISONS

*Penal Servitude*Sentence of
penal servi-
tude.

70. Where a person is in pursuance of this Act convicted by a court-martial, and either is sentenced or has his sentence commuted to penal servitude, such conviction and sentence shall be of the same effect as if such person had been convicted by a civil court in ¹[a Province] of an offence punishable by penal servitude and sentenced by that court to penal servitude, and all enactments relating to a convict so sentenced shall, so far as circumstances admit, apply accordingly; and the said convict shall be removed to some prison in which a convict so sentenced by a civil court in ¹[a Province] can be confined either permanently or temporarily, and the order of the ²[Central Government] or of the ³[Officer Commanding the Pakistan Navy], or of the officer ordering the court-martial by whom such person was convicted, shall be a sufficient warrant for the transfer of the said person to such prison to undergo his sentence according to law, and until he reaches such prison for detaining him in naval custody, or in any civil prison or place of confinement.

* * * * *

Subsistence
of offender.

72. In case any such offender shall be conveyed to any prison, not being a naval prison appointed by virtue of this Act, an allowance such as the ²[Central Government] shall from time to time direct shall be made to the governor, keeper, or superintendent of the gaol or prison for the subsistence of such offender while he is detained therein, and such allowance shall be paid by order of the ²[Central Government] upon production by the said governor, keeper, or superintendent of a declaration, to be made by him before a Magistrate, of the number of days during which the offender has been so detained and subsisted in such gaol or prison.

Imprison-
ment of
offender
already
under sen-
tence for
previous
offence.

73. Whenever sentence shall be passed by a court-martial on an offender already under sentence either of detention, imprisonment, or penal servitude, passed upon him under this Act for a former offence, the court may award sentence of detention, imprisonment, or penal servitude for the offence for which he is under trial to commence at the expiration of the detention, imprisonment, or penal servitude to which he has been previously sentenced, although the aggregate of the terms of detention, imprisonment, or penal servitude may exceed the term for which any of those punishments could be otherwise awarded:

Provided that nothing in this section shall cause a person to undergo imprisonment or detention for any period exceeding in the aggregate two consecutive years; and so much of any term of imprisonment or detention imposed on a person by a sentence in pursuance of this section as would prolong the total term of his punishment beyond that period shall be deemed to be remitted.

¹ Subs. by the A. O., 1949, for "British India".

² Subs. by the A. O., 1937, for "G. G. in C.".

³ Subs. by the A. O., 1949, for "Officer Commanding the Indian Navy".

Prisons

74.—(1) Every term of penal servitude, imprisonment, or detention in pursuance of this Act shall be reckoned as commencing on the day on which the sentence was awarded, and the place of imprisonment or detention, whether the imprisonment or detention was awarded as an original or as a commuted punishment, shall be such place as may be appointed by the court or the commanding officer awarding the punishment, or which may from time to time be appointed by the ¹[Central Government], and may, in the case of imprisonment, be one of the naval prisons appointed under this Act, or naval detention quarters, or any common gaol, house of correction, or military prison or detention barrack, and may in the case of detention be any naval detention quarters or a military detention barrack within His Majesty's dominions.

Term and place of imprisonment.

(2) Where, by reason of a ship being at sea or of a place at which there is no proper prison, or naval detention quarters, a sentence of imprisonment, or detention, as the case may be, cannot be duly executed, then, subject as hereinafter mentioned, an offender under sentence of imprisonment or detention, as the case may be, may be sent with all reasonable speed to some place at which there is a proper prison or naval detention quarters, or, in the case of an offender under sentence of detention, to some place at which there are naval detention quarters, in which the sentence can be duly executed, and on arrival there the offender shall undergo his sentence, in like manner as if the date of such arrival were the day on which the sentence was awarded, and that notwithstanding that in the meanwhile he has returned to his duty or become entitled to his discharge; and the term of imprisonment or detention, as the case may be, shall be reckoned accordingly, subject however to the deduction of any time during which he has been kept in confinement in respect of the said sentence.

(3) Where in pursuance of this Act a person is sentenced to imprisonment or detention the order of the ¹[Central Government] or of the ²[Officer Commanding the Pakistan Navy], or of the officer ordering the court-martial by which such person was sentenced, or, if he was sentenced by the commanding officer of a ship, the order of such commanding officer, shall be a sufficient warrant for the sending of such person to the place of imprisonment or detention, thereto undergo his sentence according to law, and until he reaches such place of imprisonment or detention for detaining him in naval custody, or in the case of a person sentenced to imprisonment in any civil prison or place of confinement.

74A. Where a person has been sentenced to penal servitude or imprisonment or detention the ¹[Central Government] or officer who by virtue of sub-section (3) of section seventy-four of this Act has power to issue an order of committal (hereinafter in this section referred to as "the committing authority") may, in lieu of issuing such an order, order that the sentence be suspended until an order of committal is issued, and in such case—

Power to suspend sentences.

(a) Notwithstanding anything in this Act, the term of the

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the A. O., 1949, for "Officer Commanding the Indian Navy".

sentence shall not be reckoned as commencing until an order of committal is issued;

- (b) The case may at any time, and shall at intervals of not more than three months, be reconsidered by the ¹[Central Government] or committing authority, or an officer holding such command as the ¹[Central Government] may by regulation prescribe, and, if on any such reconsideration it appears to the ¹[Central Government] or committing authority or officer that the conduct of the offender since his conviction has been such as to justify a remission of the sentence the ¹[Central Government] or committing authority or officer shall remit the whole or any part of it;
- (c) Subject to regulations made by the ¹[Central Government] the ¹[Central Government] or committing authority, or an officer holding such command as the ¹[Central Government] may by regulation prescribe, may at any time whilst the sentence is suspended issue an order of committal and thereupon the sentence shall cease to be suspended;
- (d) Where a person subject to this Act, whilst a sentence on him is so suspended, is sentenced to penal servitude or imprisonment or detention for any other offence then, if he is at any time committed either under the suspended sentence or under any such subsequent sentence, and whether or not any such subsequent sentence has also been suspended, the committing authority may direct that the two sentences shall run either concurrently or consecutively, so, however, as not to cause a person to undergo imprisonment or detention for a period exceeding the aggregate of two consecutive years, and where the sentence for such other offence is a sentence of penal servitude, then, whether or not that sentence is suspended, any previous sentence of imprisonment or detention which has been suspended shall be avoided.

When a person has been sentenced to penal servitude or imprisonment or detention and an order of committal has been issued, the ¹[Central Government] or the committing authority, or an officer holding such command as the ¹[Central Government] may by regulation prescribe, may order the sentence to be suspended, and in such case the person whose sentence is suspended shall be discharged and the currency of the sentence shall be suspended until he is again committed under the same sentence, and the foregoing paragraphs (b), (c) and (d) of this section shall apply in like manner as in the case where a sentence has been suspended before an order of committal has been issued.

Where a sentence is suspended under this section, whether before or after committal, the ¹[Central Government] or, subject to any regulation or direction which may be issued by the ¹[Central Government], the committing authority or officer by whom the sentence is suspended may, notwithstanding anything in section fifty-three of this Act, direct that any penalty which is involved by the punishment of penal servitude or imprisonment or detention either shall be or shall not be remitted or suspended.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

75. Whenever it is deemed expedient it shall be lawful for the ¹[Central Government], the ²[Officer Commanding the Pakistan Navy], or senior naval officer present by any order in writing from time to time to change the place of confinement of any offender imprisoned or sentenced to be imprisoned or detained in pursuance of this Act or of any offender undergoing or sentenced to undergo detention, and the gaoler or other person having the custody of such offender shall immediately on the receipt of such order remove such offender to the gaol, prison, or house of correction, or, in the case of an offender undergoing or sentenced to undergo detention, to the naval detention quarters mentioned in the said order, or shall deliver him over to naval custody for the purpose of the offender being removed to such prison or naval detention quarters; and every gaoler or keeper of such last-mentioned prison, gaol, or house of correction or naval detention quarters shall, upon being furnished with a copy of such order of removal, attested by a Secretary to the ³[Central Government] for the time being, receive into his custody and shall confine pursuant to such sentence or order every such offender.

Place of imprisonment may be changed, etc.

76. The gaoler or other person removing any offender in pursuance of such order shall be allowed for the charges of such removal a sum not exceeding twelve annas a mile, and when any offender is not confined in a naval prison or naval detention quarters the gaoler or other person in whose custody any such offender may be shall receive such an allowance as the ¹[Central Government] shall from time to time direct for every day that such offender is in his custody, to be applied towards his subsistence and such sum shall be paid to the said gaoler or other person under the authority of the ¹[Central Government], upon the application in writing made to the ¹[Central Government] by the District Magistrate ⁴* * * within whose jurisdiction such gaol, prison, or house of correction shall be situate, with a copy of the sentence or order under which the offender is confined.

Expenses of removal or subsistence of prisoners.

* * * * *

78. Whenever any offender is undergoing imprisonment or detention in pursuance of this Act, it shall be lawful for the ¹[Central Government] or where an offender is undergoing imprisonment or detention by order of his commanding officer, for such commanding officer or the ¹[Central Government] to give an order in writing directing that the offender be discharged; and it shall also be lawful for the ¹[Central Government], and any officer commanding any of His Majesty's ships, by order in writing, to direct that any such offender be delivered over to naval custody for the purpose of being brought before a court-martial, either as a witness, or for trial or otherwise, and such offender shall accordingly, on the production of any such order, be discharged, or be delivered over to such custody.

Proviso for discharge or removal of prisoners.

79. The time during which any offender under sentence of imprisonment or detention is detained in naval custody shall be reckoned

Proviso as to time of

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the A. O., 1949, for "Officer Commanding the Indian Navy".

³ Subs. by the A. O., 1937, for "G. of I.".

⁴ The words "or Presidency Magistrate" omitted by the A. O., 1949,

detention in
naval
custody.

as imprisonment or detention under his sentence for whatever purpose he is so detained; and the governor, gaoler, keeper, or superintendent who shall deliver over any such offender shall again receive him from naval custody, so that he may undergo the remainder of his punishment.

In case of
insanity
prisoners to
be removed
to some
lunatic
asylum.

80. If any person imprisoned or undergoing detention by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the ¹[Central Government] shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in ²[the Provinces and the Capital of the Federation] as ³[it] may judge proper for the unexpired term of his imprisonment or detention; and if any such person shall in the same manner be certified to be again of sound mind, the ¹[Central Government] may issue a warrant for his being removed to such prison or place of confinement or in the case of a person sentenced to detention, such naval detention quarters as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly. This section shall not apply to persons imprisoned in England.

Central Gov-
ernment may
set apart
buildings
and ships
as naval
prisons.

81.—(1) The ¹[Central Government] may set apart any buildings or vessels, or any parts thereof, as naval prisons or naval detention quarters, and any buildings or vessels, or parts of buildings or vessels, so set apart as naval prisons or naval detention quarters, as the case may be, shall be deemed to be naval prisons or naval detention quarters respectively within the meaning of this Act.

(2) The ¹[Central Government] shall have the same power and authority in respect to naval prisons and naval detention quarters respectively as one of His Majesty's Principal Secretaries of State has in relation to military prisons and detention barracks respectively under section one hundred and thirty-three of the Army Act, 1881, ⁴⁴ and that section shall apply as if it were herein re-enacted with the ^{Vi} substitution of "the ^{c.} ¹[Central Government]" for "a Secretary of State", and of "naval" for "military", and of "naval detention quarters" for "detention barrack", and rules and regulations may be made accordingly by the ¹[Central Government].

Penalties on
aiding
escape or
attempt to
escape of
prisoners
and on
breach of
prison
regulations.

82. If any person shall convey or cause to be conveyed into any such naval prison or any such naval detention quarters any arms, tools, or instruments, or any mask or other disguise to facilitate the escape of any prisoner or person undergoing detention or by any means whatever shall aid any prisoner or person undergoing detention to escape or in an attempt to escape from such prison or naval detention quarters, whether an escape be actually made or not, such person shall be punished with imprisonment, which may be either rigorous or simple, for any term not exceeding two years, or suffer penal servitude for any term not exceeding fourteen years; and if any person shall bring or attempt to bring into such prison or naval detention quarters, in

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. by the A. O., 1949, for "British India".

³ Subs. by the A. O., 1937, for "he".

contravention of the rules, any spirituous or fermented liquor, he shall for every such offence be liable to a penalty not exceeding two hundred rupees and not less than one hundred rupees; and if any person shall bring into such prison or naval detention quarters or to or for any prisoner or person undergoing detention, without the knowledge of the officer having charge or command thereof, any money, clothing, provisions, tobacco, letters, papers, or other articles not allowed by the rules of the prison or naval detention quarters, to be in the possession of a prisoner or person undergoing detention, or shall throw into the said prison or naval detention quarters any such articles, or by desire of any prisoner or person undergoing detention, without the sanction of the said officer, shall carry out of the prison or naval detention quarters any of the articles aforesaid, he shall for every such offence be liable to a penalty not exceeding fifty rupees; and if any person shall interrupt any officer of such prison or naval detention quarters in the execution of his duty, or shall aid or excite any person to assault, resist, or interrupt any such officer, he shall for every such offence be liable to a penalty not exceeding fifty rupees, or if the offender be a prisoner or person undergoing detention, he shall be punished with imprisonment, which may be either rigorous or simple, for any time not exceeding six calendar months, in addition to so much of the time for which he was originally sentenced as may be then unexpired, and every such penalty shall be applied as the '[Central Government] shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

83. Every governor, gaoler, and keeper of any prison, gaol, or house of correction or of any naval detention quarters, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall, without lawful excuse, refuse or neglect to receive or confine, remove, discharge, or deliver up any offender against the provisions of this Act, or any of them, shall incur for every such refusal or neglect a penalty not exceeding one thousand rupees and every such penalty shall be applied as the '[Central Government] shall direct, any law, statute, charter, or custom to the contrary notwithstanding.

Penalty as regards gaolers, etc.

PART VI

SUPPLEMENTAL PROVISIONS

84. This Act may be cited for all purposes as the Naval Discipline Act.

Short title.

85. Except as otherwise provided, this Act shall be in force within the United Kingdom; and as regards the United Kingdom the enactments described in the schedule to this Act shall be repealed from and after one calendar month from the passing hereof; and as regards elsewhere this Act shall be in force, and the said enactments shall be repealed, from and after six calendar months from the passing hereof.

Extent and repeal.

86. In the construction of this Act, unless there be something

Definition of terms.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

in the context or subject matter repugnant to or inconsistent with such construction,

“Admiralty”, or “the Lords of the Admiralty”, shall mean the Lord High Admiral for the time being of the United Kingdom of Great Britain and Ireland, and when there shall be no such Lord High Admiral in office, any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom;

“Officer” shall mean an officer belonging to one of His Majesty’s ships, and shall include a subordinate and a warrant officer, other than a warrant officer, Class II, of the Royal Marines, and shall include also ¹[an officer holding any such position in the ²[Pakistan Naval Reserve Forces] during and in respect of the time when he is subject to the provisions of this Act], but shall not extend to petty and non-commissioned officers;

When the words “superior officer” are used in this Act they shall be held to include all officers, warrant officers, petty and non-commissioned officers.

Person
subject to
this Act.

87. Every person in or belonging to His Majesty’s Navy, and borne on the books of any one of His Majesty’s ships in commission and every member of ³[the ²[Pakistan Naval Reserve Forces] to the extent specified in section 4 of the ³[Pakistan Naval Reserve Forces] (Discipline) Act, 1939], shall be subject to this Act; and all other persons hereby or by any other Act made liable thereto shall be triable and punishable under the provisions of this Act.

Land and
air forces
embarked as
passengers.

88. His Majesty’s land and air forces, when embarked on board any of His Majesty’s ships ⁴[of the Pakistan Navy], shall be subject to the provisions of this Act to such extent and under such regulations as ⁵[the Central Government may direct].

Other
persons
embarked as
passengers.

89. All other persons ordered to be received or being passengers on board any of His Majesty’s ships shall be deemed to be persons subject to this Act, under such regulations as the ⁶[Central Government] may from time to time direct.

Provision
respecting
discipline of
persons
under
engagement

⁷[90.—(1) If any person who would not otherwise be subject to this Act enters into an engagement with the Central Government to serve His Majesty—

(a) in a particular ship, or

¹ Subs. by the Indian Naval Reserve Forces (Discipline) Act, 1939, s. 8, for “a person holding any such position in the Indian Naval Volunteer Reserve during and in respect of the time when he is serving in the Indian Navy”.

² Subs. by the A. O., 1949, for “Indian Naval Reserve Forces”.

³ Subs. by the Indian Naval Reserve Forces (Discipline) Act, 1939, s. 8, for certain words.

⁴ Ins. by the A. O., 1949.

⁵ Subs. *ibid.*, for “His Majesty, His heirs and successors, by any Order or Orders in Council, shall at any time or times direct”.

⁶ Subs. by the A. O., 1937, for “G. G. in C.”.

⁷ Subs. by the Indian Navy (Discipline) (Amendment) Act, 1947 (8 of 1947), s. 2, for the original section 90.

- (b) in such particular ship or in such ships as the ¹[Officer Commanding the Pakistan Navy] or any officer empowered in this behalf by the ¹[Officer Commanding the Pakistan Navy], may from time to time determine,

to serve His Majesty.

and agrees to become subject to this Act upon entering into the engagement, that person shall, so long as the engagement remains in force, and notwithstanding that for the time being he may not be serving in any ship, be subject to this Act, and the provisions of this Act shall apply in relation to that person, as if, while subject to this Act, he belonged to His Majesty's Navy and were borne on the books of one of His Majesty's ships in commission.

(2) The Central Government may by order direct that, subject to such exceptions as may in particular cases be made by or on behalf of the ¹[Officer Commanding the Pakistan Navy], persons of any such class as may be specified in the order shall, while subject to this Act by virtue of this section, be deemed to be officers or petty officers, as the case may be, for the purposes of this Act or of such provisions of this Act as may be so specified; and any such order may be varied or revoked by a subsequent order.]

90A.—(1) Where an officer or non-commissioned officer, not below the rank of sergeant, is a member of a body of His Majesty's military forces acting with, or is attached to, any body of His Majesty's naval forces ²[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Army Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be..

Relations between military, naval, and air forces acting together.

(1A) Where an officer or non-commissioned officer, not below the rank of sergeant is a member of a body of His Majesty's air force acting with any body of His Majesty's naval forces ²[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Air Council, and such officer or non-commissioned officer is not borne on the books of any of His Majesty's ships in commission, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, he shall, in relation to such body of His Majesty's naval forces as aforesaid, be treated, and may exercise all such powers (other than powers of punishment), as if he were a naval officer or petty officer, as the case may be.

(2) Where any naval officer or seaman is a member of a body of His Majesty's naval forces acting with or is attached to any body of His Majesty's military forces ²[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Army Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the

¹ Subs. by the A. O., 1949, for "Officer Commanding the Indian Navy".

² Subs. by the Indian Navy (Discipline) Amendment Ordinance, 1942 (50 of 1942), s. 2, for "under such conditions as may be prescribed".

rank of sergeant, of such military body shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(2A) Where any naval officer or seaman is a member of a body of His Majesty's naval forces acting with any body of His Majesty's air force ¹[under such conditions as may be or may have been prescribed] by regulations made by the Admiralty and Air Council, then, for the purposes of command and discipline and for the purposes of the provisions of this Act relating to superior officers, the officers and non-commissioned officers, not below the rank of sergeant, of such body of the air force shall, in relation to him, be treated, and may exercise all such powers (other than powers of punishment), as if they were naval officers and petty officers.

(3) The relative rank of naval and military and air force officers, petty officers, and non-commissioned officers shall, for the purposes of this section, be such as is provided by the King's Regulations and Admiralty Instructions for the time being in force.

Provisions
respecting
naval officers
and seamen
in ships of
self-govern-
ing Domin-
ions.

90B.—(1) Any person in or belonging to His Majesty's Navy and any officer or man of the Royal Marines who, by order of the Admiralty or of the Commander-in-Chief or the Senior Naval Officer present on a foreign station, is serving in a ship of or belonging to the naval forces of a self-governing Dominion ²* * * (provided such ship is not at the time placed at the disposal of the Admiralty), or in a naval establishment of a self-governing Dominion ²* * * or who is on board such ship or in such establishment as aforesaid awaiting passage or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the ships and naval forces of such self-governing Dominion ²* * *.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, ³[Newfoundland, India and Ceylon].

Persons
serving in a
ship of the
Royal or
Dominion
Navy to be
subject to
the laws and

90C.—(1) Any person in or belonging to the ⁴[Pakistan Navy] who, by order of the ⁵[Central Government], ⁶[or of any naval officer authorised by the Central Government in this behalf] is serving in a ship belonging to His Majesty's Navy or to the naval forces of a self-governing Dominion ⁷[or Burma] or in a naval establishment of His Majesty's Navy or a self-governing Dominion, ⁷[or Burma] or who is on board any such ship or in any such establishment awaiting passage

¹ Subs. by the Indian Navy (Discipline) Amendment Ordinance, 1942 (50 of 1942), s. 2, for "under such conditions as may be prescribed".

² The words "or of India" omitted by the A. O., 1949.

³ Subs. *ibid.*, for "and Newfoundland".

⁴ Subs. *ibid.*, for "Indian Navy".

⁵ Subs. by the A. O., 1937, for "G. G. in C.".

⁶ Ins. by the Indian Navy (Discipline) Amendment Ordinance, 1944 (17 of 1944), s. 2.

⁷ Ins. by the Indian Navy (Discipline) Second Amendment Act, 1940 (30 of 1940), s. 2.

or conveyance to any destination shall, for all purposes of command and discipline, be subject to the laws and customs for the time being applicable to the Royal Navy or the ships and naval forces of the self-governing Dominion ¹[or Burma] as the case may be.

customs thereof.

(2) For the purposes of this section, the expression "self-governing Dominion" includes the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, and Newfoundland.

91. When any one of His Majesty's ships shall be wrecked or lost or destroyed, or taken by the enemy, such ship shall, for the purposes of this Act, be deemed to remain in commission until her crew shall be regularly removed into some other of His Majesty's ships of war, or until a court-martial shall have been held, pursuant to the custom of the navy in such cases, to inquire into the cause of the wreck, loss, destruction, or capture of the said ship.

Crews of ships lost or destroyed.

92. When no specific charge shall be made against any officer or seaman or other person in the fleet for or in respect or in consequence of such wreck, loss, destruction, or capture, it shall be lawful to try all the officers and crew, or all the surviving officers and crew of any such ship, together, before one and the same court, and to call upon all or any of them when upon their trial to give evidence on oath or affirmation before the court touching any of the matters then under trial, but no officer or seaman or other person shall be obliged to give any evidence which may tend to criminate himself.

All the officers and crew of lost ship may be tried by one court;

93. When deemed necessary by the ²[Central Government] or any officer authorised to order courts-martial, separate courts-martial shall be held for the trial of some one or more of such officers and crew for or in respect or in consequence of the wreck, loss, destruction, or capture of any such ship.

or by separate court.

94. For any offence or offences committed by any officer or seaman, or officers and seamen, after the wreck, loss, destruction, or capture of any such ship, a separate court-martial shall be held for the trial of such offender or offenders.

For subsequent offence, separate court.

95. When any ship of His Majesty shall be wrecked, lost, or otherwise destroyed, or taken by the enemy, if it shall appear by the sentence of a court-martial that the crew of such ship did, in the case of a ship wrecked or lost, do their utmost to save her or get her off, and in the case of a ship taken by the enemy did their utmost to defend themselves, and that they have, since the wreck, destruction, loss, or capture of such ship, behaved themselves well, and been obedient to their officers, then all the pay of such crews, or of such portions of such crews as have behaved themselves well and been obedient to their officers, shall be continued until the time of their being discharged or removed into other ships of His Majesty, or dying.

Pay of crews of ships lost or taken.

¹ Ins. by the Indian Navy (Discipline) Second Amendment Act, 1940 (30 of 1940), s. 2.

² Subs. by the A. O., 1937, for "G. G. in C.",

When ship of senior officer is lost he may dispose of officers and crew of lost ship.

96. If the ship of any officer ordered to command any two or more of His Majesty's ships shall be wrecked, lost or otherwise destroyed, such officer shall continue in the command of any ship or ships which at the time of his ship being wrecked, lost, or destroyed was or were under his command, and it shall be lawful for such officer to order the surviving officers and crew of the wrecked, lost, or destroyed ship to join any other ship under his command, or to distribute them among the other ships under his command, if more than one, and such officer shall, until he meets with some other officer senior to himself, have the same power and authority in all respects as if his ship had not been wrecked, lost, or destroyed.

Restriction on arrest of seamen, etc., for debt.

97. It shall not be lawful for any person to arrest any petty officer or seaman, non-commissioned officer of marines or marine belonging to any ship of His Majesty, by any warrant, process, or writ issued in any part of His Majesty's dominions for any debt, unless the debt was contracted at a time when the debtor did not belong to His Majesty's service, nor unless before the issuing of the warrant, process, or writ, the plaintiff in the suit or some person on his behalf has made an affidavit in the court out of which it is issued, that the debt justly due to the plaintiff (over and above all costs) was contracted at a time when the debtor did not belong to His Majesty's service, nor unless a memorandum of such affidavit is marked on the back of the warrant, process, or writ.

Discharge from arrest.

98. If any petty officer or seaman, non-commissioned marines or marine, is arrested in contravention of the provisions of the last foregoing section, the court out of which the warrant, process, or writ issues, or any judge thereof, may, on complaint by the party arrested, or by his superior officer, investigate the case on oath or otherwise, and if satisfied that the arrest was made in contravention of the provisions of the last foregoing section, may make an order for the immediate discharge of the party arrested, without fee, and may award to the complainant the costs of his complaint, to be taxed by the proper officer, for the recovery whereof he shall have the like remedy as the plaintiff in the suit would have on judgment being given in his favour, with costs.

Liability of seamen, etc., for maintenance of wives and children.

98A.—(1) A person subject to this Act shall be liable to contribute to the maintenance of his wife and of his children, legitimate or illegitimate, to the same extent as if he were not so subject; but execution in respect of any such liability or of any decree or order in respect of such maintenance shall not issue against his person, pay, arms, ammunition, equipments, instruments, or clothing.

(2) Where—

(a) it appears to the satisfaction of the ¹[Central Government] or any person deputed by ²[it] for the purpose that a person subject to this Act has deserted or left in default of his obligations, without reasonable cause, his wife or any of his legitimate children under fourteen years of age; or

(b) any decree or order is made under any law for payment by a man who is or subsequently becomes subject to this Act

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. *ibid.*, for "him".

¹ either of the cost of the maintenance of his wife or child, or of the cost of any relief given to his wife or child by way of loan, and a copy of such decree or order is sent to the ¹[Central Government] or any person deputed by ²[it] for the purpose;

the ¹[Central Government] or the person so deputed may direct to be deducted from the pay of the person so subject to this Act, and to be appropriated towards the maintenance of his wife or children, or in liquidation of the sum adjudged to be paid by such decree or order, as the case may be, in such manner as the ¹[Central Government] or the person so deputed may think fit, a portion of such pay, at ³[its or his] discretion, but the amount deducted shall not exceed the amount fixed by the decree or order (if any), and shall not be a higher rate than the rates fixed by rules made in this behalf by the ¹[Central Government]:

Provided that no such deductions from pay in liquidation of a sum adjudged to be paid by a decree or order as aforesaid shall be ordered unless the ¹[Central Government], or the person deputed by ²[it] is satisfied that the person against whom the decree or order was made has had a reasonable opportunity of appearing himself, or has appeared by a duly authorised legal representative, to defend the case before the court by which the decree or order was made, and a certificate, purporting to be a certificate of the commanding officer of the ship on which he was or is serving, or on the books of which he was ⁴no, that the person has been prevented by the requirements of ⁴service, from attending at a hearing of any such case shall be ⁴ive ⁴of the fact unless the contrary is proved.

Where any arrears have accumulated in respect of sums adjudged to be paid by any such decree or order as aforesaid whilst the person against whom the decree or order was made was serving under this Act, whether or not deductions in respect thereof have been made from his pay under this section, then after he has ceased so to serve an order of committal shall not be made in respect of those arrears unless the court is satisfied that he is able, or has, since he has ceased so to serve, been able to pay the arrears or any part thereof and has failed to do so.

(3) Where a proceeding under any law is instituted against a person subject to this Act for the purpose of enforcing against him any such liability as above in this section mentioned, the process may be served on the commanding officer of the ship on which he is serving or on the books of which such person is borne, or where, by reason of the ship being at sea or otherwise, it is impracticable to serve the process on such commanding officer, the process may, after not less than three weeks' notice to the ¹[Central Government], be served by being sent to a Secretary to the ⁴[Central Government] for transmission to such commanding officer, but such service shall not be valid ⁴less there is left therewith in the hands of such commanding officer ⁴[Central Government] such sum of money, if any (to be adjudged ⁴as costs incurred in obtaining the decree or order if made against the

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Subs. *ibid.*, for "him".

³ Subs. *ibid.*, for "his".

⁴ Subs. *ibid.*, for "G. of I.".

person on whom the process is issued), as may be fixed by the [Central Government] as being necessary to enable him to attend the hearing of the case and to return to his ship or quarters, and such sum may be expended by the commanding officer for that purpose, and no process whatever under any law in any proceeding in this section mentioned shall be valid against a person subject to this Act if served after such person is under orders for service on a foreign station.

The production of a certificate of the receipt of the process purporting to be signed by such commanding officer as aforesaid shall be evidence that the process has been duly served unless the contrary is proved.

Where, by a decree or order sent to the [Central Government] or officer in accordance with sub-section (2) of this section, the person against whom the decree or order is made is adjudged to pay as costs incurred in obtaining the decree or order any sum so left with the process as aforesaid, the [Central Government] may cause a sum equal to the sum so left to be paid in liquidation of the sum so adjudged to be paid as costs, and the amount so paid by the [Central Government] shall be a public debt from the person against whom the decree or order was made, and, without prejudice to any other method of recovery, may be recovered by reduction from his pay, in addition to those mentioned in sub-section (2) of this section.

(4) This section shall not apply to persons subject to this Act where such persons are officers.

(5) In this section the expression "pay" includes all sums payable to a man in respect of his services other than allowances in lieu of lodgings, rations, provisions, and clothing.

PART VII

SAVING CLAUSE

* * * * *

to
y
ve
of the
Crown, or
rights or
powers of
Admiralty.

100. Nothing in this Act shall take away, abridge, or control, further or otherwise than as expressly provided by this Act, any right, power, or prerogative of His Majesty the King in right of His Crown, or in right of His Office of Admiralty or any right or power of the Admiralty.

Act not to
supersede
authority of
ordinary
courts.

101. Nothing in this Act contained shall be deemed or taken to supersede or affect the authority or power of any court or tribunal of ordinary civil or criminal jurisdiction, or any officer thereof, in His Majesty's dominions, in respect of any offence mentioned in this Act which may be punishable or cognisable by the common or statute law, or to prevent any person being proceeded against and punished in respect of any such offence otherwise than under this Act.

¹ Subs. by the A. O., 1937, for "G. G. in C.".

PART VIII

PRINTING CLAUSE

102.—(1) Every enactment and word which is directed by any Act amending this Act to be substituted for or added to any portion of this Act shall form part of this Act in the place assigned to it by the amending Act, and this Act and all Acts which refer thereto shall, after the commencement of the amending Act, be construed as if that enactment or word had been originally enacted in this Act in the place so assigned, and, where it is substituted for another enactment or word, had been so enacted in lieu of that enactment or word, and as if this Act had been enacted with the omission of any enactment or word which is directed by the amending Act to be repealed or omitted from this Act, and the expression "this Act" shall be construed accordingly.

Printing and
construction
of Naval
Discipline
Act.

(2) A copy of this Act with every such enactment and word inserted in the place so assigned, and with the omission of any portion of this Act directed by any such amending Act as aforesaid to be repealed or omitted from this Act, shall be prepared and certified by the Clerk of the Parliament and deposited with the rolls of Parliament, and His Majesty's printers shall print in accordance with the copy so certified all copies of this Act which are printed after the commencement of such amending Act.

(3) A reference in any enactment, Order in Council, or other document, to the Naval Discipline Act shall, unless the context otherwise requires, be construed as a reference to this Act as amended by any enactment for the time being in force.

THE SCHEDULE

Enactments repealed

11 Geo. 4 & 1 Will. 4, c. 20. in part.	An Act to amend and consolidate the laws relating to the pay of the Royal navy.	} in part; namely:—
		Section eighty.
10 & 11 Vict., c. 62, in part.	An Act for the establishment of naval prisons, and for the prevention of desertion from Her Majesty's navy.	} in part; namely:—
		Section eleven.
27 & 28 Vict., c. 119.	The Naval Discipline Act, 1864.	
28 & 29 Vict., c. 115.	The Naval Discipline Act Amendment Act, 1865.	

*THE SECOND SCHEDULE.—[ENACTMENTS REPEALED.] Rep.
by the Repealing Act, 1938 (I of 1938), s. 2 and Schedule.*

'THE FINANCE ACT, 1935

[22nd April, 1935]

An Act ²* * * to fix rates of income-tax and super-tax ²* * *.

WHEREAS it is expedient ²* * * to fix rates of income-tax and super-tax ²* * *; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the ³* Finance Act, 1935.

(2) It extends to ⁴[all the Provinces and the Capital of the Federation], including ⁵[Baluchistan].

2 to 4. [*Fixation of salt duty. Amendments of the First and Second Schedules to Act XXXII of 1934. Inland postage rates.*] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Second Schedule.

Income-tax
and super-
tax.

5.—(1) Income-tax for the year beginning on the 1st day of April, 1935, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case, except in the case of total incomes of less than two thousand rupees falling under heading A in the said Part, by one-sixth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1935, shall, for the purposes of section 55 of the Income-tax Act, 1922, be those specified in Part II of the Second Schedule, increased in each case by one-sixth of the amount of the rate. XI of 1922.

(3) For the purposes of the Second Schedule "total income" means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Income-tax Act, 1922. XI of 1922.

(4) For the purpose of assessing and collecting income-tax on total incomes of less than two thousand rupees the Income-tax Act, 1922, shall be deemed to be subject to the adaptations set out in Part III of the Second Schedule. XI of 1922.

(5) For the purpose of any assessment to be made for the year ending 31st March, 1936, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1935, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1935, or of payments made in the said year of salaries or of interest on securities,

¹ This Act was made by the Governor-General under the provisions of section 67B of the Government of India Act. No number was given.

For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 41.

² Certain words in the long title and preamble were omitted by the Repealing and Amending Act, 1937 (20 of 1937), s. 3 and Second Schedule.

³ The word "Indian" was omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Second Schedule.

⁴ Subs. by the A. O., 1949, for "the whole of British India".

⁵ Subs. by Act 26 of 1951, s. 4 and Third Sch., for "British Baluchistan and the Sonthal Parganas".

the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

Explanation.—In this sub-section the term “previous year's rate” with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1935, on a total income equal to that on which he is assessable for the year ending 31st March, 1936.

6. [Excise duty on silver.] Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Second Schedule.

SCHEDULE I.—Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Second Schedule.

SCHEDULE II

[See section 5]

PART I

Rates of Income-tax

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—

	Rate
(1) When the total income is Rs. 1,000 or upwards, but is less than Rs. 1,500...	One and one-third pies in the rupee.
(2) When the total income is Rs. 1,500 or upwards, but is less than Rs. 2,000...	Two and two-thirds pies in the rupee.
(3) When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000...	Six pies in the rupee.
(4) When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	Nine pies in the rupee.
(5) When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	One anna in the rupee.
(6) When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	One anna and four pies in the rupee.
(7) When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	One anna and seven pies in the rupee.
(8) When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	One anna and eleven pies in the rupee.

	Rate
(9) When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	Two annas and one pie in the rupee.
(10) When the total income is Rs. 1,00,000 or upwards ...	Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income	Two annas and two pies in the rupee.

PART II

Rates of Super-tax

	Rate
In respect of the excess over thirty thousand rupees of total income—	
(1) in the case of every company—	
(a) in respect of the first twenty thousand rupees of such excess	Nil.
(b) for every rupee of the remainder of such excess	One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—	
(i) in respect of the first forty-five thousand rupees of such excess	Nil.
(ii) for every rupee of the next twenty-five thousand rupees of such excess	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess	Two annas and nine pies in the rupee.

	Rate
(iv) for every rupee of the next fifty thousand rupees of such excess	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess	Six annas and three pies in the rupee.

PART III

Adaptations of the Income-tax Act, 1922, to provide for the summary assessments of income-tax on total incomes of less than Rs. 2,000.

XI of
1922.

1. The Income-tax Officer may, save where he has served a notice under sub-section (2) of section 22 of the Income-tax Act, 1922, make a summary assessment of the income of an assessee to the best of his judgment, and shall serve on the assessee a notice of demand in a form to be prescribed by the Central Board of Revenue; and such notice shall be deemed to be a notice of demand under section 29 of that Act.

2. Any assessee in respect of whom such summary assessment has been made may, within thirty days of receipt of the notice of demand, make an application to the Income-tax Officer for the cancellation or revision of the assessment, and the Income-tax Officer shall, after examining any accounts and documents and hearing any evidence which the assessee may produce, and such other evidence as the income-tax Officer may require, determine, by order in writing, the amount of the tax, if any, payable by the assessee, and such determination shall be final:

Provided that, if any assessee making such application files therewith a return of his income under sub-section (2) of section 22 of the Income-tax Act, 1922, the application shall be deemed to be a return under that sub-section and shall be dealt with accordingly.

3. A copy of an order under paragraph 2 shall be served on the assessee to whom it relates and shall be deemed to be a notice of demand under section 29 of the Income-tax Act, 1922.

4. The above procedure shall apply also to the assessment and collection during the financial year 1935-36 of income of Rs. 1,000 and upward and less than Rs. 2,000 which have escaped assessment in the financial year 1934-35.

XI of
1922.

THE FINANCE ACT, 1936

[31st March, 1936]

An Act ^{2*} * * * to fix rates of income-tax and super-tax

WHEREAS it is expedient ^{2*} * * * to fix rates of income-tax and super-tax; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the ^{3*} Finance Act, 1936.

(2) It extends to ⁴[all the Provinces and the Capital of the Federation], including ⁵[Baluchistan].

2 and 3. [*Fixation of salt duty. Inland Postage rates.*] Rep. by the Repealing and Amending Act, 1940 (XXXII of 1940), s. 2.

Income-tax
and super-
tax.

4.—(1) Income-tax for the year beginning on the 1st day of April, 1936, shall be charged at the rates specified in Part I of the Second Schedule, increased in each case by one-twelfth of the amount of the rate.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1936, shall, for the purposes of section 55 of the Income-tax Act, 1922, be those specified in Part II of the Second Schedule, XI of 1922. increased in each case by one-twelfth of the amount of the rate.

(3) For the purposes of the Second Schedule 'total income' means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions XI of 1922. of the Income-tax Act, 1922.

(4) For the purpose of any assessment to be made for the year ending 31st March, 1937, the rate of income-tax applicable to such part of the total income of any person as is derived from salaries or from interest on securities paid in the year ending 31st March, 1936, shall be the previous year's rate, and for the purposes of refunds under sub-section (1) or sub-section (3) of section 48 in respect of dividends declared in the year ending 31st March, 1936, or of payments made in the said year of salaries or of interest on securities, the rate applicable to the total income of the person claiming refund shall be the previous year's rate.

Explanation.—In this sub-section the term 'previous year's rate' with reference to any person means the rate of income-tax which would have been applicable to his total income if he had been assessed for the year ending 31st March, 1936, on a total income equal to that on which he is assessable for the year ending 31st March, 1937.

¹ This Act was made by the Governor-General under the provisions of section 67B of the Government of India Act. No number was given. For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, pp. 16 and 17.

² Certain words were omitted by the Repealing and Amending Act, 1940 (32 of 1940), s. 2 and First Schedule.

³ The word "Indian", omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Second Schedule.

⁴ Subs. by the A. O., 1949, for "the whole of British India".

⁵ Subs. by Act 26 of 1951, s. 4 and Third Sch., for "British Baluchistan and the Sonthal Parganas".

*SCHEDULE I.—Rep. by the Repealing and Amending Act, 1940
(XXXII of 1940), s. 2 and First Schedule.*

SCHEDULE II

[See section 4]

PART I

Rates of Income-tax

				Rate
A. In the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—				
(1)	When the total income is Rs. 2,000 or upwards, but is less than Rs. 5,000	...	...	Six pies in the rupee.
(2)	When the total income is Rs. 5,000 or upwards, but is less than Rs. 10,000	...	...	Nine pies in the rupee.
(3)	When the total income is Rs. 10,000 or upwards, but is less than Rs. 15,000	...	...	One anna in the rupee.
(4)	When the total income is Rs. 15,000 or upwards, but is less than Rs. 20,000	...	...	One anna and four pies in the rupee.
(5)	When the total income is Rs. 20,000 or upwards, but is less than Rs. 30,000	...	...	One anna and seven pies in the rupee.
(6)	When the total income is Rs. 30,000 or upwards, but is less than Rs. 40,000	...	...	One anna and eleven pies in the rupee.
(7)	When the total income is Rs. 40,000 or upwards, but is less than Rs. 1,00,000	...	...	Two annas and one pie in the rupee.
(8)	When the total income is Rs. 1,00,000 or upwards...			Two annas and two pies in the rupee.
B. In the case of every company and registered firm, whatever its total income				
	...	...	...	Two annas and two pies in the rupee.

PART II

Rates of Super-tax

In respect of the excess over thirty thousand rupees of total income—

				Rate
(1) in the case of every company—				
	(a) in respect of the first twenty thousand rupees of such excess	...	...	Nil.
	(b) for every rupee of the remainder of such excess			One anna in the rupee.
(2) (a) in the case of every Hindu undivided family—				
	(i) in respect of the first forty-five thousand rupees of such excess...	...	...	Nil.

	Rate.
(ii) for every rupee of the next twenty-five thousand rupees of such excess ...	One anna and three pies in the rupee.
(b) in the case of every individual, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the first twenty thousand rupees of such excess ...	Nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess ...	One anna and three pies in the rupee.
(c) in the case of every individual, Hindu undivided family, unregistered firm and other association of individuals not being a registered firm or a company—	
(i) for every rupee of the next fifty thousand rupees of such excess ...	One anna and nine pies in the rupee.
(ii) for every rupee of the next fifty thousand rupees of such excess ...	Two annas and three pies in the rupee.
(iii) for every rupee of the next fifty thousand rupees of such excess ...	Two annas and nine pies in the rupee.
(iv) for every rupee of the next fifty thousand rupees of such excess ...	Three annas and three pies in the rupee.
(v) for every rupee of the next fifty thousand rupees of such excess ...	Three annas and nine pies in the rupee.
(vi) for every rupee of the next fifty thousand rupees of such excess ...	Four annas and three pies in the rupee.
(vii) for every rupee of the next fifty thousand rupees of such excess ...	Four annas and nine pies in the rupee.
(viii) for every rupee of the next fifty thousand rupees of such excess ...	Five annas and three pies in the rupee.
(ix) for every rupee of the next fifty thousand rupees of such excess ...	Five annas and nine pies in the rupee.
(x) for every rupee of the remainder of such excess ...	Six annas and three pies in the rupee.

THE PARSI MARRIAGE AND DIVORCE ACT, 1936

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ACT NO. III OF 1936

[23rd April, 1936]

An Act to amend the law relating to marriage and divorce among Parsis.

WHEREAS it is expedient to amend the law relating to marriage and divorce among Parsis; It is hereby enacted as follows:—

I.—PRELIMINARY

1.—(1) This Act may be called the Parsi Marriage and Divorce Act, 1936.

Short title,
extent and
commence-
ment.

(2) It extends to ²[all the Provinces and the Capital of the Federation] and, in respect of Parsi subjects of His Majesty, to ³[the whole of Pakistan];

Provided that the ⁴[Central Government] may, in respect of territories ⁵[in Pakistan] beyond the limits of ⁶[the Provinces and the Capital of the Federation], by notification in the ⁷[official Gazette], direct that the provisions of this Act relating to the constitution and powers of Parsi Matrimonial Courts and to appeals from the decisions and orders of such Courts shall apply with such modifications as may be specified in the notification.

(3) It shall come into force on such date⁸ as the ⁴[Central Government] may, by notification in the ⁷[official Gazette], appoint.

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

Definitions.

(1) "Chief Justice" includes senior Judge;

(2) "Court" means a Court constituted under this Act;

(3) to "desert", together with its grammatical variations and cognate expressions, means to desert the other party to a marriage without reasonable cause and without the consent, or against the will, of such party;

(4) "grievous hurt" means—

(a) emasculation;

(b) permanent privation of the sight of either eye;

(c) permanent privation of the hearing of either ear;

(d) privation of any member or joint;

(e) destruction or permanent impairing of the powers of any member or joint;

¹ For Statement of Objects and Reasons, see Gazette of India, 1934, Pt. p. 221; and for Report of Select Committee. see *ibid.*, 1935, Pt. V, pp. 108-109.

² Subs. by the A. O., 1949, for "the whole of British India".

³ Subs. *ibid.*, for "the whole of India".

⁴ Subs. by the A. O., 1937, for "G. G. in C.".

⁵ Subs. by the A. O., 1949, for "in India".

⁶ Subs. *ibid.*, for "British India".

⁷ Subs. by the A. O., 1937, for "Gazette of India".

⁸ The 22nd June, 1936, see Gazette of India, 1936, Pt. I, p. 621.

(I.—Preliminary. II.—Marriages between Parsis)

- (f) permanent disfiguration of the head or face; or
- (g) any hurt which endangers life;
- (5) "husband" means a Parsi husband;
- (6) "marriage" means a marriage between Parsis whether contracted before or after the commencement of this Act;
- (7) a "Parsi" means a Parsi Zoroastrian;
- (8) "priest" means a Parsi priest and includes Dastur and Mobed; and
- (9) "wife" means a Parsi wife.

II.—MARRIAGES BETWEEN PARSIS

Requisites to
validity of
Parsi
marriages.

3. No marriage shall be valid if—
 - (a) the contracting parties are related to each other in any of the degrees of consanguinity or affinity set forth in Schedule I; or
 - (b) such marriage is not solemnized according to the Parsi form of ceremony called "Ashirvad" by a priest in the presence of two Parsi witnesses other than such priest; or
 - (c) in the case of any Parsi (whether such Parsi has changed his or her religion or domicile or not) who has not completed the age of twenty-one years, the consent of his or her father or guardian has not been previously given to such marriage.

Remarriage
when
unlawful.

- 4.—(1) No Parsi (whether such Parsi has changed his or her religion or domicile or not) shall contract any marriage under this Act or any other law in the lifetime of his or her wife or husband, whether a Parsi or not, except after his or her lawful divorce from such wife or husband or after his or her marriage with such wife or husband has lawfully been declared null and void or dissolved, and, if the marriage was contracted with such wife or husband under the Parsi Marriage and Divorce Act, 1865¹, or under this Act, except after a divorce, declaration or dissolution as aforesaid under either of the said Acts. XV of 1865.

- (2) Every marriage contracted contrary to the provisions of subsection (1) shall be void.

Punishment
of bigamy.

5. Every Parsi who during the lifetime of his or her wife or husband, whether a Parsi or not, contracts a marriage without having been lawfully divorced from such wife or husband, or without his or her marriage with such wife or husband having legally been declared null and void or dissolved, shall be subject to the penalties provided in sections 494 and 495 of the Pakistan Penal Code for the offence of marrying again during the lifetime of a husband or wife. XLV of 1860.

Certificate
and registry
of marriage.

6. Every marriage contracted under this Act shall, immediately on the solemnization thereof, be certified by the officiating priest in the form contained in Schedule II. The certificate shall be signed by the said priest, the contracting parties, or their fathers or guardians

¹ Rep. by this Act.

when they shall not have completed the age of twenty-one years, ~~and two witnesses present at the marriage, and the said priest shall thereupon send such certificate together with a fee of two rupees to be paid by the husband to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose and shall be entitled to retain the fee.~~

7. For the purposes of this Act a Registrar shall be appointed. Within the local limits of the ordinary original civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and without such limits, by the ¹[Provincial Government]. Every Registrar so appointed may be removed by the Chief Justice or ¹[Provincial Government] appointing him.

Appointment
of Registrar.

8. The register of marriages mentioned in section 6 shall, at all reasonable times, be open for inspection, and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

Marriage
register to be
open for
public
inspection.

9. Every Registrar, ²* * *, shall, at such intervals as the ¹[Provincial Government] by which he was appointed from time to time directs, send to the Registrar-General of Births, Deaths and Marriages for the territories administered by such ¹[Provincial Government] a true copy certified by him in such form as such ¹[Provincial Government] from time to time prescribes, of all certificates entered by him in the said register of marriages since the last of such intervals.

Copy of
certificate to
be sent to
Registrar-
General of
Births,
Deaths and
Marriages.

10. When a Court passes a decree for divorce, nullity or dissolution, the Court shall send a copy of the decree for registration to the Registrar of Marriages within its jurisdiction appointed under section 7; the Registrar shall enter the same in a register to be kept by him for the purpose, and the provisions of Part II applicable to the Registrars and registers of marriages shall be applicable, so far as may be, to the Registrars and registers of divorces and decrees of nullity and dissolution.

Registration
of divorces.

11. Any priest knowingly and wilfully solemnizing any marriage contrary to and in violation of section 4 shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

Penalty for
solemnizing
marriage
contrary to
section 4.

12. Any priest neglecting to comply with any of the requisitions affecting him contained in section 6 shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both.

Penalty for
priest's
neglect of
requirements
of section 6.

¹ Subs. by the A. O., 1937, for "L. G."

² The words "except the Registrar appointed by the Chief Justice of the High Court of Judicature at Bombay" omitted by the A. O., 1949,

(II.—Marriages between Parsis. III.—Parsi Matrimonial Courts)

Penalty for omitting to subscribe and attest certificate.

13. Every other person required by section 6 to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred rupees.

Penalty for making, etc., false certificate.

14. Every person making or signing or attesting any such certificate containing a statement which is false, and which he either knows or believes to be false, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred rupees, or with both; and if the act amounts to forgery as defined in the Pakistan Penal Code, then such person shall also be liable, on conviction thereof, to the penalties provided in section 466 of the said Code. XLV of 1860.

Penalty for failing to register certificate.

15. Any Registrar failing to enter the said certificate pursuant to section 6 shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

Penalty for secreting, destroying or altering register.

16. Any person secreting, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Pakistan Penal Code for a term which may extend to two years, or if he be a Registrar, for a term which may extend to five years and shall also be liable to fine which may extend to five hundred rupees. XLV of 1860.

Formal irregularity not to invalidate marriage.

17. No marriage contracted under this Act shall be deemed to be invalid solely by reason of the fact that it was not certified under section 6; or that the certificate was not sent to the Registrar, or that the certificate was defective, irregular or incorrect.

III.—PARSI MATRIMONIAL COURTS

Constitution of Special Courts under the Act.

18. For the purpose of hearing suits under this Act, a special Court shall be constituted in ¹[such] places in the territories of the several ²[Provincial Governments] as such Governments respectively shall think fit.

19. [*Parsi Chief Matrimonial Courts.*] Omitted by the A. O., 1949.

Parsi District Matrimonial Courts.

20. Every Court so constituted ³* * * shall be entitled the Parsi District Matrimonial Court ⁴[of the place at which it is constituted]. Subject to the provisions contained in section 21, the local limits of the jurisdiction of such Court shall be continuous with the limits of the district in which it is held. The Judge of the principal Court of original civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and in the trial of cases under this Act he shall be aided by seven delegates.

¹ Subs. by the A. O., 1949, for "each of the Presidency-towns of Calcutta, Madras and Bombay, and in such other".

² Subs. by the A. O., 1937, for "Local Governments"

³ The words "at a place other than a Presidency-town" omitted by the A. O., 1949.

⁴ Subs. *ibid.*, for "of such place".

21. The ¹[Provincial Government] may from time to time alter the local limits of the jurisdiction of any Parsi District Matrimonial Court, and may include within such limits any number of districts under its government.

Power to alter territorial jurisdiction of District Courts.

22. [Certain districts to be within jurisdiction of the Chief Matrimonial Court.] Omitted by the A. O., 1949.

23. A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court shall be sealed with such seal, which shall be kept in the custody of the presiding Judge.

Court seals.

24.—(1) The ²[Provincial Governments] shall, in ³* * * districts, subject to their respective governments, respectively appoint persons to be delegates to aid in the adjudication of cases arising under this Act, after giving the local Parsis an opportunity of expressing their opinion in such manner as the respective Governments may think fit.

Appointment of delegates.

(2) The persons so appointed shall be Parsis, their names shall be published in the ⁴[official Gazette] and their number shall, within the local limits of the ordinary original civil jurisdiction of a High Court, be not more than thirty, and in districts beyond such limits, not more than twenty.

25. The appointment of a delegate shall be for ten years; but he shall be eligible for reappointment for the like term or terms. Whenever a delegate shall die, or have completed his term of office, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or cease to be a Parsi, or be convicted of an offence under the Pakistan Penal Code or other law for the time being in force, or be adjudged insolvent, then and so often the ¹[Provincial Government] may appoint any person being a Parsi to be a delegate in his stead; and the name of the person so appointed shall be published in the ⁴[official Gazette].

Power to appoint new delegates.

26. All delegates appointed under this Act shall be considered to be public servants within the meaning of the Pakistan Penal Code.

Delegates to be deemed public servants.

27. The delegates selected under ⁵[section 20] to aid in the adjudication of suits under this Act, shall be taken under the orders of the presiding Judge of the Court in due rotation from the delegates appointed by the ¹[Provincial Government] under section 24:

Selection of delegates under section 20 to be from those appointed under section 24.

Provided that each party to the suit may, without cause assigned, challenge any three of the delegates attending the Court before such delegates are selected and no delegate so challenged shall be selected.

28. All legal practitioners entitled to practise in a High Court

Practitioners

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "Local Governments".

³ The words "the Presidency-towns and" omitted by the A. O., 1949.

⁴ Subs. by the A. O., 1937, for "local official Gazette"

⁵ Subs. by the A. O., 1949, for "sections 19 and 20"

(III.—Parsi Matrimonial Courts. IV.—Matrimonial Suits)

n matrimo-
nial Courts.

shall be entitled to practise in any Court constituted under this Act, and all legal practitioners entitled to practise in a District Court shall be entitled to practise in any Parsi District Matrimonial Court constituted under this Act.

Court in
which suits
to be
brought.

29.—(1) All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit.

(2) When the defendant shall at such time have left ¹[the Provinces and the Capital of the Federation] such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

(3) In any case, whether the defendant resides in ¹[the Provinces and the Capital of the Federation] or not, such suit may be brought in the Court at the place where the plaintiff resides or at the place where the plaintiff and the defendant last resided together, if such Court, after recording its reasons in writing, grants leave so to do.

IV.—MATRIMONIAL SUITS

Suits for
nullity.

30. In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

Suits for
dissolution.

31. If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would have naturally heard of him or her, had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

Grounds for
divorce.

32. Any married person may sue for divorce on any one or more of the following grounds, namely :—

- (a) that the marriage has not been consummated within one year after its solemnization owing to the wilful refusal of the defendant to consummate it;
- (b) that the defendant at the time of the marriage was of unsound mind and has been habitually so up to the date of the suit:

Provided that divorce shall not be granted on this ground, unless the plaintiff (1) was ignorant of the fact at the time of the marriage, and (2) has filed the suit within three years from the date of the marriage;

- (c) that the defendant was at the time of marriage pregnant by some person other than the plaintiff:

Provided that divorce shall not be granted on this ground, unless (1) the plaintiff was at the time of the marriage ignorant of the fact alleged, (2) the suit has been filed within two years of the date of marriage, and (3) marital intercourse has not taken place after the plaintiff came to know of the fact;

- (d) that the defendant has since the marriage committed adultery

¹ Subs. by the A. O., 1949, for "British India".

or fornication or bigamy or rape or an unnatural offence:

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years after the plaintiff came to know of the fact;

- (e) that the defendant has since the marriage voluntarily caused grievous hurt to the plaintiff or has infected the plaintiff with venereal disease or, where the defendant is the husband, has compelled the wife to submit herself to prostitution:

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years (i) after the infliction of the grievous hurt, or (ii) after the plaintiff came to know of the infection, or (iii) after the last act of compulsory prostitution;

- (f) that the defendant is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Pakistan Penal Code:

XLV of
1860.

Provided that divorce shall not be granted on this ground, unless the defendant has prior to the filing of the suit undergone at least one year's imprisonment out of the said period;

- (g) that the defendant has deserted the plaintiff for at least three years;
- (h) that a decree or order for judicial separation has been passed against the defendant, or an order has been passed against the defendant by a Magistrate awarding separate maintenance to the plaintiff, and the parties have not had marital intercourse for three years or more since such decree or order;
- (i) that the defendant has failed to comply with a decree for restitution of conjugal rights for a year or more; and
- (j) that the defendant has ceased to be a Parsi:

Provided that divorce shall not be granted on this ground if the suit has been filed more than two years after the plaintiff came to know of the fact.

33. In every such suit for divorce on the ground of adultery, the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

Joining of
co-defen-
dant.

34. Any married person may sue for judicial separation on any of the grounds for which such person could have filed a suit for divorce, or on the ground that the defendant has been guilty of such cruelty to him or her or their children, or has used such personal violence, or has behaved in such a way as to render it in the judgment of the Court improper to compel him or her to live with the defendant.

Suits for
judicial
separation.

35. In any suit under section 30, 31, 32 or 34, whether defended or not, if the Court be satisfied that any of the grounds set forth in those sections for granting relief exist, that none of the grounds

Decrees in
certain suits

therein set forth for withholding relief exist and that—

- (a) the act or omission set forth in the plaint has not been condoned;
- (b) the husband and wife are not colluding together;
- (c) the plaintiff has not connived at or been accessory to the said act or omission;
- (d) (save where a definite period of limitation is provided by this Act) there has been no unnecessary or improper delay in instituting the suit; and
- (e) there is no other legal ground why relief should not be granted;

then and in such case, but not otherwise, the Court shall decree such relief accordingly.

Suit for
restitution
of conjugal
rights.

36. Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased may sue for the restitution of his or her conjugal rights and the Court, if satisfied of the truth of the allegations contained in the plaint, and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly.

Counter-
claim by de-
fendant for
any relief.

37. In any suit under this Act, the defendant may make a counter-claim for any relief he or she may be entitled to under this Act.

No suit to
be brought
to enforce
marriage or
contract
arising out
of marriage
when hus-
band under
sixteen or wife
under four-
teen years.

38. Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage or any contract connected with or arising out of any marriage, if, at the date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

Alimony
pendente lite.

39. In any suit under this Act if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of her husband's net income as the Court, considering the circumstances of the parties, shall think reasonable.

Permanent
alimony.

40.—(1) The Court may, if it shall think fit at the time of passing any decree under this Act or subsequently thereto on application made to it for the purpose, order that the husband shall ¹[while the wife remains chaste and unmarried],—

- (a) to the satisfaction of the Court, secure to the wife ²* * * such gross sum or such monthly or periodical payment of

¹ Ins. by the Parsi Marriage and Divorce (Amendment) Act, 1940 (14 of 1940).

² The words "while she remains chaste and unmarried" omitted, *ibid*.

(IV.—*Matrimonial Suits*)

money for a term not exceeding her life as, having regard to her own property, if any, her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instruments shall have been duly executed, or

- (b) make such monthly payments to the wife for her maintenance and support as the Court may think reasonable.

In case any such order shall not be obeyed by her husband it may be enforced in the manner provided for the execution of decrees and orders under the Code of Civil Procedure, 1908, and further the husband may be sued by any person supplying the wife with necessaries during the time of such disobedience for the price of such necessaries.

(2) The Court, if satisfied that there is a change in the circumstances of either party at any time, may at the instance of either party vary, modify or rescind such order in such manner as the Court may deem just.

[(3) Where an order for alimony or maintenance in favour of a wife has been made either under the provisions of the Parsi Marriage and Divorce Act, 1865, or under the provisions of this Act, the Court, if satisfied that the wife has remarried or has not remained chaste, shall vary or rescind the order.]

41. In all cases in which the Court shall make 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 may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

Payment of alimony to wife or to her trustee.

42. In any suit under this Act the Court may make such provisions in the final decree as it may deem just and proper with respect to property presented at or about the time of marriage which may belong jointly to both the husband and wife.

Disposal of joint property.

43. In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

Suits may be heard with closed doors.

44. Notwithstanding anything contained in section 19 or section 20, where in the case of a trial in a Parsi Matrimonial Court not less than five delegates have attended throughout the proceedings, the trial shall not be invalid by reason of the absence during any part thereof of the other delegates.

Validity of trial.

45. The provisions of the Code of Civil Procedure, 1908, shall, so far as the same may be applicable, apply to proceedings in suits instituted under this Act including proceedings in execution and orders subsequent to decree.

Provisions of Civil Procedure Code to apply to suits under the Act.

(IV.—Matrimonial Suits V.—Children of the Parties.)

Determina-
tion of
question of
law and
procedure
and of fact.

46. In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the delegates before whom the case is tried:

Provided that, where such delegates are equally divided in opinion, the decision on the facts shall be the decision of the presiding Judge.

Appeal to
High Court.

47. An appeal shall lie to the High Court from—

- (a) the decision of any Court established under this Act, * * * on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground; and
- (b) the granting of leave by any such Court under sub-section (3) of section 29:

Provided that such appeal shall be instituted within three calendar months after the decision appealed from shall have been pronounced.

Liberty to
parties to
marry again.

48. When the time hereby limited for appealing against any decree granting a divorce or annulling or dissolving a marriage shall have expired, and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal a divorce has been granted or a marriage has been declared to be annulled or dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been terminated by death.

V.—CHILDREN OF THE PARTIES

Custody of
children.

49. In any suit under this Act, the Court may from time to time pass such interim orders and make such provisions in the final decree as it may deem just and proper with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree upon application, by petition for this purpose, make, revoke, suspend or vary from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree or by interim orders in case the suit for obtaining such decree were still pending.

Settlement
of wife's
property for
benefit of
children.

50. In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of any part of such property, not exceeding one-half thereof, for the benefit of the children of the marriage or any of them.

¹ The words "whether a Chief Matrimonial Court or District Matrimonial Court" omitted by the A. O., 1949.

VI.—MISCELLANEOUS

51. The High Court shall have superintendence over all Courts constituted under this Act subject to its appellate jurisdiction in the same manner as it has over other Courts under section 107 of the Government of India Act¹, and all the provisions of that section shall apply to such Courts.

Superinten-
dence of
High Court.

52.—(1) The provisions of this Act shall apply to all suits to which the same are applicable whether the circumstances relied on occurred before or after the passing of this Act, and whether any decree or order referred to was passed under this Act or under the law in force before the passing of this Act, and where any proceedings are pending in any Court at the time of the commencement of this Act, the Court shall allow such amendment of the pleadings as may be necessary as the result of the coming into operation of this Act.

Applicability
of provisions
of the Act.

XV of
1865.

(2) A Parsi who has contracted a marriage under the Parsi Marriage and Divorce Act, 1865², or under this Act, even though such Parsi may change his or her religion or domicile, so long as his or her wife or husband is alive and so long as such Parsi has not been lawfully divorced from such wife or husband or such marriage has not lawfully been declared null and void or dissolved under the decree of a competent Court under either of the said Acts, shall remain bound by the provisions of this Act.

53: [Repeal.] *Rep. by the Repealing and Amending Act, 1937 (XX of 1937), s. 3 and Schedule II.*

SCHEDULE I

(See section 3)

Table of prohibited degrees of consanguinity and affinity

A man shall not marry his—

1. Paternal grand-father's mother.
2. Paternal grand-mother's mother.
3. Maternal grand-father's mother.
4. Maternal grand-mother's mother.
5. Paternal grand-mother.
6. Paternal grand-father's wife.
7. Maternal grand-mother.
8. Maternal grand-father's wife.
9. Mother or step-mother.
10. Father's sister or step-sister.
11. Mother's sister or step-sister.
12. Sister or step-sister.
13. Brother's daughter or step-brother's daughter, or any direct lineal descendant of a brother or step-brother.

¹ See now s. 224 of the Government of India Act, 1935.

² Rep. by this Act.

14. Sister's daughter or step-sister's daughter, or any direct lineal descendant of a sister or step-sister.
15. Daughter or step-daughter, or any direct lineal descendant of either.
16. Son's daughter or step-son's daughter, or any direct lineal descendant of a son or step-son.
17. Wife of son or step-son, or of any direct lineal descendant of a son or step-son.
18. Wife of daughter's son or of step-daughter's son, or of any direct lineal descendant of a daughter or step-daughter.
19. Mother of daughter's husband.
20. Mother of son's wife.
21. Mother of wife's paternal grand-father.
22. Mother of wife's paternal grand-mother.
23. Mother of wife's maternal grand-father.
24. Mother of wife's maternal grand-mother.
25. Wife's paternal grand-mother.
26. Wife's maternal grand-mother.
27. Wife's mother or step-mother.
28. Wife's father's sister.
29. Wife's mother's sister.
30. Father's brother's wife.
31. Mother's brother's wife.
32. Brother's son's wife.
33. Sister's son's wife.

A woman shall not marry her—

1. Paternal grand-father's father.
2. Paternal grand-mother's father.
3. Maternal grand-father's father.
4. Maternal grand-mother's father.
5. Paternal grand-father.
6. Paternal grand-mother's husband.
7. Maternal grand-father.
8. Maternal grand-mother's husband.
9. Father or step-father.
10. Father's brother or step-brother.
11. Mother's brother or step-brother.
12. Brother or step-brother.
13. Brother's son or step-brother's son, or any direct lineal descendant of a brother or step-brother.
14. Sister's son or step-sister's son, or any direct lineal descendant of a sister or step-sister.
15. Son or step-son, or any direct lineal descendant of either.
16. Daughter's son or step-daughter's son, or any direct lineal descendant of a daughter or step-daughter.

17. Husband of daughter or of step-daughter, or of any direct lineal descendant of a daughter or step-daughter.
18. Husband or son's daughter or of step-son's daughter, or of any direct lineal descendant of a son or step-son.
19. Father of daughter's husband.
20. Father of son's wife.
21. Father of husband's paternal grand-father.
22. Father of husband's paternal grand-mother.
23. Father of husband's maternal grand-father.
24. Father of husband's maternal grand-mother.
25. Husband's paternal grand-father.
26. Husband's maternal grand-father.
27. Husband's father or step-father.
28. Brother of husband's father.
29. Brother of husband's mother.
30. Husband's brother's son, or his direct lineal descendant.
31. Husband's sister's son, or his direct lineal descendant.
32. Brother's daughter's husband.
33. Sister's daughter's husband.

NOTE.—In the above table the words “brother” and “sister” denote brother and sister of the whole as well as half blood. Relationship by step means relationship by marriages.

SCHEDULE II

(See section 6)

Certificate of Marriage

	Date and place of marriage.
	Names of the husband and wife.
	Condition at the time of marriage.
	Rank or profession.
	Age.
	Residence.
	Names of the fathers or guardians.
	Rank or profession.
	Signature of the officiating priest.
	Signatures of the contracting parties.
	Signatures of the fathers or guardians of the contracting parties under 21 years of age.
	Signature of witnesses.

THE PAYMENT OF WAGES ACT, 1936

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SECTIONS

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¹ACT NO. IV OF 1936

[23rd April, 1936]

**An Act to regulate the payment of wages to certain classes
of persons employed in industry.**

WHEREAS it is expedient to regulate the payment of wages to

¹ For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 20; and for Report of Select Committee, see *ibid.*, pp. 77 to 79. The provisions of this Act shall be extended, with effect from the 30th November, 1951, to the payment of wages to persons employed in any dock, wharf and jetty within the limits of the Chittagong Port, see Government of East Bengal Department of Commerce, Labour and Industries, Labour Branch, Notification No. 880 Lab., dated the 18th August, 1951, Dacca Gazette Ordinary, No. 35 of the 30th August, 1951, Pt. I, p. 998, column 2.

certain classes of persons employed in industry; It is hereby enacted as follows:—

1.—(1) This Act may be called the Payment of Wages Act, 1936.

Short title,
extent,
commence-
ment and
application.

¹[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

(3) It shall come into force on such date² as the ³[Central Government] may, by notification in the ⁴[official Gazette], appoint.

(4) It applies in the first instance to the payment of wages to persons employed in any factory and to persons employed (otherwise than in a factory) upon any railway by a railway administration or, either directly or through a sub-contractor, by a person fulfilling a contract with a railway administration.

(5) The ⁵[Provincial Government] may, after giving three months' notice of its intention of so doing, by notification in the ⁶[official Gazette], extend⁷ the provisions of the Act or any of them to the payment of wages to any class of persons employed in any industrial establishment or in any class or group of industrial establishments.

(6) Nothing in this Act shall apply to wages payable in respect of a wage-period which, over such wage-period, average two hundred rupees a month or more.

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

Definitions.

XXV of
1934.

(i) "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934;

(ii) "industrial establishment" means any—

(a) tramway or motor omnibus service;

(b) dock, wharf or jetty;

(c) inland steam-vessel;

(d) mine, quarry or oil-field;

(e) plantation;

(f) workshop or other establishment in which articles are produced, adapted or manufactured, with a view to their use, transport or sale;

¹ Sub-section (2) has been amended by the A. O., 1949, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

² The 28th March, 1937, see Gazette of India, 1937, Pt. I, p. 626.

³ Subs. by the A. O., 1937, for "G. G. in C.".

⁴ Subs. *ibid.*, for "Gazette of India".

⁵ Subs. *ibid.*, for "L. G.".

⁶ Subs. *ibid.*, for "local official Gazette".

⁷ The provisions of this Act have been extended by the Central Govt. to—

(i) The payment of wages to the persons employed in the coal mines and oil-fields—see Gazette of Pakistan, 1948, Pt. I, p. 337 and to the persons employed in salt mines and salt quarries—see *ibid.*, 1949, p. 150.

(ii) The persons employed in any mine in the Provinces of Pakistan and the Capital of the Federation—see Gazette of Pakistan, 1949, Pt. I, p. 334.

The Administrator of Karachi has extended the provisions of this Act to the persons employed in any of the Industrial establishments of Tramway or Motor Omnibus Service and Workshops in Karachi Area, see *ibid.*, 1950, Pt. IIA, page 1.

- (iii) "plantation" means any estate which is maintained for the purpose of growing cinchona, rubber, coffee or tea, and on which twenty-five or more persons are employed for that purpose;
- (iv) "prescribed" means prescribed by rules made under this Act;
- (v) "railway administration" has the meaning assigned to it in clause (6) of section 3 of the Railways Act, 1890 ; and IX of 1890.
- (vi) "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behaviour of the person employed, or otherwise, to a person employed in respect of his employment or of work done in such employment, and includes any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include—
 - (a) the value of any house-accommodation, supply of light, water, medical attendance or other amenity, or of any service excluded by general or special order of the 1* * * 2[Provincial Government];
 - (b) any contribution paid by the employer to any pension fund or provident fund;
 - (c) any travelling allowance or the value of any travelling concession;
 - (d) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
 - (e) any gratuity payable on discharge.

Responsibility for payment of wages.

3. Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:

Provided that, in the case of persons employed (otherwise than by a contractor)—

- (a) in factories, if a person has been named as the manager of the factory under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934,
- (b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment,
- (c) upon railways (otherwise than in factories), if the employer is the railway administration and the Railway administration has nominated a person in this behalf for the local area concerned,

XXV of 1934.

the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall be responsible for such payment.

¹The words "G. G. in C. or " omitted by the A. O., 1937.

² Subs. *ibid.*, for "L. G.,"

4.—(1) Every person responsible for the payment of wages under section 3 shall fix periods (in this Act referred to as wage-periods) in respect of which such wages shall be payable. Fixation of wage-periods. ✓

(2) No wage-period shall exceed one month.

5.—(1) The wages of every person employed upon or in—

(a) any railway, factory or industrial establishment upon or in which less than one thousand persons are employed, shall be paid before the expiry of the seventh day,

(b) any other railway, factory or industrial establishment, shall be paid before the expiry of the tenth day,

Time of payment of wages.

after the last day of the wage-period in respect of which the wages are payable.

(2) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid before the expiry of the second working day from the day on which his employment is terminated.

(3) The [Provincial Government] may, by general or special order, exempt, to such extent and subject to such conditions as may be specified in the order, the person responsible for the payment of wages to persons employed upon any railway (otherwise than in a factory) from the operation of this section in respect of the wages of any such persons or class of such persons.

(4) All payments of wages shall be made on a working-day.

6. All wages shall be paid in current coin or currency notes or in both.

Wages to be paid in current coin or currency notes.

7.—(1) Notwithstanding the provisions of sub-section (2) of section 47 of the Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act.

Deductions which may be made from wages.

Explanation.—Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

(2) Deductions from the wages of an employed person shall be made only in accordance with the provisions of this Act, and may be of the following kinds only, namely:—

(a) fines;

(b) deductions for absence from duty;

(c) deductions for damage to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

(d) deductions for house-accommodation supplied by the employer;

¹ Subs. by the A. O., 1937, for "G. G. in C.",

- (e) deductions for such amenities and services supplied by the employer as the 1* * * 2[Provincial Government] may, by general or special order³, authorise;

Explanation.—The word “services” in this sub-clause does not include the supply of tools and raw materials required for the purposes of employment.

- (f) deductions for recovery of advances or for adjustment of over-payments of wages;
- (g) deductions of income-tax payable by the employed person;
- (h) deductions required to be made by order of a Court or other authority competent to make such order;
- (i) deductions for subscriptions to, and for repayment of advances from, any provident fund to which the Provident Fund Act, 1925, applies or any recognised provident fund as defined in section 58A of the Income-tax Act, 1922, or any provident fund approved in this behalf by the 2[Provincial Government], during the continuance of such approval; ^{XIX of 1925. XI of 1922} 4*
- (j) deductions for payments to co-operative societies approved by the 2[Provincial Government] or to a scheme of insurance maintained by the 5[Pakistan Post Office] 6[and
- (k) deductions, made with the written authorisation of the employed person, in furtherance of any War Savings Scheme, approved by the Provincial Government, for the purchase of securities of the 7[Government of Pakistan], or the Government of the United Kingdom.]

Fines.

8.—(1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the 2[Provincial Government] or of the prescribed authority, may have specified by notice under sub-section (2).

(2) A notice specifying such acts and omissions shall be exhibited in the prescribed manner on the premises in which the employment is carried on or in the case of persons employed upon a railway (otherwise than in a factory), at the prescribed place or places.

(3) No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

(4) The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount

¹ The words “G. G. in C. or” omitted by the A. O., 1937.

² Subs. by the A.O., 1937, for “L. G.”.

³ For such order, see Gazette of Pakistan, 1952, Pt. I, section 1, p. 158.

⁴ The word “and” omitted by the Payment of Wages (Amendment) Ordinance, 1940 (3 of 1940), s. 2.

⁵ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Schedule, for “Indian Post Office”.

⁶ The word “and” and clause (k) ins. by Ordinance 3 of 1940, s. 2.

⁷ Subs. by the A. O., 1949, for “Government of India”.

equal to half an anna in the rupee of the wages payable to him in respect of that wage-period.

(5) No fine shall be imposed on any employed person who is under the age of fifteen years.

(6) No fine imposed on any employed person shall be recovered from him by instalments or after the expiry of sixty days from the day on which it was imposed.

(7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

(8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Explanation.—When the persons employed upon or in any railway, factory or industrial establishment are part only of a staff employed under the same management, all such realisations may be credited to a common fund maintained for the staff as a whole, provided that the fund shall be applied only to such purposes as are approved by the prescribed authority.

9.—(1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places, where by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

Deductions
for absence
from duty.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a larger proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by the [Provincial Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

²[*Explanation.*—For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in-strike or for any other cause which is not reasonable in the circumstances, to carry out his work.]

10.—(1) A deduction under clause (c) of sub-section (2) of section 7 shall not exceed the amount of the damage or loss caused to

Deductions—
for damage
or loss.

¹ Subs. by the A. O., 1937, for “L. G.”.

² *Explanation* ins. by the Payment of Wages (Amendment) Act, 1937 (22 of 1937), s. 2.

the employer by the neglect or default of the employed person and shall not be made until the employed person has been given an opportunity of showing cause against the deduction, or otherwise than in accordance with such procedure as may be prescribed for the making of such deductions.

(2) All such deductions and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages under section 3 in such form as may be prescribed.

Deductions
for services
rendered.

11. A deduction under clause (d) or clause (e) of sub-section (2) of section 7 shall not be made from the wages of an employed person unless the house-accommodation, amenity or service has been accepted by him, as a term of employment or otherwise, and such deduction shall not exceed an amount equivalent to the value of the house-accommodation, amenity or service supplied and, in the case of a deduction under the said clause (e), shall be subject to such conditions as ¹* * * the ²[Provincial Government] may impose.

Deductions
for recovery
of advances.

12. Deductions under clause (f) of sub-section (2) of section 7 shall be subject to the following conditions, namely:—

- (a) recovery of an advance of money given before employment began shall be made from the first payment of wages in respect of a complete wage-period, but no recovery shall be made of such advances given for travelling-expenses;
- (b) recovery of advances of wages not already earned shall be subject to any rules made by the ²[Provincial Government] regulating the extent to which such advances may be given and the instalments by which they may be recovered.

Deductions
for pay-
ments to co-
operative
societies and
insurance
schemes.

13. Deductions under clause (j) ³[and clause (k)] of sub-section (2) of section 7 shall be subject to such conditions as the ²[Provincial Government] may impose.

Inspectors.

14.—(1) An Inspector of Factories appointed under sub-section (1) of section 10 of the Factories Act, 1934, shall be an Inspector ^x for the purposes of this Act in respect of all factories within the ¹ local limits assigned to him.

(2) The ⁴[Provincial Government] may appoint Inspectors for the purposes of this Act in respect of all persons employed upon a railway, (otherwise than in a factory) to whom this Act applies.

(3) The ²[Provincial Government] may, by notification in the ⁵[official Gazette], appoint such other persons as it thinks fit to be Inspectors for the purposes of this Act, and may define the local limits within which and the class of factories and industrial establishments in respect of which they shall exercise their functions.

¹ The words " the G. G. in C. or " omitted by the A. O., 1937.

² Subs. by the A. O., 1937, for " L. G. ".

³ Ins. by the Payment of Wages (Amendment) Ordinance, 1940 (3 of 1940), section 3.

⁴ Subs. by the A. O., 1937, for " G. G. in C. ".

⁵ Subs. *ibid.*, for " local official Gazette ".

(4) An Inspector may, at all reasonable hours, enter on any premises, and make such examination of any register or document relating to the calculation or payment of wages and take on the spot or otherwise such evidence of any person, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of this Act.

(5) Every Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code.

15.—(1) The ¹[Provincial Government] may, by notification in the ²[official Gazette], ³appoint any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area.

Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims.

(2) Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed under sub-section (1), may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented within six months from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be:

Provided further that any application may be admitted after the said period of six months when the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount deducted in the former case and not exceeding ten rupees in the latter:

Provided that no direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied

¹ Subs. by the A. O., 1937, for "L. G.".

² Subs. *ibid.*, for "local official Gazette".

³ District and Sessions Judges of all districts in East Bengal have been appointed to be the authority under this Act to hear and decide all claims arising out of deductions from the wages, or delay in payment of the wage of persons employed or paid within their respective jurisdictions, *see* Government of East Bengal, Notification No. 403 Com. dated the 18th October, 1947 in the Dacca Gazette Ordinary, 1947, Pt. I, p. 99.

that the delay was due to—

- (a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or
- (c) the failure of the employed person to apply for or accept payment.

(4) If the authority hearing any application under this section is satisfied that it was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

(5) Any amount directed to be paid under this section may be recovered—

- (a) if the authority is a Magistrate, by the authority as if it were a fine imposed by him as Magistrate, and
- (b) if the authority is not a Magistrate, by any Magistrate to whom the authority makes application in this behalf, as if it were a fine imposed by such Magistrate.

Single application in respect of claims from unpaid group.

16.—(1) Employed persons are said to belong to the same unpaid group if they are borne on the same establishment and if their wages for the same wage-period or periods have remained unpaid after the day fixed by section 5.

(2) A single application may be presented under section 15 on behalf or in respect of any number of employed persons belonging to the same unpaid group, and in such case the maximum compensation that may be awarded under sub-section (3) of section 15 shall be ten rupees per head.

(3) The authority may deal with any number of separate pending applications, presented under section 15 in respect of persons belonging to the same unpaid group, as a single application presented under sub-section (2) of this section, and the provisions of that sub-section shall apply accordingly.

Appeal.

17.—(1) An appeal against a direction made under ¹[sub-section (3) or sub-section (4)] of section 15 may be preferred, within thirty days of the date on which the direction was made, ²* * * before the District Court—

- (a) by the employer or other person responsible for the payment of wages under section 3, if the total sum directed to be paid by way of wages and compensation exceeds three hundred rupees, or
- (b) by an employed person, if the total amount of wages claimed to have been withheld from him or from the

¹ Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and Second Sch., for "sub-section (3)".

² The words "in a Presidency-town [or in Rangoon] before the Court of Small Causes and elsewhere" omitted by the A. O., 1949. The words within brackets were omitted by the A. O., 1937.

- unpaid group to which he belonged exceeds fifty rupees, or
 (c) by any person directed to pay a penalty under '[sub-section (4)] of section 15.'

(2) Save as provided in sub-section (1), any direction made under sub-section (3) or '[sub-section (4)] of section 15 shall be final.

18. Every authority appointed under sub-section (1) of section 15 shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents, and every such authority shall be deemed to be a Civil Court for all the purposes of section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898.

Powers of authorities appointed under section 15.

19. When the authority referred to in section 15 or the Court referred to in section 17 is unable to recover from any person (other than an employer) responsible under section 3 for the payment of wages any amount directed by such authority under section 15 or section 17 to be paid by such person, the authority shall recover the amount from the employer of the employed person concerned.

Power to recover from employer in certain cases.

20.—(1) Whoever being responsible for the payment of wages to an employed person contravenes any of the provisions of any of the following sections, namely, section 5 and sections 7 to 13, both inclusive, shall be punishable with fine which may extend to five hundred rupees.

Penalty for offences under the Act.

(2) Whoever contravenes the provisions of section 4, section 6 or section 25 shall be punishable with fine which may extend to two hundred rupees.

21.—(1) No Court shall take cognizance of a complaint against any person for an offence under sub-section (1) of section 20, unless an application in respect of the facts constituting the offence has been presented under section 15 and has been granted wholly or in part and the authority empowered under the latter section or the appellate Court granting such application has sanctioned the making of the complaint.

Procedure in trial of offences.

(2) Before sanctioning the making of a complaint against any person for an offence under sub-section (1) of section 20, the authority empowered under section 15 or the appellate Court, as the case may be, shall give such person an opportunity of showing cause against the granting of such sanction, and the sanction shall not be granted if such person satisfies the authority or Court that his default was due to—

- (a) a *bona fide* error or *bona fide* dispute as to the amount payable to the employed person, or
- (b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

¹ Subs. by the Repealing and Amending Act, 1937 (20 of 1937), s. 2 and First Schedule, for "sub-section (5)".

(c) the failure of the employed person to apply for or accept payment.

(3) No Court shall take cognizance of a contravention of section 4 or of section 6 or of a contravention of any rule made under section 26 except on a complaint made by or with the sanction of an Inspector under this Act.

(4) In imposing any fine for an offence under sub-section (1) of section 20 the Court shall take into consideration the amount of any compensation already awarded against the accused in any proceedings taken under section 15.

Bar of suits

22. No Court shall entertain any suit for the recovery of wages or of any deduction from wages in so far as the sum so claimed—

- (a) forms the subject of an application under section 15 which has been presented by the plaintiff and which is pending before the authority appointed under that section or of an appeal under section 17; or
- (b) has formed the subject of a direction under section 15 in favour of the plaintiff; or
- (c) has been adjudged, in any proceeding under section 15, not to be owed to the plaintiff; or
- (d) could have been recovered by an application under section 15.

Contracting out.

23. Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him of such right.

Application of Act to Federal railways, mines and oilfields.

[24. The powers by this Act conferred upon the Provincial Government shall, in relation to Federal railways (within the meaning of the Government of India Act, 1935), mines and oilfields, be powers of the Central Government.]

Display by notice of abstracts of the Act.

25. The person responsible for the payment of wages to persons employed in a factory shall cause to be displayed in such factory a notice containing such abstracts of this Act and of the rules made thereunder in English and in the language of the majority of the persons employed in the factory, as may be prescribed.

Rule-making power.

26.—(1) The ²[Provincial Government] may make rules³ to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

(2) The ⁴[Provincial Government] may, ⁵* * *, by notification in

¹ Subs. by the A. O., 1937, for the original section 24.

² Subs. *ibid.*, for "G. G. in C.".

³ For the Payment of Wages (Procedure) Rules, 1937, made by the Governor General in Council under this provision, see Gazette of India, 1937, Pt. I, pp. 303 to 312.

⁴ Subs. by the A. O., 1937, for "L. G.".

⁵ The words "subject to the control of the G. G. in C." omitted, *ibid.*

the '[official Gazette], make rules² for the purpose of carrying into effect the provisions of this Act.

(3) In particular and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may—

- (a) require the maintenance of such records, registers, returns and notices as are necessary for the enforcement of the Act and prescribe the form thereof;
- (b) require the display in a conspicuous place on premises where employment is carried on of notices specifying rates of wages payable to persons employed on such premises;
- (c) provide for the regular inspection of the weights, measures and weighing machines used by employers in checking or ascertaining the wages of persons employed by them;
- (d) prescribe the manner of giving notice of the days on which wages will be paid;
- (e) prescribe the authority competent to approve under sub-section (1) of section 8 acts and omissions in respect of which fines may be imposed;
- (f) prescribe the procedure for the imposition of fines under section 8 and for the making of the deductions referred to in section 10;
- (g) prescribe the conditions subject to which deductions may be made under the proviso to sub-section (2) of section 9;
- (h) prescribe the authority competent to approve the purposes on which the proceeds of fines shall be expended;
- (i) prescribe the extent to which advances may be made and the instalments by which they may be recovered with reference to clause (b) of section 12;
- (j) regulate the scales of costs which may be allowed in proceedings under this Act;
- (k) prescribe the amount of court-fees payable in respect of any proceedings under this Act; and
- (l) prescribe the abstracts to be contained in the notices required by section 25.

(4) In making any rule under this section the ³[Provincial Government] may provide that a contravention of the rule shall be punishable with fine which may extend to two hundred rupees.

(5) All rules made under this section shall be subject to the condition of previous publication, and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than three months from the date on which the draft of the proposed rules was published.

¹ Subs. by the A. O., 1937, for "local official Gazette".

² For the Payment of Wages (Railways) Rules, 1937, made by the G. G. in C. under this provision read with s. 24, see Gazette of India, 1937, Pt. I, pp. 503 to 512.

³ Subs. by the A. O., 1937, for "L. G.".

THE DECREES AND ORDERS VALIDATING ACT, 1936.

¹ACT No. V OF 1936

[26th April, 1936]

An Act to remove certain doubts and to establish the validity of certain proceedings in High Courts of Judicature in ²[the Provinces and the Capital of the Federation].

WHEREAS doubts have arisen as to the validity of certain proceedings in High Courts of Judicature in ²[the Provinces and the Capital of the Federation] under the Letters Patent erecting and establishing those Courts;

AND WHEREAS it is expedient to terminate those doubts and to establish the validity of those proceedings;

It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the Decrees and Orders Validating Act, 1936.

³(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

Certain
decrees and
orders not
to be called
in question.

2. No decree passed or order made by the High Court of Judicature at Fort William in Bengal, the High Court of Judicature at Madras or the High Court of Judicature at Bombay, in the exercise of its ordinary original civil jurisdiction under clause 12 of its Letters Patent, or by the High Court of Judicature at Rangoon, in the exercise of its original civil jurisdiction under clause 10 of its Letters Patent, shall be called in question in any proceedings before any other Court on the ground that the High Court passing the decree or making the order had no jurisdiction to pass or make the decree or order.

Restoration
of proceed-
ings.

3. Where in any proceedings concluded on or after the 26th day of August, 1935, any such decree or order has been found to be invalid on such ground by any Court, such finding shall be void and of no effect; and the Court shall, notwithstanding anything to the contrary in the Limitation Act, 1908, or any other law for the time being in force, on application made within six months from the commencement of this Act by any person prejudicially affected by such finding, restore the proceedings at and continue the proceedings from the stage reached immediately before the order embodying or based on such finding was made.

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IX of
1908.

¹ For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, page 20.

² Subs. by the A. O., 1949, for "British India".

³ Sub-section (2) has been amended by the A. O., 1949, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

THE GENEVA CONVENTION IMPLEMENTING ACT, 1936.

¹ACT NO. XIV OF 1936

[27th October, 1936]

An Act to implement Article 28 of the Geneva Convention of the
27th day of July, 1929.

WHEREAS India was a signatory to the International Convention for the Amelioration of the Conditions of the Wounded and Sick in Armies in the Field, drawn up in Geneva and dated the 27th day of July, 1929;

AND WHEREAS it is necessary to provide for the discharge of the obligations imposed by Article 28 of that Convention in so far as provision has not been made by the Geneva Convention Act, 1911;

It is hereby enacted as follows:—

1.—(1) This Act may be called the Geneva Convention Implementing Act, 1936.

Short title
and extent.

²[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

2. No person shall use for the purposes of his trade or business or for any other purpose whatsoever any sign constituting a colourable imitation of the heraldic emblem of the red cross on a white ground formed by reversing the federal colours of Switzerland.

Prohibition
of use of
imitations
of emblem
of red cross
on white
ground.

3. No person shall use for the purposes of his trade or business the heraldic emblem of the white cross on a red ground, being the federal colours of Switzerland, or any sign constituting a colourable imitation of that heraldic emblem.

Prohibition
of use of
emblem of
white cross
on red
ground or
imitations
thereof.

4. Any person contravening the provisions of section 2 or section 3 shall be punishable with fine which may extend to fifty rupees, and when such contravention is committed by a company, association or body of individuals, then, without prejudice to the liability of such company, association or body, every member thereof who is knowingly a party to the contravention shall be liable to the like penalty.

Penalty.

5. No criminal Court shall take cognizance of any offence punishable under this Act except with the previous sanction of the ³[Central Government] * * *.

Previous
sanction for
prosecution.

6. Nothing in the foregoing sections shall affect the right of any person to continue to use for a period of two years from the commencement of this Act any sign or emblem which it was not unlawful for him to use at the commencement of this Act,

Saving.

¹ For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, page 310.

² Sub-section (2) has been amended by the A. O., 1949, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

³ Subs. by the A. O., 1937, for "G. G. in C."

⁴ The words "or the L. G." omitted by the A. O., 1937.

THE AGRICULTURAL PRODUCE (GRADING AND MARKING) ACT, 1937.

ACT No. I OF 1937

[24th February, 1937]

An Act to provide for the grading and marking of agricultural²[and other] produce.

WHEREAS it is expedient to provide for the grading and marking of Agricultural²[and other] produce; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the Agricultural Produce (Grading and Marking) Act, 1937.

³[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

Explanations.

2. In this Act, unless the contrary appears from the subject or context,—

- (a) “agricultural produce” includes all produce of agriculture or horticulture and all articles of food or drink wholly or partly manufactured from any such produce, and fleeces and the skins of animals;
- (b) “counterfeit” has the meaning assigned to that word by section 28 of the Pakistan Penal Code;
- (c) “covering” includes any vessel, box, crate, wrapper, tray or other container;
- (d) “grade designation” means a designation prescribed as indicative of the quality of any scheduled article;
- (e) “grade designation mark” means a mark prescribed as representing a particular grade designation;
- (f) “quality”, in relation to any article, includes the state and condition of the article;
- (g) “prescribed” means prescribed by rules made under this Act;
- (h) “scheduled article” means an article included in the Schedule; and
- (i) an article is said to be marked with a grade designation mark, if the article itself is marked with a grade designation mark or any covering containing or label attached to such article is so marked.

XLV of
1860.

Description
of grade
designations.

3. The⁴[Central Government] may, after previous publication by notification in the⁵[official Gazette], make rules⁶—

¹ For Statement of Objects and Reasons, see Gazette of India, Extraordinary, dated the 13th February, 1937, p. 71.

² Ins. by the Agricultural Produce (Grading and Marking) Amendment Act, 1942 (13 of 1942), s. 2.

³ Sub-section (2) has been amended by the A. O., 1949, and the Federal Law (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

⁴ Subs. by the A. O., 1937, for “G. G. in C.”.

⁵ Subs. *ibid.*, for “Gazette of India”.

⁶ For such rules, see Gazette of India, 1937, Pt. I, pp. 547 to 564. For Grapes Grading and Marking Rules, 1952, see Gazette of Pakistan of the 6th June, 1952, Pt. I, pages 63-66.

- (a) fixing grade designations to indicate the quality of any scheduled article;
- (b) defining the quality indicated by every grade designation;
- (c) specifying grade designation marks to represent particular grade designations;
- (d) authorising a person or a body of persons, subject to any prescribed conditions, to mark with a grade designation mark any article in respect of which such mark has been prescribed or any covering containing or label attached to any such article;
- (e) specifying the conditions referred to in clause (d) including in respect of any article conditions as to the manner of marking, the manner in which the article shall be packed, the type of covering to be used, and the quantity by weight, number or otherwise to be included in each covering;
- (f) providing for the payment of any expenses incurred in connection with the manufacture or use of any implement necessary for the reproduction of a grade designation mark or with the manufacture or use of any covering or label marked with a grade designation mark ¹[or with measures for the control of the quality of articles marked with grade designation marks including testing of samples and inspection of such articles or with any publicity work carried out to promote the sale of any class of such articles]; and
- (g) providing for the confiscation and disposal of produce marked otherwise than in accordance with the prescribed conditions with a grade designation mark.

4. Whoever marks any scheduled article with a grade designation mark, not being authorised to do so by rule made under section 3, shall be punishable with fine which may extend to five hundred rupees.

Penalty for unauthorised marking with grade designation mark.

5. Whoever counterfeits any grade designation mark or has in his possession any die, plate or other instrument for the purpose of counterfeiting a grade designation mark shall be punishable with imprisonment which may extend to two years, or with fine, or with both.

Penalty for counterfeiting grade designation mark.

6. The ²[Central Government], after such consultation as ³[it] thinks fit of the interests likely to be affected, may by notification in the ⁴[official Gazette] declare that the provisions of this Act shall apply to an article of agricultural produce not included in the Schedule ⁵[or to an article other than an article of agricultural produce], and on the publication of such notification such article shall be deemed to be included in the Schedule.

Extension of application of Act.

¹ Ins. by the Agricultural Produce (Grading and Marking) Amendment Act, 1943 (20 of 1943), s. 2.

² Subs. by the A. O., 1937, for "G. G. in C.".

³ Subs. *ibid.*, for "he".

⁴ Subs. *ibid.*, for "Gazette of India".

⁵ Ins. by the Agricultural Produce (Grading and Marking) Amendment Act, 1942 (13 of 1942), s. 3, (with effect from the 24th February, 1937).

THE SCHEDULE

(See section 2)

1. Fruit.
2. Vegetables.
3. Eggs.
4. Dairy produce.
5. Tobacco.
6. Coffee.
7. Hides and Skins.

THE ARBITRATION (PROTOCOL AND CON-
VENTION) ACT, 1937.¹ACT NO. VI OF 1937

[4th March, 1937]

An Act to make certain further provisions respecting the law of arbitration in ²[the Provinces and the Capital of the Federation].

WHEREAS India was a State signatory to the Protocol on Arbitration Clauses set forth in the First Schedule, and to the Convention on the Execution of Foreign Arbitral Awards set forth in the Second Schedule, subject in each case to a reservation of the right to limit its obligations in respect thereof to contracts which are considered as commercial under the law in force in ²[the Provinces and the Capital of the Federation];

AND WHEREAS it is expedient, for the purpose of giving effect to the said Protocol and of enabling the said Convention to become operative in ²[the Provinces and the Capital of the Federation], to make certain further provisions respecting the law of arbitration; It is hereby enacted as follows:—

1.—(1) This Act may be called the Arbitration (Protocol and Convention) Act, 1937.

³[(2) It extends to all the Provinces and the Capital of the Federation, including Baluchistan.]

(3) The provisions of this Act, except this section, shall have effect only from such date as the ⁴[Central Government] may, by notification in the ⁵[official Gazette], appoint in this behalf, and the

¹ For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V p. 10; and for Report of Select Committee, see *ibid.*, 1937, Pt. V, p. 73.

² Subs. by the A. O., 1949, for "British India".

³ Sub-section (2) has been amended by the A. O., 1949, and the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, to read as above.

⁴ Subs. by the A. O., 1937, for "G. G. in C.".

⁵ Subs. *ibid.*, for "Gazette of India".

¹[Central Government] may appoint different dates² for the coming into effect of different provisions of the Act.

2. In this Act "foreign award" means an award on differences relating to matters considered as commercial under the law in force in ³[the Provinces and the Capital of the Federation], made after the 28th day of July, 1924,—

- (a) in pursuance of an agreement for arbitration to which the Protocol set forth in the First Schedule applies, and
- (b) between persons of whom one is subject to the jurisdiction of some one of such Powers as the ¹[Central Government], being satisfied that reciprocal provisions have been made, may, by notification⁴ in the ⁵[official Gazette], declare to be parties to the Convention set forth in the Second Schedule, and of whom the other is subject to the jurisdiction of some other of the Powers aforesaid, and
- (c) in one of such territories as the ¹[Central Government], being satisfied that reciprocal provisions have been made, may, by like notification, declare to be territories to which the said Convention applies,

and for the purposes of this Act an award shall not be deemed to be final if any proceedings for the purpose of contesting the validity of the award are pending in the country in which it was made.

3. Notwithstanding anything contained in the ⁶[Arbitration Act, 1940], or in the Code of Civil Procedure, 1908, if any party to a submission made in pursuance of an agreement to which the Protocol set forth in the First Schedule as modified by the reservation subject to which it was signed by India applies, or any person claiming through or under him, commences any legal proceedings in any Court against any other party to the submission or any person claiming through or under him in respect of any matter agreed to be referred, any party to such legal proceedings may, at any time after appearance and before filing a written statement or taking any other steps in the proceedings, apply to the Court to stay the proceedings; and the Court, unless satisfied that the agreement or arbitration has become inoperative or cannot proceed, or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, shall make an order staying the proceedings.

Stay of proceedings in respect of matters to be referred to arbitration.

4.—(1) A foreign award shall, subject to the provisions of this Act, be enforceable in ³[the Provinces and the Capital of the Federation] as if it were an award made on a matter referred to arbitration in ³[the Provinces and the Capital of the Federation].

Effect of foreign awards.

(2) Any foreign award which would be enforceable under this Act shall be treated as binding for all purposes on the persons as

¹ Subs. by the A. O., 1937, for "G. G. in C.".

² Section 3 came into effect on the 30th November, 1937: see *Gazette of India*, 1937, Pt. I, p. 1945; and sections 2 and 4 to 10 on the 23rd January, 1938: see *ibid.*, 1938, Pt. I, p. 25.

³ Subs. by the A. O., 1949, for "British India".

⁴ For such notification, see *Gazette of India*, 1938, Pt. I, p. 24.

⁵ Subs. by the A. O., 1937, for "Gazette of India".

⁶ Subs. by the Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Second Sch., for "Indian Arbitration Act, 1899".

between whom it was made, and may accordingly be relied on by any of those persons by way of defence set off or otherwise in any legal proceedings in ¹[the Provinces and the Capital of the Federation], and any references in this Act to enforcing a foreign award shall be construed as including references to relying on an award.

Filing of
foreign
award
in Court.

5.—(1) Any person interested in a foreign award may apply to any Court having jurisdiction over the subject-matter of the award that the award be filed in Court.

(2) The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

(3) The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

Enforcement
of foreign
award.

6.—(1) Where the Court is satisfied that the foreign award is enforceable under this Act, the Court shall order the award to be filed and shall proceed to pronounce judgment according to the award.

(2) Upon the judgment so pronounced a decree shall follow, and no appeal shall lie from such decree except in so far as the decree is in excess of or not in accordance with the award.

Conditions
for enforce-
ment of
foreign
awards.

7.—(1) In order that a foreign award may be enforceable under this Act it must have—

- (a) been made in pursuance of an agreement for arbitration which was valid under the law by which it was governed,
- (b) been made by the tribunal provided for in the agreement or constituted in manner agreed upon by the parties,
- (c) been made in conformity with the law governing the arbitration procedure,
- (d) become final in the country in which it was made,
- (e) been in respect of a matter which may lawfully be referred to arbitration under the law of ¹[the Provinces and the Capital of the Federation],

and the enforcement thereof must not be contrary to the public policy or the law of ¹[the Provinces and the Capital of the Federation].

(2) A foreign award shall not be enforceable under this Act if the Court dealing with the case is satisfied that—

- (a) the award has been annulled in the country in which it was made, or
- (b) the party against whom it is sought to enforce the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case, or was under some legal incapacity and was not properly represented, or
- (c) the award does not deal with all the questions referred or contains decisions on matter beyond the scope of the agreement for arbitration:

Provided that if the award does not deal with all questions referred the Court may, if it thinks fit, either postpone the enforcement of

¹ Subs. by the A. O., 1949, for "British India".

the award or order its enforcement subject to the giving of such security by the person seeking to enforce it as the Court may think fit.

(3) If a party seeking to resist the enforcement of a foreign award proves that there is any ground other than the non-existence of the conditions specified in clauses (a), (b) and (c) of sub-section (1), or the existence of the conditions specified in clauses (b) and (c) of sub-section (2), entitling him to contest the validity of the award, the Court may, if it thinks fit, either refuse to enforce the award or adjourn the hearing until after the expiration of such period as appears to the Court to be reasonably sufficient to enable that party to take the necessary steps to have the award annulled by the competent tribunal.

8.—(1) The party seeking to enforce a foreign award must produce— Evidence.

- (a) the original award or a copy thereof duly authenticated in manner required by the law of the country in which it was made;
- (b) evidence proving that the award has become final; and
- (c) such evidence as may be necessary to prove that the award is a foreign award and that the conditions mentioned in clauses (a), (b) and (c) of sub-section (1) of section 7 are satisfied.

(2) Where any document requiring to be produced under sub-section (1) is in a foreign language, the party seeking to enforce the award shall produce a translation into English certified as correct by a diplomatic or consular agent of the country to which that party belongs or certified as correct in such other manner as may be sufficient according to the law in force in ¹[the Provinces and the Capital of the Federation].

9. Nothing in this Act shall—

Saving.

- (a) prejudice any rights which any person would have had of enforcing in ¹[the Provinces and the Capital of the Federation] any award or of availing himself in ¹[the Provinces and the Capital of the Federation] of any award if this Act had not been passed, or
- (b) apply to any award made on an arbitration agreement governed by the law of ¹[the Provinces and the Capital of the Federation].

10. The High Court may make rules consistent with this Act as to—

Rule-making powers of the High Court.

- (a) the filing of foreign awards and all proceedings consequent thereon or incidental thereto;
- (b) the evidence which must be furnished by a party seeking to enforce a foreign award under this Act; and
- (c) generally, all proceedings in Court under this Act.

¹ Subs. by the A. O., 1949, for "British India".

THE FIRST SCHEDULE

PROTOCOL ON ARBITRATION CLAUSES

The undersigned, being duly authorised, declare that they accept, on behalf of the countries which they represent, the following provisions:

1. Each of the Contracting States recognises the validity of an agreement whether relating to existing or future differences between parties subject respectively to the jurisdiction of different Contracting States by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to any other matter capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject.

Each Contracting State reserves the right to limit the obligation mentioned above to contracts which are considered as commercial under its national law. Any Contracting State which avails itself of this right will notify the Secretary-General of the League of Nations in order that the other Contracting States may be so informed.

2. The arbitral procedure, including the constitution of the Arbitral Tribunal, shall be governed by the will of the parties and by the law of the country in whose territory the arbitration takes place.

The Contracting States agree to facilitate all steps in the procedure which require to be taken in their own territories, in accordance with the provisions of their law governing arbitral procedure applicable to existing differences.

3. Each Contracting State undertakes to ensure the execution by its authorities and in accordance with the provisions of its national laws or arbitral awards made in its own territory under the preceding articles.

4. The tribunals of the Contracting Parties, on being seized of a dispute regarding a contract made between persons to whom *Article 1* applies and including an Arbitration Agreement whether referring to present or future differences which is valid in virtue of the said article and capable of being carried into effect, shall refer the parties on the application of either of them to the decision of the Arbitrators.

Such reference shall not prejudice the competence of the judicial tribunals in case the agreement or the arbitration cannot proceed or becomes inoperative.

5. The present Protocol, which shall remain open for signature by all States, shall be ratified. The ratification shall be deposited as soon as possible with the Secretary-General of the League of Nations, who shall notify such deposit to all the Signatory States.

6. The present Protocol will come into force as soon as two ratifications have been deposited. Thereafter it will take effect, in the case of each Contracting State, one month after the notification by the Secretary-General of the deposit of its ratification.

7. The present Protocol may be denounced by any Contracting State on giving one year's notice. Denunciation shall be effected by a

notification addressed to the Secretary-General of the League, who will immediately transmit copies of such notification to all the other Signatory States and inform them of the date on which it was received. The denunciation shall take effect one year after the date on which it was notified to the Secretary-General, and shall operate only in respect of the notifying State.

8. The Contracting States may declare that their acceptance of the present Protocol does not include any or all of the undermentioned territories: that is to say, their colonies, overseas possessions or territories, protectorates or the territories over which they exercise a mandate.

The said States may subsequently adhere separately on behalf of any territory thus excluded. The Secretary-General of the League of Nations shall be informed as soon as possible of such adhesions. He shall notify such adhesions to all Signatory States. They will take effect one month after the notification by the Secretary-General to all Signatory States.

The Contracting States may also denounce the Protocol separately on behalf of any of the territories referred to above. Article 7 applies to such denunciation.

THE SECOND SCHEDULE

CONVENTION ON THE EXECUTION OF FOREIGN ARBITRAL AWARDS

Article 1.—In the territories of any High Contracting Party to which the present Convention applies, an arbitral award made in pursuance of an agreement, whether relating to existing or future differences (hereinafter called “a submission to arbitration”) covered by the Protocol on Arbitration Clauses opened at Geneva on September 24th, 1923; shall be recognised as binding and shall be enforced in accordance with the rules of the procedure of the territory where the award is relied upon, provided that the said award has been made in a territory of one of the High Contracting Parties to which the present Convention applies and between persons who are subject to the jurisdiction of one of the High Contracting Parties.

To obtain such recognition or enforcement, it shall, further, be necessary:

- (a) That the award has been made in pursuance of a submission to arbitration which is valid under the law applicable thereto;
- (b) That the subject-matter of the award is capable of settlement by arbitration under the law of the country in which the award is sought to be relied upon;
- (c) That the award has been made by the Arbitral Tribunal provided for in the submission to arbitration or constituted in the manner agreed upon by the parties and in conformity with the law governing the arbitration procedure;
- (d) That the award has become final in the country in which it has been made, in the sense that it will not be considered as such if it is open to opposition, appel or pourvoi en cassation (in the countries where such forms of procedure exist) or if it is proved that any proceedings for the purpose of contesting the validity of the award are pending;

- (e) That the recognition or enforcement of the award is not contrary to the public policy or to the principles of the law of the country in which it is sought to be relied upon.

Article 2.—Even if the conditions laid down in *Article 1* hereof are fulfilled, recognition and enforcement of the award shall be refused if the Court is satisfied:

- (a) That the award has been annulled in the country in which it was made;
- (b) That the party against whom it is sought to use the award was not given notice of the arbitration proceedings in sufficient time to enable him to present his case; or that, being under a legal incapacity, he was not properly represented;
- (c) That the award does not deal with the differences contemplated by or falling within the terms of the submission to arbitration or that it contains decisions on matters beyond the scope of the submission to arbitration.

If the award has not covered all the questions submitted to the arbitral tribunal, the competent authority of the country where recognition or enforcement of the award is sought can, if it thinks fit, postpone such recognition or enforcement or grant it subject to such guarantee as that authority may decide.

Article 3.—If the party against whom the award has been made proves that, under the law governing the arbitration procedure, there is a ground, other than the grounds referred to in *Article 1* (a) and (c), and *Article 2* (b) and (c), entitling him to contest the validity of the award in a Court of Law, the Court may, if it thinks fit, either refuse recognition or enforcement of the award or adjourn the consideration thereof, giving such party a reasonable time within which to have the award annulled by the competent tribunal.

Article 4.—The party relying upon an award or claiming its enforcement must supply, in particular:

- (1) The original award or a copy thereof duly authenticated, according to the requirements of the law of the country in which it was made;
- (2) Documentary or other evidence to prove that the award has become final, in the sense defined in *Article 1*(d), in the country in which it was made;
- (3) When necessary, documentary or other evidence to prove that the conditions laid down in *Article 1*, paragraph 1 and paragraph 2 (a) and (c), have been fulfilled.

A translation of the award and of the other documents mentioned in this Article into the official language of the country where the award is sought to be relied upon may be demanded. Such translations must be certified correct by a diplomatic or consular agent of the country to which the party who seeks to rely upon the award belongs or by a sworn translator of the country where the award is sought to be relied upon.

Article 5.—The provisions of the above Articles shall not deprive any interested party of the right of availing himself of an arbitral

award in the manner and to the extent allowed by the law or the treaties of the country where such award is sought to be relied upon.

Article 6.—The present Convention applies only to arbitral awards made after the coming into force of the Protocol on Arbitration Clauses, opened at Geneva on September 24th, 1923.

Article 7.—The present Convention, which will remain open to the signature of all the signatories of the Protocol of 1923 on Arbitration Clauses, shall be ratified.

It may be ratified only on behalf of those Members of the League of Nations and non-Member States on whose behalf the Protocol of 1923 shall have been ratified.

Ratifications shall be deposited as soon as possible with the Secretary-General of the League of Nations, who will notify such deposit to all the signatories.

Article 8.—The present Convention shall come into force three months after it shall have been ratified on behalf of two High Contracting Parties. Thereafter, it shall take effect, in the case of each High Contracting Party, three months after the deposit of the ratification on its behalf with the Secretary-General of the League of Nations.

Article 9.—The present Convention may be denounced on behalf of any Member of the League or non-Member State. Denunciation shall be notified in writing to the Secretary-General of the League of Nations, who will immediately send a copy thereof, certified to be in conformity with the notifications, to all the other Contracting Parties, at the same time informing them of the date on which he received it.

The denunciation shall come into force only in respect of the High Contracting Party which shall have notified it and one year after such notification shall have reached the Secretary-General of the League of Nations.

The denunciation of the Protocol on Arbitration Clauses shall entail, *ipso facto*, the denunciation of the present Convention.

Article 10.—The present Convention does not apply to the Colonies, Protectorates or territories under suzerainty or mandate of any High Contracting Party unless they are specially mentioned.

The application of this Convention to one or more of such Colonies, Protectorates or territories to which the Protocol on Arbitration Clauses opened at Geneva on September 24th, 1923, applies, can be effected at any time by means of a declaration addressed to the Secretary-General of the League of Nations by one of the High Contracting Parties.

Such declaration shall take effect three months after the deposit thereof.

The High Contracting Parties can at any time denounce the Convention for all or any of the Colonies, Protectorates or territories referred to above. *Article 9* hereof applies to such denunciation.

Article 11.—A certified copy of the present Convention shall be transmitted by the Secretary-General of the League of Nations to every Member of the League of Nations and to every non-Member State which signs the same.

THE FINANCE ACT, 1937

[31st March, 1937]

An Act * * * to fix rates of income-tax and super-tax

WHEREAS it is expedient * * * to fix rates of income-tax and super-tax; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the ^{3*} Finance Act, 1937.

(2) It extends to ⁴[all the Provinces and the Capital of the Federation], including ⁵[Baluchistan].

⁶² to 6. [*Fixation of salt duty. Amendment of section³ 3, Act XIV of 1934. Amendment of the First Schedule to Act XXXII of 1934. Amendment of section³ 3, Act XVIII of 1930. Inland Postage rates.] Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.*

Income-tax
and super-
tax.

7.—(1) Income-tax for the year beginning on the 1st day of April, 1937, shall be charged at rates applicable to the total income of each assessee the same, and increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1936.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1937, shall, for the purposes of section 55 of the Income-tax Act, 1922, be the same rates, increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1936.

(3) For the purposes of sub-section (1) “total income” means total income as determined in accordance with the provisions of the Income-tax Act, 1922.

THE SCHEDULE.—Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.

¹ This Act was made by the Governor General under the provisions of section 67B of the Government of India Act. No number was given.

For Statement of Objects and Reasons, see Gazette of India, 1937 pages 107-108.

² Certain words, brackets and figures omitted by the Repealing and Amending Act, 1942 (25 of 1942), s. 2 and First Schedule.

³ The word “Indian” omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Second Schedule.

⁴ Subs. by the A. O., 1949, for “the whole of British India”.

⁵ Subs. by Act 26 of 1951, s. 4 and Third Sch. for “British Baluchistan and the Sonthal Parganas”.

⁶ Section 2 was previously amended by the A. O., 1937. Sections 3 to 5 had come into effect on the 28th February, 1937, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (16 of 1931).

¹ACT No. XVIII OF 1937

Act to amend the Hindu Law governing Hindu Women's Rights to Property.

1.—(1) This Act may be called the Hindu Women's Rights to Property Act, 1937.

Short title
and extent.

(2) It extends to ²[all the Provinces and the Capital of the Federation], ³* * *.

2. 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.

Application.

¶[3.—(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:]

**Devolution
of property.**

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 dies ^{5*} having at his death an interest in a Hindu joint family property,

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 the partially excluded areas of the Mymensingh district from the 28th September 1939, see Notification No. 3325-J, dated the 18th September 1939 in the Calcutta Gazette dated the 28th September 1939.

In the application of this Act to the N.-W. F. P. and Sind 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, and the Hindu Women's Rights to Property, (Sind Extension to Agricultural Land) Act, 1943 (Sind Act 9 of 1943), s. 2.

² Subs. by the A. O., 1949, for "the whole of British India".

³ The words "including British Baluchistan and the Sonthal Parganas but excluding Burma" omitted by the Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Second Schedule.

⁴ Subs. by the Hindu Women's Rights to Property (Amendment) Act, 1933 (11 of 1938), s. 3, for the paragraph preceding the first proviso in sub-section (1).

5 The word "intestate" omitted, *ibid.*

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 ¹[or by the terms of the grant applicable thereto] descends to a single heir or to any property to which the Succession Act, 1925, applies.

XXXIX
of 1925.

Savings.

4. Nothing in this Act shall apply to the property of any Hindu dying intestate before the commencement of this Act.

Meaning of
expression
"die intes-
tate".

²[5. 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.]

THE ARYA MARRIAGE VALIDATION ACT, 1937

³ACT NO. XIX OF 1937

[14th April, 1937]

An Act to recognise and remove doubts as to the validity of inter-marriages current among Arya Samajists.

WHEREAS it is expedient to recognise and place beyond doubt the validity of inter-marriages of a class of Hindus known as Arya Samajists; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the Arya Marriage Validation Act, 1937.

(2) It extends to ⁴[all the Provinces and the Capital of the Federation] ⁵* * *, and applies also to all subjects of His Majesty, ⁶[in Pakistan and to all British subjects domiciled in Pakistan] without and beyond ⁷[the Provinces and the Capital of the Federation].

Marriage
between
Arya Sama-
jists not to
be invalid.

2. Notwithstanding any provision of Hindu Law, usage or custom to the contrary no marriage contracted whether before or after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid or shall be

¹ Ins. by the Hindu Women's Rights to Property (Amendment) Act, 1938 (11 of 1938), s. 3.

² Section 5 ins. *ibid.*, s. 4.

³ For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 132; and for Report of Select Committee, see *ibid.*, 1936, Pt. V, p. 306. The Act has been applied to Baluchistan, see Gazette of India, 1938, Pt. I, p. 1371.

⁴ Subs. by the A. O., 1949, for "the whole of British India".

⁵ The words "including British Baluchistan and the Sonthal Parganas" rep. by the Repealing and Amending Act, 1940 (32 of 1940), s. 3 and Second Schedule.

⁶ Subs. by the A. O., 1949, for "within other parts of India, and to all Indian subjects of His Majesty".

⁷ Subs. *ibid.*, for "British India".

deemed ever to have been invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that either or both of the parties at any time before the marriage belonged to a religion other than Hinduism.

THE RULES AND REGULATIONS CONTINU- ANCE ACT, 1937.

¹ACT No. XXIV OF 1937

[7th October, 1937]

An Act to provide for the continuance in force of certain rules and regulations.

IX of
1910.
V of
1923.

WHEREAS it is expedient to provide for the continuance in force of certain rules made under the Electricity Act, 1910, and certain regulations made under the Boilers Act, 1923; It is hereby enacted as follows:—

1. This Act may be called the Rules and Regulations Continu- .Short title.
ance Act, 1937.

IX of
1910.
V of
1923.

2. Rules made before the 31st day of March, 1937, under section 37 of the Electricity Act, 1910, and regulations made before the 28th day of March, 1937, under section 28 of the Boilers Act, 1923, by the Governor General in Council shall, on and from the said dates respectively, be deemed to have been made under the said sections of the said Acts by the authority substituted for the Governor General in Council by the Indian Electricity (Amendment) Act, 1937, and the Indian Boilers (Amendment) Act, 1937, respectively, and shall continue to be in force until superseded by rules or regulations made under the said sections of the said Acts by the Central Electricity Board or the Central Boilers Board, as the case may be.

Continuance
in force of
rules and
regulations
made under
Act IX of
1910 and
Act V of
1923.

THE FEDERAL COURT ACT, 1937

²ACT No. XXV OF 1937

[7th October, 1937]

An Act to empower the Federal Court to make rules for regulating the service of processes issued by the Court.

WHEREAS it is expedient to confer upon the Federal Court a supplemental power which is necessary for the purpose of enabling the

¹ For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 130. This Act has been applied to Baluchistan, see *ibid.*, 1938, Pt. I, p. 1371.

² For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, page 131.

Court more effectively to exercise the jurisdiction conferred upon it by or under the Government of India Act, 1935; It is hereby enacted as follows:— 26 Geo. 5, c. 2

Short title.

1. This Act may be called the Federal Court Act, 1937.

Power of Federal Court to make rules.

2. The Federal Court may make rules for regulating the service of processes issued by the Court, including rules requiring a High Court from which an appeal has been preferred to the Federal Court to serve any process issued by the Federal Court in connection with that appeal.

THE MUSLIM PERSONAL LAW (SHARIAT) APPLICATION ACT, 1937.

¹ACT NO. XXVI OF 1937

[7th October, 1937]

An Act to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims in ²[the Provinces and the Capital of the Federation].

WHEREAS it is expedient to make provision for the application of the Muslim Personal Law (*Shariat*) to Muslims in ²[the Provinces and the Capital of the Federation]; It is hereby enacted as follows:—

Short title and extent.

1.—(1) This Act may be called the Muslim Personal Law (*Shariat*) Application Act, 1937.

(2) It extends to ³[all the Provinces and the Capital of the Federation] excluding the North-West Frontier Province.⁴

Application of Personal Law to Muslims.

2. Notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including *talaq, ila, zihar, lian, khula* and *mubaraat*, maintenance, dower, guardianship, gifts, trusts and trust properties, and *wakfs* (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (*Shariat*).

¹ For Statement of Objects and Reasons, see Gazette of India, 1935, Pt. V, p. 136; and for Report of Select Committee, see *ibid.*, 1937, Pt. V, p. 235.

The Act has been applied to Baluchistan, see Gazette of India, 1938, Pt. I, p. 1371; and to the partially excluded areas of the Mymensingh district from the 20th January 1944, see Bengal Government Notification No. 131-F, dated the 15th January 1944. It has also been amended in its application to the Province of Sind by Sind Act XXII of 1950, ss. 2 and 3.

² Subs. by the A. O., 1949, for "British India".

³ Subs. *ibid.*, for "the whole of British India".

⁴ For similar law applicable to the N.-W. F. P., see the N.-W. F. P. Muslim Personal Law (*Shariat*) Application Act, 1935 (N.-W. F. P. 6 of 1935).

3.—(1) Any person who satisfies the prescribed authority—

(a) that he is a Muslim, and

(b) that he is competent to contract within the meaning of section 11 of the Contract Act, 1872, and

(c) that he is a resident of ¹[a Province],

may by declaration in the prescribed form and filed before the prescribed authority declare that he desires to obtain the benefit of ²[the provisions of this section], and thereafter the provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, wills and legacies were also specified.

(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such officer as the Provincial Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

4.—(1) The Provincial Government may make rules to carry into effect the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) for prescribing the authority before whom and the form in which declarations under this Act shall be made;

(b) for prescribing the fees to be paid for the filing of declarations and for the attendance at private residences of any person in the discharge of his duties under this Act; and for prescribing the times at which such fees shall be payable and the manner in which they shall be levied.

(3) Rules made under the provisions of this section shall be published in the official Gazette and shall thereupon have effect as if enacted in this Act.

5. [*Dissolution of marriage by Court in certain circumstances.*] *Rep. by the Dissolution of Muslim Marriages Act, 1939 (VIII of 1939), s. 6.*

6. ³[The undermentioned provisions] of the Acts and Regulations mentioned below shall be repealed in so far as they are inconsistent with the provisions of this Act, namely:—

(1) Section 26 of the Bombay Regulation IV of 1827;

4*	*	*	*	*	*	*
5*	*	*	*	*	*	*

¹ Subs. by the A. O., 1949, for "British India".

² Subs. by the Muslim Personal Law (Shariat) Application (Amendment) Act, 1943 (16 of 1943), s. 2, for "this Act".

³ Subs. *ibid.*, s. 3, for "Provisions".

⁴ Clause (2) omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Second Schedule.

⁵ For the purpose of reviving the operation of s. 37 of the East Bengal Civil Courts Act, 1887 (12 of 1887), cl. (3) relating to that Act has been omitted by Act 16 of 1943.

Power to make a declaration.

Rule-making power.

Repeals.

1*	*	*	*	*	*	*
(5) Section 5 of the Punjab Laws Act, 1872;						IV of
1*	*	*	*	*	*	1872.

THE INSURANCE ACT, 1938

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¹ACT NO. IV OF 1938

[26th February, 1938]

An Act to consolidate and amend the law relating to the business of insurance.

WHEREAS it is expedient to consolidate and amend the law relating to the business of insurance; It is hereby enacted as follows:—

PART I

PRELIMINARY

1.—(1) This Act may be called the Insurance Act, 1938.

Short title,
extent and
commence-
ment.

(2) It extends to ²[all the Provinces and the Capital of the Federation].

(3) It shall come into force on such date³ as the Central Government may, by notification in the official Gazette, appoint in this behalf.

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

(1) “actuary” means an actuary possessing such qualifications as may be prescribed;

⁴[(2) “policy-holder” includes a person to whom the whole of the interest of the policy-holder in the policy is assigned once and for all, but does not include an assignee thereof

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1937, Pt. V, p. 63; and for Report of Select Committee, *see* *ibid.*, p. 144.

This Act has been applied to—

(i) Baluchistan, *see* Notification No. 200-F., dated the 10th August 1938, Gazette of India, 1938, Pt. I, p. 1371;

(ii) the partially excluded areas¹ in the Mymensingh District, *see* Bengal Government Notification No. 1902-Com., dated the 28th June 1939, Calcutta Gazette, dated the 16th July, 1939;

(iii) Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.-W. F. P., and also 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.

² Subs. by the A. O., 1949, for “the whole of British India”.

³ The 1st July, 1939; *see* Notification No. 589-I (4)38, dated the 1st April, 1939, Gazette of India, 1939, Pt. I, p. 631.

⁴ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 2, for the original clause (2).

whose interest in the policy is defeasible or is for the time being subject to any condition;]

- (3) "approved securities" means Government securities, and any other security charged on the revenues of the Central Government or of a Provincial Government, or guaranteed fully as regards principal and interest by the Secretary of State in Council or the Secretary of State or the Central Government or a Provincial Government; and any debenture or other security for money issued under the authority of any Act of ¹[the Central Legislature or any Provincial Legislature] ²* * * by or on behalf of the trustees of the port of Karachi ³[and any security issued by the Government of an ⁴[Acceding State or a non-Acceding State] and specified as an approved security for the purposes of this Act by the Central Government by notification in the official Gazette];
- (4) "auditor" means a person qualified under the provisions of section 144 of the Companies Act, 1913, to act as an auditor of companies; VII of 1913.
- (5) "certified" in relation to any copy or translation of a document required to be furnished by or on behalf of ⁵[an insurer or a provident society as defined in Part III] means certified by a principal officer of ⁶[such insurer or provident society] to be a true copy or a correct translation, as the case may be;
- (6) "Court" means the principal Civil Court of original jurisdiction in a district, and includes the High Court in exercise of its ordinary original civil jurisdiction;
- (7) "Government securities" means Government securities as defined in the Securities Act, 1920; X of 1920.
- (8) "insurance company" means any insurer being a company, association or partnership which may be wound up under the Companies Act, 1913, or to which the Partnership Act, 1932, applies; VII of 1913,
IX of 1932.
- (9) "insurer" means—
 - (a) any individual or unincorporated body of individuals or body corporate incorporated under the law of any country ⁷[or State outside the Provinces], carrying on insurance business [not being a person specified in sub-clause (c) of this clause] which—
 - (i) carries on that business in ⁸[the Provinces and the Capital of the Federation]; or

¹ Subs. by the A. O., 1949, for "a Legislature established in British India".

² The words "by or on behalf of a port trust or municipal corporation or city improvement trust in any Presidency-town, or" omitted, *ibid.*

³ Added by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 2.

⁴ Subs. by the A. O., 1949, for "Indian State".

⁵ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 2, for "an insurer".

⁶ Subs. *ibid.*, for "the insurer".

⁷ Subs. by the A. O., 1949, for "other than British India".

⁸ Subs. *ibid.*, for "British India".

- (ii) has his or its principal place of business or is domiciled in ¹[the Provinces and the Capital of the Federation]; ²[or
 - (iii) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in ¹[the Provinces and the Capital of the Federation];]
 - (b) any body corporate [not being a person specified in sub-clause (c) of this clause] carrying on the business of insurance, which is a body corporate incorporated under any law for the time being in force in ¹[the Provinces and the Capital of the Federation]; or stands to any such body corporate in the relation of a subsidiary company within the meaning of the Companies Act, 1913, as defined by sub-section (2) of section 2 of that Act, and
 - (c) any person who in ¹[the Provinces and the Capital of the Federation] has a standing contract with underwriters who are members of the Society of Lloyd's whereby such person is authorised within the terms of such contract to issue protection notes, cover notes, or other documents granting insurance cover to others on behalf of the underwriters,
- but does not include an insurance agent licensed under section 42 or a provident society ³[as defined in Part III];
- (10) "insurance agent" means an insurance agent licensed under section 42 being an individual who receives or agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business;
 - (11) "life insurance business" includes annuity business, that is to say, the business of effecting contracts of insurance for the granting of annuities on human life and, if so provided in the contract of insurance, disability and double ⁴[or triple] indemnity accident benefits;
 - (12) "manager" and "officer" have the meanings assigned to those expressions in clauses (9) and (11) respectively of section 2 of the Companies Act, 1913;
 - (13) "managing agent" means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the control and direction of the directors except to the extent, if any, otherwise provided for in the agreement, and includes any person, firm or company occupying such position by whatever name called.

¹ Subs. by the A. O., 1949, for "British India".

² The word "or" and para. (iii) were added by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 2.

³ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 2, for "to which the provisions of Part III apply".

⁴ Ins. by Act 11 of 1939, s. 2.

(Part I.—Preliminary. Part II.—Provisions applicable to Insurers)

Explanation.—If a person occupying the position of managing agent calls himself manager or managing director, he shall nevertheless be regarded as managing agent for the purposes of section 32 of this Act;

- (14) “prescribed” means prescribed by rules made under section 114; and
- (15) “[Controller of Insurance]” means the officer, who shall ²[after the 31st day of December 1953] be a qualified actuary, appointed by the Central Government to perform the duties of the ¹[Controller of Insurance] under this Act.

PART II

PROVISIONS APPLICABLE TO INSURERS

Insurers to be subject to this Act while liabilities remain unsatisfied.

³2A. Every insurer shall be subject to all the provisions of this Act in relation to any class of insurance business so long as his liabilities in ⁴[the Provinces and the Capital of the Federation] in respect of business of that class remain unsatisfied or not otherwise provided for.

This Act not to apply to certain insurers ceasing to enter into new contracts before commencement of Act.

2B. The provisions of this Act shall not apply to an insurer as defined in paragraph (i) or (iii) of sub-clause (a) of clause (9) of section 2 in relation to any class of his insurance business where such insurer has ceased, before the commencement of this Act, to enter into any new contracts of that class of business.]

Registration.

3.—(1) No ⁵[person] shall, after the commencement of this Act, begin to carry on any class of insurance business in ⁴[the Provinces and the Capital of the Federation], and no insurer carrying on any class of insurance business in ⁴[the Provinces and the Capital of the Federation] shall, after the expiry of three months from the commencement of this Act, continue to carry on any such business, unless he has obtained from the ¹[Controller of Insurance] a certificate of registration ⁶[for the particular class of insurance business]:

⁷[Provided that in the case of an insurer who was carrying on any class of insurance business in ⁴[the Provinces and the Capital of the Federation] at the commencement of this Act, failure to obtain a certificate of registration in accordance with the requirements of

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for “Superintendent of Insurance” (with effect from the 15th May, 1950).

² Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 2.

³ Ss. 2A and 2B were ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 2A.

⁴ Subs. by the A. O., 1949, for “British India”.

⁵ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3, for “insurer”.

⁶ Ins. by Act 6 of 1946, s. 3.

⁷ Proviso added (with retrospective effect) by Act 20 of 1940, s. 3.

this sub-section shall not operate to invalidate any contract of insurance entered into by him if before ¹[such date² as may be fixed in this behalf by the Central Government by notification in the official Gazette], he has obtained that certificate.]

(2) Every application for registration shall be accompanied by—

- (a) a certified copy of the memorandum and articles of association, where the applicant is a company and incorporated under the Companies Act, 1913 ³[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] or, in the case of any other insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, a certified copy of the deed of partnership or of the deed of constitution of the company, as the case may be, or, in the case of an insurer having his principal place of business or domicile outside ⁴[the Provinces and the Capital of the Federation], the document specified in clause (a) of section 63;
- (b) the name, address and the occupation, if any, of the directors where the insurer is a company incorporated under the Companies Act, 1913, ³[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] and in the case of an insurer specified in sub-clause (a) (ii) of clause (9) of section 2 the names and addresses of the proprietors and of the manager in ⁴[the Provinces and the Capital of the Federation], and in any other case the full address of the principal office of the insurer in ⁴[the Provinces and the Capital of the Federation], and the names of the directors and the manager at such office and the name and address of some one or more persons resident in ⁴[the Provinces and the Capital of the Federation] authorised to accept any notice required to be served on the insurer;
- (c) a statement of the class or classes of insurance business done or to be done, and a statement that the amount required to be deposited by section 7 or section 98 before application for registration is made has been deposited together with a certificate from ⁵[the State Bank of Pakistan] showing the amount deposited;
- (d) where the provisions of section 6 or section 97 apply, a declaration verified by an affidavit made by the principal officer of the insurer authorised in that behalf that the provisions of those sections as to working capital have been complied with;

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 3, for "the expiry of one month from the commencement of the Insurance (Amendment) Act, 1940".

² The 1st August, 1942, for all insurers in British India, see Gazette of India, 1942, Pt. I, p. 1163.

³ Ins. by the Insurance (Second Amendment) Act, 1939 (41 of 1939), s. 2.

⁴ Subs. by the A. O., 1949, for "British India".

⁵ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

(Part II.—Provisions Applicable to Insurers)

(e) in the case of an insurer having his principal place of business or domicile ¹[outside Pakistan], a statement verified by an affidavit made by the principal officer of the insurer setting forth the requirements (if any) not applicable to nationals of the country in which such insurer is constituted, incorporated or domiciled which are imposed by the laws or practice of that country upon ²[Pakistan nationals] as a condition of carrying on insurance business in that country;

(f) a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate in connection with life insurance business by an actuary that such rates, advantages, terms and conditions are workable and sound:

Provided that in the case of marine, accident and miscellaneous insurance business other than workmen's compensation and motor car insurance the above requirements regarding prospectus, forms and statements shall be complied with only in so far as the prospectus, forms and statements may be available; and

(g) the ³[receipt showing payment in the prescribed manner of the prescribed fee which shall not be] more than ⁴[five] hundred rupees for each class of business.

(3) In the case of any insurer having his principal place of business or domicile ¹[outside Pakistan], the ⁵[Controller of Insurance] shall withhold registration or shall cancel a registration already made, if he is satisfied that in the country in which such insurer has his principal place of business or domicile ²[Pakistan nationals] are debarred by the law or practice of the country relating to, or applied to insurance from carrying on the business of insurance, or that any requirement imposed on such insurer under the provisions of section 62 is not satisfied.

⁶[(4) The ⁵[Controller of Insurance] shall cancel the registration of an insurer either wholly or in so far as it relates to a particular class of insurance business, as the case may be,—

(a) if the insurer fails to comply with the provisions of section 7 or section 98 as to deposits, or

(b) if the insurer is in liquidation or is adjudged an insolvent, or

¹ The original words "outside British India", were amended first by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3, and then by the A. O., 1949, to read as above.

² Subs. by the A. O., 1949, for "Indian nationals".

³ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 3, for "prescribed fee for registration being not".

⁴ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 3, for "One".

⁵ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁶ Sub-section (4) was subs. (with retrospective effect) by Act 20 of 1940, s. 3.

(Part II.—Provisions applicable to Insurers)

- (c) if the business or a class of the business of the insurer has been transferred to any person or has been transferred to or amalgamated with the business of any other insurer, or
 (d) if the whole of the deposit made in respect of a class of insurance business has been returned to the insurer under section 9;]¹[or]

¹[(e) if, in the case of an insurer specified in sub-clause (c) of clause (9) of section 2, the standing contract referred to in that sub-clause is cancelled or is suspended and continues to be suspended for a period of six months,

and the ²[Controller of Insurance] ³[may cancel the registration of an insurer—

- (f) if the insurer has failed to have the registration renewed, or
 (g) if the ²[Controller of Insurance] has reason to believe that any claim upon the insurer arising ⁴[in Pakistan] under any policy of insurance remains unpaid for three months after final judgment in regular course of law, or
 (h) if the insurer fails to comply with an order under section 3B]].

(5) When the ²[Controller of Insurance] withholds or cancels any registration under sub-section (3) or ⁵[clause (a), clause (e), clause (f), clause (g) or clause (h) of sub-section (4),] he shall give notice in writing to the insurer of his decision, and the decision shall take effect on such date as he may specify in that behalf in the notice, such date not being less than one month nor more than two months from the date of the receipt of the notice in the ordinary course of transmission.

⁶[(5A) When the ²[Controller of Insurance] cancels any registration under clause (b), clause (c) or clause (d) of sub-section (4) the cancellation shall take effect on the date on which notice of the order of cancellation is served on the insurer.

(5B) When a registration is cancelled the insurer shall not, after the cancellation has taken effect, enter into any new contracts of insurance, but all rights and liabilities in respect of contracts of insurance entered into by him before such cancellation takes effect shall, subject to the provisions of sub-section (5D), continue as if the cancellation had not taken place.

(5C) Where a registration is cancelled under ⁷[clause (a), clause (e),

¹ The word "or", clause (e) and the words following clause (e) were added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 3.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 3, for "may cancel the registration of an insurer if the insurer has failed to have the registration renewed".

⁴ Subs. by the A. O., 1949, for "in India".

⁵ Subs. by Act 6 of 1946, s. 3, for the original words as amended by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3 and Act 13 of 1941, s. 3, to read as above.

⁶ Sub-sections (5A) to (5D) were ins. by Act 20 of 1940, s. 3 (retrospectively).

⁷ Subs. by Act 6 of 1946, s. 3, for "clause (a) of sub-section (4), [clause (e) of sub-section (4), or because the insurer has failed to have his registration renewed]". The words in brackets had been ins. by Act 13 of 1941, s. 3.

clause (f), ~~clause (g) or clause (h) of sub-section (4),~~ the ¹[Controller of Insurance] may at his discretion revive the registration, if the insurer with ~~him~~ ²makes the deposits required by section 7 or section 98, ³[or has his standing contract restored or has had an application under sub-section (4) of section 3A accepted], ⁴[or satisfies the ¹[Controller of Insurance] that no claim upon him such as is referred to in clause (g) of sub-section (4) remains unpaid or that he has complied with ~~the~~ ⁵the order under section 3B,] as the case may be, and complies with any directions which may be given to him by the ¹[Controller of Insurance].

(5D) Where ⁴[the registration of an insurance company is cancelled under sub-section (4), the ¹[Controller of Insurance] may,] after the expiry of six months from the date on which the cancellation took effect, apply to the Court for an order to wind up the insurance company, or to wind up the affairs of the company in respect of a class of insurance business, unless the registration of the insurance company has been revived under sub-section (5C) or an application for winding up the company has been already presented to the Court. The Court may proceed as if an application under this sub-section were an application under sub-section (2) of section 53, or sub-section (1) of section 58, as the case may be.]

(6) ⁵[Subject to compliance with the provisions of sections 5, 10 and 32 and of any order made under section 3B, the ¹[Controller of Insurance]] shall, on being satisfied that the applicant has fulfilled all the requirements of ⁶[this section] applicable to him, ⁷[register the insurer and grant him] a certificate of registration.

⁸[(7) The ¹[Controller of Insurance] may, on payment of the prescribed fee which shall not exceed twenty-five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where he is of opinion that the issue of a duplicate certificate is necessary.]

Renewal of Registration.

⁹[3A.—(1) An insurer who has been granted a certificate of registration under section 3 shall have the registration renewed annually for each year after that ending on the 31st day of December, 1941.

(2) An application for the renewal of a registration for any year shall be made by the insurer to the ¹[Controller of Insurance] before the 31st day of December of the preceding year, and shall be accompanied as provided in sub-section (3) by evidence of payment of the prescribed fee which shall not exceed one thousand rupees for each

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² These words, brackets, letter and figure were ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 3.

³ Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 3.

⁴ Subs. *ibid.*, for certain original words.

⁵ Subs. *ibid.*, for "The Superintendent of Insurance".

⁶ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 3, for "the Act".

⁷ Subs. *ibid.*, for "grant the insurer".

⁸ Ins. by Act 6 of 1946, s. 3.

⁹ S. 3A was ins. by Act 13 of 1941, s. 4.

(Part II.—Provisions applicable to Insurers)

class of insurance business, but may vary according to the volume of business done by the insurer ¹[in Pakistan] in each class of insurance business to which the registration relates.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into ²[the State Bank of Pakistan], or, where there is no office of that Bank, into the Imperial Bank of India acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If an insurer fails to apply for renewal of registration before the date specified in sub-section (2) the ³[Controller of Insurance] may, so long as an application to the Court under sub-section (5D) of section 3 has not been made, accept an application for renewal of the registration on receipt from the insurer of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by him; as the ³[Controller of Insurance] may require :

Provided that an appeal shall lie to the Central Government from an order passed by the ³[Controller of Insurance] imposing a penalty on the insurer.

(5) The ³[Controller of Insurance] shall, on fulfilment by the insurer of the requirements of this section, renew the registration and grant him a certificate of renewal of registration.]

4[3B. If, when considering an application for registration under section 3 or at any other time, it appears to the ³[Controller of Insurance] that the assured rates, advantages, terms and conditions offered or to be offered in connection with life insurance business are in any respect not workable or sound, he may require that a statement thereof shall be submitted to an actuary appointed by the insurer for the purpose and approved by the ³[Controller of Insurance], and may by order in writing further require the insurer to make within such time as may be specified in the order such modifications in the said rates, advantages, terms or conditions, as the case may be, as the said actuary may report to be necessary to enable him to certify that the said rates, advantages, terms and conditions are workable and sound.]

Certification of soundness of terms of life insurance business.

4.—(1) No insurer, ⁵* * * shall pay or undertake to pay on any policy of life insurance issued after the ⁶[commencement of the Insurance (Amendment) Act, 1946,] an annuity of ⁷[less than

Minimum limits for annuities and other

¹ Subs. by the A. O., 1949, for "in India".

² Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ S. 3B ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 4.

⁵ The words "not being [a provident society as defined in Part III], or a Co-operative Life Insurance Society or a Mutual Insurance Company to which Part IV of this Act applies," omitted by Act 6 of 1946, s. 5. The words in brackets had been subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 5, for "a provident society to which Part III".

⁶ Subs. by Act 6 of 1946, s. 5, for "commencement of this Act,".

⁷ Subs. *ibid.*, for "fifty rupees or less or a gross sum of rupees five hundred or less".

(Part II.—Provisions applicable to Insurers)

benefits
secured by
policies of
life insur-
ance.

one hundred rupees or a gross sum of less than one thousand rupees] exclusive of any profit or bonus provided that this shall not prevent an insurer from converting any policy into a paid up policy of any value or payment of surrender value of any amount.

¹[(2) Nothing contained in this section shall apply to any policy of the description known as a group policy, where the number of persons covered by the policy is not less than fifty or such smaller number as may be approved by the ²[Controller of Insurance] and a standard form of the policy has been certified in writing by the ²[Controller of Insurance] to be a policy of such description] ³[or to any policy undertaking to pay a gross sum of more than five hundred rupees or an annuity of more than fifty rupees, issued—

(a) by an insurer to any person in his permanent employ in respect of the life of that person, or

(b) under any scheme, approved by the ²[Controller of Insurance] and complying with such conditions, if any, as he may think fit to impose, whereby premiums due from persons employed under any employer are collected by or under the supervision of the employer,

or to any policy issued by a Mutual Insurance Company to which Part IV applies and which the ²[Controller of Insurance] may by order in writing exempt from the provisions of this section, for so long as the company complies with such conditions if any, as may be prescribed.]

Restriction
on name of
insurer.

5.—(1) An insurer shall not be registered by a name identical with that by which an insurer in existence is already registered, or so nearly resembling that name as to be calculated to deceive except when the insurer in existence is in the course of being dissolved and signifies his consent to the ²[Controller of Insurance].

(2) If an insurer, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer already in existence whether previously registered or not is carrying on business or so nearly resembling it as to be calculated to deceive, the first-mentioned insurer shall, if called upon to do so by the ²[Controller of Insurance] on the application of the second-mentioned insurer, change his name within a time to be fixed by the ²[Controller of Insurance]:

Provided that nothing in this section shall apply to any insurer carrying on business before the 27th day of January, 1937, under the Indian Life Assurance Companies Act, 1912: VI. of 1912.

⁴[Provided further that in the application of this section to any insurer who begins to carry on insurance business after the commencement of the Insurance (Amendment) Act, 1946, the references to an insurer in existence in sub-section (1) and this sub-section shall be construed as including references to a provident society (as defined VI. of 1946.

¹ This sub-section was subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 5.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Added by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 5.

⁴ Proviso added, *ibid.*, s. 6.

(Part II.—Provisions applicable to Insurers)

in Part III) in existence, whether or not the society is in the course of being dissolved.]

(3) No insurer other than a provident society ¹[as defined in Part III], who begins to carry on insurance business after the commencement of this Act, shall adopt as its name and no such insurer carrying on business before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name any combination of words which includes the word "provident".

6. No insurer incorporated after, or who commenced carrying on the business of life insurance in ²[the Provinces and the Capital of the Federation], whether solely or in common with any other business, after the 26th day of January, 1937, shall be registered unless he has as working capital a net sum of not less than fifty thousand rupees exclusive of the deposit to be made before registration under sub-section (5) of section 7 of this Act, and exclusive in the case of a company of any sums payable as preliminary expenses in the formation of the company. Requirements as to capital.

7.—(1) Every insurer not being an insurer specified in sub-clause (c) of clause (9) of section 2 shall, in respect of the insurance business carried on by him in ²[the Provinces and the Capital of the Federation], deposit and keep deposited with ³[the State Bank of Pakistan], in one of the offices ⁴[in Pakistan] of the Bank for and on behalf of the Central Government ⁵[the amount hereafter specified, either in cash or in approved securities estimated at the market value of the securities on the day of deposit, or partly in cash and partly in approved securities so estimated]: Deposits.

- ⁶[(a) where the business done or to be done is life insurance only, ⁷[two] hundred thousand rupees;
- (b) where the business done or to be done is fire insurance only, ⁸[one hundred and fifty] thousand rupees;
- (c) where the business done or to be done is marine insurance only, ⁸[one hundred and fifty] thousand rupees;
- (d) where the business done or to be done is miscellaneous insurance only that is to say, insurance which is not in the opinion of the Central Government principally or wholly of any kind or kinds included in clauses (a), (b), or (c), ⁸[one hundred and fifty] thousand rupees;

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 6, for "to which Part III applies".

² Subs. by the A. O., 1949, for "British India".

³ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

⁴ Subs. by the A. O., 1949, for "in India".

⁵ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 4, for "cash or approved securities estimated at the market value of the securities on the day of deposit of the amount hereafter specified, namely" (with retrospective effect).

⁶ Subs. by the Insurance (Amendment) Act, 1948 (6 of 1948), s. 2, for the original sub-clauses (a) to (i) as amended by Act 20 of 1940.

⁷ Subs. by the Insurance (Amendment) Act, 1951 (33 of 1951), s. 2 (with effect from the 1st April, 1952), for "one".

⁸ Subs. *ibid.*, for "seventy-five".

(Part II.—Provisions applicable to Insurers)

- (e) where the business done or to be done is life insurance and any one of the three classes specified in clauses (b), (c), and (d), ¹[three hundred] thousand rupees of which ²[two hundred] thousand rupees shall be the deposit for life insurance business;
- (f) where the business done or to be done is life insurance and any two of the three classes specified in clauses (b), (c), and (d), ³[four hundred] thousand rupees of which ²[two hundred] thousand rupees shall be the deposit for life insurance business;
- (g) where the business done or to be done is life insurance and all three classes specified in clauses (b), (c), and (d), ⁴[four hundred and fifty] thousand rupees of which ²[two hundred] thousand rupees shall be the deposit for life insurance business;
- (h) where the business done or to be done does not include life insurance but falls under any two of the classes specified in clauses (b), (c) and (d) ⁵[two hundred and fifty] thousand rupees;
- (i) where the business done or to be done does not include life insurance but falls under all three classes specified in clauses (b), (c) and (d), ⁶[three hundred and fifty] thousand rupees;] ^{7*}

7* * * * * *

⁸[Provided that, where the business done or to be done is marine insurance only and relates exclusively to country craft or its cargo of both, the amount to be deposited under this sub-section shall be ten thousand rupees only.]

(2) Where the insurer is an insurer specified in sub-clause (c) of clause (9) of section 2, he shall be deemed to have complied with the provisions of this section as to deposits, if in respect of any class of insurance business ⁹[carried on] by him in ¹⁰[the Provinces and the Capital of the Federation] under a standing contract of the nature referred to in sub-clause (c) of clause (9) of section 2 a deposit of an amount one-and-a-half times that specified in sub-section (1) as the deposit for that class of insurance business has been made in ¹¹[the

¹ Subs. by the Insurance (Amendment) Act, 1951 (33 of 1951), s. 2 (with effect from the 1st April, 1952), for "one hundred and fifty".

² Subs. *ibid.*, for "one hundred" (with effect from the 1st April, 1952).

³ Subs. *ibid.*, for "two hundred" (with effect from the 1st April, 1952).

⁴ Subs. *ibid.*, for "two hundred and twenty-five".

⁵ Subs. *ibid.*, for "one hundred and twenty-five" (with effect from the 1st April, 1952).

⁶ Subs. *ibid.*, for "one hundred and seventy-five" (with effect from the 1st April, 1952).

⁷ The word "and" and clause (j) were omitted by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 4.

⁸ Proviso added, *ibid.*

⁹ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 3, for "transacted".

¹⁰ Subs. by the A. O., 1949, for "British India".

¹¹ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

(Part II.—Provisions applicable to Insurers)

State Bank of Pakistan] in one of the offices ¹[in Pakistan] of the Bank for and on behalf of the Central Government in cash or approved securities estimated at the market value of the securities on the day of deposit by or on behalf of the underwriters who are members of the Society of Lloyd's with whom he has his standing contract.

(3) Where the deposit is to be made by an insurer incorporated before, or carrying on the business of insurance in ²[the Provinces and the Capital of the Federation] before, the 27th day of January, 1937, the deposit referred to in sub-section (1) may be made in not more than seven instalments, of which the first shall be not less than one-fourth of the total amount of the deposit and shall be paid before the application for registration is made, the second shall be not less than one-sixth of the balance of the deposit and shall be paid before ³[the expiry of four months from the commencement of this Act], and the subsequent instalments shall be of not less than the minimum amount required as the second instalment and shall be paid before the 1st day of January of each succeeding year:

Provided that in the case of insurers carrying on life insurance business only, the deposit may be made in not more than ten instalments, of which the first shall be not less than one-fourth of the total amount of the deposit, and shall be paid before the application for registration is made, the second shall be not less than one-ninth of the balance of the deposit, and shall be paid before ³[the expiry of four months from the commencement of this Act], and the subsequent instalments shall be of not less than the minimum amount required as the second instalment, and shall be paid before the 1st day of January of each succeeding year.

(4) Notwithstanding anything contained in sub-section (3), in the case of an insurer ⁴[to whom that sub-section applies,] not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, ⁵* * *, the deposit referred to in sub-section (1) shall be made in two instalments of which the first shall be not less than one-half of the total amount of the deposit and shall be made before the application for registration is made, and the second shall be made before the expiry of one year from the date of registration.

(5) Where the deposit is to be made by an insurer neither incorporated before, nor carrying on insurance business in ²[the Provinces and the Capital of the Federation] before, the 27th day of January, 1937, the deposit may be made in instalments of not less than one-fourth the total amount before the application for registration is made, not less than one-third the balance before the expiry of one year from the commencement of business in ²[the Provinces and the Capital of the Federation] and not less than one-half the residue before the expiry of two years from the commencement of business in ²[the Provinces and the Capital of the Federation], and the

¹ Subs. by the A. O., 1949, for "in India".

² Subs. *ibid.*, for "British India".

³ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 3, for "the 1st day of January, 1939".

⁴ Ins., *ibid.*

⁵ The words "and not being an insurer incorporated in or domiciled in the United Kingdom" omitted by the Insurance (Amendment) Act, 1951 (33 of 1951), s. 2 (with effect from the 1st April, 1952).

(Part II.—Provisions applicable to Insurers)

balance before the expiry of three years from the commencement of business in ¹[the Provinces and the Capital of the Federation]:

Provided that in the case of any insurer not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, 2* * *, the deposit shall be made in full before the application for registration is made.

(6) No class of insurance business in addition to the class or classes in respect of which an insurer is already liable to make a deposit under sub-section (1) or sub-section (2) shall be undertaken by the insurer until the deposit to which he is already liable has been made in full, and the additional deposit required in respect of the additional class of business or so much thereof as under the provisions of sub-section (3), (4) or (5) is to be made before the application for registration, has also been made in full.

(7) Securities already deposited with the Controller of Currency in compliance with the Indian Life Assurance Companies Act, 1912, shall be transferred by him to ³[the State Bank of Pakistan] and shall, to the extent of their market value ⁴[as at the date of the commencement of this Act], be deemed to be deposited under this Act ⁵[as the instalment or as part of the instalment to be made under the foregoing provisions of this section before the application for registration is made whether any such application is or is not in fact made]. VI of 1912.

(8) A deposit made in cash shall be held by ³[the State Bank of Pakistan] to the credit of the insurer and shall ⁶[except to the extent, if any, to which the cash has been invested in securities under sub-section (9A)], be returnable to the insurer in cash in any case in which under the provisions of this Act a deposit is to be returned; and any interest accruing due and collected on securities deposited under sub-section (1) or sub-section (2) shall be paid to the insurer, subject only to deduction of the normal commission chargeable for the realization of interest.

⁷[(9) The insurer may at any time replace any securities deposited by him under this section with ³[the State Bank of Pakistan] either by cash or by other approved securities or partly by cash and partly by other approved securities, provided that such cash, or the value of such other approved securities estimated at the market rates prevailing at the time of replacement, or such cash together with such value, as the case may be, is not less than the value of the securities replaced estimated at the market rates prevailing when they were deposited.

¹ Subs. by the A. O., 1949, for "British India".

² The words "and not being an insurer incorporated in or domiciled in the United Kingdom" omitted by the Insurance (Amendment) Act, 1951 (33 of 1951), s. 2 (with effect from the 1st April, 1952).

³ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. O. 18 of 1948), for "the Reserve Bank of India".

⁴ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 4 (retrospectively), for "on the day of the first deposit made in compliance with this Act".

⁵ Subs. *ibid.* (with retrospective effect), for "in respect of the life insurance business of the insurer".

⁶ Ins., *ibid.* (with retrospective effect).

⁷ Sub-sections (9), (9A) and (9B) were subs. *ibid.*, for the original sub-section (9) (with retrospective effect).

(Part II.—Provisions applicable to Insurers)

(9A) ¹[The State Bank of Pakistan] shall, if so requested by the insurer,—

- (a) sell any securities deposited by him with the Bank under this section and hold the cash realised by such sale as deposit, or
- (b) invest in approved securities specified by the insurer the whole or any part of a deposit held by it in cash or the whole or any part of cash received by it on the sale of or on the maturing of securities deposited by the insurer, and hold the securities in which investment is so made as deposit, ²[and may charge the normal commission on such sale or on such investment].

(9B) Where sub-section (9A) applies,—

- (a) if the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) falls short of the market value of the securities at the date on which they were deposited with the Bank, the insurer shall make good the deficiency by a further deposit either in cash or in approved securities estimated at the market value of the securities on the day on which they are deposited, or partly in cash and partly in approved securities so estimated, within a period of two months from the date on which the securities matured or were sold or where the securities matured or were sold before the 21st day of March 1940, within a period of four months from the commencement of the Insurance (Amendment) Act, 1940; and unless he does so the insurer shall be deemed to have failed to comply with the requirements of this section as to deposits; and
- (b) if the cash realised by the sale of or on the maturing of the securities (excluding in the former case the interest accrued) exceeds the market value of the securities at the date on which they were deposited with the Bank, the Central Government may, if satisfied that the full amount required to be deposited under sub-section (1) is in deposit, direct ³[the State Bank] to return the excess.]

(10) If any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall deposit such additional sum in cash or approved securities ⁴[estimated at the market value of the securities on the day of deposit, or partly in cash and partly in such securities,] as will make up the amount so used. The insurer shall be deemed to have failed to comply with the requirements of sub-section (1), unless the deficiency is supplied within a period of two months from the date when the deposit or any part thereof is so used for discharge of liabilities.

8.—(1) Any deposit made under section 7 ⁵[or section 98] shall be deemed to be part of the assets of the insurer but shall not be

Reservation
of deposits.

¹ See foot-note 3 on page 254, *supra*.

² Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 7.

³ Subs. by G. G. O. 18 of 1948, for "the Reserve Bank".

⁴ Ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 4.

⁵ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 4.

(Part II.—Provisions applicable to Insurers)

susceptible of any assignment or charge; nor shall it be available for the discharge of any liability of the insurer other than liabilities arising out of policies of insurance issued by the insurer so long as any such liabilities remain undischarged; nor shall it be liable to attachment in execution of any decree except a decree obtained by a policy-holder of the insurer in respect of a debt due upon a policy which debt the policy-holder has failed to realise in any other way.

(2) Where a deposit is made in respect of life insurance business the deposit made in respect thereof shall not be available for the discharge of any liability of the insurer other than liabilities arising out of policies of life insurance issued by the insurer.

Refund of
deposits.

9.—¹[(1)] Where an insurer has ceased to carry on in ²[the Provinces and the Capital of the Federation] any class of insurance business in respect of which a deposit has been made under section 7 ³[or section 98] and his liabilities in ⁴[the Provinces and the Capital of the Federation] in respect of business of that class have been satisfied or are otherwise provided for, the Court may, on the application of the insurer, order the return to the insurer of so much of the deposit as does not relate to the classes of insurance, if any, which he continues to carry on.

⁴[(2) An application under this section shall, if the applicant is carrying on any insurance business in any ⁵[Acceding State or a non-Acceding State] notified in this behalf by the Central Government in the official Gazette, be accompanied by a statement to that effect, and in such a case the Court shall not order the return of any deposit under this section unless it is satisfied, after giving notice to the chief insurance authority of ⁶[that State], that the liabilities of the applicant to that State in respect of the class of business concerned have been satisfied or are otherwise provided for.]

Separation
of accounts
and funds.

10.—(1) Where the insurer carries on business of more than one of the classes specified in clauses (a), (b), (c) and (d) of sub-section (1) of section 7, he shall keep ⁷a separate account of all receipts and payments in respect of each such class of insurance business ⁷[and where the insurer carries on business of the class specified in clause (d) of that sub-section whether alone or in conjunction with business of another class, he shall, unless the ⁸[Controller of Insurance] waives this requirement in writing, keep a separate account of all receipts and payments in respect of each such sub-class of the class specified in clause (d) as may be prescribed in this behalf:

Provided that no sub-class of the class of insurance business specified in clause (d) of sub-section (1) of section 7 shall be prescribed under this sub-section if the insurance business comprised in the sub-class consists of insurance contracts which are terminable by

¹ Re-numbered by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 7.

² Subs. by the A. O., 1949, for "British India".

³ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 5.

⁴ Sub-section (2) added by Act 6 of 1946, s. 7.

⁵ Subs. by the A. O., 1949, for "Indian State".

⁶ Subs. *ibid.*, for "the Indian State".

⁷ Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 8.

⁸ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

(Part II.—Provisions applicable to Insurers)

the insurer at intervals not exceeding twelve months and under which, if a claim arises, the insurer's liability to pay benefit ceases within one year of the date on which the claim arose.]

(2) Where the insurer carries on the business of life insurance, ¹[all receipts due in respect of such business], shall be carried to and shall form a separate fund to be called the life insurance fund ²[the assets of which shall, after the expiry of six months from the commencement of the Insurance (Amendment) Act, 1946, be kept distinct and separate from all other assets of the insurer] and the deposit made by the insurer in respect of life insurance business shall be deemed to be ³[part of the assets of such fund; and a statement, certified by an auditor showing such assets as at the close of every calendar year and as at any other date which the ⁴[Controller of Insurance] may specify, shall be furnished to the ⁴[Controller of Insurance] within a period of three months from the date to which the statement relates or within such further period, not exceeding one month, as the Central Government may in any case think fit to allow].

²[(2A) No insurer carrying on life insurance business shall be entitled to be registered for any class of insurance business in addition to the class or classes for which he has been already registered unless the ⁴[Controller of Insurance] is satisfied that the assets of the life insurance fund of the insurer are adequate to meet all his liabilities on policies of life insurance maturing for payment.]

(3) The life insurance fund shall be as absolutely the security of the life policy-holders as though it belonged to an insurer carrying on no other business than life insurance business and shall not be liable for any contracts of the insurer for which it would not have been liable had the business of the insurer been only that of life insurance and shall not be applied directly or indirectly ⁵* * * for any purposes ⁶[other than those of the life insurance business of the insurer].

711.—(1) Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him ⁸[in Pakistan], shall at the expiration of each calendar year prepare with reference to that year—

Accounts
and balance-
sheet.

(a) in accordance with the regulations contained in Part I of the First Schedule, a balance-sheet in the form set forth in Part II of that Schedule;

(b) in accordance with the regulations contained in Part I of the Second Schedule, a profit and loss account in the forms set forth in Part II of that Schedule, except where the insurer

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 8, for "the excess of receipts over payments in respect of such business".

² Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 8.

³ Subs. *ibid.*, for "part of such fund".

⁴ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁵ The words and figures "save as provided in section 49" omitted by Act 13 of 1941, s. 8.

⁶ Subs. *ibid.*, for "other than those of life insurance".

⁷ See also the Insurance (Amendment) Act, 1944 (7 of 1944), s. 5.

⁸ Subs. by the A. O., 1949, for "in India".

(Part II.—Provisions applicable to Insurers)

carries on business of one class only of the classes specified in clauses (a), (b) and (c) of sub-section (1) of section 7 and no other business;

- ¹[(c) in respect of each class or sub-class of insurance business for which he is required under sub-section (1) of section 10 to keep a separate account of receipts and payments, a revenue account in accordance with the regulations, and in the form or forms, set forth in the Third Schedule applicable to that class or sub-class of insurance business.]

(2) Unless the insurer is a company ²[as defined in clause (2) of sub-section (1) of section 2 of the Companies Act, 1913,] the accounts and statements referred to in sub-section (1) shall be signed by the insurer, or in the case of a company by the chairman, if any, and two directors and the principal officer of the company, or in the case of a firm by two partners of the firm, and shall be accompanied by a statement containing the names and descriptions of the persons in charge of the management of the business during the period to which such accounts and statements refer and by a report by such persons on the affairs of the business during that period. VII of 1913.

(3) Where an insurer carrying on the business of insurance at the commencement of this Act has prepared the balance-sheet and accounts required by the Indian Life Assurance Companies Act, 1912, or has based his accounts upon the financial and not the calendar year, the provisions of this section shall, if the Central Government so directs in any case apply until the 31st day of December, 1939, as if in sub-section (1) references to the calendar year were references to the financial year. VI of 1912.

Audit.

12. The balance-sheet, profit and loss account, revenue account and profit and loss appropriation account of every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all insurance business transacted by him, and in the case of any other insurer in respect of the insurance business transacted by him ³[in Pakistan], shall, unless they are subject to audit under the Companies Act, 1913, be audited annually by an auditor, and the auditor shall in the audit of all such accounts have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities and penalties imposed on, auditors of companies by section 145 of the Companies Act, 1913. VII of 1913.

Actuarial report and abstract.

13.—(1) Every insurer carrying on life insurance business shall, in respect of the life insurance business transacted by him ³[in Pakistan], and also in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all life insurance business transacted by him, once at least in every five years cause an investigation to be made by an actuary into the financial condition of the life insurance business carried on by him, including a valuation of his liabilities in respect thereto and shall cause an abstract of the VII of 1913.

¹ The original clause (c) has been successively amended by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 9 and the Insurance (Amendment) Act 1946 (6 of 1946), s. 9, to read as above.

² Subs. by Act 13 of 1941, s. 9, for "to which the Indian Companies Act, 1913, applies".

³ Subs. by the A. O., 1949, for "in India".

(Part II.—Provisions applicable to Insurers)

report of such actuary to be made in accordance with the regulations contained in Part I of the Fourth Schedule and in conformity with the requirements of Part II of that Schedule.

(2) The provisions of sub-section (1) regarding the making of an abstract shall apply whenever at any other time an investigation into the financial condition of the insurer is made with a view to the distribution of profits or an investigation is made of which the results are made public.

(3) There shall be appended to every such abstract as is referred to in sub-section (1) or sub-section (2) a certificate signed by the principal officer of the insurer that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(4) There shall be appended to every such abstract a statement, in conformity with the requirements of Part II of the Fifth Schedule and prepared in accordance with the regulations contained in Part I of that Schedule, of the life insurance business in force at the date to which the accounts of the insurer are made up for the purposes of such abstract:

Provided that, if the investigation, referred to in sub-sections (1) and (2) is made annually by any insurer, the statement need not be appended every year but shall be appended at least once in every five years.

(5) Where an investigation into the financial condition of an insurer is made as at a date other than the expiration of the year of account, the accounts for the period since the expiration of the last year of account and the balance-sheet as at the date at which the investigation is made shall be prepared and audited in the manner provided by this Act.

[(6) The provisions of this section relating to life insurance business shall apply also to any such sub-class of insurance business included in the class "Miscellaneous Insurance" as may be prescribed under sub-section (1) of section 10; and the ²[Controller of Insurance] may authorise such modifications and variations of the regulations contained in Part I of the Fourth and Fifth Schedules and of the requirements of Part II of those Schedules as may be necessary to facilitate their application to any such sub-class of insurance business:

Provided that, if the ²[Controller of Insurance] is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so small as to render periodic investigation and valuation unnecessary, he may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business.]

14. Every insurer, in the case of an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2 in respect of all business transacted by him, and in the case of any other insurer in

Register of policies and register of claims.

¹ Sub-section (6) added by the Insurance (Amendment) Act, 1941 (13 of 1941), section 10.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

(Part II.—Provisions applicable to Insurers)

respect of the insurance business transacted by him ¹[in Pakistan], shall maintain—

- (a) a register or record of policies, in which shall be entered, in respect of every policy issued by the insurer, the name and address of the policy-holder, the date when the policy was effected and a record of any transfer, assignment or nomination of which the insurer has notice, and
- (b) a register or record of claims, in which shall be entered every claim made together with the date of the claim, the name and address of the claimant and the date on which the claim was discharged, or, in the case of a claim which is rejected, the date of rejection and the grounds therefor.

Submission
of returns.

15.—(1) The audited accounts and statements referred to in section 11 ²[or sub-section (5) of section 13] and the abstract and statement referred to in section 13 shall be printed, and four copies thereof shall be furnished as returns to the ³[Controller of Insurance] ⁴[in the case of the accounts and statements referred to in section 11 ²[or sub-section (5) of section 13] within six months and in the case of the abstract and statement referred to in section 13 within nine months] from the end of the period to which they refer. ⁵ * * *:

Provided that the said period of six months shall in the case of insurers having their principal place of business or domicile ⁶[outside Pakistan] and in the case of insurers constituted, incorporated or domiciled in ⁷[the Provinces and the Capital of the Federation] but also carrying on business ⁶[outside Pakistan] be extended by three months, and provided further that the Central Government may in any case extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding three months.

(2) Of the four copies so furnished one shall be signed in the case of a company by the chairman and two directors and by the principal officer of the company and, if the company has a managing director or managing agent, by that director or managing agent, in the case of a firm, by two partners of the firm, and, in the case of an insurer being an individual, by the insurer himself ⁸[and one shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be].

(3) Where the insurer's principal place of business or domicile is outside ⁷[the Provinces and the Capital of the Federation], he shall forward to the ³[Controller of Insurance], along with the documents referred to in section 11, the balance-sheet, profit and loss account

¹ Subs. by the A. O., 1949, for "in India".

² Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 10.

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 11, for "within six months".

⁵ The words "The Superintendent of Insurance may extend the time allowed for furnishing the abstract and statement referred to in section 13 by a period not exceeding three months" omitted, *ibid.*

⁶ Subs. by the A. O., 1949, for "outside India".

⁷ Subs. *ibid.*, for "British India".

⁸ Added by Act 6 of 1946, s. 10.

(Part II.—Provisions applicable to Insurers)

and revenue account and the valuation reports and valuation statements, if any, which the insurer is required to file with the public authority of the country in which the insurer is constituted, incorporated or domiciled, or, where such documents are not required to be filed, a certified statement showing the total assets and liabilities of the insurer at the close of the period covered by the said documents and his total income and expenditure during that period.

16.—(1) Where by the law of the country in which an insurer, not being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, is constituted, incorporated or domiciled, the insurer is required to prepare and to furnish to a public authority of that country documents of substantially the same nature as the documents required to be furnished as returns in accordance with the provisions of section 15, the provisions of sub-section (2) of this section shall apply to such insurer in lieu of the provisions of sections 11, 12, 13 and 15.

Returns by
insurers
established
outside the
Provinces,
etc.

(2) The insurer shall, within the time specified in sub-section (1) of section 15, furnish to the ²[Controller of Insurance] four certified copies in the English language of every balance-sheet, account, abstract, report and statement supplied to the public authority referred to in sub-section (1) of this section, and in addition thereto, ³[four certified copies] in the English language of each of the following statements, namely:—

(a) a statement ⁴[audited ⁵[by an auditor or] by a person duly qualified under the law of the insurer's country] showing the assets held by the insurer ⁶[in Pakistan] ⁷[as at the date of any balance-sheet so furnished];

(b) ⁸[for each class or sub-class of insurance business for which he is required under sub-section (1) of section 10 to keep a separate account of receipts and payments, a revenue account for the period covered by any account so ⁹[furnished, prepared in accordance with the regulations, and in the form or forms, set forth in]] the Third Schedule applicable to ¹⁰[that class or sub-class of insurance business] ⁴[and similarly audited,] showing separately with respect to business transacted by the insurer ⁶[in Pakistan] the details required to be supplied in a revenue account furnished under this clause of this sub-section;

¹¹[(c) a separate abstract of the valuation report in respect of all business transacted ⁶[in Pakistan] in each class or sub-class

¹ See also the Insurance (Amendment) Act, 1944 (7 of 1944), s. 5.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Subs. by Act 11 of 1939, s. 7, for "four copies".

⁴ Ins., *ibid.*

⁵ Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 11.

⁶ Subs. by the A. O., 1949, for "in India".

⁷ Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 12.

⁸ Subs. *ibid.*, for "for each class of insurance business carried on by him a revenue account".

⁹ Subs. by Act 6 of 1946, s. 11, for "furnished in the form or forms set forth in Part II of".

¹⁰ Subs. by Act 13 of 1941, s. 12, for "that class of business".

¹¹ Subs. *ibid.*, for the original clause (c).

(Part II.—Provisions applicable to Insurers)

of insurance business to which section 13 refers, prepared in the manner required by that section, and];

- (d) a declaration in the prescribed form stating that all amounts received by the insurer directly or indirectly whether from his head office or from any other source [outside Pakistan] have been shown in the revenue account except such sums as properly appertain to the capital account.

Exemption from certain provisions of the Companies Act, 1913.

17. Where an insurer, being a company incorporated under the Companies Act, 1913 ²[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] in any year furnishes ³[his balance-sheet and accounts] in accordance with the provisions of section 15, he may at the same time send to the Registrar of Companies ⁴[copies of such balance-sheet and accounts]; and ⁵[where such copies are so sent] it shall not be necessary for the company ⁶[to file copies of the balance-sheet and accounts] with the Registrar as required by sub-section (1) of section 134 of ⁷[the first mentioned Act] and ⁸[such copies so sent] ⁹[shall be chargeable with the same fees and] shall be dealt with in all respects as if they were filed in accordance with that section.

VII of 1913.
VI of 1882.
X of 1866.

This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force.

¹⁰[17A. Nothing in this Act shall apply to the preparation of accounts by an insurer and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act, and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act.]

Furnishing reports.

18. Every insurer shall furnish to the ¹¹[Controller of Insurance] a certified copy of every report on the affairs of the concern which is submitted to the members or policy-holders of the insurer immediately after its submission to the members or policy-holders as the case may be.

Abstract of proceedings of general meetings.

19. Every insurer, being a company or body incorporated under any law for the time being in force in ¹²[the Provinces and the Capital of the Federation], shall furnish to the ¹¹[Controller of Insurance] an abstract of the proceedings of every general meeting within thirty days from the holding of the meeting to which it relates.

¹ Subs. by the A. O., 1949, for "outside India".

² Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 8.

³ Subs. *ibid.*, for "his accounts and balance-sheet".

⁴ Subs. *ibid.*, for "a copy of such accounts and balance-sheet".

⁵ Subs. *ibid.*, for "where such copy is so sent".

⁶ Subs. *ibid.*, for "to file a balance-sheet".

⁷ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 12, for "that Act".

⁸ Subs. by Act 11 of 1939, s. 8, for "the copy of the accounts and balance-sheet so sent".

⁹ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 13.

¹⁰ S. 17A ins. by Act 11 of 1939, s. 9.

¹¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

¹² Subs. by the A. O., 1949, for "British India".

(Part II.—Provisions applicable to Insurers)

20.—(1) Every return furnished to the ¹[Controller of Insurance] or a certified copy thereof shall be kept by the ²[Controller] and shall be open to inspection; and any person may procure a copy of any such return, or of any part thereof, on payment of a fee of six annas for every hundred words or fractional part thereof required to be copied, any five figures being deemed equivalent to one word.

Custody and inspection of documents and supply of copies.

(2) A printed or certified copy of the accounts, statements and abstract furnished in accordance with the provisions of section 15 or section 16 shall, on the application of any shareholder or policy-holder made at any time within two years from the date on which the document was so furnished, be supplied to him by the insurer within fourteen days when the insurer is constituted, incorporated or domiciled in ³[the Provinces and the Capital of the Federation] and in any other case within one month of such application.

(3) A copy of the memorandum and articles of association of the insurer, if a company, shall on the application of any policy-holder, be supplied to him by the insurer on payment of one rupee.

21.—(1) If it appears to the ¹[Controller of Insurance] that any return furnished to him under the provisions of this Act is inaccurate or defective in any respect, he may—

Powers of Controller of Insurance regarding returns.

- (a) require from the insurer such further information, certified if he so directs by an auditor or actuary, as he may consider necessary to correct or supplement such return;
- (b) call upon the insurer to submit for his examination at the principal place of business of the insurer in ³[the Provinces and the Capital of the Federation] any book of account, register or other document or to supply any statement which he may specify in a notice served on the insurer for the purpose;
- (c) examine any officer of the insurer on oath in relation to the return;
- (d) decline to accept any such return unless the inaccuracy has been corrected or the deficiency has been supplied before the expiry of one month from the date on which the requisition asking for correction of the inaccuracy or supply of the deficiency was delivered to the insurer and if he declines to accept any such return, the insurer shall be deemed to have failed to comply with the provisions of section 15 or section 16 ⁴[or section 28] relating to the furnishing of returns.

(2) The Court may on the application of an insurer and after hearing the ²[Controller] cancel any order made by the ²[Controller] under clause (a), (b) or (c) of sub-section (1) or may direct the acceptance of any return which the ²[Controller] has declined to accept, if

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951) s. 4, Third Sch., for "Superintendent".

³ Subs. by the A. O., 1949, for "British India".

⁴ Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 13.

(Part II.—Provisions applicable to Insurers)

the insurer satisfies the Court that the action of the ¹[Controller] was in the circumstances unreasonable:

²[Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the time when the ³[Controller of Insurance] made the order or declined to accept the return.]

Power of
Controller of
Insurance
to order re-
valuation.

22.—⁴[(1)] If it appears to the ³[Controller of Insurance] that an investigation or valuation to which section 13 refers ⁵[or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16] does not properly indicate the condition of the affairs of the insurer by reason of the faulty basis adopted in the valuation, he may, after giving notice to the insurer and giving him an opportunity to be heard, cause an investigation and valuation ⁶[as at such date as the ³[Controller of Insurance] may specify] to be made at the expense of the insurer by an actuary appointed by the insurer for this purpose and approved by the ³[Controller of Insurance] ⁶[and the insurer shall place at the disposal of the actuary so appointed and approved all the material required by the actuary for the purposes of the investigation and valuation within such period, not being less than three months, as the ³[Controller of Insurance] may specify].

⁷[(2) The provisions of sub-sections (1) and (4) of section 13, and of sub-sections (1) and (2) of section 15 or, as the case may be, of sub-section (2) of section 16, shall apply in relation to an investigation and valuation under this section :

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the ³[Controller of Insurance] may specify.]

Evidence of
documents.

23.—(1) Every return furnished to the ³[Controller of Insurance], which has been certified by the ¹[Controller] to be a return so furnished, shall be deemed to be a return so furnished.

(2) Every document, purporting to be certified by the ³[Controller of Insurance] to be a copy of a return so furnished, shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

24. [Summary of returns to be published.] Omitted by the Insurance (Amendment) Act, 1941 (*XIII of 1941*), s. 16.

Returns to

25. No insurer shall publish in ⁸[the Provinces and the Capital

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "Superintendent".

² Proviso added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 14.

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Re-numbered by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 14.

⁵ Ins. by Act 13 of 1941, s. 15.

⁶ Ins. by Act 6 of 1946, s. 14.

⁷ Sub-section (2) added, *ibid.*

⁸ Subs. by the A. O., 1949, for "British India".

(Part II.—Provisions applicable to Insurers. Investment, Loans and Management.)

of the Federation] any return in a form other than that in which it has been furnished to the ¹[Controller of Insurance]:

be published in statutory forms.

Provided that nothing contained in this section shall prevent an insurer from publishing a true and accurate abstract from such returns for the purposes of publicity.

26. Whenever any alteration occurs or is made which affects any of the matters which are required under the provisions of sub-section (2) of section 3 to accompany an application by an insurer for registration, the insurer shall forthwith furnish to the ¹[Controller of Insurance] full particulars of such alteration.

Alterations in the particulars furnished with application for registration to be reported.

²[All such particulars shall be authenticated in the manner required by that sub-section for the authentication of the matters therein referred to, and, where the alteration affects the assured rates, advantages, terms and conditions offered in connection with life insurance policies, the actuarial certificate referred to in clause (f) of the said sub-section shall accompany the particulars of the alteration.]

INVESTMENT, LOANS AND MANAGEMENT

27.—(1) Every insurer incorporated or domiciled in ³[the Provinces and the Capital of the Federation] ⁴* * * shall, subject to the provisions of ⁵[sub-sections (2A) and (3)], at all times invest and hold invested assets equivalent to not less than fifty-five per cent. of the sum of the amount of his liabilities to holders of life insurance policies ⁶[in Pakistan], on account of matured claims and the amount required to meet the liability on policies of life insurance maturing for payment ⁶[in Pakistan], less the amount of any deposit made under section 7 ⁷[or section 98] by the insurer in respect of his life insurance business and less any amount due to the insurer for loans ⁸[granted on and within the surrender values of policies of life insurance maturing for payment ⁶[in Pakistan] issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability], in the manner following, namely, twenty-five per cent. of the said sum in Government securities and a further sum equal to not less than thirty per cent. of the said sum in Government securities or other approved securities ⁹* * *.

Investment of assets and restriction on loans.

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 17.

³ Subs. by the A. O., 1949, for "British India".

⁴ The words "or the United Kingdom" which were ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 15, omitted by the Insurance (Amendment) Act, 1951 (33 of 1951), s. 2 (with effect from the 1st April, 1952).

⁵ Subs. by Act 6 of 1946, s. 15, for "sub-section (3)".

⁶ Subs. by the A. O., 1949, for "in India".

⁷ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 10.

⁸ Subs. by Act 6 of 1946, s. 15, for "granted by him on policies of life insurance maturing for payment in India and within their surrender values" as amended by Act 11 of 1939, s. 10.

⁹ The words "or securities of or guaranteed as to principal and interest by the Government of the United Kingdom" omitted by Act 33 of 1951, s. 3 (with effect from the 1st April, 1952).

(Part II.—Investment, Loans and Management)

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(2) An insurer incorporated or domiciled elsewhere than in 2[the Provinces and the Capital of the Federation] 3* * * shall, subject to the provisions of 4[sub-sections (2A) and (3)] at all times invest and hold invested assets equivalent to not less than the sum of his liabilities to holders of life insurance policies 5[in Pakistan] on account of matured claims and the amount required to meet the liability on policies of life insurance maturing for payment 5[in Pakistan], less the amount of any deposit made under section 7 6[or section 98] by the insurer in respect of his life insurance business and less any amount due to the insurer on loans 7[granted on and within the surrender values of policies of life insurance maturing for payment 5[in Pakistan] issued by him or by an insurer whose business he has acquired and in respect of which he has assumed liability,] in the manner following, namely, thirty-three and one-third per cent. of the said sum in Government securities, and the balance in Government securities or other approved securities 8* * *.

9[(2A) Where an insurer has accepted reinsurance in respect of any policies of life insurance issued by another insurer and maturing for payment 5[in Pakistan] or has ceded reinsurance to another insurer in respect of any such policies issued by himself, the sum referred to in sub-section (1) or sub-section (2) shall be increased by the amount of the liability involved in such acceptance and decreased by the amount of liability involved in such cession.]

(3) An insurer carrying on business at the commencement of this Act to whom sub-section (1) or sub-section (2) applies shall before the expiry of four years from the commencement of this Act invest the total amount required to be invested by those sub-sections in the manner required thereby:

Provided that of such total amount the insurer shall have invested not less than one-fourth in securities of the nature specified in sub-section (1) before the expiry of one year, not less than one-half before the expiry of two years, and not less than three-fourths before the expiry of three years from the 10[30th day of June, 1939].

(4) The assets required by this section to be held invested by an insurer to whom sub-section (2) applies shall be held in trust for the

¹ Explanation omitted by the Insurance (Amendment) Act, 1946 (6 of 1946), section 15.

² Subs. by the A. O., 1949, for "British India".

³ The words "or the United Kingdom" omitted by the Insurance (Amendment) Act, 1951 (33 of 1951), s. 3 (with effect from the 1st April, 1952).

⁴ Subs. by Act 6 of 1946, s. 15, for "sub-section (3)".

⁵ Subs. by the A. O., 1949, for "in India".

⁶ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 10.

⁷ Subs. by Act 6 of 1946, s. 15, for "granted by him or policies of life insurance maturing for payment in India and within their surrender values" as amended by Act 11 of 1939, s. 10.

⁸ The words "or securities of or guaranteed as to principal and interest by the Govt. of the United Kingdom" omitted by Act 33 of 1951, s. 3 (from the 1st April 1952).

⁹ Sub-section (2A) ins. by Act 6 of 1946, s. 15.

¹⁰ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 5, for "commencement of this Act".

(Part II.—Investment, Loans and Management)

discharge of ¹[liabilities] of the nature referred to in sub-section (2) and shall be vested in trustees resident in ²[the Provinces and the Capital of the Federation] and approved by the Central Government by an instrument of trust which shall be executed by the insurer and approved by the Central Government and shall define the manner in which alone the subject matter of the trust shall be dealt with.

Explanation.—Sub-sections (2) and (4) shall apply to an insurer incorporated in ²[the Provinces and the Capital of the Federation] whose share capital to the extent of one-third is owned by, or the members of whose Governing Body to the extent of one-third consists of, individuals domiciled elsewhere than in ²[the Provinces and the Capital of the Federation] ³* * *.

⁴[(5) The securities of or guaranteed as to principal and interest by the Government of the United Kingdom shall be regarded as approved securities other than Government securities for a period of four years from the commencement of the Insurance (Amendment) Act, 1951, in the manner and to extent hereinafter specified, namely:—

- (i) during the first year, to the extent of twenty-five per cent. in value of the sum referred to in sub-sections (1) and (2);
- (ii) during the second year, to the extent of eighteen and three quarters per cent. in value of the said sum;
- (iii) during the third year, to the extent of twelve and half per cent. in value of the said sum; and
- (iv) during the fourth year, to the extent of six and a quarter per cent. in value of the said sum.]

28.—⁵[(1) Every insurer registered under this Act carrying on the business of life insurance shall every year, within thirty-one days from the beginning of the year, submit to the ⁶[Controller of Insurance] a ⁷[return] showing as at the 31st day of December of the preceding year the assets held invested in accordance with section 27, and all other particulars necessary to establish that the requirements of that section have been complied with, and such ⁷[return] shall be certified by a principal officer of the insurer.

Statement of
investments
of assets.

(2) Every such insurer shall also furnish, within fifteen days from the last day of March, June and September, a ⁷[return] certified as aforesaid showing as at the end of each of the said months the assets held invested in accordance with section 27.

(3) The ⁶[Controller of Insurance] may at his discretion require any insurer to whom sub-section (1) applies to submit before the 1st day of August in each or any year a ⁷[return] of the nature referred

¹ Subs. by the Insurance (Amendment) Act, 1946- (6 of 1946), s. 15, for "claims".

² Subs. by the A. O., 1949, for "British India".

³ The words "or the United Kingdom" omitted by the Insurance (Amendment) Act, 1951 (33 of 1951), s. 3 (with effect from the 1st April, 1952).

⁴ Sub-section (5) added by Act 33 of 1951, s. 3 (with effect from the 1st April, 1952).

⁵ Sub-sections (1) to (4) subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 18, for the original sub-section (1).

⁶ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁷ Subs. by Act 6 of 1946, s. 16, for "statement".

(Part II.—Investment, Loans and Management)

to in sub-section (1), certified as required by that sub-section and prepared as at the 30th day of June.

(4) In the case of an insurer having his principal place of business or domicile outside ¹[the Provinces and the Capital of the Federation], the ²[Controller of Insurance] may, on application made by the insurer, extend the periods of fifteen and thirty-one days mentioned in the foregoing sub-sections to thirty days and sixty days, respectively.]

³[(5)] The ²[Controller of Insurance] shall be entitled at any time to take such steps as he may consider necessary for the inspection or verification of the assets invested in compliance with section 27 ⁴[or for the purpose of securing the particulars necessary to establish that the requirements of that section have been complied with]. ⁵[The insurer shall comply with any requisition made in this behalf by the ²[Controller of Insurance], and if he fails to do so within two months from the receipt of the requisition he shall be deemed to have made default in complying with the requirements of this section].

Prohibition
of loans.

29.—⁶[(1)] No insurer shall grant loans or temporary advances either on hypothecation of property or on personal security or otherwise, except loans on life policies issued by him within their surrender value, to any director, manager, managing agent, actuary, auditor or officer of the insurer if a company, or where the insurer is a firm, to any partner therein, or to any other company or firm in which any such director, manager, managing agent, actuary, officer or partner holds the position of a director, manager, managing agent, actuary, officer or partner:

Provided that nothing herein contained shall apply to loans made by an insurer to a banking company:

Provided further that every existing loan to any director, manager, managing agent, auditor, actuary, officer or partner, notwithstanding any contract to the contrary, shall be repaid within one year from the commencement of this Act, and in case of default, such defaulting director, manager, managing agent, auditor, actuary, officer or partner shall cease to hold office on the expiry of one year from the commencement of this Act:

⁷[Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event or from the commencement of the Insurance (Amendment) Act 1946, whichever is later; and in case of default, the director,

¹ Subs. by the A. O., 1949, for "British India".

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ The original sub-section (2) was re-numbered as (5) by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 18.

⁴ Ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 6.

⁵ Subs. *ibid.*, for "and the insurer shall comply with all requisitions made by the Superintendent in that behalf".

⁶ S. 29 re-numbered as sub-section (1) of that section by Act 13 of 1941, s. 19.

⁷ Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 17.

(Part II.—Investments, Loans and Management)

manager, auditor, actuary, officer or partner concerned shall, without prejudice to any other penalty which he may incur, cease to hold office with the insurer granting the loan on the expiry of the said three months:]

Provided further that nothing in this section shall prohibit a company from granting such loans or advances to a subsidiary company or to any other company of which the company granting the loan or advance is a subsidiary company.

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1913.

¹[(2) The provisions of section 86D of the Companies Act, 1913, shall not apply to a loan granted to a director of an insurer being a company, if the loan is one granted on the security of a policy on which the insurer bears the risk and the policy was issued to the director on his own life, and the loan is within the surrender value of the policy.]

30. If by reason of a contravention of any of the provisions of section 27 or section 29, any loss is sustained by the insurer or by the policy-holders, every director, manager, managing agent, officer or partner who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be jointly and severally liable to make good the amount of such loss.

Liability of directors, etc., for loss due to contraventions of sections 27 and 29.

31.—²[(1)] None of the assets in ³[the Provinces and the Capital of the Federation] of any insurer shall, except in the case of deposits made with ⁴[the State Bank of Pakistan] under section 7 ⁵[or section 98] or in so far as assets are required to be vested in trustees by sub-section (4) of section 27, be kept otherwise than ⁶[in the name of a public officer approved by the Central Government, or] in the corporate name of the undertaking, if a company, or in the name of the partners, if a firm, or in the name of the proprietor, if an individual.

Assets of insurer how to be kept.

⁶[(2) No insurer incorporated or domiciled in ³[the Provinces and the Capital of the Federation] shall hold any of his assets kept in an ⁷[Acceding State or a non-Acceding State] otherwise than in the name of an authority approved by the Government of the State, or in the corporate name of the undertaking, if a company, or in the name of the partners, if a firm, or in the name of the proprietor, if an individual, except in the case of deposits made under any law of the State relating to insurance or in so far as assets are required by the law of the State to be vested in trustees.]

32.—(1) No insurer shall, after the commencement of this Act, appoint a managing agent for the conduct of his business.

(2) Where any insurer engaged in the business of insurance before the commencement of this Act employs a managing agent for the

Limitation on employment of managing agents and on the

¹ Sub-section (2) added by the Insurance (Amendment) Act, 1941 (13 of 1941), section 19.

² Re-numbered by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 18.

³ Subs. by the A. O., 1949, for "British India".

⁴ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

⁵ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 12.

⁶ Sub-section (2) added by Act 6 of 1946, s. 18.

⁷ Subs. by the A. O., 1949, for "Indian State".

remuneration payable to them.

conduct of his business, then, notwithstanding anything to the contrary contained in the Companies Act, 1913, and notwithstanding anything to the contrary contained in the articles of the insurer, if a company, or in any agreement entered into by the insurer, such managing agent shall cease to hold office on the expiry of three years from the commencement of this Act and no compensation shall be payable to him by the insurer by reason only of the premature termination of his employment as managing agent. VII of 1913.

(3) After the commencement of this Act, notwithstanding anything contained in the Companies Act, 1913, and notwithstanding anything to the contrary contained in any agreement entered into by an insurer or in the articles of association of an insurer being a company, no insurer shall pay to a managing agent and no managing agent shall accept from an insurer as remuneration for his services as managing agent more than two thousand rupees per month in all, including salary and commission and other remuneration payable to and receivable by him, for his services as managing agent. VII of 1913.

¹[INVESTIGATION]

Power of Controller of Insurance to order investigation.

33.—(1) If the ²[Controller of Insurance] has reason to believe that the interests of the policy-holders of an insurer are in danger or that an insurer is unable to meet his obligations or has made default in complying with any of the provisions of this Act, or that an offence under this Act has been or is likely, to be committed by an insurer or any officer of an insurer, or if he receives a requisition in this behalf signed by shareholders of an insurer being a company not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or if he receives a requisition in this behalf signed by not less than fifty policy-holders holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees and supported by an affidavit, he may, after giving notice to the insurer and giving him an opportunity to be heard, ³[order an investigation of the affairs of the insurer to be made by an auditor or actuary, or by both an auditor and an actuary appointed simultaneously, or first by an auditor only or an actuary only and afterwards by an actuary or auditor, or may himself make such investigation ⁴[utilising, if necessary at any time, the services of an auditor or actuary or both, and the insurer shall make available all books of account, registers and other documents and other information required for the purposes of the investigation by the person or persons making the investigation within such period, not being less than three months, as the ²[Controller of Insurance] may specify:]

Provided that an auditor or actuary appointed for this purpose

¹ Subs. by the Repealing and Amending Act, 1942 (25 of 1942), s. 3 and Second Sch., for "Inspection".

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 20, for "appoint an auditor or actuary or both, not being an auditor or actuary in the employ of the insurer, to investigate the affairs of the insurer, or may himself make such investigation".

⁴ Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 19.

by the ¹[Controller of Insurance] shall not be an auditor or actuary in the employ of the insurer.]

(2) The Court may, on the application of an insurer and after giving notice to and hearing the ¹[Controller of Insurance], forbid such action by the ²[Controller], if the insurer satisfies the Court that it is unnecessary in the circumstances:

³[Provided that no application under this sub-section shall be entertained unless it is made before the expiration of three months from the date on which the ¹[Controller of Insurance] intimates to the insurer his intention to take such action.]

⁴[(3) The results of any investigation made under this section shall be recorded in writing by the auditor or actuary appointed or by the ¹[Controller of Insurance], as the case may be, and four copies of the record shall be supplied to the ¹[Controller of Insurance]; and when the investigation is completed a copy of such record, or where both an auditor and an actuary have been appointed, of each such record, shall be furnished by the ¹[Controller of Insurance] to the insurer and to the shareholders or the policy-holders who have sent a requisition for such an investigation.]

(4) The ¹[Controller of Insurance] may require the insurer to comply within a time to be specified by him (not being less than fifteen days from the receipt of the notice by the insurer) with any directions he may issue to remedy defects disclosed by such ⁵[investigation].

(5) If, as a result of any investigation made under this section, the ¹[Controller of Insurance] is of opinion that it is necessary in the interests of the policy-holders that the business of the insurer should be wound up, or if the insurer fails to comply with any directions issued under sub-section (4), the ²[Controller] may, after giving notice to the insurer and giving him an opportunity to be heard, apply to the Court to have the business of the insurer wound up.

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1913.

34. When any investigation is made in pursuance of section 33 the provisions of section 140 of the Companies Act, 1913, shall apply for the purposes of such investigation as they apply to an investigation made in pursuance of section 138 of that Act, and all expenses of and incidental to such investigation ⁶[including any expenses incurred before the making of an order by the Court under sub-section (2) of section 33] shall be defrayed by the insurer, ⁷[shall have priority over other debts due from the insurer and shall be recoverable as an arrear of land-revenue].

Powers of
investigator.

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "Superintendent".

³ Proviso added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 20.

⁴ Subs. *ibid.*, for the original sub-section (3).

⁵ Subs. by the Repealing and Amending Act, 1942 (25 of 1942), s. 3 and Second Sch., for "inspection".

⁶ Ins. (with retrospective effect) by Act 13 of 1941, s. 21.

Added (with retrospective effect), *ibid.*

(Part II.—Amalgamation and Transfer of Insurance Business)

AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS

Amalgama-
tion and
transfer of
Insurance
business.

35.—(1) No life insurance business of an insurer specified in sub-clause (a)(ii) or sub-clause (b) of clause (9) of section 2 shall be transferred to ¹[any person or transferred to] or amalgamated with the life insurance business of any other insurer except in accordance with a scheme prepared under this section and sanctioned by the Court having jurisdiction over one or other of the ²[parties concerned].

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the Court to sanction any such scheme, notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefor shall, at least two months before the application is made, be sent to the Central Government, ³[and certified copies, four in number, of each of the following documents shall be furnished to the Central Government, and other such copies shall] during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices and chief agencies of the insurers concerned, namely:—

- (a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer;
- ⁴[(b) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the Form set forth in Part II of the First Schedule and in accordance with the regulations contained in Part I of that Schedule;
- (c) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the requirements of Part II of the Fourth and Fifth Schedules and in accordance with the regulations contained in Part I of the Schedule concerned;
- (d) a report on the proposed amalgamation or transfer, prepared by an independent actuary who has never been professionally connected with any of the parties concerned in the amalgamation or transfer at any time in the five years preceding the date on which he signs his report;
- (e) any other reports on which the scheme of amalgamation or transfer was founded.

The balance-sheets, reports and abstracts referred to in clauses (b), (c) and (d) shall all be prepared as at the date at which the amalgamation or transfer if sanctioned by the Court is to take effect, which date shall not be more than twelve months before the date on,

¹ Ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 7.

² Subs. *ibid.*, for "insurers concerned".

³ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 22, for "and certified copies of the following documents shall be furnished to the Central Government and shall".

⁴ Cls. (b), (c), (d) and (e) and the paragraph and the proviso following these cls. were subs. by Act 20 of 1940, s. 7, for the original clauses (b) and (c).

(Part II.—Amalgamation and Transfer of Insurance Business)

which the application to the Court is made under this section:

Provided that if the Central Government so directs in the case of any particular insurer there may be substituted respectively for the balance-sheet, report and abstract referred to in clauses (b) and (c) prepared in accordance with this sub-section certified copies of the last balance-sheet and last report and abstract prepared in accordance with sections 11 and 13 ¹[of this Act or sections 7 and 8 of the Indian Life Assurance Companies Act, 1912] if that balance-sheet is prepared as at a date not more than twelve months, and that report and abstract as at a date not more than five years, before the date on which the application to the Court is made under this section.]

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1912.

(4) Where an application under sub-section (3) is made to the Court within three months from the commencement of this Act, the Court may, on application, extend for the insurer whose business is to be transferred to, or amalgamated with the business of another insurer, the time allowed for registration ²[under section 3 and for the payment of the instalments of the deposit under section 7 or section 98] for such period not exceeding nine months as the Court may think fit.

36. When any application such as is referred to in sub-section (3) of section 35 is made to the Court, the Court shall cause, if for special reasons it so directs, notice of the application to be sent to every person resident in ³[Pakistan, in an Acceding State] or in ⁴[a non-Acceding State] who is the holder of a life policy of any insurer concerned and shall cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such period as it may direct, and, after hearing the directors and such policy-holders as apply to be heard and any other persons whom it considers entitled to be heard, may sanction the arrangement, if it is satisfied that no sufficient objection to the arrangement has been established ⁵[and shall make such consequential orders as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under section 7 or section 98]:

Sanction of
amalgama-
tion and
transfer by
Court.

⁶[Provided that—

- (a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement, the whole of the deposit to be made by the insurer carrying on the amalgamated business or the person to whom the business is transferred is completed,
- (b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a), and
- (c) while the deposit last mentioned in clause (a) remains

¹ Ins. (with retrospective effect) by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 22.

² Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 13, for "and for the payment of the first instalment of the deposit under sections 3 and 7".

³ Subs. by the A. O., 1949, for "British India".

⁴ Subs. by Act 26 of 1951, s. 4 and Third Sch., for "an Indian State".

⁵ Added by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 8;

⁶ Proviso added by Act 13 of 1941, s. 23,

(Part II.—*Amalgamation and Transfer of Insurance Business. Assignment or Transfer of Policies and Nominations.*)

uncompleted, no accession, resulting from the arrangement, to the amount already deposited by the insurer carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from him under section 7 or section 98.]

Statements
required
after
amalgama-
tion and
transfer.

37. Where an amalgamation takes place between any two or more insurers, or ¹[where any business of an insurer is transferred] whether in accordance with a scheme confirmed by the Court or otherwise, the insurer carrying on the amalgamated business or ²[the person to whom the business is transferred] as the case may be, shall, within three months from the date of the completion of the amalgamation or transfer, ³[furnish in duplicate to the Central Government]—

- (a) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected, and
- (b) ⁴[a declaration signed by every party concerned] or in the case of a company by the chairman and the principal officer that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any parties to the amalgamation or transfer, and
- ⁵[(c) where the amalgamation or transfer has not been made in accordance with a scheme sanctioned by the Court under section 36—
 - (i) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the Form set forth in Part II of the First Schedule and in accordance with the regulations contained in Part I of that Schedule, and
 - (ii) certified copies of any other reports on which the scheme of amalgamation or transfer was founded.]

ASSIGNMENT OR TRANSFER OF POLICIES AND NOMINATIONS

Assignment
and transfer
of insurance
policies.

38.—(1) A transfer or assignment of a policy of life insurance, whether with or without consideration, may be made only by an endorsement upon the policy itself or by a separate instrument, signed in either case by the transferor or by the assignor or his duly authorised agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment..

(2) The transfer or assignment shall be complete and effectual

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 24, for “where any business of one insurer is transferred to another”.

² Subs. *ibid.*, for “the insurer to whom the business is transferred”.

³ Subs. *ibid.*, for “furnish to the Central Government”.

⁴ Subs. *ibid.*, for “a declaration signed by every insurer concerned”.

⁵ Subs. *ibid.*, for the original clause (c).

(Part II.—Assignment or Transfer of Policies and Nomina[tions])

upon the execution of such endorsement or instrument duly attested but ¹[except where the transfer, or assignment is in favour of the insurer] shall not be operative as against an insurer and shall not confer upon the transferee or assignee, or his legal representative, any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment ¹²[and] either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents] ³[have been delivered] to the insurer ⁴* * *:

⁵[Provided that where the insurer maintains one or more places of business in ⁶[the Provinces and the Capital of the Federation], such notice shall be delivered only at the place in ⁶[the Provinces and the Capital of the Federation] mentioned in the policy for the purpose or at his principal place of business in ⁶[the Provinces and the Capital of the Federation].]

(3) The date on which the notice referred to in sub-section (2) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one instrument of transfer or assignment the priority of the claims under such instruments shall be governed by the order in which the notices referred to in sub-section (2) are delivered.

(4) Upon the receipt of the notice referred to in sub-section (2), the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given, or of the transferee or assignee, on payment of a fee not exceeding one rupee, grant a written acknowledgment of the receipt of such notice, and any such acknowledgment shall be conclusive evidence against the insurer that he has duly received the notice to which such acknowledgment relates.

(5) ⁷[Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (2),] recognise the transferee or assignee named in the notice as the only person entitled to benefit under the policy, and such person shall be subject to all liabilities and equities to which the transferor or assignor was subject at the date of the transfer or assignment and may institute any proceedings in relation to the policy without obtaining the consent of the transferor or assignor or making him a party to such proceedings.

⁸[(6) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior

¹ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 14.

² Subs. by Act 13 of 1941, s. 25, for "together with".

³ Subs. *ibid.*, for "has been delivered".

⁴ The words "at his principal place of business in British India by or on behalf of the transferor or transferee" were omitted by Act 11 of 1939, s. 14.

⁵ Proviso added, *ibid.*

⁶ Subs. by the A. O., 1949, for "British India".

⁷ Subs. by Act 11 of 1939, s. 14, for "From the date of the receipt of the notice referred to in sub-section (2), the insurer shall".

⁸ Subs. *ibid.*, for the original sub-section (6).

(Part II.—Assignment or Transfer of Policies and Nominations)

to the commencement of this Act shall not be affected by the provisions of this section.]

(7) Notwithstanding any law or custom having the force of law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that the interest shall pass to some other person on the happening of a specified event during the ¹[lifetime of the person whose life is insured], and an assignment in favour of the survivor or survivors of a number of persons, shall be valid.

Nomination
by policy-
holder.

39.—(1) The holder of a policy of life insurance ²[on his own life, ³* * *] may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy communicated to the insurer and registered by him in the records relating to the policy and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be ⁴[but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made *bona fide* by him to a nominee mentioned in the text of the policy or registered in records of the insurer].

⁵[(3) The insurer shall furnish to the policy-holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a fee, not exceeding one rupee, for registering such cancellation or change.]

(4) A transfer or assignment of a policy made in accordance with section 38 shall automatically cancel a nomination:

⁶[Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its re-assignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy.]

(5) Where the policy matures for payment during the ⁷[lifetime of the person whose life is insured] or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures for payment, the amount secured by the policy shall be

¹ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 14, for "life of the policy-holder".

² Ins. *ibid.*, s. 15.

³ The words "not being an absolute assignee of the benefits under the policy," omitted by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 26.

⁴ Added by Act 11 of 1939, s. 15.

⁵ Subs. *ibid.*, for the original sub-section (3).

⁶ Proviso added by Act 13 of 1941, s. 26.

⁷ Subs. by Act 11 of 1939, s. 15, for "lifetime of the policy-holder",

(Part II.—Assignment or Transfer of Policies and Nominations.
Commission and Rebates and Licensing of Agents.)

payable to the policy-holder or his heirs or legal representatives or the holder of a succession certificate, as the case may be.

(6) Where the nominee or, if there are more nominees than one, a nominee or nominees survive the [person whose life is insured], the amount secured by the policy shall be payable to such survivor or survivors.

(7) The provisions of this section shall not apply to any policy of life insurance to which section 6 of the Married Women's Property Act, 1874, applies ²[or has at any time applied:

Provided that where a nomination made whether before or after the commencement of the Insurance (Amendment) Act, 1946, in favour of the wife of the person who has insured his life or of his wife and children or any of them is expressed, whether or not on the face of the policy, as being made under this section, the said section 6 shall be deemed not to apply or not to have applied to the policy].

COMMISSION AND REBATES AND LICENSING OF AGENTS

40.—(1) No person shall, after the expiry of six months from the commencement of this Act, pay or contract to pay any remuneration or reward whether by way of commission or otherwise for soliciting or procuring insurance business ³[in Pakistan] to any person except an insurance agent ⁴* * * or a person acting on behalf of an insurer who for the purposes of insurance business employs ⁵* insurance agents. Prohibition of payment by way of commission or otherwise for procuring business

[(1A) In this section and sections 41 and 43, references to an insurance agent shall be construed as including references to an individual soliciting or procuring insurance business exclusively in an ⁷Acceding State or a non-Acceding State] notified in this behalf by the Central Government in the official Gazette and holding a valid licence as an insurance agent under the law of that State.]

(2) No insurance agent ⁴* * * shall be paid or contract to be paid by way of commission or as remuneration in any form an amount exceeding, in the case of life insurance business, forty per cent. of the first year's premium payable on any policy or policies effected through him and five per cent. of a renewal premium ⁸[payable on such a policy], or, in the case of business of any other class, fifteen per cent. of the premium:

Provided that insurers, in respect of life insurance business only, may pay, during the first ten years of their business, to their insurance agents fifty-five per cent. of the first year's premium payable on

¹ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 15, for "policy-holder".

² Added by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 20.

³ Subs. by the A. O., 1949, for "in India".

⁴ The words and figures "licensed under section 42" were omitted by Act 11 of 1939, s. 16.

⁵ The word "licensed" omitted, *ibid.*

⁶ Sub-section (1A) ins. by Act 6 of 1946, s. 20.

⁷ Subs. by the A. O., 1949, for "Indian State".

⁸ Ins. by Act 6 of 1946, s. 21.

(Part II.—Commission and Rebates and Licensing of Agents)

any policy or policies effected through them and six per cent. of the renewal premiums ¹[payable on such policies].

²[(2A) Save as hereinafter provided, no insurance agent shall be paid or contract to be paid by way of Commission or as remuneration in any form any amount in respect of any policy not effected through him;

Provided that where a policy of life insurance has lapsed, and it cannot under the terms and conditions applicable to it be revived without further medical examination of the person whose life was insured thereby, an insurer, after giving by notice in writing to the insurance agent through whom the policy was effected an opportunity to effect the revival of the policy within a time specified in the notice, being not less than one month from the date of the receipt by him of the notice, may pay to another insurance agent who effects the revival of the policy an amount calculated at a rate not exceeding half the rate of commission at which the agent through whom the policy was effected would have been paid had the policy not lapsed, on the sum payable on revival of the policy on account of arrear premiums (excluding any interest on such arrear premiums) and also on the subsequent renewal premiums payable on the policy.]

(3) Nothing in this section shall prevent the payment under any contract existing prior to the 27th day of January, 1937, of gratuities or renewal commission to ³[any person, whether an insurance agent within the meaning of this Act or not,] or to his representatives after his decease in respect of insurance business effected through him before the said date.

Prohibition
of rebates.

41.—(1) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to ⁴[take out or renew or continue] an insurance in respect of any kind of risk relating to lives or property ⁵[in Pakistan], any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing ⁶[or continuing] a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer:

⁷[Provided that acceptance by an insurance agent of commission in connection with a policy of life insurance taken out by himself on his own life shall not be deemed to be acceptance of a rebate of premium within the meaning of this sub-section if at the time of such acceptance the insurance agent satisfies the prescribed conditions establishing that he is a *bond fide* insurance agent employed by the insurer.]

(2) Any person making default in complying with the provisions

¹ Added by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 21.

² Sub-section (2A) ins., *ibid.*

³ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 16, for "an insurance agent".

⁴ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 27, for "effect or renew".

⁵ Subs. by the A. O., 1949, for "in India".

⁶ Ins. by Act 13 of 1941, s. 27.

⁷ Proviso added, *ibid.*

(Part II.—Commission and Rebates and Licensing of Agents)

of this section shall be punishable with fine which may extend to ¹[five hundred rupees].

42.—(1) The ²[Controller of Insurance] or an officer authorised by him in this behalf shall, in the prescribed manner and on payment of the prescribed fee which shall not be more than ³[three rupees], issue to any individual ⁴[making an application in the prescribed manner] and not suffering from any of the disqualifications herein-after mentioned a licence to act as an insurance agent for the purpose of soliciting or procuring insurance business.

Licensing of insurance agents.

(2) A licence issued under this section shall entitle the holder to act as an insurance agent for any registered insurer.

(3) A licence issued under this section ⁵[shall remain in force for a period of twelve months only from the date of issue], but shall, if the applicant does not suffer from any of the disqualifications hereinafter mentioned, be renewed from year to year on payment of ⁶[the prescribed fee which shall not be more than three rupees, and an additional fee of a prescribed amount not exceeding one rupee by way of penalty if the application for renewal of the licence does not reach the issuing authority before the date on which the licence ceases to remain in force:]

⁷[Provided that when any licence is issued or renewed within the year beginning on the day on which the Insurance (Amendment) Act, 1940, came into operation, the ²[Controller of Insurance] may specify the date, not being earlier than one year nor later than two years from the date of issue or renewal, on which the licence shall cease to be in force:

Provided further that the Central Government may, by notification in the official Gazette, make provision in respect of licences in force at the commencement of the Insurance (Amendment) Act, 1940, extending the period for which they are to remain in force by a term of from one to eleven months.]

(4) The disqualifications above referred to shall be the following:—

- (a) that the person is a minor;
- (b) that he is found to be of unsound mind by a Court of competent jurisdiction;
- (c) that he has been found guilty of criminal misappropriation or criminal breach of trust or cheating ⁸[or forgery or an

¹ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 22, for "one hundred rupees, unless the default is made by a person taking out or renewing or continuing a policy, in which case he shall be punishable with fine which may extend to fifty rupees only" as amended by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 27.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Subs. by Act 13 of 1941, s. 28, for "one rupee".

⁴ Subs. *ibid.*, for "making an application under this section".

⁵ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 9, for "shall expire on the 31st day of March in each year".

⁶ Subs. by Act 13 of 1941, s. 28, for "a fee of one rupee".

⁷ Provisos ins. by Act 20 of 1940, s. 9.

⁸ Ins. by Act 13 of 1941, s. 28.

(Part II.—Commission and Rebates and Licensing of Agents)

abetment of or attempt to commit any such offence] by a Court of competent jurisdiction:

¹[Provided that, where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the ²[Controller of Insurance] shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause;]

(d) that in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation of the affairs of an insurer it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or misrepresentation ³[against an insurer or an insured].

(5) If it be found that an insurance agent suffers from any of the foregoing disqualifications, without prejudice to any other penalty to which he may be liable, the ²[Controller of Insurance] shall, and if the agent has knowingly contravened any provision of this Act may, cancel the licence issued to the agent under this section.

⁴[(6) The authority which issued any licence under this section may issue a duplicate licence to replace a licence lost, destroyed or mutilated on payment of the prescribed fee which shall not be more than one rupee.]

Register of
insurance
agents.

43.—(1) Every insurer and every person who acting on behalf of an insurer employs ⁵* insurance agents shall maintain a register showing the name and address of every ⁵* insurance agent appointed by him and the date on which his appointment began and the date, if any, on which his appointment ceased.

(2) Any individual not holding a licence issued under section 42 who acts as an insurance agent shall be punishable with fine which may extend to fifty rupees, and any insurer who, or any person acting on behalf of an insurer who, appoints as an insurance agent any individual not so licensed, or transacts any insurance business ⁶[in Pakistan] through any such individual, shall be punishable with fine which may extend to one hundred rupees.

(3) The provisions of sub-section (2) shall not take effect until the expiry of six months from the commencement of this Act.

Prohibition
of cessation
of payments
of commis-
sion.

44. Notwithstanding anything to the contrary in a contract between any person and an insurance agent ⁷* * * forfeiting or stopping payment of renewal commission to such insurance agent, no such person shall in respect of life insurance business done ⁶[in Pakistan]

¹ Proviso added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 28.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Subs. by Act 13 of 1941, s. 28, for "against an insurer or an assured".

⁴ Sub-section (6) added, *ibid.*

⁵ The word "licensed" omitted, *ibid.*, s. 29.

⁶ Subs. by the A. O., 1949, for "in India".

⁷ The words "licensed under section 42" were omitted by Act 13 of 1941, s. 30.

(Part II.—Special Provisions of Law)

(7) The Court shall cause notice to be given to every ascertained claimant of the fact that the amount has been paid into Court, and shall cause notice at the cost of any claimant applying to withdraw the amount to be given to every other ascertained claimant.

(8) The Court shall decide all questions relating to the disposal of claims to the amount paid into Court.

VII of
1913.
VI of
1882.
X of
1866.

48.—(1) Where the insurer is a company incorporated under the Companies Act, 1913, ¹[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] and carries on the business of life insurance, not less than one-fourth of the whole number of the directors of the company ²[shall notwithstanding anything to the contrary in the Articles of Association of the company be elected in the prescribed manner by the holders of policies of life insurance issued by the company].

Directors
of insurers
being
companies.

³[(2) Only and all persons holding otherwise than as assignees policies of life insurance issued by the company of such minimum amount and having been in force for such minimum period as may be prescribed shall ⁴[unless disqualified under sub-section (2A)] be eligible for election as directors under sub-section (1), and only and all persons holding policies of life insurance issued by the company and having been in force at the time of the election for not less than six months shall be eligible to vote at such elections:

Provided that the assignment of a policy to the person who took out the policy shall not disqualify that person for being eligible for election as a director under sub-section (1).

⁴[(2A) A person shall be ineligible for election as a director under sub-section (1) of any company if he is a director, officer, employee, or legal or technical adviser of that company, or of any other insurer, ⁵* * * and shall cease to be a director under sub-section (1) if after election he acquires any disqualification specified in this sub-section or no longer holds the qualifications required by sub-section (2):

Provided that nothing in this sub-section shall disqualify a person who is an elected director under sub-section (1) and is not otherwise disqualified under this sub-section, from being re-elected:

Provided further that any director holding office at the commencement of the Insurance (Amendment) Act, 1944, shall not become ineligible to remain a director by virtue of this sub-section until the expiry of six months from the commencement of that Act.]

VII of
1944.

(3) The Central Government may, for such period, or to such extent and subject to such conditions as may be specified by it in this behalf, exempt from the operation of this section—

(a) any Mutual Insurance Company as defined in clause (a) of sub-section (1) of section 95, in respect of which the

¹ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 19.

² Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 33, for certain original words.

³ Sub-sections (2) and (3) ins., *ibid.*

⁴ Ins. by the Insurance (Amendment) Act, 1944 (7 of 1944), s. 3.

⁵ The words "or is an insurance agent or employer of insurance agents", omitted by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 23.

¹[Controller of Insurance] certifies that in his opinion owing to the conditions governing membership of the company or to the nature of the insurance contracts undertaken by it the application of the provisions of this sub-section to the company is impracticable, or

- (b) any company in respect of which the ¹[Controller of Insurance] certifies that in his opinion the company, having taken all reasonable steps to achieve compliance with the provisions of this section, has been unable to obtain the required number of directors with the required qualifications.]

²³[(4)] This section shall not take effect, in respect of any company in existence at the commencement of this Act, until the expiry of one year therefrom, and in respect of any company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business.]

Life insurance agents not to be directors of life insurance companies.

⁴[48A. No insurance agent who solicits or procures life insurance business, and no person acting on behalf of an insurer who for the purpose of life insurance business employs insurance agents, shall be eligible to be or remain a director of any insurance company carrying on life insurance business:

Provided that any director holding office at the commencement of the Insurance (Amendment) Act, 1946, shall not become ineligible to remain a director by reason of this section until the expiry of six months from the commencement of that Act.] VI of 1946.

Restriction on dividends and bonuses.

⁵[49. No insurer, being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, who carries on the business of life insurance or any other class or sub-class of insurance business to which section 13 applies shall for the purpose of declaring or paying any dividend to shareholders or any bonus to policyholders or of making any payment in service of any debentures, utilize directly or indirectly any portion of the life insurance fund or of the fund of such other class or sub-class of insurance business, as the case may be, except a surplus shown in the valuation balance-sheet in Form I as set forth in the Fourth Schedule submitted to the ¹[Controller of Insurance] as part of the abstract referred to in section 15 as a result of an actuarial valuation of the assets and liabilities of the insurer; nor shall he increase such surplus by contributions out of any reserve fund or otherwise unless such contributions have been brought in as revenue through the revenue account applicable to that class or sub-class of insurance business on or before the date of the valuation aforesaid, except when the reserve fund is made up solely of transfers from similar surpluses disclosed by valuations in respect of which returns have

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 19, for the original sub-section (2).

³ Sub-section (2) was re-numbered as sub-section (4) by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 33.

⁴ S. 48A ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 24.

⁵ Subs. by Act 13 of 1941, s. 34, for the original section 49.

(Part II.—Special Provisions of Law)

been submitted to the ¹[Controller of Insurance] under section 15 of this Act or to the Central Government under section 11 of the Indian Life Assurance Companies Act, 1912:

Provided that payments made out of any such surplus in service of any debentures shall not exceed fifty per cent. of such surplus including any payment by way of interest on the debentures, and interest paid on the debentures shall not exceed ten per cent. of any such surplus except when the interest paid on the debentures is offset against the interest credited to the fund or funds concerned in deciding the interest basis adopted in the valuation disclosing the aforesaid surplus.]

50. An insurer shall, ²[before the expiry of three months from the date on which the premiums in respect of a policy of life insurance were payable but not paid,] give notice to the policy-holder informing him of the options available to him ³[unless these are set forth in the policy].

Notice of options available to the assured on the lapsing of a policy.

51. Every insurer shall, on application by a policy-holder and on payment of a fee not exceeding one rupee, supply to the policy-holder certified copies of the questions put to him and his answers thereto contained in his proposal for insurance and in the medical report supplied in connection therewith.

Supply of copies of proposals and medical reports.

52.—⁴[(1)] No insurer shall after the commencement of this Act begin, or after three years from that date continue to carry on, any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on the results of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time-limits:

Prohibition of business on dividing principle.

Provided that nothing in this section shall be deemed to prevent an insurer from allocating bonuses to holders of policies of life insurance as a result of a periodical actuarial valuation either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise:

Provided further that an insurer who continues to carry on insurance business on the dividing principle after the commencement of this Act shall withhold from distribution a sum of not less than forty per cent. of the premiums received during each year after the commencement of this Act in which such business is continued so as to make up the amount required for investment under section 27.

⁵[(2) On the expiry of the period of three years referred to in sub-section (1), or on the insurer's ceasing before such expiry but at any

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 20, for "within three months of the lapsing of a policy of life insurance,."

³ Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 35.

⁴ S. 52 was re-numbered as sub-section (1) of that section, *ibid.*, s. 36.

⁵ Sub-sections (2) and (3) added, *ibid.*

(Part II.—Special Provisions of Law. Winding up)

time after the commencement of the Insurance (Amendment) Act, 1941, to carry on business on the dividing principle, the insurer shall forthwith cause an investigation to be made by an actuary, who shall determine the amount accumulated out of the contributions received from the holders of all policies to which the dividing principle applies and the extent of the claims of those policy-holders against the realisable assets of the insurer, and shall, before the expiration of six months from the date on which he is entrusted with the investigation, make recommendations regarding the distribution, whether by cash payments or by the allocation of paid up policies or by a combination of both methods, of such assets as he finds to appertain to such policy-holders; and the insurer shall, before the expiry of six months from the date on which the actuary makes his recommendations, distribute such assets in accordance with those recommendations.

(3) Where at any time prior to the commencement of the Insurance (Amendment) Act, 1941, an insurer has ceased to carry on business on the dividing principle, the insurer shall, before the expiration of two months from the commencement of that Act, report to the ^{XIII} [Controller of Insurance] the measures taken or proposed by him for the distribution among holders of policies to which the dividing principle applies of the assets due to them; and the [Controller of Insurance] may either sanction such measures or refuse his sanction, and, if he refuses his sanction or if the insurer does not report to him as required by this sub-section, the provisions of sub-section (2) shall apply to the insurer forthwith.] 1941.

WINDING UP

Winding
up by the
Court.

53.—(1) The Court may order the winding up in accordance with the Companies' Act, 1913, of any insurance company and the provisions of that Act shall, subject to the provisions of this ^{VII} [Act] apply accordingly. 1913.

(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of an insurance company—

- (a) if with the sanction of the Court previously obtained a petition in this behalf is presented by shareholders not less in number than one-tenth of the whole body of shareholders and holding not less than one-tenth of the whole share capital or by not less than fifty policy-holders holding policies of life insurance that have been in force for not less than three years and are of the total value of not less than fifty thousand rupees; or
- (b) if the ¹ [Controller of Insurance], who is hereby authorised to do so, applies in this behalf to the Court on any of the following grounds, namely:—
 - (i) that the company has failed to deposit or to keep

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 37, for "Chapter".

deposited with ¹[the State Bank of Pakistan] the amounts required by section 7 ²[or section 98],

- (ii) that the company having failed to comply with any requirement of this Act has continued such failure ³[or having contravened any provision of this Act has continued such contravention] for a period of three months after notice of such failure ³[or contravention] has been conveyed to the company by the ⁴[Controller of Insurance],
- (iii) that it appears from the returns furnished under the provisions of this Act or from the results of any investigation made thereunder that the company is insolvent, or
- (iv) that the continuance of the company is prejudicial to the interests of the policy-holders.

⁵[53A. Notwithstanding anything contained in any other law, in ascertaining for any purpose of this Act the solvency or otherwise of an insurer, no account shall be taken of any assets of the insurer consisting of unpaid-up share capital.] Unpaid-up share capital.

VII of 1913. 54. Notwithstanding anything contained in the Companies Act, 1913, an insurance company shall not be wound up voluntarily except for the purpose of effecting an amalgamation or a re-construction of the company, or on the ground that by reason of its liabilities it cannot continue its business. Voluntary winding up.

55.—(1) In the winding up of an insurance company or in the insolvency of any other insurer the value of the assets and the liabilities of the insurer shall be ascertained in such manner and upon such basis as the liquidator or receiver in insolvency thinks fit, subject, so far as applicable, to the rule contained in the Sixth Schedule and to any directions which may be given by the Court. Valuation of liabilities.

(2) For the purposes of any reduction by the Court of the amount of the contracts of any insurance company the value of the assets and liabilities of the company and all claims in respect of policies issued by it shall be ascertained in such manner and upon such basis as the Court thinks proper having regard to the rule aforesaid.

VII of 1913. (3) The rule in the Sixth Schedule shall be of the same force and may be repealed, altered or amended as if it were a rule made in pursuance of section 246 of the Companies Act, 1913, and rules may be made under that section for the purpose of carrying into effect the provisions of this Act with respect to the winding up of insurance companies.

56.—(1) In the winding up of an insurance company and in the insolvency of any other insurer the value of the assets and the Application of surplus

¹ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

² Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 21.

³ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 37.

⁴ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950); s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁵ S. 53A ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 25.

assets of life
insurance
fund in
liquida-
tion or
insolvency.

liabilities of the insurer in respect of life insurance business shall be ascertained separately from the value of any other assets or any other liabilities of the insurer and no such assets shall be applied to the discharge of any liabilities other than those in respect of life insurance business except in so far as those assets exceed the liabilities in respect of life insurance business.

(2) In the winding up of an insurance company carrying on the business of life insurance or in the insolvency of any other insurer carrying on such business where any proportion of the profits of the insurer was before the commencement of the winding up or insolvency allocated to policy-holders, if, when the assets and liabilities of the insurer have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as a *prima facie* surplus) there shall be added to the liabilities of the insurer in respect of the life insurance business an amount equal to such proportion of the *prima facie* surplus as is equivalent to such proportion of the profits allocated to shareholders and policy-holders as was allocated to policy-holders during the ten years immediately preceding the commencement of the winding up and the assets of the insurer shall be deemed to exceed his liabilities only in so far as those assets exceed those liabilities after such addition:

Provided that—

- (a) if in any case there has been no such allocation or if it appears to the Court that by reason of special circumstances it would be inequitable that the amount to be added to the liabilities of the insurer in respect of the life insurance business should be an amount equal to such proportion as aforesaid, the amount to be so added shall be such amount as the Court may direct, and
- (b) for the purpose of the application of this sub-section to any case where before the commencement of the winding up or insolvency a proportion of such profits as aforesaid of a branch only of the life insurance business in question has been allocated to policy-holders, the value of the assets and liabilities of the insurer in respect of that branch shall be separately ascertained in like manner as the value of his assets and liabilities in respect of the life insurance business was ascertained, and the surplus so found, if any, of assets over liabilities shall, for the purpose of determining the amount to be added to the liabilities of the insurer in respect of the life insurance business be deemed to be the *prima facie* surplus.

Winding up
secondary
companies.

57.—(1) Where the insurance business or any part of the insurance business of an insurance company has been transferred to another insurance company under an arrangement in pursuance of which the first mentioned company (in this section referred to as the secondary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section referred to as the principal company) then, if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the secondary company to be wound up in conjunction with the principal company and may by the same or any subsequent order appoint the same

(Part II.—Winding up)

person to be liquidator for the two companies and make provision for such other matters as may seem to the Court necessary with a view to the companies being wound up as if they were one company.

(2) The commencement of the winding up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding up of the secondary company.

(3) In adjusting the rights and liabilities of the members of the several companies among themselves the Court shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company or as near thereto as circumstances admit.

(4) Where any company alleged to be secondary is not in process of being wound up at the same time as the principal company to which it is alleged to be secondary, the Court shall not direct the secondary company to be wound up, unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is secondary to the principal company and that the winding up of the company in conjunction with the principal company is just and equitable.

(5) An application may be made in relation to the winding up of any secondary company in conjunction with the principal company by any creditor of, or person interested in, the principal or secondary company.

(6) Where a company stands in the relation of a principal company to one insurance company and in the relation of a secondary company to some other insurance company or where there are several insurance companies standing in the relation of secondary companies to one principal company, the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

58.—(1) If at any time it appears expedient that the affairs of an insurance company in respect of any class of business comprised in the undertaking of the company should be wound up but that any other class of business comprised in the undertaking should continue to be carried on by the company or be transferred to another insurer, a scheme for such purposes may be prepared and submitted for confirmation of the Court in accordance with the provisions of this Act.

Schemes for partial winding up of insurance companies.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding up), for any future rights of every class of policy-holders in respect of their policies and for the manner of winding up any of the affairs of the company which are proposed to be wound up and may contain provisions for altering the memorandum of the company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(3) The provisions of this Act relating to the valuation of liabilities of insurers in liquidation and insolvency and to the application of surplus assets of the life insurance fund in liquidation or insolvency shall apply to the winding up of any part of the affairs of a company in accordance with the scheme under this section in like manner as they apply in the winding up of an insurance company, and any scheme under this section may apply with the necessary modifications any of the provisions of the Companies Act, 1913, relating to the winding up of companies. VII of 1913.

(4) An order of the Court confirming a scheme under this section whereby the memorandum of a company is altered with respect to its object shall, as respects the alteration have effect as if it were an order confirmed under section 12 of the Companies Act, 1913, and the provisions of sections 15 and 16 of that Act shall apply accordingly. VII of 1913.

[(5) When making an order confirming a scheme under this section, the Court may make such orders as it considers necessary for the disposal of so much of the deposit made by the company under section 7 or section 98 as does not relate to the classes of insurance business, if any, which the company continues to carry on.]

Return of
deposits.

59. In the winding up of an insurance company, [(otherwise than in a case to which section 58 applies)] and in the insolvency of any other insurer the liquidator or assignee as the case may be shall apply to the Court for an order for the return of the [deposit made by the company or the insurer, as the case may be, under section 7 or section 98] and the Court shall on such application order a return of the deposit subject to such terms and conditions as it shall direct.

Notice of
policy values.

60. In the winding up of an insurance company for the purposes of a cash distribution of the assets and in the insolvency of any other insurer the liquidator or assignee as the case may be in the case of all persons appearing by the books of the company or other insurer to be entitled to or interested in the policies granted by the company or other insurer shall ascertain the value of the liability of the company or other insurer to each such person and shall give notice of such value to those persons in such manner as the Court may direct and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in such manner and within such time as may be specified by a rule or order of the Court.

Power of
Court to
reduce
contracts of
insurance.

61.—(1) Where an insurance company is in liquidation or any other insurer is insolvent the Court may make an order reducing the amount of the insurance contracts of the company or other insurer upon such terms and subject to such conditions as the Court thinks just.

(2) Where a company carrying on the business of life insurance

¹ Added by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 26.

² Ins. *ibid.*, s. 27.

³ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 22 "For 'deposit made by the company under section 7'".

(Part II.—Winding up. *Special Provisions relating to External Companies.*)

has been proved to be insolvent, the Court may if it thinks fit in place of making a winding up order reduce the amount of the insurance contracts of the company upon such terms and subject to such conditions as the Court thinks fit.

(3) Application for and order under this section may be made either by the liquidator or by or on behalf of the company or by a policy-holder, or by the ¹[Controller of Insurance] and the ¹[Controller of Insurance] and any person whom the Court thinks likely to be affected shall be entitled to be heard on any such application.

SPECIAL PROVISIONS RELATING TO EXTERNAL COMPANIES

62. Where, by the law or practice of any country ²[outside Pakistan] in which an insurer carrying on insurance business in ³[the Provinces and the Capital of the Federation] is constituted, incorporated or domiciled, insurance companies incorporated in ³[the Provinces and the Capital of the Federation] are required as a condition of carrying on insurance business in that country to comply with any special requirements whether as to the keeping of deposits of assets in that country or otherwise which is not imposed upon insurers of that country under this Act, the Central Government shall, if satisfied of the existence of such special requirement, by notification in the official Gazette, direct that the same requirement, or requirements as similar thereto as may be, shall be imposed upon insurers of that country as a condition of carrying on the business of insurance in ³[the Provinces and the Capital of the Federation].

Power of Central Government to impose reciprocal disabilities on non-Pakistan companies.

63. Every insurer, having his principal place of business or domicile outside ³[the Provinces and the Capital of the Federation], who establishes a place of business within ³[the Provinces and the Capital of the Federation], or appoints a representative in ³[the Provinces and the Capital of the Federation] with the object of obtaining insurance business, shall within three months from the establishment of such place of business or the appointment of such ⁴[representative], file with the ¹[Controller of Insurance]—

Particulars to be filed by insurers established outside the Provinces, etc.

- (a) a certified copy of the charter, statutes, deed of settlement or memorandum and articles or other instrument constituting or defining the constitution of the insurer, and, if the instrument is not written in the English language, a certified translation thereof,
- (b) a list of the directors, if the insurer is a company,
- (c) the name and address of some one or more persons resident in ³[the Provinces and the Capital of the Federation] authorised to accept on behalf of the insurer service of process and any notice required to be served on the insurer, together with a copy of the power of attorney granted to him,

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the A. O., 1949, for "outside India".

³ Subs. *ibid.*, for "British India".

⁴ Subs. by the Insurance (Amendment) Act, 1939 (41 of 1939), s. 23, for "agent".

(Part II.—*Special Provisions relating to External Companies.*
Part III.—Provident Societies.)

- (d) the full address of the principal office of the insurer in ¹[the Provinces and the Capital of the Federation],
- (e) a statement of the classes of insurance business to be carried on by the insurer, and
- (f) a statement verified by an affidavit setting forth the special requirements, if any, of the nature specified in section 62 imposed in the country of origin of the insurer on ²[Pakistani nationals],

and, in the event of any alteration being made in the address of the principal office or in the classes of business to be carried on, or in any instrument here referred to, or in the name of any of the persons here referred to, or in the matters specified in clause (f) above, the company shall forthwith furnish to the ³[Controller of Insurance] particulars of such alteration.

Books to be kept by insurers established outside the Provinces, etc.

64. Every insurer having his principal place of business or domicile outside ¹[the Provinces and the Capital of the Federation] shall keep at his principal office in ¹[the Provinces and the Capital of the Federation] such books of account, registers and documents as will enable the accounts, statements and abstracts which he is required under this Act to furnish to the ³[Controller of Insurance] in respect of the insurance business transacted by him, ⁴[in Pakistan] to be compiled and, if necessary, checked by the ³[Controller of Insurance].

of

PART III

PROVIDENT SOCIETIES

Definition of "provident society".

⁵65.—(1) In this Part "provident society" means, a person who, or a body of persons (whether corporate or unincorporate) which, not being an insurer registered for the time being under Part II of this Act, carries on the business of insuring the payment, on the happening of any of the contingencies mentioned in sub-section (2), of

- (a) an annuity of or equivalent to ⁶[one hundred] rupees or less, payable for an uncertain period, or
- (b) a gross sum of ⁷[nine hundred] rupees or less, whether paid or payable in a lump sum or in two or more instalments over a certain period,

exclusively in both cases (a) and (b) of any profit or bonus not being a guaranteed profit or bonus.

Explanation.—For the purposes of this sub-section, a period is "certain" if its duration is ascertainable in advance and "uncertain" if its duration is not so ascertainable.

¹ Subs. by the A. O., 1949, for "British India".

² Subs. *ibid.*, for "Indian nationals".

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Subs. by the A. O., 1949, for "in India".

⁵ Subs. (with retrospective effect) by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 10, for the original section 65.

⁶ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 28, for "fifty".

⁷ Subs. *ibid.*, for "five hundred".

(Part III.—Provident Societies)

(2) The contingencies referred to in sub-section (1) are the following, namely:—

- (a) the birth, marriage or death of any person or the survival by a person of a stated or implied age or contingency;
- (b) failure of issue;
- (c) the occurrence of a social, religious or other ceremonial occasion;
- (d) loss of or retirement from employment;
- (e) disablement in consequence of sickness or accident;
- (f) the necessity of providing for the education of a dependent;
- (g) any other contingency which may be prescribed or which may be authorised by the Provincial Government with the approval of the Central Government.

(3) For the purposes of sub-sections (1) and (2)—

- (a) contracts entered into before the commencement of this Act shall not be taken into account;
- (b) two or more policies issued to one person shall, for the purposes of determining whether the limits fixed by sub-section (1) have or have not been exceeded, be deemed to be one policy if the contingencies on the happening of which the sums are payable under the policies (whether the contingencies be the same or different) relate to one person only, whether he be the policy-holder or some other person.

(4) Every person or body of persons for the time being registered as a provident society under the Provident Insurance Societies Act, 1912, and every person or body of persons for the time being registered as a provident society under this Act shall be deemed to be a provident society for all the purposes of this Act.

(5) If any question arises whether any person or body of persons is or is not a provident society within the meaning of this section, the [Controller of Insurance] shall decide the question and his decision shall be final.]

²[66. No provident society shall undertake any form of insurance not falling within the limits fixed by sub-section (1) of section 65, nor shall any provident society be eligible to be registered under section 3.]

Restrictions
on provident
societies.

67. No provident society established after the commencement of this Act shall adopt as its name, and no provident society established before the commencement of this Act shall continue after the expiry of six months from the commencement thereof to use as its name, any combination of words which fails to include the word "provident" or which includes the word "life".

Name.

68. No provident society shall receive any premium or contribution for insuring money to be paid to any person other than the

Insurable
interest.

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by Act 20 of 1940, s. 10, for the original section 66, (retrospectively).

(Part III.—Provident Societies)

person paying such premium or contribution or the wife, husband, child, grand-child, parent, brother or sister, nephew or niece of such a person.

Dividing
business.

69.—(1) No provident society shall carry on any business upon the dividing principle, that is to say, on the principle that the benefit secured by a policy is not fixed but depends either wholly or partly on ¹[the results of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time-limits].

(2) The ²[Controller of Insurance] shall, as soon as possible, take steps to have any provident society which carries on business on the dividing principle wound up:

Provided that, where any such provident society in existence at the commencement of this Act applies within three months of such commencement to the ²[Controller of Insurance] for permission to continue carrying on its business with a view meanwhile to reorganise its business in accordance with the provisions of this Act, the ²[Controller of Insurance] may at his discretion, with due regard to the past history of the society, permit the society to continue business for a period not exceeding two years from the date of receipt of such permission, so however that no new business on the dividing principle is undertaken by the society.

³(3) Where after the commencement of the Insurance (Amendment) Act, 1941, a provident society is to be wound up in pursuance of this section, or where, whether before or after the commencement of that Act, a provident society ceases to carry on business on the dividing principle, the provisions of sub-section (2) and sub-section (3) of section 52 shall, so far as may be, apply in like manner as they apply to an insurer ceasing to carry on business on the dividing principle.]

Registration.

70.—(1) No provident society except a provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall receive any premium or contribution until it has obtained from the ²[Controller of Insurance] a certificate of registration.

(2) Every application for registration shall be accompanied by—

(a) a certified copy of the rules of the society, and when the society is a company incorporated under the Companies Act, 1913, ⁴[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] a certified copy of the Memorandum and Articles of Association or where the society is not such

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 38, for "the results of a distribution, amongst policies maturing for payment within certain time-limits, of certain sums".

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Sub-section (3) added by Act 13 of 1941, s. 38.

⁴ Ins. *ibid.*, s. 39.

a company a certified copy of the deed of constitution of the society;

- (b) the names and addresses of the proprietors or directors, and the managers of the society ¹[the full address of the registered office of the society, the full address of the principal office of the society in ²[the Provinces and the Capital of the Federation], the name of the manager at such office, and the name and address of some one or more persons resident in ²[the Provinces and the Capital of the Federation] authorised to accept any notice required to be served on the society];
- (c) a certificate from ³[the State Bank of Pakistan] that the initial deposit referred to in section 73 has been made; ⁴*
- (d) a declaration verified by an affidavit ⁵[made by the principal officer of the society authorised in that behalf] that the minimum working capital required by section 72, is available; ⁶[and
- (e) the ⁷[receipt showing payment in the prescribed manner of the prescribed fee] for registration being not more than two hundred rupees.]

(3) The ⁸[Controller of Insurance] may refuse to issue a certificate of registration until he is satisfied that the rules of the society comply with the provisions of this Act and that the ⁹[society complies with the provisions of sections 67, 71, 72, 73, and 73A], but if he is so satisfied he shall register the society and its rules.

(4) The ⁸[Controller of Insurance] may, after giving previous notice in writing in such manner as he thinks fit specifying the grounds for the proposed cancellation, and allowing the society concerned an opportunity of being heard, apply to the Court and obtain sanction for cancellation of the registration made under this section or made under the provisions of the Provident Insurance Societies Act, 1912,—

- (a) if he is satisfied ⁵[from the returns furnished under the provisions of this Act or] as the result of an inquiry made under section 87—
 - (i) that the society is insolvent or is likely to become so, or
 - (ii) that the business of the society is conducted fraudulently or not in accordance with the rules thereof, or

¹ Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 39.

² Subs. by the A. O., 1949, for "British India".

³ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

⁴ The word "and" was omitted by Act 13 of 1941, s. 39.

⁵ Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 29.

⁶ The word "and" and clause (e) added by Act 13 of 1941, s. 39.

⁷ Subs. by Act 6 of 1946, s. 29, for "prescribed fee".

⁸ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁹ Subs. by Act 6 of 1946, s. 29, for "minimum working capital required by section 72 is available".

(Part III.—Provident Societies)

that it is in the interests of the policy-holders that the society should cease to carry on business,

- (b) if the initial deposit or any of the further deposits required by section 73 has not been made, or
- (c) if the society, having failed to comply with any requirement ¹[or having contravened any provision] of this Act, has continued such failure ¹[or contravention], for a period of one month after notice of such failure ¹[or contravention] has been conveyed to the society by the ²[Controller of Insurance]:

Provided that the ²[Controller of Insurance] may, if he thinks fit, instead of applying for cancellation of the registration under sub-clause (i) of clause (a) of this sub-section make a recommendation to the Court that the contracts of the society should be reduced in such manner and subject to such conditions as he may indicate:

³[Provided further that the ²[Controller of Insurance] may, without previous notice and without application to the Court for sanction,—

- (a) cancel the registration of a provident society which has failed to have its registration renewed, or
- (b) cancel, on such terms and conditions as he thinks fit, the registration of any provident society which applies to him for such cancellation if he is satisfied that the society has ceased to carry on insurance business and that all its liabilities in respect of insurance policies are either satisfied or otherwise provided for], ⁴[or
- ⁴(c) cancel the registration of a provident society if he has reason to believe that any claim upon the society arising ⁵[in Pakistan] under any policy of insurance remains unpaid for three months after final judgment in regular course of law.]

⁶[(5) When a registration is cancelled the provident society shall not, after the cancellation has taken effect, enter into any new contracts of insurance, but all rights and liabilities in respect of contracts of insurance entered into by it before such cancellation takes effect shall, subject to the provisions of section 88, continue as if the cancellation had not taken place.

(6) Where a registration is cancelled under clause (b) of sub-section (4) ⁷[or clause (c) of the second proviso to that sub-section], or because the society has failed to have its registration renewed, the ²[Controller of Insurance] may at his discretion revive the registration if the provident society, within six months from the date on which the cancellation took effect, makes the deposits required by section 73 ⁷[or satisfies the ²[Controller of Insurance] that no claim upon it such as is referred to in the said clause (c) remains unpaid] or has had an

¹ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 39.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Proviso added by Act 13 of 1941, s. 39.

⁴ The word "or" and clause (c) ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 29.

⁵ Subs. by the A. O., 1949, for "in India".

⁶ Sub-sections (5) and (6) added by Act 13 of 1941, s. 39.

⁷ Ins. by Act 6 of 1946, s. 29.

(Part III.—*Provident Societies*)

application under sub-section (3) of section 70A accepted, as the case may be, and complies with any directions which may be given to it by the ¹[Controller of Insurance].]

²[(7) The ¹[Controller of Insurance] may, on payment of the prescribed fee which shall not exceed five rupees, issue a duplicate certificate of registration to replace a certificate lost, destroyed or mutilated, or in any other case where he is of opinion that the issue of a duplicate certificate is necessary.]

v of
1912.

³[70A.—(1) Every provident society registered under this Act, or under the Provident Insurance Societies Act, 1912, shall have its registration renewed annually for each period of twelve months after that ending on the 30th day of June, 1942.

Renewal of
registration.

(2) An application for the renewal of a registration shall be made by the society to the ¹[Controller of Insurance] before the 30th day of June preceeding the period for which renewal is sought, and shall be accompanied as provided in sub-section (3) by evidence of payment of the prescribed fee which shall not exceed two hundred rupees but may vary according to the volume of insurance business done by the society.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into ⁴[the State Bank of Pakistan], or, where there is no office of that Bank, into the Imperial Bank of India acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If a provident society fails to apply for renewal of registration before the date specified in sub-section (2) the ¹[Controller of Insurance] may, so long as he has taken no action under section 88 to have the society wound up, accept an application for renewal of registration on receipt from the society of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by the society, as he may require.

(5) The ¹[Controller of Insurance] shall, on being satisfied that the society has fulfilled the requirements of this section, renew the registration and grant it a certificate of renewal of registration.

XIII of
1941.

70B.—(1) Every provident society registered under section 70 before the commencement of the Insurance (Amendment) Act, 1941, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish to the ¹[Controller of Insurance] such particulars in addition to those already supplied for the purpose of obtaining registration as are required by sub-section (2) of section 70 of this Act as amended by the Insurance (Amendment) Act, 1941.

Supplementary information and reports of alterations in particulars furnished with application for registration.

XIII of
1941.

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Sub-section (7) ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), section 29.

³ Sections 70A and 70B ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 40.

⁴ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

(Part III.—Provident Societies)

(2) Every provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish to the ^{V of 1912, XIII of 1941.} ¹[Controller of Insurance] so far as it has not already done so the documents and information required by clauses (a) and (b) of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section.

(3) When any alteration occurs or is made which affects any of the matters which are required under the provisions of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section, or are to be furnished to the ¹[Controller of Insurance] under this section, the provident society shall furnish forthwith to the ¹[Controller of Insurance] full particulars duly authenticated of such alteration.]

Certain provisions of Part II to apply to provident societies.

²[71. The provisions of sections 20, 32, 46 and 53A shall apply to provident societies as they apply to insurers, and in such application references to shareholders of an insurer shall be construed as references to members of a provident society:

Provided that a provident society may charge a fee not exceeding one rupee for supplying a copy of any document referred to in sub-section (2) of section 20.]

Working capital.

72. No provident society ³* * * shall be registered unless it has a paid up capital sufficient to provide as working capital a net sum of not less than five thousand rupees exclusive of deposits made under this Act and exclusive in the case of a company of any expenses incurred in connection with the formation of the company.

Deposits.

73.—(1) Every provident society shall, if established before the commencement of this Act within one year from such commencement, or, if established after the commencement of this Act before the society applies for registration under section 70, deposit and keep deposited with ⁴[the State Bank of Pakistan] in one of the offices ⁵[in Pakistan] of the Bank, for and on behalf of the Central Government, cash or approved securities amounting at the market value of the securities on the date of deposit to five thousand rupees, and shall thereafter ⁶[make in each calendar year] a further deposit amounting to not less than one-fifth of the ⁷[premium income for the preceding calendar year as shown in the revenue account of the society]

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 30, for the original section 71.

³ The words "established after the commencement of this Act" omitted by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 41.

⁴ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

⁵ Subs. by the A. O., 1949, for "in India".

⁶ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 25, for "make each year".

⁷ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 31, for "gross premium income for the preceding calendar year", as amended by Act 11 of 1939, s. 25.

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(including admission fees and other fees received by the society) until the total amount so deposited and kept is fifty thousand rupees.

(2) The provisions of sub-sections (8), (9), ¹[(9A), (9B)] and (10) of section 7 and of sub-section (1) of section 8 ¹[and of section 9] shall apply to the deposits made under this section as they apply to deposits made by an insurer.

²[73A.—(1) A provident society shall not be registered by a name identical with that by which an insurer or another provident society in existence is already registered, or so nearly resembling that name as to be calculated to deceive, except when the provident society in existence is in the course of being dissolved and signifies its consent, or the insurer in existence signifies his consent, to the ³[Controller of Insurance].

Restriction on name of provident society.

(2) If a provident society, through inadvertence or otherwise, is without such consent as aforesaid registered by a name identical with that by which an insurer or another provident society already in existence is registered, or so nearly resembling it as to be calculated to deceive, the first-mentioned society shall if called upon to do so by the ³[Controller of Insurance] on the application of the insurer or the second-mentioned society, change its name within a time to be fixed by the ³[Controller of Insurance]:

Provided that nothing in this section shall apply to any provident society carrying on business before the commencement of the Insurance (Amendment) Act, 1946.]

of
46.

74.—(1) Every provident society ⁴* * * shall in its rules set forth— Rules.

- (a) the name, the object and the location of the registered office of the society;
- (b) the contingencies or classes of contingency on the happening of which money is to be paid;
- (c) the conditions to be complied with before, and the payments to be made on, admission to the society;
- (d) the rates of premium or contribution, and the periods for which or the times at which premiums or contributions are payable;
- (e) the maximum amount payable to a subscriber or policy-holder;
- (f) the nature and amounts of the benefits provided for by the society;
- (g) the circumstances in which a bonus may be paid to a policy-holder;
- (h) the nature of the evidence required for the proof of the happening of any contingency on which money is to be paid;

¹ Ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 11.

² Section 73A ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 32.

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ The words "established after the commencement of this Act" omitted by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 42.

- (i) the circumstances in which policies may be forfeited or renewed or the whole or a part of the premiums paid on a policy may be returned, or a surrender value of a policy may be granted;
- (j) the penalties for delay in paying or failure to pay premiums or contributions;
- (k) the proportion of the annual income of the society which may be disbursed on and the provisions to be made for meeting the expenses of the management of the society;
- (l) the person or persons who or the authority which shall have power to invest the funds of the society;
- (m) the provisions for appointment of auditors and their remuneration;
- (n) the procedure to be adopted in altering the rules of the society;
- (o) unless these are provided for in the articles of association of a society which is a company incorporated under the Companies Act, 1913, [or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,]—
 - (i) the mode of appointment and removal, the qualification and the powers of a director, manager, secretary or other officer of the society;
 - (ii) the manner of raising additional capital; and
 - (iii) the provisions for the holding of general meetings of the members and policy-holders and for the powers to be exercised and the procedure to be followed thereat; and
- (p) such other matters as may be prescribed.

VII of
1913.
VI of
1882.
X of
1866.

(2) Where the rules of any provident society registered under the Provident Insurance Societies Act, 1912, fail to comply with the provisions of this section the society shall, before the expiry of twelve months from the commencement of this Act, amend the rules so as to comply with these provisions.

V of
1912.

Amendment
of rules.

75.—(1) No amendment of any rule of a provident society shall be valid until it has been sent to the ²[Controller of Insurance] and has been registered by him.

(2) The ²[Controller of Insurance] on being satisfied that the proposed amendment is not contrary to the provisions of this Act shall, unless he is of opinion that the amendment unfairly affects the rights of existing members or policy-holders of the society, issue to the society an acknowledgment of the registration of the amended rule.

Supply of
copy of rules.

76. Every provident society shall on demand deliver free of cost to any member of the society a copy of the rules of the society and to any person other than a member a copy of such rules on the payment of a sum not exceeding one rupee.

¹ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 42.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

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77. Every Provident society ¹[shall have in ²[the Provinces and the Capital of the Federation] a principal office] (on the outside of which it shall keep displayed its name in a conspicuous position in legible characters) to which all communications and notices may be addressed, and shall give notice to the ³[Controller of Insurance] of any change in the location thereof within twenty-eight days of its occurrence.

Registered office.

78. Where any notice, advertisement or other official publication of a provident society contains a statement of the amount of the authorised capital of the society, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount paid up.

Publication of authorised capital to contain also subscribed and paid up capital.

79. Every provident society ⁴[shall keep at its principal office in ²[the Provinces and the Capital of the Federation]]—

Registers and books.

⁵[(a) such registers in such form as may be prescribed;]

⁶[(b)] a cash book in which shall be entered separately for each class of contingency separately specified in section 65 all sums received and expended by the society and the matters in respect of which the receipt or expenditure takes place;

⁶[(c)] a ledger.

⁶[(d)] a journal.

80.—(1) Every provident society shall at the expiry of the calendar year prepare a revenue account and balance-sheet in the prescribed form verified in the prescribed manner, together with a report on the general state of the society's affairs and shall cause the revenue account and balance-sheet to be audited by an auditor, and the auditor shall so far as may be in the audit of a provident society have the powers of, exercise the functions vested in, and discharge the duties and be subject to the liabilities imposed on, an auditor of companies by section 145 of the Companies Act, 1913.

Revenue account, balance-sheet and annual statements.

(2) Every provident society shall at the expiry of the calendar year prepare with respect to that year—

(a) a statement showing separately for each class of contingency separately specified in section 65—

(i) the number of new policies effected, the total amount insured thereby and the total premium income received in respect thereof and the number of existing policies discontinued during the year with the total amount insured thereby, and

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 43, for "shall have an office".

² Subs. by the A. O., 1949, for "British India".

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Subs. by Act 13 of 1941, s. 44, for "shall keep at its registered office".

⁵ Subs. *ibid.*, for the original clauses (a) to (d).

⁶ The original clauses (e), (f) and (g) were re-lettered, respectively, as clauses (b), (c) and (d), *ibid.*

- (ii) the total amount of claims made and the total amount paid in satisfaction thereof;
- (b) a statement showing details of every insurance effected on a life other than the life of the person insuring; and
- (c) a statement showing the total amount paid as allowances to agents and canvassers.

(3) Until the expiry of two years from the commencement of this Act this section ¹[and section 73] shall apply to provident societies registered before the commencement of this Act under the Provident Insurance Societies Act, 1912, as if the reference to the calendar year were a reference to either the financial year or the calendar year. V of 1912.

Actuarial
report and
abstract.

81.—(1) Every provident society shall once in every five years or at such shorter intervals as may be laid down by the rules of the society cause an investigation to be made ²[as at the last day of a calendar year] into its financial condition including the valuation of its liabilities and assets by an actuary.

(2) The report of the actuary shall contain an abstract in which shall be stated—

- (a) the general principles adopted in the valuation, including the method by which the valuation age of lives was ascertained,
- (b) the rate at each age of the mortality and any other factor assumed and the annuity values used in valuation,
- (c) the reserve values held against policies effected,
- (d) the rate of interest assumed, and
- (e) the provision made for expenses,

and shall have appended to it a certificate signed by a principal officer of the society that all material necessary for proper valuation has been placed at the disposal of the actuary and that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(3) If the actuary finds that the financial condition of the society is such that no surplus exists for distribution as bonus to the policyholders or as dividend to the shareholders, he shall state in his report whether in his opinion the society is insolvent and, if so, whether it should be wound up or not, and the extent to which in his opinion existing contracts should be modified or existing rates of premium should be adjusted to make good the deficiency in the assets.

Submission
of returns to
Controller
of Insur-
ance.

82.—(1) The revenue account and balance-sheet with the auditor's report thereon and the report on the general state of the society's affairs referred to in sub-section (1) of section 80, ³[shall be printed and four copies of these and of the statements referred to], in sub-section (2) of section 80, shall be furnished as returns to the

¹ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 26.

² Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 33.

³ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 45, for "and the statements referred to".

(Part III.—Provident Societies)

¹[Controller of Insurance] ²[within six months] from the end of the period to which they relate ³* * *.

(2) All the material necessary for the proper valuation of the liabilities of the society under the provisions of section 81 shall be placed at the disposal of the actuary within three months from the end of the period to which such material relates, and the report and abstract referred to in section 81 shall be furnished as a return to the ¹[Controller of Insurance] within a further period of three months.

(3) ⁴[The provisions of sub-section (2) of section 15 relating to the copies therein referred to shall apply to the returns referred to in ⁵[sub-section (1) of this section], and] the provisions of section 17 shall apply to the accounts and balance-sheet of a provident society being a company incorporated under the Companies Act, 1913, ⁶[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] as they apply to the accounts and balance-sheet of an insurer ⁷[and the ¹[Controller of Insurance] may exercise, in respect of returns made by a provident society and in respect of an investigation or valuation to which section 81 refers, the same powers as are exercisable by him under section 21 and section 22, respectively, in the case of an insurer].

VII of
1913.
VI of
1882.
X of
1866.

83.—(1) Every provident society, ⁸[registered] after the commencement of this Act, shall cause every scheme of insurance which it proposes to put into operation, and every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, ⁹[shall cause any scheme which it proposes to put into operation for the first time] after such commencement to be examined by an actuary, and shall not receive any premium or contribution in connection with the scheme until the actuary has certified ¹⁰[that the rates, advantages, terms and conditions of the scheme are workable and sound], and such certificate has been forwarded to the ¹[Controller of Insurance].

Actuarial
examination
of schemes.

V of
1912.

(2) The provisions of sub-section (1) shall apply to any alteration of a scheme already in operation but the ¹[Controller of Insurance] may, if he is of opinion that the alteration unfairly affects the interests of existing policy-holders, prohibit the alteration, and, if he does so, the society shall not put the altered scheme into operation, unless it first discharges to the satisfaction of the ¹[Controller of Insurance]

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 45, for "within three months".

³ Certain words omitted by the Insurance (Amendment) Act, 1946 (6 of 1946), section 34.

⁴ Ins. by Act 13 of 1941, s. 45.

⁵ Subs. by the Repealing and Amending Act, 1942 (25 of 1942), s. 3 and Second Sch., for "sub-section (1) of this sub-section".

⁶ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 27.

⁷ Added by Act 13 of 1941, s. 45.

⁸ Subs. *ibid.*, s. 46, for "established".

⁹ Subs. *ibid.*, for "shall cause any new scheme which it proposes to put into operation".

¹⁰ Subs. *ibid.*, for "that the scheme is sound".

all its liabilities to those of the existing policy-holders who dissent from the alteration.

(3) Every provident society registered before the commencement of this Act under the provisions of the Provident Insurance Societies Act, 1912, shall, as soon as may be and in any event before the expiry of six months from the commencement of this Act, submit all schemes of insurance which the society has in operation at the commencement of this Act to examination by an actuary ^{V of 1912.} ¹[and shall, before the expiration of six months from the commencement of the Insurance (Amendment) Act, 1941, send the report of the actuary], ^{XIII of 1941.} thereon to the ²[Controller of Insurance].

(4) The report of the actuary shall state in respect of each scheme whether ³[the rates, advantages, terms and conditions are workable and sound], and, where no actuarial report such as is referred to in section 81 has been made within the two years preceding the examination, the report shall also state whether the assets of the society are sufficient to meet its liabilities under the existing schemes, and if not, how in the opinion of the actuary the existing contracts should be modified.

⁴(5) If the rates, advantages, terms and conditions of any scheme are not reported by the actuary to be workable and sound, the ²[Controller of Insurance] shall give notice to the society prohibiting the scheme, and the society shall not after its receipt of such notice enter into any new contract of insurance under the scheme, but all rights and liabilities in respect of contracts of insurance entered into by the society before receipt of the notice shall, subject to the provisions of sub-section (6), continue as if the notice had not been given.]

(6) Where a scheme is ⁵[prohibited] under the provisions of sub-section (5) the society shall, where its assets are sufficient to meet all existing liabilities, set apart out of its assets the sum sufficient in the opinion of the actuary to meet the liabilities incurred under the scheme so ⁵[prohibited], and, where its assets are not so sufficient, within three months from the date of the ⁶[prohibition], apply to the Court for a modification of its existing contracts or failing such modification for the winding up of the society.

Separation
of accounts
and funds.

84. Where a provident society effects policies of insurance in connection with more than one of the classes of contingency separately specified in ⁷[sub-section (2) of] section 65, the receipts and payments in respect of each such class shall be recorded in a separate account in the cash book kept in accordance with section 79.

Investment
of funds.

85.—(1) Every provident society shall, unless it already holds

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 46, for “and shall send the report of the actuary”.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for “Superintendent of Insurance” (with effect from the 15th May, 1950).

³ Subs. by Act 13 of 1941, s. 46, for “it is actuarially sound”.

⁴ Subs. *ibid.*, for the original sub-section (5).

⁵ Subs. *ibid.*, for “discontinued”.

⁶ Subs. *ibid.*, for “discontinuance”.

⁷ Ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 12.

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II of
1882.

invested in ¹[approved] securities or securities mentioned or referred to in clauses (c) and (d) of section 20 of the Trusts Act, 1882, not less than fifty per cent. of the total assets of the society, ²[invest in such securities every increase that takes place in those assets and in that part of those assets which is held in cash as soon as practicable after ~~the increase takes place and in any case within six months of its taking place~~], until the total amount so invested amounts to not less than fifty per cent. of the total assets of the society, and shall thereafter keep invested in such securities not less than fifty per cent. of the total assets of the society:

³[Provided that for the purpose of determining the amount to be invested under this sub-section, any deposit made in cash under section 73 shall be taken into account as if such cash were Government securities amounting at the market value of the securities on the date the deposit was made to the total deposited in cash.]

(2) No funds or investments of a provident society except a deposit made under section 73 ⁴[or under the law of any State or country relating to insurance] shall be kept otherwise than in the name of the society ⁵[or in the name of a public officer approved by the Central Government].

(3) No loan shall be made out of the assets of a provident society to ⁶[any director, manager, managing agent, auditor, actuary, officer or partner of the society] except on the security of a policy of insurance held in the society and within its surrender value and no such loan shall be made to any concern of which ⁷[a director, manager, managing agent, actuary, officer or partner of the society is a director, manager, managing agent, actuary, officer or partner]:

⁸[Provided that nothing in this sub-section shall apply to loans made by a provident society to a banking company:

Provided further that where any event occurs giving rise to circumstances, the existence of which at the time of the grant of any subsisting loan would have made such grant a contravention of this sub-section, such loan shall, notwithstanding any contract to the contrary, be repaid within three months from the occurrence of such event or from the commencement of the Insurance (Amendment) Act, 1946, whichever is later; and in case of default, the director, manager, auditor, actuary or partner concerned shall, without prejudice to any other penalty which he may incur, cease to hold office in the society on the expiry of the said three months.]

VI of
1946.XX of
1940.

⁹[(3A) Any loan prohibited under sub-section (3), made before and outstanding at the commencement of the Insurance (Amendment) Act, 1940, shall be repaid before the 1st day of January, 1941,

¹ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), for "Govt."

² Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 47, for "invest all surplus assets in such securities".

³ Proviso added, *ibid.*

⁴ Ins. by Act 6 of 1946, s. 35.

⁵ Added by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 28.

⁶ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 13, for "any director or officer of the society".

⁷ Subs. *ibid.*, for "a director or officer of the society is a director or partner".

⁸ Added by Act 6 of 1946, s. 35.

⁹ Ins. by Act 20 of 1940, s. 13.

and in case of default the director, manager, managing agent, auditor, actuary, officer or partner who has received the loan or is connected with the concern which has received the loan, as the case may be, shall cease to hold office in or be a partner of the society and shall be ineligible to hold office in or be a partner of the society until the loan is repaid.]

(4) Any director ¹[manager, managing agent, auditor, actuary, officer or partner] of a society which contravenes the provisions of sub-section (3) who is knowingly a party to the contravention, shall without prejudice to any other penalty which he may incur be jointly and severally liable to the society for the amount of the loan, and such amount, together with interest from the date of the loan at such rate not exceeding twelve per cent. per annum as the ²[Controller of Insurance] may fix, shall on application by the ²[Controller of Insurance] to any Civil Court of competent jurisdiction be recoverable by execution as if a decree for such amount had been passed by that Court.

³[(5) The provisions of section 86D of the Companies Act, 1913, VII of 1913. shall not apply to a loan granted to a director of a provident society being a company if the loan is one granted on the security of a policy on which the society bears the risk and the policy was issued to the director on his own life and the loan is within the surrender value of the policy.]

Inspection
of books.

86. The books of every provident society shall at all reasonable times be open to inspection by the ²[Controller of Insurance] or any person appointed by him in this behalf or by any member or policyholder of the society who ⁴[has, on application in this behalf, been permitted by the ²[Controller of Insurance], subject to such conditions, if any, as he may impose, to make such inspection].

Inquiry by
or on be-
half of Con-
troller of
Insurance.

87.—(1) The ²[Controller of Insurance] shall at least once in two years and may, if he thinks fit, at any time visit personally or depute a suitable person to visit the principal office of a provident society ⁵[or the principal office in ⁶[the Provinces and the Capital of the Federation] of a society having its principal place of business or domicile outside ⁶[the Provinces and the Capital of the Federation]] and inquire into the ⁷[affairs of the society,] or may, after giving notice to the society and giving it an opportunity to be heard, direct such an inquiry to be made by an auditor or actuary appointed by him ⁸[or by both an auditor and an actuary appointed simultaneously, or first by an auditor only or an actuary only and afterwards by an actuary or auditor].

¹ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 13, for "or officer".

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 47.

⁴ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 36, for "has made an application in this behalf to the Superintendent of Insurance".

⁵ Ins. by Act 13 of 1941, s. 48.

⁶ Subs. by the A. O., 1949, for "British India".

⁷ Subs. by Act 6 of 1946, s. 37, for "solvency of the society and the manner in which the business of the society is conducted".

⁸ Added by Act 13 of 1941, s. 48.

(Part III.—Provident Societies)

(2) For the purposes of any such inquiry the ¹[Controller] or the auditor or actuary, as the case may be, shall be entitled to examine all books and documents of the society and may demand from the society or any officer of the society such explanations as he may require on any matter relating to the affairs of the society.

²[(3) The results of any such inquiry shall be recorded in writing by the person making the inquiry, and four copies of the record shall be supplied to the ³[Controller of Insurance]; and when the inquiry is completed, a copy of the record, or of each such record where more than one are made in the course of the same inquiry, shall be sent by the ³[Controller of Insurance] to the society concerned and shall be open to inspection by any member or policy-holder of the society.]

⁴[(4) All expenses of and incidental to any inquiry made by an auditor or actuary under sub-section (1) including any expenses incurred before the date on which the ³[Controller of Insurance] receives notice of an appeal under clause (e) of sub-section (1) of section 110 shall be defrayed by the provident society, shall have priority over other debts due from the society, and shall be recoverable as an arrear of land-revenue.]

⁵[(5) The ³[Controller of Insurance] may by notice in writing require the provident society to comply within a time to be specified therein (not being less than fifteen days from the receipt of the notice by the society) with any directions he may issue to remedy defects disclosed by an inquiry under this section.

(6) If the society fails to comply with any directions issued under sub-section (5), the ³[Controller of Insurance] may, after giving notice to the society and giving it an opportunity to be heard, apply to the Court for the winding up of the society.]

⁶[87A.—(1) The insurance business of a provident society may be transferred to any person or transferred to or amalgamated with the insurance business of any other provident society in accordance with a scheme prepared under this section and sanctioned by the ³[Controller of Insurance].

Amalgamation and transfer of insurance business.

(2) Any scheme prepared under this section shall set out the agreement under which the transfer or amalgamation is proposed to be effected, and shall contain such further provisions as may be necessary for giving effect to the scheme.

(3) Before an application is made to the ³[Controller of Insurance] to sanction any such scheme, notice of the intention to make the application together with a statement of the nature of the amalgamation or transfer, as the case may be, and of the reason therefor,

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "Superintendent".

² Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 48, for the original sub-section (3).

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Sub-section (4) added by Act 13 of 1941, s. 48.

⁵ Sub-sections (5) and (6) ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 37.

⁶ S. 87A ins. *ibid.*, s. 38.

shall at least two months before the application is made, be sent to the ¹[Controller of Insurance] and certified copies, four in number, of each of the following documents shall be furnished to him, and other such copies shall during the two months aforesaid be kept open for the inspection of the members and policy-holders at the principal and branch offices of the provident societies concerned, namely:—

- (a) a draft of the agreement or deed under which it is proposed to effect the amalgamation or transfer,
- (b) balance-sheets in respect of the insurance business of each of the provident societies concerned in such amalgamation or transfer,
- (c) actuarial reports and abstracts in respect of the insurance business of each of the provident societies so concerned,
- (d) a report on the proposed amalgamation or transfer, prepared by an independent actuary,
- (e) any other reports on which the scheme of amalgamation or transfer was founded;

and the balance-sheets, reports and abstracts referred to in clauses (b), (c) and (d) shall all be prepared as at the date at which the amalgamation or transfer if sanctioned by the ¹[Controller of Insurance] is to take effect, which date shall not be more than twelve months before the date on which the application to the ¹[Controller of Insurance] is made under this section:

Provided that the ¹[Controller of Insurance] may exempt the provident society or societies concerned from furnishing to him and from keeping open for inspection any one or more of the above documents.

(4) When any application such as is referred to in sub-section (3) is made to the ¹[Controller of Insurance], he may require, if for special reasons he so directs, notice of the application to be sent to every person resident in ²[the Provinces and the Capital of the Federation] or an ³[Acceding State or a non-Acceding State] who is the holder of a policy of any provident society concerned and may cause a statement of the nature and terms of the amalgamation or transfer, as the case may be, to be published in such manner and for such periods as he may direct, and after hearing the societies concerned, such policy-holders as apply to be heard and such other persons as he may deem fit, may sanction the arrangement, if he is satisfied that no sufficient objection to the arrangement has been established and shall make such consequential orders as are necessary to give effect to the arrangement, including orders as to the disposal of any deposit made under section 73:

Provided that—

- (a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement the whole of the deposit to be made by the provident society carrying on the amalgamated

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the A. O., 1949, for "British India",

³ Subs. *ibid.*, for "Indian State",

(Part III.—Provident Societies)

business or the person to whom the business is transferred is completed;

- (b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a);
- (c) while the deposit last mentioned in clause (a) remains uncompleted, no accession, resulting from the arrangement, to the amount already deposited by the provident society carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from it or him under section 73.

(5) A copy of the order under sub-section (4) sanctioning or refusing to sanction the arrangement shall be sent to each of the societies concerned and to each of the policy-holders who applied to be heard.

(6) If the scheme involves a reduction of the amount of the insurance and other contracts of the transfer or society or of any or all of the societies concerned in the amalgamation, the ¹[Controller of Insurance] may sanction the scheme, reducing the amount of such contracts upon such terms and subject to such conditions as he may think proper, and the reduction of the contracts as sanctioned by the ¹[Controller of Insurance] shall be valid and binding on all the parties concerned.]

VII. of
1913.
VI of
1882.
X of
1866.
VII of
1913.

88.—(1) The Court may order the winding up of a provident society being a company incorporated under the Companies Act, 1913, ²[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby], and the provisions of ³[the Companies Act, 1913], shall, subject to the provisions of this Part, apply accordingly.

Winding up
by Court
and volun-
tary wind-
ing up.

⁴[(2) In addition to the grounds on which such an order may be based, the Court may order the winding up of a provident society if the ¹[Controller of Insurance], who is hereby authorised to do so, applies in this behalf to the Court on any of the following grounds, namely:—

- (a) that the registration of the society has been cancelled under sub-section (4) of section 70;
- (b) that it appears from the returns furnished under the provisions of this Act or as the result of an inquiry made under section 87 that the society is insolvent;
- (c) that the continuance of the society is prejudicial to the interests of the policy-holders.]

VII. of
1913.
VI of
1882.
X of
1866.

(3) A provident society being a company incorporated under the Companies Act, 1913, ²[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby], may be wound up voluntarily in accordance with the

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 49.

³ Subs. *ibid.*, for "that Act".

⁴ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 39, for sub-section (2).

provisions of ¹[the Companies Act, 1913], but shall not be so wound up except for the purpose of effecting an amalgamation or re-construction of the society or on the ground that, by reason of its liabilities it cannot continue its business. VII of 1913.

(4) A provident society not being a company incorporated under the Companies Act, 1913, ²[or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby], may be wound up voluntarily under this Act if a resolution is passed by the proprietors that the society should be wound up voluntarily for the purpose or on the ground specified in sub-section (3), and the ³[Controller of Insurance] may, in any case where he has ordered the cancellation of the registration of a society under sub-section (4) of section 70, order the winding up of the society under this Act. VII of 1913. VI of 1882. X of 1866.

Reduction
of insurance
contracts.

89. The Court may make an order reducing the amount of the insurance contracts of a provident society upon such terms and subject to such conditions as the Court thinks just—

- (a) if the ³[Controller of Insurance] as an alternative to cancelling the registration of a society under sub-section (4) of section 70 applies to the Court in this behalf;
- (b) if while a society is in liquidation the Court thinks fit;
- (c) if when a society has been proved to be insolvent, the Court thinks fit to do so in place of making an order for the winding up of the society; or
- (d) if the Court is satisfied on an application made in this behalf by the society supported by the report of an actuary, and after giving the policy-holders an opportunity to be heard that it is desirable to do so.

Appoint-
ment of
liquidator.

90.—(1) Where a provident society is to be wound up whether under the Companies Act, 1913, or under this Act, the society shall, within seven days from the date of the order of the Court ordering the winding up or the passing of the resolution authorising the winding up, as the case may be, give notice thereof to the ³[Controller of Insurance] and, except where the winding up is done by an order of the Court, the ³[Controller of Insurance] shall appoint the liquidator and shall determine the remuneration to be paid to him: VII of 1913.

⁴[Provided that if the ³[Controller of Insurance] is not satisfied that the assets of the society are sufficient to meet the costs of liquidation including the remuneration of the liquidator, he may decline to make such appointment, and in such a case the society shall itself appoint a liquidator who shall carry out the liquidation as if the winding up was being done by an order of the Court.]

(2) Any liquidator ⁵[appointed by the ³[Controller of Insurance] under sub-section (1)] may be removed by the ³[Controller of

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 49, for "that Act".

² Ins., *ibid.*

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Proviso added by Act 13 of 1941, s. 50.

⁵ Subs. *ibid.*, for "so appointed".

Insurance] if satisfied that the duties entrusted to him are not being properly discharged.

VII of
1913.

¹[90A. Notwithstanding anything to the contrary contained in the Companies Act, 1913, the provisions of sections 91, 92 and 93 shall apply to any liquidator appointed to wind up a provident society; whether by the Court, the ²[Controller of Insurance] or the society itself.]

Application
of Act to
liquidators.

91.—(1) A liquidator appointed to wind up a society shall have power—

Powers of
liquidator.

- (a) to institute or defend any legal proceedings on behalf of the society by his name of office;
- (b) to determine the contribution to be made by members of the society respectively to the assets of the society;
- (c) to investigate all claims against the society and to decide questions of priority arising between claimants;
- (d) to determine by what persons and in what proportion the costs of the liquidation ³[including the remuneration of the liquidator and any expenses incurred under clause (g) of this sub-section] are to be borne;
- (e) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;
- (f) to summon, and enforce the attendance of, witnesses and to compel the production of documents by the same means and as far as may be in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908; and
- (g) with the sanction of the ²[Controller of Insurance], to employ such establishment and to obtain such assistance from an actuary or an auditor as may be necessary for the discharge of his duties.

V of
1908.

(2) The liquidator shall, for settling the list of contributories and realising the amount of contributions, have the same powers as an official liquidator appointed by the Court for the winding up of a company under the Companies Act, 1913.

VII of
1913.

92.—(1) As soon as a liquidator is appointed to wind up a society he shall take charge of all property movable or immovable of the society and of all its books and documents.

Procedure, at
liquidation.

(2) If any proprietor or officer of the society or any other person retains any portion of the assets of the society or fails to deliver to the liquidator any book or document when so required by the liquidator he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees,

¹ Section 90A ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 40.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 51.

or with both, and the Court may order the delivery of the assets or book or document to the liquidator.

(3) The liquidator shall within fifteen days of his appointment send notice by post to all persons who appear to him to be creditors of the society that a meeting of the creditors of the society will be held on a date not being less than twenty-one nor more than twenty-eight days after his appointment, and at a place and hour to be specified in the notice, and shall also advertise notice of the meeting once in the local official Gazette and once at least in two newspapers circulating in the Province in which the society is situated.

(4) At the meeting so held the creditors shall determine whether an application shall be made for the appointment of any person as liquidator in the place of or jointly with the liquidator already appointed, or for the appointment of a committee of inspection, and, if they so resolve and an application accordingly is made at any time not later than fourteen days after the date of the meeting by any creditor appointed for the purpose at the meeting, the ¹[Controller of Insurance] shall appoint a suitable person in place of or jointly with the liquidator already appointed, and ²[determine the remuneration to be paid to him, and if so desired, shall also appoint] a committee of inspection.

(5) The committee of inspection shall, subject to any prescribed conditions, have a general power of supervision over the acts of the liquidator and shall have the right to inspect his accounts at all reasonable times.

(6) The liquidator shall, with such assistance from an actuary as may be required, ascertain as soon as practicable the amount of the society's liability to every person appearing by the society's books to be entitled to or interested in any policy issued by the society, and shall give notice of the amount so found to each such person in the prescribed manner and each such person on receiving such notice shall be bound by the value so ascertained.

(7) The liquidator shall make a valuation of the assets of the society and an estimate of the costs of the winding up, and shall on the basis of these, settle the list of contributories.

(8) The liquidator shall apply to the ¹[Controller of Insurance] for an order for the return of the deposit made by the society under section 73 and the ¹[Controller of Insurance] shall on such application order the return of the deposit subject to such terms and conditions as he may think fit.

(9) In administering and distributing the assets of the society the liquidator shall have regard to any directions that may be given by the creditors or contributories at a general meeting or by the ¹[Controller of Insurance].

(10) The liquidator shall keep books of account in which he shall record the proceedings at all meetings attended by him, all amounts

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 41, for "if so desired".

(Part III.—Provident Societies)

received or expended by him and any other matter that may be prescribed, and these books may, with the sanction of the ¹[Controller of Insurance], be inspected by any creditor or contributory.

(11) If the winding up continues for more than a year, the liquidator shall summon a meeting of the creditors and contributories at the end of the first year and of each succeeding year, and shall lay before them an account of his acts and dealings and of the conduct of the winding up, and that account together with any views expressed thereon by the meeting shall be forwarded by the liquidator to the ¹[Controller of Insurance].

(12) So far as is not otherwise provided herein or is not otherwise prescribed under this Act, the liquidator shall so far as practicable follow the procedure to be followed by an official liquidator appointed by the Court for the winding up of a company under the Companies Act, 1913.

VII of
1913.

²[(13) The costs of the liquidation including the remuneration of the liquidator and any expenses incurred under clause (g) of sub-section (1) of section 91 shall, if the liquidator decides that they shall be payable out of the assets of the society, be payable in priority to all other claims.]

93.—(1) As soon as the affairs of a provident society are fully wound up, the liquidator shall prepare an account of the winding up showing how the winding up has been conducted and the property of the society has been disposed of and shall call a meeting of the members, creditors and contributories for the purpose of laying before it the account and giving any explanation thereof.

Dissolution
of provident
society.

(2) Notice of the meeting shall be sent to each person individually and shall be advertised in the local official Gazette and in at least two newspapers circulating in the Province in which the society is situated.

(3) Within one week after the meeting the liquidator shall send to the ¹[Controller of Insurance] a copy of the account and shall report to him the holding of the meeting and its date and shall forward to him a copy of the proceedings of the meeting.

(4) The ¹[Controller of Insurance] may return the account to the liquidator if it is incomplete or unsatisfactory and may require the liquidator to carry out any further steps necessary to complete the winding up and the liquidator shall comply with such requirement and shall submit a further report to the ¹[Controller of Insurance] within six months.

(5) If the ¹[Controller of Insurance] is satisfied that the affairs of the society have been fully wound up he shall register the account of the liquidator who shall forthwith make over to the ¹[Controller of Insurance] sums, if any, remaining undisposed of, and on the expiry of three months from the registering of the account the ¹[Controller

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Sub-section (13) added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 52.

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of Insurance] shall declare the society dissolved and cause the dissolution of the society to be notified in the local official Gazette, and the liquidator shall thereupon be discharged from further responsibility.

(6) If within a period of five years from the date on which any sums have been made over to the ¹[Controller of Insurance] under sub-section (5) an order of a Court of competent jurisdiction has not been obtained at the instance of any claimant to such sums for their disposal the said sums shall become the property of Government.

Nomina-
tions and
assignments.

94.—(1) The provisions of section 38 and section 39 relating to assignment, transfer and nomination in the case of life insurance policies shall, subject to the provisions of this section, apply to policies of insurance issued by any provident society covering any of the contingencies specified in clause (a) ²[of sub-section (2)] of section 65.

(2) No nomination shall be valid if the person nominated is not the husband, wife, father, mother, child, grand-child, brother, sister, nephew or niece of the holder of the policy.

PART IV

MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE LIFE INSURANCE SOCIETIES.

Definitions.

95.—(1) In this Part—

- (a) “Mutual Insurance Company” means an insurer, being a company ³[incorporated under the Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby,] which has no share capital and of which by its constitution only and all policy-holders are members; and VII of 1913.
VI of 1882.
X of 1866.
- (b) “Co-operative Life Insurance Society” means an insurer being a society registered under the Co-operative Societies Act, 1912, or under an Act of a Provincial Legislature governing the registration of co-operative societies which carries on the business of life insurance and which has no share capital on which dividend or bonus is payable and of which by its constitution only original members on whose application, the society is registered and all policy-holders are members: II of 1912.

Provided that any Co-operative Life Insurance Society in existence at the commencement of this Act shall be allowed a period of one year to comply with the provisions of this Act.

(2) Notwithstanding anything contained in sub-section (1), other co-operative societies may be admitted as members of a Co-operative

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for “Superintendent of Insurance” (with effect from the 15th May, 1950).

² Ins. by the Insurance (Amendment) Act, 1946, (6 of 1946), s. 42.

³ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 29, for “incorporated under the provisions of the Companies Act, 1913,”.

(Part IV.—*Mutual Insurance Companies and Co-operative Life Insurance Societies.*)

Life Insurance Society, without being eligible to any dividend, profit or bonus.

(3) A Provincial Government may, subject to any rules made by the Central Government, empower the Registrar of Co-operative Societies of the Province to register co-operative societies for the insurance of cattle or crops or both under the provisions of the Co-operative Societies Act in force in the Province.

(4) A Provincial Government may make rules not inconsistent with any rules made by the Central Government to govern such societies, and the provisions of this Act, in so far as they are inconsistent with those rules, shall not apply to such societies.

96. The provisions of sections 6 and 7 and of sub-section (2) of section 20, so far as those provisions are inconsistent with the provisions of this Part, shall not apply, and the provisions of this Part shall apply to Mutual Insurance Companies and Co-operative Life Insurance Societies.

Application of Act to Mutual Insurance Companies and Co-operative Life Insurance Societies.

97. No Mutual Insurance Company incorporated after the 26th day of January, 1937, and no Co-operative Life Insurance Society registered after that date under the Co-operative Societies Act, 1912, or under an Act of a Provincial Legislature governing the registration of co-operative societies shall be registered under this Act, unless it has as working capital a sum of fifteen thousand rupees, exclusive of the deposit to be made before or at the time of application for registration in accordance with sub-section (2) of section 98 of this Act and of the preliminary expenses, if any, incurred in the formation of the company or society.

Working capital of Mutual Insurance Companies and Co-operative Life Insurance Societies.

98.—(1) Every Mutual Insurance Company and every Co-operative Life Insurance Society shall, in respect of the life insurance business carried on by it in ¹[the Provinces and the Capital of the Federation], deposit and keep deposited with one of the offices ²[in Pakistan] of ³[the State Bank of Pakistan], for and on behalf of the Central Government, a sum of ⁴[one hundred thousand rupees] in cash or in approved securities estimated at the market value of the securities on the day of deposit.

Deposits to be made by Mutual Insurance Companies and Co-operative Life Insurance Societies.

(2) The deposit referred to in sub-section (1) may be made in instalments, of which the first shall be a payment, made before or at the time the application for registration under this Act is made, ⁵[of not less than ⁶[twelve thousand and five hundred] rupees] or such sum as

¹ Subs. by the A. O., 1949, for "British India".

² Subs. *ibid.*, for "in India".

³ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

⁴ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 3, for "two hundred thousand rupees" (with effect from the 15th May, 1950).

⁵ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 53, for "of twenty-five thousand rupees" (retrospectively).

⁶ Subs. by Act 32 of 1950, s. 3, for "twenty five thousand" (from 15-5-1950).

(Part IV.—Mutual Insurance Companies and Co-operative Life Insurance Societies.)

with any deposit previously made by the insurer under the provisions of the Indian Life Assurance Companies Act, 1912, brings the amount deposited, up ¹[to not less than ²[twelve thousand and five hundred] rupees] and the subsequent instalments shall be annual instalments made before the expiry of each subsequent ³[calendar year] of an amount in cash or in approved securities estimated at the market value of the securities on the day of payment of the instalment, ⁴[equal to not less than one-third of the premium income in the preceding calendar year as shown in the revenue account].

VI of
1912.

⁵[(3) The provisions of sub-section (7) of section 7 shall apply in respect of a Mutual Insurance Company and a Co-operative Life Insurance Society as if for the words "under the foregoing provisions of this section" the words and figures "under the provisions of section 98" were substituted.]

Prohibition
of loans.

⁶[98A. The provisions of section 29 shall apply to Co-operative Life Insurance Societies as they apply to other insurers, so however that in such application the references in the second proviso to sub-section (1) of the said section to the commencement of this Act shall be construed as references to the commencement of the Insurance (Amendment) Act, 1946.]

VI of
1946.

Transferees
and assign-
ees of poli-
cies not to
become
members.

99. No transferee or assignee of a policy issued by an insurer to whom this Part applies shall become a member of a Mutual Insurance Company or a Co-operative Life Insurance Society merely by reason of any such transfer or assignment.

Publication
of notices
and docu-
ments of
Mutual
Insurance
Companies
and Co-
operative
Life Insur-
ance
Societies.

100. Notwithstanding the provisions of section 79 and section 131 of the Companies Act, 1913, a Mutual Insurance Company or a Co-operative Life Insurance Society may, instead of sending the notices and the copies of the balance-sheet, revenue account and other documents which they are required to send to the members under those sections, publish such notices or documents once in a newspaper published in the English language and in a newspaper published in ⁷[the local language] circulating in the place where the principal office of the company is situated:

VII of
1913.*

Provided that, where any members of the company are domiciled in a Province other than that in which the principal office of the

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 53 (with retrospective effect), for "to twenty-five thousand rupees".

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 3, for "twenty-five thousand" (with effect from the 15th May, 1950).

³ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 30, for "year".

⁴ The original words, viz., "equal to one-third of the gross premium income received in the previous year" have been successively amended by Act 11 of 1939, s. 30, the Insurance (Amendment) Act, 1941 (13 of 1941), s. 53 and the Insurance (Amendment) Act, 1946 (6 of 1946), s. 43, to read as above.

⁵ Added by Act 13 of 1941, s. 53 (with retrospective effect).

⁶ S. 98A ins. by Act 6 of 1946, s. 44.

⁷ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Schedule, for "an Indian language".

(Part IV.—Mutual Insurance Companies and Co-operative Life Insurance Societies. Part V.—Miscellaneous.)

company is situated, publication of the 1* * * notice of the meetings shall be made in a newspaper or newspapers published in the principal languages of that Province and circulating therein ²[and any member of the company domiciled in that Province shall be entitled on application to the company to receive from it a copy of the balance-sheet and revenue account].

101. Every Mutual Insurance Company and every Co-operative Life Insurance Society shall, on the application of any member made within two years from the date on which any such document is furnished to the Registrar of Companies under the provisions of section 134 of the Companies Act, 1913, or to the Registrar of Co-operative Societies of the Province in which the Co-operative Life Insurance Society is registered, furnish a copy of the document free of cost to the member within fourteen days of the application.

Supply of documents to members.

VII of
1913

PART V

MISCELLANEOUS

102.—(1) Except as otherwise provided in this Act, any insurer who makes default in complying with or acts in contravention of any requirement of this Act and, where the insurer is a company, any director, managing agent, manager or other officer of the company, or where the insurer is a firm, any partner of the firm who is knowingly a party to the default, shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing default, with an additional fine which may extend to five hundred rupees for every day during which the default continues.

Penalty for default in complying with, or act in contravention of this Act.

(2) ³[Any provident society as defined in Part III which makes default in complying with or acts in contravention of any of the requirements of this Act] and any director, managing agent, manager, secretary or other officer of the society who is knowingly a party to the default ⁴[or contravention], shall be punishable with fine which may extend to five hundred rupees or in the case of a continuing default ⁴[or contravention] with fine which may extend to two hundred and fifty rupees for every day during which the default ⁴[or contravention] continues.

103.—(1) Any insurer or any person acting on behalf of an insurer, who ⁵[carries on] any class of insurance business in contravention of any of the provisions of section 3, ⁶* *, section 7, ⁷* *, or section 98, or does any one or more of the acts constituting the business

Penalty for transacting insurance business in

¹ The words "balance-sheet, revenue account and" omitted by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 54.

² Added, *ibid.*

³ Subs. *ibid.*, s. 55, for "Any provident society which makes default in complying with any of the requirements of Part III".

⁴ Ins., *ibid.*

⁵ Subs. *ibid.*, s. 56, for "transacts".

⁶ The word and figure "section 6" omitted, *ibid.*

⁷ The word and figures "section 97" omitted, *ibid.*

contraven-
tion of
sections 3,
7 and 98.

of insurance ¹[in relation to any insurance business ²[carried on] in contravention of any of the said sections] shall be punishable with fine which may extend to two thousand rupees.

(2) Any person knowingly taking out a policy of insurance with any insurer or person guilty of an offence under sub-section (1) shall be punishable with fine which may extend to five hundred rupees:

Provided that nothing in ³[sub-section (1) or sub-section (2)] shall apply to the business of re-insurance between the head office of an insurer in ⁴[the Provinces and the Capital of the Federation] and the head office of an insurer not having an office in ⁴[the Provinces and the Capital of the Federation].

⁵[(3) Any provident society or any person acting on behalf of a provident society who carries on any class of insurance business in contravention of any of the provisions of section 70, section 73 or section 83 or does any one or more of the acts constituting the business of insurance in relation to any insurance business carried on in contravention of any of the said sections shall be punishable with fine which may extend to one thousand rupees.]

Penalty for
false state-
ment in
document.

104.—Whoever, in any return, report, certificate, balance-sheet or other document, required by or for the purposes of any of the provisions of this Act, wilfully makes a statement false in any material particular, knowing it to be false, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one thousand rupees, or with both.

Wrongfully
obtaining
or withhold-
ing property.

105.—⁶[(1)] Any director, managing agent, manager or other officer or employee of an insurer who wrongfully obtains possession of any property of the insurer or having any such property in his possession wrongfully withholds it or wilfully applies it to purposes other than those expressed or authorised by this Act shall ⁷[on the complaint of the ⁸[Controller of Insurance] made after giving the insurer not less than fifteen days' notice of his intention, or], on the complaint of the insurer or any member or any policy-holder thereof, be punishable with fine which may extend to one thousand rupees and may be ordered by the Court trying the offence to deliver up or refund within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or wilfully misapplied and in default to suffer imprisonment for a period not exceeding two years.

⁹[(2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.]

¹ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 31, for "in relation to any such class of insurance business".

² Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 56, for "transacted".

³ Subs. *ibid.*, for "this section".

⁴ Subs. by the A. O., 1949, for "British India".

⁵ Sub-section (3) added by Act 13 of 1941, s. 56.

⁶ S. 105 re-numbered as sub-section (1) of that section, *ibid.*, s. 57.

⁷ Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 45.

⁸ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁹ Sub-section (2) added by Act 13 of 1941, s. 57.

106.—¹[(1)] If on the application of ²[the ³[Controller of Insurance] or] an insurer or any member of an insurance company or any policy-holder or the liquidator of an insurance company (in the event of the insurer being in liquidation) the Court is satisfied that by reason of any contravention of the provisions of this Act the amount of the life insurance fund has been diminished, every person who was at the time of the contravention a director, manager, liquidator or an officer of the insurer shall be deemed in respect of the contravention to have been guilty of misfeasance in relation to the insurer unless he proves that the contravention occurred without his consent or connivance and was not facilitated by any neglect or omission on his part; and the Court shall have all the powers which a Court has under sections 235 and 237 of the Companies Act, 1913, and shall also have the power to assess the sum by which the amount of the life insurance fund has been diminished by reason of the misfeasance and to order any person guilty thereof to contribute to that fund the whole or any part of that sum by way of compensation.

Wrongfully
diminishing
life insurance
fund.

⁴[(2)] This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.]

⁵[106A.—(1) When application is made to the Court for the making of any order to which this section applies the Court shall, unless the ³[Controller of Insurance] has himself made the application or has been made a party thereto, send a copy of the application together with intimation of the date fixed for the hearing thereof to the ³[Controller of Insurance], and shall give him an opportunity of being heard.

Notice to
and hearing
of Controller
of Insurance.

(2) The orders to which this section applies are the following, namely:—

- (a) an order for the attachment in execution of a decree of any deposit made under section 7 or section 98;
- (b) an order under section 9 or section 59 for the return of any such deposit;
- (c) an order under section 36 sanctioning any arrangement for the transfer or amalgamation of life insurance business or any order consequential thereon;
- (d) an order for the winding up of an insurance company or a provident society;
- (e) an order under section 58 confirming a scheme for the partial winding up of an insurance company;
- (f) an order under section 89 reducing the amount of the insurance contracts of a provident society.]

¹ S. 106 was re-numbered as sub-section (1) of that section by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 58.

² Ins., *ibid.*

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Sub-section (2) added by Act 13 of 1941, s. 58.

⁵ S. 106A ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), section 14.

Previous sanction of Advocate General for Institution of proceedings.

107.—¹[(1)] Except where proceedings are instituted by the ²[Controller of Insurance], no proceedings under this Act against an insurer or any director, manager or other officer of an insurer or any person who is liable under sub-section (2) of section 41 shall be instituted by any person unless he has previous thereto obtained the sanction of the Advocate General of the Province where the principal place of business in ³[the Provinces and the Capital of the Federation] of such insurer is situate to the institution of such proceedings. •

⁴[(2)] This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer.]

Power of Court to grant relief.

108. If in any proceedings, civil or criminal, it appears to the Court hearing the case that a person is or may be liable in respect of negligence, default, breach of duty or breach of trust but that he has acted honestly and reasonably and that having regard to all the circumstances of the case he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, the Court may relieve him either wholly or partly from his liability on such terms as it may think fit.

Cognizance of offence.

109. No Court inferior to that of * * * a Magistrate of the first class shall try any offence under this Act.

Appeals.

110.—(1) An appeal shall lie to the Court having jurisdiction from any of the following orders, namely:—

- (a) an order under section 3 refusing to register, or cancelling the registration of, an insurer;
- (b) an order under section 5 directing the insurer to change his name;
- (c) an order under section 42 cancelling the licence issued to an agent;
- (d) an order under section 75 refusing to register an amendment of rules;
- ⁶[(e) an order under section 87 or section 87A;]
- (f) an order made in the course of the winding up or insolvency of an insurer or a provident society.

(2) The Court having jurisdiction for the purposes of sub-section (1) shall be the principal Court of civil jurisdiction within whose local limits the principal place of business of the insurer concerned is situate.

(3) An appeal shall lie from any order made under sub-section (1) to the authority authorised to hear appeals from the decisions

¹ Section 107 was re-numbered as sub-section (1) of that section by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 59.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Subs. by the A. O., 1949, for "British India".

⁴ Sub-section (2) added by Act 13 of 1941, s. 59.

⁵ The words "a Presidency Magistrate or" omitted by the A. O., 1949.

⁶ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 46, for the original clause (e).

of the Court making the same and the decision on such appeal shall be final.

¹[(4) No appeal under this section shall be entertained unless it is made before the expiration of four months from the date on which the order appealed against was communicated to the appellant.]

²[110A. The ³[Controller of Insurance] may by general or special order delegate any of his powers or duties under this Act to any person subordinate to him. The exercise or discharge of any of the powers or duties so delegated shall be subject to such restrictions, limitations and conditions, if any, as the ³[Controller of Insurance] may impose, and shall be subject to his control and revision.]

Delegation of powers and duties of Controller of Insurance.

110B. Every document which is required by this Act or by any rule made thereunder to be signed by the ³[Controller of Insurance] or by any person subordinate to him or by any officer authorised by him under sub-section (1) of section 42 shall be deemed to be properly signed, if it bears a facsimile of the signature of such ⁴[Controller], person or officer printed, engraved, lithographed or impressed by any other mechanical process approved by the Central Government.]

Signature of documents.

111.—(1) Any process or notice required to be served on an insurer or provident society shall be sufficiently served if addressed to any person registered with the ³[Controller of Insurance] as a person authorised to accept notices on behalf of the insurer or provident society and left at, or sent by registered post to, the address of such person as registered with the ³[Controller of Insurance].

Service of notices.

(2) Any notice or other document which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent and any notice so addressed and sent shall be deemed to be notice to the holder of such policy:

Provided that, where any person claiming to be interested in a policy as transferee, assignee or nominee has given to an insurer or to a provident society notice in writing of his interest, any notice which is by this Act required to be sent to policy-holders shall also be sent to such person at the address specified by him in his notice.

112. Notwithstanding anything to the contrary contained in this Act an insurer carrying on the business of life insurance shall be at liberty to declare an *interim* bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the inter-valuation period on the recommendation of the investigating actuary made at the last preceding valuation.

Declaration of *interim* bonuses.

¹ Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 60.

² Sections 110A and 110B ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 15.

³ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁴ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Schedule, for "Superintendent".

Acquisition
of surrender
values by
policy.

113.—[¹(1) A policy of life insurance under which the whole of the benefits become payable either on the occurrence, or at a fixed interval or fixed intervals after the occurrence, of a contingency which is bound to happen, shall, if all premiums have been paid for at least three consecutive years in the case of a policy issued by an insurer, or five years in the case of a policy issued by a provident society as defined in Part III, acquire a guaranteed surrender value, to which shall be added the surrender value of any subsisting bonus already attached to the policy, and every such policy issued by an insurer shall show the guaranteed surrender value of the policy at the close of each year after the second year of its currency or at the close of each period of three years throughout the currency of the policy:

Provided that the requirements of this sub-section as to the addition of the surrender value of the bonus attaching to a policy at surrender shall be deemed to have been complied with where the method of calculation of the guaranteed surrender value of the policy makes provision for the surrender value of the bonus attaching to the policy:

Provided further that the requirements of this sub-section as to the showing of the guaranteed surrender value on a policy shall be deemed to have been complied with where the insurer shows on the policy the guaranteed surrender value of the policy by means of a formula accepted in this behalf by the ²[Controller of Insurance] as satisfying the said requirements:

Provided further that the provisions of this sub-section as to the showing of the guaranteed surrender value on a policy shall not take effect until after the expiry of six months from such date³ as the Central Government may, by notification in the official Gazette, appoint in this behalf.

(2) Notwithstanding any contract to the contrary, a policy which has acquired a surrender value shall not lapse by reason of the non-payment of further premiums but shall be kept alive to the extent of the paid-up sum insured, and the paid-up sum insured shall for the purposes of this sub-section include in full all subsisting reversionary bonuses that have already attached to the policy, and shall, where the policy is one on which the maximum number of annual premiums payable is fixed and the premiums are of uniform amount, be before the inclusion of such bonuses not less than the amount bearing to the total sum insured by the policy exclusive of bonuses the same proportion as the total period for which premiums have already been paid bears to the maximum period for which premiums were originally payable.

(3) A policy kept alive to the extent of the paid-up sum insured under sub-section (2) shall not be entitled by virtue of that sub-section to participate in any profits declared distributable after the conversion of the policy into a paid-up policy.]

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 61, for the original sub-sections (1) and (2).

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ The 1st January, 1942, see Notification No. 530-I (27)/41, dated the 6th December, 1941, Gazette of India, 1941, Pt. I, p. 1754.

¹[(4)] ²[Sub-section (2) and sub-section (3) shall not apply],—

³* * * * * *

⁴[(a) where the paid-up sum insured by a policy, being a policy issued by an insurer, is less than one hundred rupees inclusive of any attached bonus, or takes the form of an annuity of less than twenty-five rupees, or where the paid up sum insured by a policy, being a policy issued by a provident society as defined in Part III, is less than fifty rupees inclusive of any attached bonus or takes the form of an annuity of less than twenty-five rupees, or]

⁵[(b)] where the parties after the default has occurred in the payment of the premium agree in writing to some other arrangement, or

⁶[(c)] to policies in which the surrender value is automatically applied under the terms of the contract to maintaining the policy in force after its lapse through non-payment of premium.

114.—(1) The Central Government may, subject to the condition of previous publication by notification in the official Gazette, make rules to carry out the purposes of this Act.

Power of
Central
Government
to make
rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(a) the qualifications to be possessed by actuaries;

⁷[(b) the manner in which it shall be determined which of the transactions of an insurer are to be deemed for the purposes of this Act to be insurance business transacted ⁸[in Pakistan] or in ⁹[the Provinces and the Capital of the Federation], as the case may be;]

(c) the procedure to be followed by ¹⁰[the State Bank of Pakistan] in dealing with deposits made in pursuance of this Act, including the receipt of, custody of, withdrawal of, and payment of interest on securities lodged as such deposits, and their inspection and verification by the ¹¹[Controller of Insurance];

(d) the form referred to in clause (d) of sub-section (2) of section 16;

¹ The original sub-section (3) re-numbered as sub-section (4) by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 61.

² Subs. *ibid.*, for "This section shall not apply to".

³ Clause (a) omitted, *ibid.*

⁴ Subs. *ibid.*, for the original clause (b).

⁵ The original clause (c) re-lettered as clause (b), *ibid.*

⁶ The original clause (d) re-lettered as clause (c), *ibid.*

⁷ Subs. by Act 13 of 1941, s. 62, for the original clause (b).

⁸ Subs. by the A. O., 1949, for "in India".

⁹ Subs. *ibid.*, for "British India".

¹⁰ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), s. 4, for "the Reserve Bank of India".

¹¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

- (e) the manner in which the prospectuses and tables referred to in sub-section (1) of section 41 shall be published and the form in which they shall be drawn up;
- (f) the matters to be prescribed for the purposes of section 48;
- (g) the manner in which licences to act as insurance agents may be ¹[applied for,] issued or cancelled;
- (h) the contingencies other than those specified in clauses (a) to (f) of ²[sub-section (2) of] section 65 on the happening of which money may be paid by provident societies;
- (i) the matters other than those specified in clauses (a) to (o) of sub-section (1) of section 74 on which a provident society shall make rules;
- (j) the form of any account, return or register required by Part III and the manner in which such account, return or register shall be verified;
- (k) subject to the provisions of this Act, the fees payable thereunder and the manner in which they are to be collected; ³*
- (l) the conditions and the matters which may be prescribed under sub-sections (5), ⁴[(6),] (10) and (12) of section 92;
- ⁵[(m) any other matter which is to be or may be prescribed.]

⁶* * * * * *

⁷[(3) Every rule made under this section shall be laid as soon as may be after it is made before ⁸* * * the Central Legislature, while it is in session, for a total period of one month which may be comprised in one session or in two or more sessions, and if before the expiry of that period, ⁹[the Legislature makes] any modification in the rule or ¹⁰[decides] that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be.]

¹¹[(4)] All rules made by a Local Government under the provisions of section 24 of the Provident Insurance Societies Act, 1912, ^{v of} and in force at the commencement of this Act shall so far as not 1912. inconsistent with the provisions of Part III continue in force and have effect as if duly made under this section until they are replaced by rules made under this section.

¹ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 62.

² Ins. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 16.

³ The word "and" omitted, *ibid.*

⁴ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 32.

⁵ Clause (m) ins. by Act 20 of 1940, s. 16.

⁶ Proviso omitted, *ibid.*

⁷ Sub-section (3) ins., *ibid.*

⁸ The words "each of the Chambers of" omitted by the A. O., 1949.

⁹ Subs. *ibid.*, for "or where the period for which the rule is so laid before one Chamber does not coincide with that for which it is so laid before the other, before the expiry of the later of these periods, both Chambers agree in making".

¹⁰ Subs. *ibid.*, for "both Chambers agree".

¹¹ The original sub-section (3) re-numbered as sub-section (4) by Act 20 of 1940, section 16.

115. The Central Government may, on the application or with the consent of an insurer, not being a company, alter the forms contained in the Schedules as respects that insurer, for the purpose of adapting them to the circumstances of that insurer:

Alteration of forms.

Provided that nothing done under this section shall exempt the insurer from supplying all information required under this Act so far as it is possible for the insurer to do so.

116.—¹[(1)] The Central Government may, by notification in the official Gazette, exempt any insurer constituted, incorporated or domiciled in an ²[Acceding State or a non-Acceding State] ³[from any of the provisions of this Act which may be specified in the notification] either absolutely or subject to such conditions or modifications as may be specified in the notification:

Power to exempt from certain requirements.

⁴[Provided that no such notification shall be issued unless the Central Government is satisfied that insurers constituted, incorporated or domiciled in ⁵[the Provinces and the Capital of the Federation] are under the law or practice in such State entitled therein to benefits corresponding to those conferred by the notification or to benefits which in the opinion of the Central Government are at least equivalent thereto.]

⁶[(2) This section shall apply in respect of provident societies as defined in Part III as it applies in respect of insurers.]

⁷[**116A.** The Central Government shall every year cause to be published, in such manner as it may direct, a summary of the accounts, balance-sheets, statements, abstracts and other returns under this Act or purporting to be under this Act which have been furnished in pursuance of the provisions of this Act to the ⁸[Controller of Insurance] during the year preceding the year of publication, and may append to such summary any note of the ⁸[Controller of Insurance] or of the Central Government and any correspondence:

Summary of returns to be published.

Provided that nothing in this section shall require the publication of the ⁹[statement referred to in sub-section (2) of section 10 of the returns] referred to in sub-section (1) of section 28.]

117. Nothing in this Act shall affect the liability of an insurer being a company ¹⁰[or a provident society as defined in Part III being

Saving of provisions

¹ Section 116 re-numbered as sub-section (1) of that section by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 63.

² Subs. by the A. O., 1949, for "Indian State".

³ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 17, for "from the provisions of section 7 or section 98 relating to deposits or from the provisions of sub-section (2) of section 27 relating to the keeping of assets in India".

⁴ Proviso added, *ibid.*

⁵ Subs. by the A. O., 1949, for "British India".

⁶ Sub-section (2) added by Act 13 of 1941, s. 63.

⁷ S. 116A ins. *ibid.*, s. 64.

⁸ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁹ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 47, for "statements".

¹⁰ Ins. by Act 13 of 1941, s. 65.

of Companies Act, 1913. a company] to comply with the provisions of the Companies Act, 1913, in matters not otherwise specifically provided for by this Act. VII of 1913.

Exemptions.

118. Nothing in this Act shall apply to any Trade Union registered under the Trade Unions Act, 1926, or to any insurance business carried on by the Central or by a Provincial Government, or to any provident fund to which the provisions of the Provident Funds Act, 1925, apply, or, if the ¹[Controller of Insurance] so orders in any case, and to such extent ²[or subject to such conditions or modifications] as he specifies in such order, to—

(a) any fund in existence and officially recognised by the Central Government before the 27th day of January, 1937, maintained by or on behalf of Government servants or Government pensioners for the mutual benefit of contributors to the fund and of their dependants, or

(b) any mutual or provident insurance society composed wholly of Government servants or of railway servants which has been exempted from any or all of the provisions of the Provident Insurance Societies Act, 1912. V of 1912.

Inspection and supply of copies of published prospectus, etc.

³[**119.** Any person may on payment of a fee of five rupees inspect the documents filed by an insurer with the ¹[Controller of Insurance] under clause (f) of sub-section (2) of section 3, and may obtain a copy of any such document or part thereof on payment in advance at the prescribed rate for the making of the copy.]

Determination of market value of securities deposited under this Act.

120. The market value on the day of deposit of securities deposited in pursuance of any of the provisions of this Act with ⁴[the State Bank of Pakistan] shall be determined by ⁴[the State Bank of Pakistan] whose decision shall be final.

Amendment of section 130, Act IV of 1882.

121. To the *Exception* to section 130 of the Transfer of Property Act, 1882, the following words and figures shall be added, namely:—

“or affects the provisions of section 38 of the Insurance Act, 1938”. IV of 1938.

Amendment of Schedule I, Act IX of 1908.

⁵[**122.** In Item No. 86 in the First Schedule to the Limitation Act, 1908,— IX of 1908.

(a) for the entry in the first column the following shall be substituted, namely:—

“(a) On a policy of insurance when the sum insured is

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for “Superintendent of Insurance” (with effect from the 15th May, 1950).

² Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 66.

³ Subs. *ibid.*, s. 67, for the original section 119.

⁴ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for “the Reserve Bank of India”.

⁵ S. 122 ins. by Act 13 of 1941, s. 68. The original section 122 was repealed by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 34.

(Part V.—Miscellaneous. First Schedule)

payable after proof of the death has been given to or received by the insurers.

(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.”;

(b) for the entry in the third column, the following shall be substituted, namely:—

“(a) The date of the death of the deceased.

(b) The date of the occurrence causing the loss.”]

V of
1912.
VI of
1912.
XX of
1928.

123. The Provident Insurance Societies Act, 1912, the Indian Life Assurance Companies Act, 1912, and the Indian Insurance Companies Act, 1928, are hereby repealed. Repeals.

THE FIRST SCHEDULE

(See section 11)

Regulations and Forms for the preparation of Balance-Sheet

PART I

REGULATIONS

1. The balance-sheet required to be prepared in respect of every class of business carried on by an insurer is, in the form in which it is set out in Part II of this Schedule (Form A), appropriate to a case where the insurer maintains a separate fund in respect of life insurance business.

2. The balance-sheet of life insurance business shall be prepared as a separate document. The balance-sheet of any class of business may be prepared as a separate document instead of being incorporated by the addition of columns and headings in the general balance-sheet, but the totals of each such separate balance-sheet (showing the total assets of the class of business, the balance at the credit of the life insurance fund or other separate fund or account, the amount of shareholders' undivided profits, and outstanding liabilities) must in any case be incorporated in the general balance-sheet.

3. If any combined balance-sheet is for any purpose issued by an insurer, it shall be in accordance with the Form set out in this Schedule, and there shall not be included among the assets shown in any such combined balance-sheet any amount in respect of any holding in or advance to any insurer whose assets and liabilities have been incorporated therein. Every combined balance-sheet must show clearly on the face thereof that it is a combined balance-sheet and must set out fully the name of every insurer whose assets and liabilities have been incorporated therein; if the assets and liabilities of any person not being an insurer are included in a combined balance-sheet the fact must be stated thereon.

4. Where any guarantee has been given by an insurer (otherwise than in the ordinary course of re-insurance business) in respect of the policies of any other insurer, the balance-sheet of the insurer by whom the guarantee was given must show clearly the name of every insurer whose policies have been so guaranteed and the extent of the guarantee:

Provided that this regulation shall not apply where a combined balance-sheet is issued incorporating the assets and liabilities of the insurer whose policies are guaranteed.

5. Where any part of the assets of an insurer is deposited in any place outside ¹[the Provinces and the Capital of the Federation] as security for the owners of policies issued in that place, the balance-sheet shall state that part of

¹ Subs. by the A. O., 1949, for “British India”.

the assets has been so deposited, and, if any such part forms part of the life insurance fund, shall show the amount thereof and the place where it is deposited. Where any combined balance-sheet is issued by an insurer for any purpose, the information required by this regulation shall be shown in the aggregate in respect of all the insurers whose assets and liabilities have been incorporated in the balance-sheet.

6. There shall be appended to the balance-sheet a statement in Form AA, as set out in Part II of this Schedule showing the market value and the book value of the assets ¹[in Pakistan].

7. Every balance-sheet shall contain the following certificates, namely:—

- (a) a certificate signed by the same persons as are required by this Act to sign the balance-sheet explaining how the values as shown in the balance-sheet of the Investments in Stocks and Shares have been arrived at, and how the market value thereof has been ascertained for the purpose of comparison with the values so shown;
- (b) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and signed also, so far as respects the value of any items, shown in the balance-sheet under the heading of "Reversions and Life Interests", by an actuary, certifying that the values of all the assets have been reviewed as at the date of the balance-sheet, and that in their belief the assets set forth in the balance-sheet are shown in the aggregate at amounts not exceeding their realisable or market value under the several headings—"Loans", "Reversions and Life Interests", "Investments", "Agent's Balances", "Outstanding Premiums", "Interest, Dividends and Rents outstanding", "Interest, Dividends and Rents accruing but not due", "Amounts due from other Persons or Bodies carrying on Insurance Business", "Sundry Debtors", "Bills Receivable", "Cash" and the several items specified under "Other Accounts":

Provided that if the persons signing the certificate are unable to certify that the assets set forth in the balance-sheet are so shown as aforesaid, a full explanation of the bases upon which the values shown in the balance-sheet have been assessed shall be given in the certificate;

- (c) a certificate signed by the same persons as are required by this Act to sign the balance-sheet and by the auditor certifying that no parts of the assets of the life insurance fund has been directly or indirectly applied in contravention of the provisions of this Act relating to the application and investment of life insurance funds; and
- (d) certificates signed by the auditor (which shall be in addition to any other certificate or report which he is required by law to give with respect to the balance-sheet) certifying—
 - (i) that he has verified the cash balances and the securities relating to the insurer's loans, reversions and life interests, and investments;
 - (ii) to what extent, if any, he has verified the investments and transactions relating to any trusts undertaking by the insurer as trustee; and
 - (iii) in the case of a combined balance-sheet, that he has audited the balance-sheet and accounts of every insurer whose assets and liabilities are incorporated therein, or that any such balance-sheet and accounts which have not been audited by him have been certified by independent auditors. The said certificate shall contain a reference to such reservations, if any, as may have been made by any auditor upon any report or certificate given by him with respect to the balance-sheet and accounts of any insurer whose assets and liabilities are incorporated in the combined balance-sheet.

8. If the values shown in the balance-sheet in respect of "Holdings in Subsidiary Companies" or "House property (i) ¹[in Pakistan] (ii) ²[out of Pakistan]" have been increased since the last previous balance-sheet, the certificate required by paragraph (b) of the last foregoing regulation shall state the amount of every increase not solely due to the cost of subsequent additions or, as respects holdings

¹ Subs. by the A. O., 1949, for "in India".

² Subs. *ibid.*, for "out of India".

in controlled companies, to increased profits, and shall contain an explanation of the reason therefor.

9. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely:—

- (a) “combined balance-sheet” includes any combined statement made by an insurer of assets and liabilities in the form of a balance-sheet which includes the assets and liabilities of any other insurer; and
 - (b) “market value” means as respects any assets the market value thereof as ascertained from published market quotations, or, if there be no such value, its fair value as between a willing buyer and a willing seller.
-

PART II
FORMS
FORM A

Form of Balance-Sheet

Balance-Sheet of 19

—	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.	—	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
	Rs. A. P.	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.
Shareholders' capital (each class to be stated separately) 				Loans:—			
Authorised:				On Mortgages of property within ¹ [the Provinces and the Capital of the Federation] 			
.....shares of Rs.....each Rs. _____				On Mortgages of property outside ¹ [the Provinces and the Capital of the Federation] 			
Subscribed:				On security of municipal and other public rates 			
.....shares of Rs.....each Rs. _____				On Stocks and Shares 			
Called up:				On Insurer's Policies within their surrender value 			
.....shares of Rs.....each Rs. _____				On Personal security 			
Less Unpaid calls Rs. _____				To Subsidiary Companies (other than Reversionary) (f) 			
Reserve or Contingency Accounts (a) :				Reversions and Life Interests:			
Investment Reserve Account ...				Reversions and Life Interests purchased			

Insurance
(First Schedule)

[1938 : Act IV]

Profit and Loss Appropriation Account Balance.				Loans on Reversions and Life Interests			
Balances of Funds and Accounts:				Debentures and Debenture Stocks of Subsidiary Reversionary Companies (f)			
Life Insurance Fund				Ordinary Stocks and Shares of Subsidiary Reversionary Companies (f) ...			
Fire Insurance Business Account ...				Loans to Subsidiary Reversionary Companies (f)			
Marine Insurance Business Account ...				Investments:			
2* * Miscellaneous Insurance Business Account ³ [(m)]				Deposit with ⁴ [the State Bank of Pakistan] (securities to be specified) ...			
Other accounts, if any (to be specified)(f)				⁵ [Pakistan Government Securities] ...			
Pension or Superannuation Accounts (b)				Provincial Government Securities ...			
Debenture Stock per cent.				British, British Colonial and British Dominion Government Securities ...			
Loans and Advances (c)				Foreign Government Securities ...			
Bills payable (c)				⁶ [Pakistan Municipal Securities] ...			
Estimated Liability in respect of outstanding claims, whether due or intimated (d).				Carried over ...			
Carried over ...							

¹ Subs. by the A. O., 1949, for "British India".

² The words "Accident and" omitted by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 18.

³ These brackets and letter "(m)" were added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 69.

⁴ Subs. by the Pakistan (Adaptation of Existing Pakistan Laws) (State Bank of Pakistan) Order, 1948 (G. G. O. 18 of 1948), for "the Reserve Bank of India".

⁵ Subs. by the A. O., 1949, for "Indian Government Securities".

⁶ Subs. *ibid.*, for "Indian Municipal Securities".

FORM A—*contd.*

—	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.	—	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
	RS. A. P.	RS. A. P.	RS. A. P.		RS. A. P.	RS. A. P.	RS. A. P.
Brought forward ...				Brought forward ...			
Annuities due and unpaid (d) ...				Investments:— <i>contd.</i>			
Outstanding Dividends ...				British and Colonial Securities ...			
Amounts due to Other Persons or Bodies carrying on Insurance Business (c) ...				Foreign Securities ...			
Sundry Creditors (including outstanding and accruing expenses and Taxes) (c) ...				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the ¹ [Central Government] or a Provincial Government ...			
Other sums owing by the insurer (particulars to be given) (c) ...				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by the British or any Colonial Government ...			
Contingent Liabilities (to be specified) (e)				Bonds, Debentures, Stocks and other Securities whereon Interest is guaranteed by any Foreign Government ...			
Rs. —				Debentures of any railway ² [in Pakistan] ...			
				Debentures of any railway ³ [out of Pakistan] ...			
				Preference or guaranteed Shares of any railway ² [in Pakistan] ...			

				Preference or guaranteed Shares of any railway ³ [out of Pakistan] ...		
				Railway Ordinary Stocks (i) ² [in Pakistan] (ii) ³ [out of Pakistan] ...		
				Other Debentures and Debenture Stock of Companies incorporated (i) ² [in Pakistan] (ii) ³ [out of Pakistan] ...		
				Other guaranteed and Preference Stocks and Shares of Companies incorporated (i) ² [in Pakistan] (ii) ³ [out of Pakistan] ...		
				Other Ordinary Stocks and Shares of Companies incorporated (i) ² [in Pakistan] (ii) ³ [out of Pakistan] ...		
				Holdings in Subsidiary Companies (f)		
				House property (i) ² [in Pakistan] (ii) ³ [out of Pakistan] ...		
				Freehold and Leasehold ground rents and rent charges ...		
				Agent's Balances ...		
				Outstanding Premiums (g) ⁴ [(d)] ...		
				Interest, Dividends and Rents outstanding (d) ...		
				Carried over ...		

¹ Subs. by the A. O., 1949, for "Indian Government".

² Subs. *ibid.*, for "in India".

³ Subs. *ibid.*, for "out of India".

⁴ The brackets and letter "(d)" added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 69.

FORM A—concl'd.

	Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.		Life and Annuity Business. (1)	Other Classes of Business. (2)*	Total.
	Rs. A. P.	Rs. A. P.	Rs. A. P.		Rs. A. P.	Rs. A. P.	Rs. A. P.
				Brought forward ...			
				Interest, Dividends and Rents accruing but not due (<i>d</i>)			
				Amounts due from other Persons or Bodies carrying on Insurance Business (<i>h</i>) ...			
				Sundry Debtors (<i>i</i>)			
				Bills Receivable			
				Cash:			
				At Bankers on Deposit Account ...			
				At Bankers on Current Account and in hand			
				At Call and Short Notice (<i>j</i>) ...			
				Other Accounts (to be specified) (<i>k</i>) ...			

* Assets and Liabilities, Shareholders' Capital and Reserves, not allocated to any class of business specified in column (1) must be shown in column (2).

NOTES

(a) The Reserves or Contingency Accounts must be separately stated.

(b) If the Insurer has not full and unrestricted control of the assets constituting the Pension or Superannuation Accounts, either those Accounts and the assets and liabilities relating thereto must be omitted from the balance-sheet or the assets of which the insurer has not such control must be clearly indicated on the face of the balance-sheet.

(c) If the Insurer has deposited security as cover in respect of any of these items, the amount and nature of the securities so deposited must be clearly indicated on the face of the balance-sheet.

(d) These items are or have been included in the corresponding items in the Revenue or Profit and Loss Account. Outstanding and accruing interest, dividends and rents must be shown after deduction of income-tax or the income-tax must be provided for amongst the liabilities on the other side of the balance-sheet.

(e) Such items as amount of liability in respect of bills discounted, uncalled capital of subsidiary companies, uncalled capital of other investments, etc., must either be shown in their several categories under the heading "Contingent Liabilities" or the appropriate items on the assets side must be set out in such detail as will clearly indicate the amount of the uncalled capital.

(f) As respects life and annuity business full particulars of holdings in and loans to subsidiary companies must be stated, giving the name of each company, the number and description of each class of shares held, the amounts paid up thereon and the value at which the holdings in each company stand in the balance-sheet.

(g) Either this item must be shown net or the commission must be provided for amongst the liabilities on the other side of the balance-sheet.

(h) The aggregate amount owing by a subsidiary company or subsidiary companies is to be shown separately from all other assets and the aggregate amount owing to a subsidiary company or subsidiary companies is to be shown separately from all other liabilities.

(i) Amounts due from directors and officers must be shown separately.

(j) No amounts must be entered under this heading unless fully secured. If not fully secured, the amounts must be included under the heading "Sundry Debtors".

(k) Under this heading must be included such items as the following, which must be shown under separate headings suitably described: office furniture, goodwill, preliminary, formation and organisation expenses, development expenditure account, discount on debentures issued, other expenditure carried forward to be written off in future years, balance being loss on Profit and Loss Appropriation Accounts, etc. The amounts included in the balance-sheet must not be in excess of cost.

(l) Under the head "Other accounts, if any (to be specified)" on the left hand side, fines realized from the staff and their contribution towards the provident fund, if any, should be shown under separate sub-heads.

[*(m)* Where the insurer is required to maintain a separate account in respect of any sub-class of miscellaneous insurance business this heading is to be split up accordingly.]

¹ This footnote was added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 69.

FORM AA

Classified Summary of the ¹[Assets ²[in Pakistan]] of the.....
Company on 19 ..

Class of Asset.	Book value as per (a) below.	Market value as per (b) below.	Remarks as per (c) below.
	Rs.	Rs.	
(1) ³ [Central Government] Securities ...			
(2) ⁴ [Provincial Government] Securities			
(3) ⁵ [Pakistan Municipal Port and Improvement Trust] Securities including Debentures.			
(4) Debentures of ⁶ [Pakistan Railways]			
(5) Guaranteed and Preference Shares of ⁶ [Pakistan Railways].			
(6) Annuities of ⁶ [Pakistan Railways] ...			
(7) Ordinary Shares of Railways ² [in Pakistan].			
(8) Other Debentures of concerns ² [in Pakistan].			
(9) Other Guaranteed and Preference Shares of concerns ² [in Pakistan].			
(10) Other Ordinary Shares of concerns ² [in Pakistan].			
(11) Loans on the Company's policies effected ² [in Pakistan] and within their surrender value.			
(12) Loans on Mortgage of property ² [in Pakistan].			
(13) Loans on Personal Security to persons domiciled and resident ² [in Pakistan].			
(14) Other loans granted ² [in Pakistan] (particulars to be stated).			
(15) Land and House property ² [in Pakistan].			
(16) Cash on Deposit in banks ² [in Pakistan].			

¹ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 35, for "Indian Assets".² Subs. by the A. O., 1949, for "in India".³ Subs. *ibid.*, for "Government of India".⁴ Subs. *ibid.*, for "Indian Provincial Government".⁵ Subs. *ibid.*, for "Indian Municipal Port and Improvement Trust".⁶ Subs. *ibid.*, for "Indian Railways".

(First Schedule. Second Schedule)

FORM AA—contd.

Class of Asset.	Book value as per (a) below.	Market value as per (b) below.	Remarks as per (c) below.
	Rs.	Rs.	
(17) Cash in Hand and on current account in banks ¹ [in Pakistan].			
(18) Agents' balances and outstanding premiums.			
(19) Interest, dividends and rents either outstanding or accrued but not due.			
(20) Other assets ¹ [in Pakistan] (to be specified).			

The statement shall show—

- the value for which credit is taken in the balance-sheet for each of the abovementioned classes of assets,
- the market value of such of the abovementioned classes of assets as has been ascertained from published quotations after deduction of accrued interest included in market prices in those cases where accrued interest is included elsewhere in the balance-sheet,
- how the value of such of the abovementioned classes of assets as has not been ascertained from published quotations has been arrived at, and
- the rates of exchange at which the values of the assets other than in rupee currency have been converted into rupees.

The market values need not be shown separately where they are not less than the book values, and a certificate to that effect is appended to the statement.

No amounts on account of any of the following items may be entered in the statement:—

Goodwill.

Preliminary, formation, organisation or development expenses.

Commission or discount on shares or debentures issued.

Commuted Commission.

Expenditure carried forward to be written off in future years.

THE SECOND SCHEDULE

(See section 11)

Regulations and Forms for the preparation of Profit and Loss Accounts

PART I

REGULATIONS

1. The items on the income side of the Profit and Loss Account and Profit and Loss Appropriation Account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

¹ Subs. by the A. O., 1949, for "in India".

2. Deductions from Interest, Dividends and Rents to be shown in respect of income-tax must include all amounts in respect of ¹[Central] income-tax whether or not it has been or is to be deducted at source or paid direct.

3. The Interest, Dividends and Rents *less* income-tax thereon shown in the Revenue Accounts for any classes of business other than life insurance business, including annuity business may, if the insurer so desires, be included with the corresponding items in the Profit and Loss Account.

PART II

FORMS

FORM B

Form of Profit and Loss Account

Profit and Loss Account of _____ for the year ended 19 ____

	Rs. A. P.		Rs. A. P.
¹ [Central] Taxes on the Insurer's Profits (not applicable to any particular Fund or Account)		Interest, Dividends and Rents (not applicable to any particular Fund or Account) Rs.	
		Less - Income-Tax thereon Rs.	
Expenses of Management (not applicable to any particular Fund or Account)*		Profit on realisation of Investments (not credited to Reserves or any particular Fund or Account). ²	
Loss on Realisation of Investments (not charged to Reserves or any particular Fund or Account)		Appreciation of Investments (not credited to Reserves or any particular Fund or Account) ...	
Depreciation of Investments (not charged to Reserves or any particular Fund or Account)		Profit transferred from Revenue Accounts (details to be given) ...	
Loss transferred from Revenue Accounts (details to be given).		Transfer Fees	
Other Expenditure (to be specified)		Other Income (to be specified)	
Balance for the year carried to Appropriation Account ...		Balance being loss for the year carried to Appropriation Account ...	

*If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount must be shown separately.

¹ Subs. by the A. O., 1949, for "British Indian".

FORM C

Form of Profit and Loss Appropriation Account

Profit and Loss Appropriation Account of _____ for the year ended 19 .

	Rs. A. P.		Rs. A. P.
Balance being loss brought forward from last year ...		Balance brought forward from last year ... Rs.	
Balance being loss for the year brought from Profit and Loss Account (as in Form B) ...		Less—Dividends since paid in respect of last year (to be specified and if “free of tax” to be so stated)* ...	Rs.
Dividends paid during the year on account of the current year (to be specified and if “free of tax” to be so stated) ...			
Transfers* to any particular Funds or Accounts (details to be given) ...		Balance for the year brought from Profit and Loss Account (as in Form B) ...	
Balance at end of the year as shown in the Balance-Sheet ...		Balance being loss at end of the year as shown in the Balance-Sheet ...	

*NOTE.—This item may be shown on the other side of the account if preferred.

THE THIRD SCHEDULE

(See section 11)

Regulations and Forms for the preparation of Revenue Accounts

PART I

REGULATIONS

1. Form D is, as set out in Part II of this Schedule, appropriate for life insurance business, but a separate revenue account must be prepared for every class ¹[or sub-class] of business in respect of which the insurer is required to maintain a separate account.

2. Form F is, as set out in Part II of this Schedule, appropriate for fire insurance ²[and for marine insurance] business. A separate revenue account in the same form must be prepared for ³* * miscellaneous insurance ¹[exclusive of any sub-class of such business in respect of which the insurer is required to maintain a separate account] ⁴* * *. ⁵* * *.

¹ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 70

² Ins. by the Insurance (Amendment) Act, 1944 (7 of 1944), s. 4.

³ The words “accident and” omitted by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 19.

⁴ The words “including workmen’s compensation and motor car insurance” omitted, *ibid.*

⁵ The words “Form E is, as set out in Part II of this Schedule, appropriate for marine insurance business” omitted by Act 7 of 1944, s. 4.

¹[For a sub-class of miscellaneous insurance in respect of which the insurer is required to maintain a separate account, Form D or Form F as set out in Part II of this Schedule may be used with such modifications as the ²[Controller of Insurance] may authorise.]

3. If any combined revenue account is for any purpose issued by an insurer it must be in accordance with the forms specified in this Schedule and must clearly show on the face thereof that it is a combined revenue account, and must set out fully the name of every insurer required to make separate returns under this Act whose revenue and expenditure have been included therein; if the revenue and expenditure of any person not being an insurer are included in a combined revenue account, the fact must be stated thereon.

4. The items on the income side of the revenue account must relate to income whether actually received or not, and the items on the expenditure side must relate to expenditure whether actually paid or not.

5. Re-insurance premiums, whether on business ceded or accepted, are to be brought into account gross (*i.e.*, before deducting commissions) under the head of premiums.

6. As respects life insurance business the following statements shall be furnished to the ²[Controller of Insurance] every year showing details provided for in a Form pertaining thereto:—

- (A) A statement in form DD as set forth in Part II of this Schedule.
- (B) A statement in form DDD as set forth in Part II of this Schedule.
- (C) A statement in form DDDD as set forth in Part II of this Schedule.

³[7. In addition to the revenue account, information shall be supplied of the gross premium written direct ⁴[in Pakistan] that is, the premium income without taking into account premiums on reinsurances ceded or accepted, for every class or sub-class of business in respect of which the insurer is required to maintain a separate account.]

8. Any office premises which form part of the assets of a life insurance fund must be treated as an interest earning investment, and accordingly, in the revenue account for life insurance business a fair rent for the premises must be included under the heading "Interest, Dividends and Rents" and in the revenue account for every class of business for which the premises are used proper charges for the use thereof must be included under the heading "Expenses of Management".

9. Where an insurer carries on the business of life insurance in conjunction with any other class of insurance business the expenses of management charged to the life insurance revenue account must not include more than a reasonable proportion of the common expenses and in particular, no such account must be charged with more than a fair sum for the use of any office premises having regard to the income from the various classes of business carried on and to the extent to which the premises are used for the purposes of each class of business.

10. Deductions from Interest, Dividends and Rents in respect of income-tax must include all income-tax charged on such income whether or not it has been or is to be deducted at source or paid direct; the income-tax to be shown as so deducted in the life insurance, Revenue Account is ⁵[Central or Acceding State], United Kingdom, Foreign and Dominion income-tax, but the income-tax to be shown as deducted in Revenue Accounts of any other classes of business is ⁶[Central income-tax] only.

¹ Added by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 70.

² Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

³ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 48, for the original regulation 7.

⁴ Subs. by the A. O., 1949, for "in India".

⁵ Subs. *ibid.*, for "British Indian".

⁶ Subs. *ibid.*, for "British Indian income-tax".

PART II

FORMS

FORM D†

*Form of Revenue Account applicable to Life Insurance Business*Revenue Account of
in respect offor the year ended
Business.

19

—	Business ¹ [with- in Pak- istan].	Business ² [out of Pak- istan]. (a)	Total.	—	Business ¹ [with- in Pak- istan].	Business ² [out of Pak- istan]. (a)	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Claims under Policies (including provision for claims due or intimated), less Re- insurances—				Balance of Fund at the beginning of the year ...			
By death ...				Premiums, less Re- insurances—			
By maturity ...				(i) ³ [First year pre- miums, where, the maximum prem- iums paying period (g) is—			
Annuities, less Re- insurances.				two years ...			
Surrenders (including Surrenders of Bonus), less Re- insurances.				three years ...			
Bonuses in Cash, less Re-insurances.				four years ...			
Bonuses in Reduction of premiums, less Re-insurances.				five years ...			
4* * * *				six years ...			
Expenses of Manage- ment (b)—				seven years ...			
⁵ [1. (a) Commission to insurance agents (less that on Re- insurances) ...				eight years ...			
(b) Allowances and Commission [other than commission in- cluded in sub-item (a) preceding] ...				nine years ...			
				ten years ...			
				eleven years ...			
				twelve years or over (including throughout file)]			
				(ii) Renewal prem- iums ...			
				(iii) Single prem- iums ...			

† All the horizontal lines appearing in the columns and the letters "Rs." against the entries "Interest, Dividends and Rents" and "Less—Income-tax thereon (d)" omitted, and horizontal lines under which the totals of the columns are to be inserted added at the foot of each column, by Act 13 of 1941, s. 70 (c) (iii).

¹ Subs. by Act 26 of 1951, s. 4 and Third Sch., for "within India".

² Subs. by the A. O., 1949, for "out of India".

³ Subs. by Act 6 of 1946, s. 48, for "First year premiums".

⁴ The entry "Commission to insurance agents (less that on Re-insurances)", omitted by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 70.

⁵ Subs. *ibid.*, for the entry "1. Allowances and Commission (other than commission to insurance agents)".

FORM D—contd.

	Business 1[with- in Pak- istan].	Business 2[out of Pak- istan]. (a)	Total.		Business 1[with- in Pak- istan].	Business 2[out of Pak- istan]. (a)	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
2. Salaries, etc. (other than to agents and those contained in item No. 1) ...				Consideration for Annuities granted, less Re-insurances (c) ...			
3. Travelling ex- penses ...				Interest, Dividends and Rents ...			
4. Directors' fees...				Less — Income-tax thereon (d) ...			
5. Auditors' fees ...				Registration fees ...			
3[6. Medical fees]				Other Income (to be specified) (e) ...			
4[7.] Law charges ...				Loss transferred to Profit and Loss Account ...			
4[8.] Advertisements				Transferred from Appropriation Account ...			
4[9.] Printing and Stationery ...							
4[10.] Other expen- ses of manage- ment (accounts to be specified)							
5* * * *							
6[11.] Rents for offi- ces belonging to and occupied by the insurer ...							
6[12.] Rents of other offices occupied by the insurer ...							
Bad Debts ...							
United Kingdom, 7[Central or Acced- ing State], Dominion and Foreign Taxes.							
Other Expenditure (to be specified) ...							
Profit transferred to Profit and Loss Account ...							

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Schedule, for "within India".

² Subs. by the A. O., 1949, for "out of India".

³ This entry was inserted by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 70.

⁴ The original entries numbered 6 to 12 were re-numbered 7 to 13, *ibid.*

⁵ Item 11 omitted by the Insurance (Amendment) Act, 1946 (6 of 1946), section 48.

⁶ Re-numbered *ibid.*, as previously re-numbered by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 70.

⁷ Subs. by the A. O., 1949, for "British Indian".

FORM D—*concl.*

	Business ¹ [with- in Pak- istan].	Business ² [out of Pak- istan]. (a)	Total.		Business ¹ [with- in Pak- istan].	Business ² [out of Pak- istan]. (a)	Total.
	Rs.	Rs.	Rs.		Rs.	Rs.	Rs.
Balance of Fund at the end of the year as shown in the Balance-Sheet ...							

NOTES

(a) * * * * These columns apply only to business the premiums in respect of which are ⁴[ordinarily paid ⁵[outside Pakistan]].

⁶[If any question arises whether any premiums are ordinarily paid ⁵[outside Pakistan], the ⁷[Controller of Insurance] shall decide the question and his decision shall be final.]

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately. Under this item the salary paid to the managing agent or managing director shall be shown separately from the total amount paid as salaries to the remaining staff.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) ⁸[Central or Acceding State], United Kingdom, Foreign and Dominion income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, ⁸[Central or Acceding State], Foreign and Dominion taxes, other than those shown under this item.

(e) Under the head "Other Income" fines, if any, realised from the staff must be shown separately. All the amounts received by the insurer directly or indirectly whether from his head office or from any other source ⁵[outside Pakistan] shall also be shown separately in the revenue account except such sums as properly appertain to the capital account.

(f) In the case of an insurer having his principal place of business outside ⁹[the Provinces and the Capital of the Federation] the expenses of management for business ²[out of Pakistan] and total business need not be split up into the several sub-heads, if they are not so split up in his own country.

¹⁰(g) Where the maximum premiums-paying period includes a fraction of a year, such fraction shall be ignored for the purposes of this revenue account.]

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4, and Third Schedule, for "within India".

² Subs. by the A. O., 1949, for "out of India".

³ The words "In the case of an insurer having his head office in British India" omitted by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 70.

⁴ Subs. by the Insurance (Amendment) Act, 1940 (20 of 1940), s. 19, for "payable outside India".

⁵ Subs. by the A. O., 1949, for "outside India".

⁶ Added by Act 20 of 1940, s. 19.

⁷ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

⁸ Subs. by the A. O., 1949, for "British Indian".

⁹ Subs. *ibid.*, for "British India".

¹⁰ Note, (g) added by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 48.

	New life insurance business in respect of which a premium has been paid in the year.				Total life insurance business in force at end of the year.		Premium income for which credit has been taken in the revenue account.
	Number of policies.	Sums insured and annuities per annum.	Single premiums (including consideration for immediate ¹ [or deferred] annuities and all other premiums paid at the outset where no subsequent premium is payable).	Yearly renewal premium income.	Number of policies.	Sums insured with bonuses and annuities per annum.	
<i>Ordinary policies.</i>		Rs.	Rs.	Rs.		Rs.	Rs.
² [In Pakistan]							
³ [Out of Pakistan]							
Total							
<i>Annuity contracts, etc.</i>							
² [In Pakistan]							
³ [Out of Pakistan]							
Total							
<i>Group insurance policies.</i>							
² [In Pakistan]							
³ [Out of Pakistan]							
Total							

The amounts should be stated to the nearest rupees and after deduction of re-insurances.

¹ Ins. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 36.

² Subs. by the A. O., 1949, for "In India".

³ Subs. *ibid.*, for "Out of India".

FORM DDD

Additions to and deductions from policies of the Company for
the year ending 19 .

	Ordinary life insurance policies insuring money to be paid on death or survivorship.			Annuities.	
	No.	Sum assured.	Reversionary bonus additions.	No.	Annuity per annum.
		Rs.	Rs.		Rs.
(1) Policies at beginning of year ...					
(2) New policies issued ...					
(3) Old policies revived ...					
(4) Old policies changed and increased ...					
(5) Bonus additions allotted					
Total ...					
<i>Discontinued during year—</i>					
(6) By death ...					
(7) By survivorship or the happening of the contingencies insured against other than death ...					
(8) By expiry of term under temporary insurances.					
(9) By surrender of policy...					
(10) By surrender of bonus...					
(11) By forfeiture or lapse ...					
(12) By change and decrease					
(13) By being not taken up...					
Total discontinued ...					
Total existing at end of year					

¹[A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted ²[and all amounts stated shall be total gross amounts without taking into account reinsurances ceded or accepted].

Insurers having their principal place of business in ³[the Provinces and the Capital of the Federation] shall give the information required in the form

¹These notes were added by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 36.

²Ins. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 48.

³Subs. by the A. O., 1949, for "British India".

separately for business transacted ¹[in Pakistan] and business transacted ²[outside Pakistan] and insurers having their principal place of business outside ³[the Provinces and the Capital of the Federation] will furnish information regarding business transacted ¹[in Pakistan] only.]

FORM DDDD

Particulars of the policies forfeited or lapsed in the last ⁴* year under review, ⁵[and of policies] ⁶[revived] and reinstated for full benefits, classified according to the year in which they were issued.

⁷ [Year in which the policies were issued.]	Number of policies forfeited or lapsed.	Sum insured under policies in column 2.	Number of policies revived and reinstated for full benefits.	Sum insured under policies in column 4.
1	2	3	4	5
Year ending 19 , being the year under review.		Rs.		Rs.]
Year ending 19 , being the year previous to that under review.				

And so on, the number of and sum insured under policies forfeited or lapsed in the last ⁴* year under review being stated after classification according to each of the preceding years in which they were issued.

A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted ⁸[and all amounts stated shall be total gross amounts without taking into account reinsurance ceded or accepted].

Insurers having their principal place of business in ³[the Provinces and the Capital of the Federation] shall give the information required in the form separately for business transacted ¹[in Pakistan] and business transacted ²[outside Pakistan] and insurers having their principal place of business outside ³[the Provinces and the Capital of the Federation] will furnish information regarding business transacted ¹[in Pakistan] only.

FORM E

[Omitted by the Insurance (Amendment) Act, 1944 (7 of 1944), s. 4.]

¹ Subs. by the A. O., 1949, for "in India".

² Subs. *ibid.*, for "outside India".

³ Subs. *ibid.*, for "British India".

⁴ The word "financial" omitted by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 36.

⁵ Subs. by the Insurance (Amendment) Act, 1946 (6 of 1946), s. 48, for "less those".

⁶ Subs. by Act 11 of 1939, s. 36, for "revised".

⁷ Subs. by Act 6 of 1946, s. 48, for the original column headings in the Table.

⁸ Ins., *ibid.*

FORM F

Form of Revenue Account applicable to Fire Insurance Business ¹[Marine Insurance Business and] ²* * * Miscellaneous Insurance Business ³* * *

Revenue Account of _____ for the year ended 19 _____
in respect of _____ Business.

*Claims under Policies, less Reinsurances (a) (d):	Rs.	Balance of Account at beginning of the year :	Rs.
Paid during the year Rs.		Reserve for Unexpired Risks Rs.	
Total estimated liability in respect of outstanding claims at end of the year whether due or intimated Rs.		Additional Reserve (if any) Rs.	
Total		*Premiums, less Reinsurances (d)	
Less—Outstanding at end of previous year (b) Rs.		Interest, Dividends and Rents Rs.	
Commission		Less—Income-tax thereon Rs.	
*Expenses of Management (c)		*Other Income (to be specified) (e)	
*Bad Debts		Loss transferred to Profit and Loss Account ...	
⁴ [United Kingdom, ⁵ [Central or Acceding State] Dominion and Foreign Taxes]		Transferred from Appropriation Account ...	
*Other Expenditure (to be specified)			
Profit transferred to Profit and Loss Account ...			
Balance of Account at the end of the year as shown in the Balance-Sheet:			
Reserve for Unexpired Risks, being per cent. of premium income of year ... Rs.			
Additional Reserve (if any) Rs.			
Rs.			Rs.

NOTES

(a) This heading must include all expenses directly incurred in settling claims.

¹ *1 Subs. by the Insurance (Amendment) Act, 1944 (7 of 1944), s. 4, for “and to”.

² The words “Accident and” omitted by Act 20 of 1940, s. 19.

³ The words “including Workmen’s Compensation and Motor Car Insurance Business” omitted, *ibid.*

⁴ Subs. by Act 7 of 1944, s. 4, for “United Kingdom, Foreign and Dominion Taxes”.

⁵ Subs. by the A. O., 1949, for “British Indian”.

(Third Schedule. Fourth Schedule)

(b) If in any year the claims actually paid and those still unpaid at the end of that year in respect of the previous year or years are in excess of the amount included in the previous year's Revenue Account as provision for outstanding claims, then the amount of such excess must be shown in the Revenue Account.

(c) If any sum has been deducted from this item and entered on the assets side of the balance-sheet the amount so deducted must be shown separately.

(d) Where the account is furnished under the provisions of section 11 of the Insurance Act, 1938, separate figures for claims paid to claimants ¹[in Pakistan] and claimants ²[outside Pakistan], and for premiums derived from business effected ¹[in Pakistan] and effected ²[outside Pakistan] must be given.

(e) All the amounts received by the insurer directly or indirectly whether from his head office or from any other source ²[outside Pakistan] shall also be shown separately in the revenue account except such sums as properly appertain to the capital account.

*Where the account is furnished under the provisions of clause (b) of sub-section (2) of section 16 of the Insurance Act, 1938 by an insurer to whom that section applies, separate figures for business ³[within Pakistan] and business ⁴[out of Pakistan] must be given against the items marked with an asterisk. Against all other items the total amount for the business as a whole may be given.

THE FOURTH SCHEDULE

(See section 13)

Regulations for the preparation of Abstracts of Actuaries' Reports and Requirements applicable to such Abstracts.

PART I

REGULATIONS

1. Abstracts and Statements must be so arranged that the numbers and letters of the paragraphs correspond with those of the paragraphs of Part II of this Schedule.

2. In showing the proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, in accordance with the requirements of ⁵[paragraph 4] of Part II of this Schedule, no credit is to be taken for any adjustments made in order to secure that no policy is treated as an asset.

3.—(1) The average rate of interest yielded in any year by the assets constituting a life insurance fund shall, for the purposes of ⁶[paragraph 5] of Part II of this Schedule, be calculated by dividing the interest of the year by the mean fund of the year; and for the purposes of any such calculation the interest of the year shall be taken to be the whole of the interest credited to the life insurance fund during the year after deduction of income-tax charged thereon (any refund of income-tax in respect of expenses of management made during the year being taken into account), and the mean fund of the year shall be ascertained by adding a sum equal to one-half of the amount of the life insurance fund at the beginning of the year to a sum equal to one-half of that fund at the end of the year, and deductions from the aggregate of those two sums an amount equal to one-half of the interest of the year.

¹ Subs. by the A. O., 1949, for "in India", as amended by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 36.

² Subs. *ibid.*, for "outside India", as amended by Act 11 of 1939, s. 36.

³ Subs. *ibid.*, for "within India", as amended by Act 11 of 1939, s. 36.

⁴ Subs. *ibid.*, for "out of India", as amended by Act 11 of 1939, s. 36.

⁵ Subs. by Act 11 of 1939, s. 37, for "paragraph 3",

⁶ Subs. *ibid.*, for "paragraph 4".

(Fourth Schedule)

(2) For the purposes of the calculation aforesaid either—

- (a) all profits and income arising during the year from sums invested in reversions shall be included in the interest credited to the life insurance fund during the year; or
- (b) such portion of the life insurance fund as is invested in the purchase of reversions, and the profits and income arising therefrom, shall be excluded from the calculation; but in that case a statement must be added to the information required under the said ¹[paragraph 5], showing in respect of the portion of the fund so excluded as aforesaid, the average rate of annual profit and income for which credit has been taken during the five years last preceding the valuation date, and explaining the manner in which the said average rate has been calculated.

(3) The information given in accordance with the requirements of the said ¹[paragraph 5] shall show clearly by which of the methods hereinbefore in this regulation mentioned the sums invested in reversions and the profits and income arising therefrom have been dealt with.

4. Every abstract prepared in accordance with the requirements of Part II of this Schedule shall be signed by an actuary and shall contain a certificate by him to the effect that he has satisfied himself as to the accuracy of the valuations made for the purposes thereof and of the valuation data:

Provided that in the case of an abstract prepared on behalf of ²[an insurer], if the actuary who signs the abstract is not a permanent officer of ³[the insurer] the certificate as to the accuracy of the valuation data shall be given and signed by the principal officer of ³[the insurer] and the actuary shall include in the abstract a statement signed by him showing what precautions he has taken to ensure the accuracy of the data.

5. For the purposes of the Schedule the following expressions have the meanings hereby respectively assigned to them, namely:—

“extra premium” means a charge for any risk not provided for in the minimum contract premium;

“inter valuation period” means, as respects any valuation, the period to the valuation date of that valuation, from the valuation date of the last preceding valuation in connection with which an abstract was prepared under this Act or under the enactments repealed by this Act, or, in a case where no such valuation has been made in respect of the class of business in question, from the date on which the insurer began to carry on that class of business;

“maturity date” means the fixed date on which any benefit will become payable either absolutely or contingently;

“net premiums” means as respects any valuation the premiums taken credit for in the valuation;

“premium term” means the period during which premiums are payable;

“valuation date” means as respects any valuation the date as at which the valuation is made.

PART II

REQUIREMENTS APPLICABLE TO AN ABSTRACT IN RESPECT OF LIFE INSURANCE BUSINESS.

The following tabular statements shall be annexed to every abstract prepared in accordance with the requirements of this Part of this Schedule, namely:—

- (a) a Consolidated Revenue Account, in the Form G annexed to this Part of this Schedule, for the inter-valuation period (except that it shall not be necessary to prepare such an account in respect of any class of business

¹ Subs. by the Insurance (Amendment) Act, 1939 (11 of 1939), s. 37, for “paragraph 4”.

² Subs. *ibid.*, for “an insurance company”.

³ Subs. *ibid.*, for “the company”.

so long as the insurer deposits annually with the ¹[Controller of Insurance] an abstract in respect of that class of business); and

- (b) a Summary² and Valuation in the Form H annexed to this Part of this Schedule of the policies included at the valuation date in the class of business to which the abstract relates; and
- (c) a Valuation Balance-Sheet in the Form I annexed to this Part of this Schedule; and
- (d) a statement in Form DDD as set forth in Part II of the Third Schedule of the additions to and deductions from the number of policies and the sums insured thereunder for each class of life insurance ²[for the intervaluation period (except that it shall not be necessary to prepare such statement in respect of any class of business so long as the insurer deposits annually with the ¹[Controller of Insurance] an abstract in respect of that class of business)];

3* * * * * *

and every such abstract shall show—

1. The valuation date.

2. The general principles and full details of the methods adopted in the valuation of each of the various classes of insurances and annuities shown in the said Form H, including statements on the following points:—

- (a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws or how otherwise;
- (b) the method by which the net premiums have been arrived at and how the ages at entry, premium terms and maturity dates have been treated for the purpose of the valuation;
- (c) the methods by which the valuation age, period from the valuation date to the maturity date, and the future premium terms, have been treated for the purpose of the valuation;
- (d) the rate of bonus taken into account where by the method of valuation definite provision is made for the maintenance of a specific rate of bonus;
- (e) the method of allowing for—
 - (i) the incidence of the premium income; and
 - (ii) premiums payable otherwise than annually;
- (f) the methods by which provision has been made for the following matters, namely:—
 - (i) the immediate payment of claims;
 - (ii) future expenses and profits in the case of limited payment and paid-up policies;
 - (iii) the reserve in respect of lapsed policies, not included in the valuation, but under which a liability exists or may arise; and whether any reserves have been made for the matters aforesaid;
- (g) whether under the valuation method adopted any policy would be treated as an asset, and, if so, what steps, if any, have been taken to eliminate such asset;
- (h) a statement of the manner in which policies on under-average lives and policies subject to premiums which include a charge for climatic, military or other extra risks have been dealt with; and
- (i) the rates of exchange at which liabilities in respect of policies issued in foreign currencies have been converted into rupees and what provision has been made for possible increase of liability arising from future variations in the rates of exchange.

3. The table of mortality used, and the rate of interest assumed, in the valuation.

¹ Subs. by the Insurance (Amendment) Act, 1950 (32 of 1950), s. 2, for "Superintendent of Insurance" (with effect from the 15th May, 1950).

² Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 71, for "and".

³ Clause (e) omitted, *ibid.*

4. The proportion which that part of the annual premiums reserved as a provision for future expenses and profits bears to the total of the annual premiums, separately specified in respect of insurances with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits.

5. The average rates of interest yielded by the assets, whether invested or uninvested, constituting the life insurance fund for each of the years covered by the valuation date.

6. The basis adopted in the distribution of profits as between the insurer and policy-holders, and whether such basis was determined by the instruments constituting the company, or by its regulations or bye-laws, or how otherwise.

7. The general principles adopted in the distribution of profits among policy-holders, including statements on the following points, namely:—

- (a) whether the principles were determined by the instruments constituting the company or by its regulations or bye-laws, or how otherwise;
- (b) the number of years' premiums to be paid, period to elapse and other conditions to be fulfilled before a bonus is allotted;
- (c) whether the bonus is allotted in respect of each year's premium paid, or in respect of each completed calendar year or year of assurance or how otherwise; and
- (d) whether the bonus vests immediately on allocation, or, if not, the conditions of vesting.

8.—(1) The total amount of profits arising during the inter-valuation period, including profits paid away and sums transferred to reserve funds or other accounts during that period, and the amount brought forward from the preceding valuation (to be stated separately) and the allocation of such profits—

- (a) to interim bonus paid;
- (b) among policy-holders with immediate participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
- (c) among policy-holders with deferred participation, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
- (d) among policy-holders in the discounted bonus class, giving the number of the policies which participated and the sums assured thereunder (excluding bonuses);
- (e) to the insurer or, in the case of an insurance company, among shareholders or to shareholders' accounts (any such sums passed through the accounts during the inter-valuation period to be separately stated);
- (f) to every reserve fund or other fund or account (any such sums passed through the accounts during the inter-valuation period to be separately stated);
- (g) as carried forward unappropriated.

(2) Specimens of bonuses allotted ¹[as a result of this valuation] to policies for one thousand rupees—

- (a) for the whole term of life effected at the respective ages of 20, 30 and 40, and having been in force respectively for five years, ten years and upwards at intervals of ten years; and
- (b) for endowment insurances effected at the respective ages of 20, 30 and 40, for endowment terms of fifteen, twenty and thirty years, and having been in force respectively for five years, ten years and upwards at intervals of ten years;

together with the amounts apportioned under the various manners in which the bonus is receivable.

9. A statement in Form J annexed to this Part of this Schedule of specimen policy reserve values held or required to be held according to the methods adopted

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 71, for "as at the valuation date".

in the valuation, and specimen minimum surrender values in respect of whole life insurance policies for Rs. 1,000 with premiums payable throughout life effected at the respective ages of 20, 30, 40 and 50, and immediately on payment of the first, second, third, fourth, ¹[fifth,] sixth, seventh, eighth, ninth, tenth, fifteenth, and twentieth annual premium; with similar specimen policy reserve values and specimen surrender values in respect of whole life insurance policies subject to premiums payable for 20 years and of endowment insurance policies maturing at age 55.

¹10. A statement showing how the liability under any disability clause in a policy has been determined in the valuation with full information of the tables of sickness or accident used for the purpose.

²[FORM G

Consolidated Revenue Account of		for		years	
commencing		and ending			
	Business ³ [within Pak- istan] (a).	Total.		Business ³ [within Pak- istan] (a).	Total.
	Rs.	Rs.		Rs.	Rs.
Claims under Policies (in- cluding provision for claims due or intimated), less Re-insurances—			Balance of Life Insurance Fund at the beginning of the period.		
By death ...			Premiums, less Re-insur- ances—		
By maturity ...			(i) First year premiums.		
Annuities, less Re-insur- ances.			(ii) Renewal premiums.		
Surrenders (including surrenders of Bonus), less Re-insurances.			(iii) Single premiums.*		
Bonuses in cash, less Re- insurances.			Consideration for Annui- ties granted, less Re- insurances (c).		
Bonuses in Reduction of Premiums, less Re-insur- ances.			Interest, Dividends and Rents ... Rs.		
Expenses of Management (b) (e)—			Less—Income-tax thereon (d) ... Rs.		
1. (a) Commission to in- surance agents (less that on Re-insurances).			Registration fees ...		
(b) Allowances and Com- mission (other than commission included in sub-item (a) pre- ceding).			Other Income (to be specified).		
			Loss transferred to Profit and Loss Account.		
			Transferred from Appro- priation Account.		

¹ Ins. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 71.

² Subs. *ibid.*, for the original Form G.

³ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "within India".

FORM G—contd.

	Business 1[within Pakistan] (a)	Total.		Business 1[within Pakistan] (a)	Total.
	Rs.	Rs.		Rs.	Rs.
2. Salaries, etc. (other than to agents and those contained in sub-item 1(b) preceding).					
3. Travelling expenses					
4. Directors' fees ...					
5. Auditors' fees ...					
6. Medical fees ...					
7. Law charges ...					
8. Advertisements ...					
9. Printing and Stationery.					
10. Other expenses of management (accounts to be specified).					
11. Other payments (accounts to be specified).					
12. Rent for offices belonging to and occupied by the insurer.					
13. Rents of other offices occupied by the insurer.					
Bad debts. ...					
United Kingdom, 2[Central and Acceding State], Dominion and Foreign Taxes.					
Other Expenditure (to be specified).					
Profit transferred to Profit and Loss Account.					
Balance of Life Insurance Fund at end of the period as shown in the Balance-sheet.					
Rs.			Rs.		

NOTES

(a) These columns apply to all business except business the premiums in

1 Subs. by Act 26 of 1951, s. 4 and Third Sch., for "within India".

2 Subs. by the A. O., 1949, for "British Indian".

FORM H—concl'd.

Description of Transactions.	Particulars of the Policies for Valuation.					Valuation.		
	Number of policies.	Sums Assured.	Bonuses.	Office yearly premiums.	Net yearly premiums.	Sums Assured and Bonuses.	Office yearly premiums.	Net yearly premiums.
DIVISION I—concl'd.								
<i>Insurances—concl'd.</i>								
Group D—concl'd.								
Net insurances ...								
Total insurances without profits ...								
Total of the insurances shown in all groups ...								
Deduct—Re-insurances ...								
Net amount of insurances ...								
Adjustments, if any (to be separately specified) ...								
DIVISION II								
<i>Annuities on Lives</i>								
Immediate Annuities ...								
Deferred Annuities with return of premiums.								
Deferred Annuities without return of premiums.								
Other classes (to be specified) ...								
Total Annuities ...								
Deduct—Re-insurances ...								
Net Annuities on Lives ...								
Total of the results (after deduction of Re-insurances) ...								

NOTES

1. Items in this Summary are to be stated to the nearest rupee.
2. No policy of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, is to be included in Groups A, B, C, or D of this Form: any such policies must be shown in a separate Group which must be added to the Form.

3. If policies without participation in profits but with a guaranteed rate of bonus are issued, they must be separately specified in Group D of this Form.

4. Policies under which there is a waiver of premiums during disability must be shown as a separate class.

5. Separate forms must be prepared in respect of classes of policies valued by different tables of mortality or at different rates of interest or involving the valuation of net premiums on different bases.

6. In cases where separate valuations of any portion of the business are required under local laws in places outside [the Provinces and the Capital of the Federation] and reserves based on such valuations are deposited in such places, a statement must be furnished in respect of the business so valued in each such place showing the total number of policies, the total sums assured and bonuses, the total office yearly premiums, and the total net liability on the bases as to mortality and interest adopted in each such place with a statement as to such bases respectively.

7. Office and net premiums and the values thereof must be shown after deduction of abatements made by the application of bonus.

FORM I

Valuation Balance-Sheet of

as at 19 .

	Rs.		Rs.
Net liability under business as shown in the Summary and Valuation of Policies.		Balance of Life Insurance Fund as shown in the Balance-Sheet	
Surplus, if any 		Deficiency, if any 	

NOTE.—If the proportion of surplus allocated to the insurer, or in the case of an insurance company to shareholders, is not uniform in respect of all classes of insurances, the surplus must be shown separately for the classes to which the different proportions relate.

¹ Subs. by the A. O., 1949, for "British India".

FORM J

Specimen policy reserve values and minimum surrender values under a

policy for Rs. 1,000

[Number of annual premiums paid up to the valuation date].	Age at entry 20.		Age at entry 30.		Age at entry 40.		Age at entry 50.	
	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.	Reserve value.	Minimum surrender value.
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								
9.								
10.								
15.								
20.								

NOTE.—Items in this Form to be stated to the nearest rupee.

²[NOTE.—The reserve value is to be based on the rate of office premium payable by an insured who entered at the age shown and who had, by the valuation date, paid the number of annual premiums shown in the first column.]

¹ Subs. by the Insurance (Amendment) Act, 1941 (13 of 1941), s. 71; for “Number of premiums paid”.

² Note added, *ibid.*

THE FIFTH SCHEDULE

(See section 13)

Regulations for preparing statements of business in force and requirements applicable to such statements.

PART I

REGULATIONS

1. Statements prepared under this Schedule must be prepared, so far as practicable, in tabular form and must be identified by numbers and letters corresponding with those of the paragraphs of Part II of this Schedule.
2. Except with respect to rates of premium or contribution, items in statements prepared under this Schedule are to be shown to the nearest rupee.
3. Extra premium shown in the forms of Summary and Valuation prepared under the Fourth Schedule to this Act must not be included in statements prepared under this Schedule.
4. Every statement prepared under this Schedule shall be signed by the actuary making the investigation in connection with which it is prepared.
5. For the purposes of this Schedule the following expressions have the meanings hereby respectively assigned to them, namely:—
 - (a) "annual loading" means the provision made for future expenses and profits;
 - (b) "extra premiums" means a charge for any risk not provided for in the minimum contract premium;
 - (c) "net premiums" means the premiums taken credit for in the valuation in connection with which any statement is prepared; and
 - (d) "valuation date" means as respects any valuation the date as at which the valuation is made.

PART II

Requirements for statements applicable to Life Insurance Business

The statements required to be prepared under this Part of this Schedule are as follows, namely:—

1. Statements, separately prepared in respect of policies with and without participation in profits, showing—
 - (a) as respects policies for the whole term of life, the rates of office premiums charged, in accordance with the published tables in use, for new policies giving the rates for decennial ages at entry from 20 to 70 inclusive; and
 - (b) as respects endowment insurance policies, the rates of office premiums charged, in accordance with the published tables in use, for new policies with original terms of ten, fifteen, twenty, thirty and forty years, giving the rates for decennial ages at entry from 20 to 40 inclusive, but excluding policies under which the age at maturity exceeds 60.
2. Statements, separately prepared in respect of policies with immediate profits, with deferred profits, with profits under discounted bonus systems, and without profits, showing in quinquennial groups—
 - (a) as respects policies for the whole term of life—
 - (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped according to ages attained;
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable throughout life, and of the corresponding net premiums, grouped according to ages attained; and
 - (iii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable for a limited number of years, and, either, the corresponding net premiums grouped in accordance with the grouping adopted for the purposes of the valuation, or,

the annual loading reserved for the remaining duration of the policies, grouped according to ages attained;

- (b) as respects endowment insurance policies—
 - (i) the total amount assured (specifying sums assured and reversionary bonuses separately), grouped in accordance with the grouping adopted for the purposes of the valuation; and
 - (ii) the amount per annum, after deducting abatements made by application of bonus, of office premiums payable, and of the corresponding net premiums, grouped in accordance with the grouping adopted for the purposes of the valuation;

Provided that—

- (a) as respects endowment insurance policies which will reach maturity in less than five years, the information required by sub-paragraph (b) (i) of this paragraph must be given for each year instead of in quinquennial groups; and
 - (b) where the office premiums payable under policies for the whole term of life for a limited number of years, or the office premiums payable under endowment insurance policies, or the corresponding net premiums, are grouped for the purposes of the valuation otherwise than according to the number of years' payments remaining to be made, or, where the sums assured under endowment insurance policies are grouped for the purposes of the valuation otherwise than according to the years in which the policies will mature for payment or in which they are assumed to mature if earlier than the true year, then, in any such case the valuation constants and an explanation of the method by which they are calculated must be given for each group, and in the case of the sums assured under endowment insurance policies a statement must also be given of the amount assured maturing for payment in each of the two years following the valuation date.
3. Statements as respects any policies in force under which premiums cease to be payable, whether permanently or temporarily, during disability arising from sickness or accident, showing the total amount of the office premiums payable.
 4. Statements as respects immediate annuities on single lives for the whole term of life, separately prepared in respect of annuities on male and female lives, showing in quinquennial age groups the total amount of such annuities.
 5. Statements as respects deferred annuities, separately prepared in respect of annuities on male and female lives, showing the specimen reserve values for annuities of one hundred rupees which will be produced on maturity on the basis of valuation adopted at ages, in the case of male lives, 60 and 65, and in the case of female lives, 55 and 60; the said statements must show the specimen reserve values which will be produced under the table of annual premiums in use for new policies, and if under any other table of annual premiums in use for any other deferred annuity policies in force smaller reserve values will be produced, the like specimens of these must also be given.
 6. Statements as respects any policies of insurance upon the lives of a group of persons, whereby sums assured are payable in respect of the several persons included in the group, showing the total claims paid since the date as at which the last statements were prepared under this Part of this Schedule or, where no such statements have been prepared, since the date on which the insurer began to carry on the class of business to which the statements relate, and the reserve for unexpired risks and outstanding claims.

THE SIXTH SCHEDULE

(See section 55)

Rule as to the valuation of the Liabilities of an insurer in Insolvency or Liquidation

The liabilities of an insurer in respect of current contracts effected in the course of life insurance business including annuity business, shall be calculated by the method and upon the basis to be determined by an actuary approved

by the Court, and the actuary so approved shall, in determining as aforesaid, take into account—

- (a) the purpose for which such valuation is to be made,
- (b) the rate of interest and the rates of mortality and sickness to be used in valuation, and
- (c) any special directions which may be given by the Court.

The liabilities of an insurer in respect of current policies other than life policies shall be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.

THE MANŒUVRES, FIELD FIRING AND ARTILLERY PRACTICE ACT, 1938.

¹ACT NO. V OF 1938

[12th March, 1938]

An Act to provide facilities for Military manœuvres and for field firing and artillery practice.

WHEREAS it is expedient to provide facilities for military manœuvres and for field firing and artillery practice; It is hereby enacted as follows:—

1.—(1) This Act may be called the Manœuvres, Field Firing and Artillery Practice Act, 1938. Short title and extent.

(2) It extends to ²[all the Provinces and the Capital of the Federation].

CHAPTER I

MANŒUVRES

2.—(1) The Provincial Government may, by notification in the local official Gazette, authorise the execution of military manœuvres over any area specified in the notification during a specified period not exceeding three months: Power of Provincial Government to authorise manœuvres.

Provided that the same area or any part thereof shall not ordinarily be so specified more than once in any period of three years.

(2) The Provincial Government shall publish notice of its intention to issue a notification under sub-section (1) as early as possible in advance of the issue of the notification, and no such notification shall be issued until the expiry of three months from the date of the first publication of such notice in the local official Gazette..

¹ For Statement of Objects and Reasons, see Gazette of India, 1936, Pt. V, p. 326; for Report of the Select Committee, see *ibid.*, 1937, Pt. V, p. 272.

This Act has been applied to Baluchistan, see Notification No. 231-F., dated the 15th September, 1938, Gazette of India, 1938, Part I, page 1557.

² Subs. by the A. O., 1949, for "the whole of British India".

(3) The notice required by sub-section (2) shall be given by publication in the local official Gazette and shall also be given throughout the area which it is proposed to specify in the notification by publication in the manner prescribed by rules made under section 13, and shall be repeated by like publication one month and one week as nearly as may be before the commencement of the manœuvres.

Powers exercisable for purposes of manœuvres.

3.—(1) Where a notification under sub-section (1) of section 2 has been issued, such persons as are included in the military forces engaged in the manœuvres may, within the specified limits and during the specified periods,—

- (a) pass over, or encamp, construct military works of a temporary character, or execute military manœuvres on, the area specified in the notification, and
- (b) supply themselves with water from any source of water in such area:

Provided that nothing herein contained shall authorise the taking of water from any source of supply, whether belonging to a private owner or a public authority, of an amount in excess of the reasonable requirements of the military forces or of such amount as to curtail the supply ordinarily required by those entitled to the use of such water supply.

(2) The provisions of sub-section (1) shall not authorise entry on or interference with any well or tank held sacred by any religious community or any place of worship or ground attached thereto except for the legitimate purpose of offering prayers or any place or building reserved or used for the disposal of the dead, or any dwelling house or premises attached thereto or any educational institution, factory, workshop or store or any premises used for the carrying on of any trade, business or manufacture or any garden or pleasure ground, or any ancient monument as defined in section 2 of the Ancient Monuments Preservation Act, 1904.

Duty of Officer Commanding to repair damage.

4. The Officer in Command of the military forces engaged in the manœuvres shall cause all lands used under the powers conferred by this Chapter to be restored, as soon and as far as practicable, to their previous condition.

Right to compensation for damage caused by manœuvres.

5. Where a notification issued under section 2 authorises the execution of military manœuvres compensation shall be payable from the Defence Estimates for any damage to person or property or interference with rights or privileges arising from such manœuvres including expenses reasonably incurred in protecting person, property, rights and privileges.

Method of assessing compensation

6.—(1) The Collector of the district in which any area utilised for the purpose of manœuvres is situated shall depute one or more Revenue Officers to accompany the forces engaged in the manœuvres for the purpose of determining the amount of any compensation payable under section 5.

(2) The Revenue Officer shall consider all claims for compensation under section 5 and determine, on local investigation and where

possible after hearing the claimant, the amount of compensation, if any, which shall be awarded in each case; and shall disburse on the spot to the claimant the compensation so determined as payable.

(3) Any claimant, dissatisfied with a refusal of the Revenue Officer to award him compensation or with the amount of compensation awarded to him by the Revenue Officer, may, at any time within fifteen days from the communication to him of the decision of the Revenue Officer, give notice to the Revenue Officer, of his intention to appeal against the decision.

(4) Where any such notice has been given, the Collector of the district shall constitute a commission consisting of himself as chairman, a person nominated by the Officer Commanding the forces engaged in the manœuvres and two persons nominated by the District Board, and the commission shall decide all appeals of which notice has been given.

(5) The commission may exercise its powers notwithstanding the absence of any member of the commission, and the chairman of the commission shall have a casting vote in the case of an equal division of opinion.

(6) The decision of the commission shall be final and no suit shall lie in any Civil Court in respect of any matter decided by the commission.

(7) No fee shall be charged in connection with any claim, notice, appeal, application or document filed before the Revenue Officer, Collector or the commission under this section.

7. If, within the area and during the period specified in a notification under sub-section (1) of section 2, any person— Offences.

(a) wilfully obstructs or interferes with the execution of the manœuvres, or

(b) without due authority enters or remains in any camp, or

(c) without due authority interferes with any flag or mark or any apparatus used for the purposes of the manœuvres,

he shall be punishable with fine which may extend to ten rupees.

CHAPTER II

FIELD FIRING AND ARTILLERY PRACTICE

8. In this Chapter—

(a) "field firing" includes air armament practice;

(b) "notified area" means an area defined in a notification issued under sub-section (1) of section 9.

Definitions.

9.—(1) The Provincial Government may, by notification in the local official Gazette, define any area as an area within which for a specified term of years the carrying out periodically of field firing and artillery practice may be authorised.

Power of Provincial Government to authorise field firing and artillery practice.

(2) The Provincial Government may, by notification in the local

official Gazette, authorise the carrying out of field firing and artillery practice throughout a notified area or any specified part thereof during any period or periods specified in the notification.

(3) Before any notification under sub-section (2) is issued, the Provincial Government shall publish notice of its intention to issue such notification as early as possible in advance of the issue of the notification, and no such notification shall be issued until the expiry of two months from the date of the first publication of the notice in the local official Gazette.

(4) The notice required by sub-section (3) shall be given by publication in the local official Gazette and shall also be given throughout the notified area by publication in some newspaper circulating in and in the language commonly understood in that area and by beat of drum and by affixation in all prominent places of copies of the said notice in the language of the locality and in such other manner as may be prescribed by rules made under section 13 and shall be repeated by like publication one week as nearly as may be before the commencement of the period or of each period specified in the notification:

Provided that the fact of the said beat of drum and affixation shall be verified in writing by one headman and two other literate inhabitants of the locality and provided further that such notice by the beat of drum shall be given seven and two days as nearly as may be before the commencement of such field firing and artillery practice.

Powers exercisable for purposes of field firing and artillery practice.

10.—(1) Where a notification under sub-section (2) of section 9 has been issued, such persons as are included in the forces engaged in field firing or artillery practice may, within the notified area or specified part thereof during the specified period or periods,—

- (a) carry out field firing and artillery practice with lethal missiles, and
- (b) exercise, subject to the provisions of sections 3 and 4, any of the rights conferred by section 3 on forces engaged in military manœuvres:

Provided that the provisions of sub-section (2) of section 3 shall not debar entry into, or interference with, any place specified in that sub-section, if it is situated in an area declared to be a danger zone under sub-section (2) of this section, to the extent that may be necessary to ensure the exclusion from it of persons and domestic animals:

Provided further that in the case of a dwelling house occupied by women adequate warning shall be given through a local inhabitant and entry shall be effected after such warning in the presence of two respectable inhabitants of the locality.

(2) The Officer Commanding the forces engaged in any such practice may, within the notified area or specified part thereof, declare any area to be a danger zone, and thereupon the Collector shall, on application made to him by the Officer Commanding the forces engaged in the practice, prohibit the entry into and secure the removal from such danger zone of all persons and domestic animals during the times when the discharge of lethal missiles is taking place or there is danger to life or health.

11. The provisions of sections 5 and 6 shall apply in the case of field firing and artillery practice as they apply in the case of military manœuvres: Compensation.

Provided that the compensation payable under this section shall include compensation for exclusion or removal from any place declared to be a danger zone of persons or domestic animals, such compensation to be disbursed at not less than the minimum rates prescribed by rules made under section 13 before the exclusion or removal is enforced, and shall also include compensation for any loss of employment or deterioration of crops resulting from any such exclusion or removal.

12. If, during any period specified in a notification issued under sub-section (2) of section 9, any person within a notified area— Offences.

- (a) wilfully obstructs or interferes with the carrying out of field firing or artillery practice, or
- (b) without due authority enters or remains in any camp, or
- (c) without due authority enters or remains in any area declared to be a danger zone at a time when entry thereto is prohibited, or
- (d) without due authority interferes with any flag or mark or target or any apparatus used for the purposes of the practice,

he shall be punishable with fine which may extend to ten rupees.

CHAPTER III

GENERAL

13. The Provincial Government may, by notification in the local official Gazette, make rules— Power to make rules.

- (a) prescribing the manner in which the notices required by sub-section (2) of section 2 and sub-section (3) of section 9 shall be published in the areas concerned;
- (b) regulating the use under this Act of land for manœuvres or field firing and artillery practice in such manner as to secure the public against danger and to enable the manœuvres or practice to be carried out without interference and with the minimum inconvenience to the inhabitants of the areas affected;
- (c) regulating the procedure of the Revenue Officers and commissions referred to in section 6 in such manner as to secure due publicity regarding the method of making claims for compensation and preferring appeals from original awards of compensation, the expeditious settlement of claims and of appeals and the payment of compensation so far as possible direct to the claimants; and
- (d) defining the principles to be followed by the Revenue Officers and commissions referred to in section 6 in assessing the amount of compensation to be awarded.

THE FINANCE ACT, 1938

[26th March, 1938]

An Act ^{2*} * * to fix rates of income-tax and super-tax

WHEREAS it is expedient ^{2*} * * to fix rates of income-tax and super-tax; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the ^{3*} Finance Act, 1938.

⁴[(2) It extends to all the Provinces and the Capital of the Federation including Baluchistan.]

2 and 3. [*Salt duty. Inland postage rates.*] *Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.*

Income-tax
and super-
tax.

4.—(1) Income-tax for the year beginning on the 1st day of April, 1938, shall be charged at rates applicable to the total income of each assessee the same, and increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1937.

(2) The rates of super-tax for the year beginning on the 1st day of April, 1938, shall, for the purposes of section 55 of the Income-tax Act, 1922, be the same rates, increased in each case by the same fraction of the amount of the rate, as for the year beginning on the 1st day of April, 1937. XI of 1922.

(3) For the purposes of sub-section (1) "total income" means total income as determined in accordance with the provisions of the Income-tax Act, 1922. XI of 1922.

THE SCHEDULE.—Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.

¹ This Act was made by the Governor General under section 67-B of the Govt. of India Act as set out in the Ninth Schedule to the Government of India Act, 1935. No number was given to this Act.

For Statement of Objects and Reasons, *see* Gazette of India, 1938, Pt. V, page 30.

The Act has been applied to Baluchistan, *see* Gazette of India, 1938, Pt. I, page 929.

² Certain words omitted by the Repealing and Amending Act, 1942 (25 of 1942), s. 2 and First Sch.

³ The word "Indian" omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 2 and Third Schedule.

⁴ Sub-section (2) has been amended by the A. O., 1949 and Act 26 of 1951, s. 8, to read as above.

THE CUTCHI MEMONS ACT, 1938

¹ACT NO. X OF 1938

[8th April, 1938]

An Act to provide that all Cutchi Memons shall be governed in matters of succession and inheritance by the Muhammadan Law.

WHEREAS it is expedient that all Cutchi Memons be governed in matters of succession and inheritance by the Muhammadan Law; It is hereby enacted as follows:—

1.—(1) This Act may be called the Cutchi Memons Act, 1938.

Short title
and com-
mencement.

(2) It shall come into force on the 1st day of November, 1938.

2. Subject to the provisions of section 3, all Cutchi Memons shall, in matters of succession and inheritance, be governed by the Muhammadan Law.

Cutchi
Memons to
be governed
in certain
matters by
Muham-
madan Law.

3. Nothing in this Act shall affect any right or liability acquired or incurred before its commencement, or any legal proceeding or remedy in respect of any such right or liability; and any such legal proceeding or remedy may be continued or enforced as if this Act had not been passed.

Savings.

4. [Repeal.] *Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.*

THE CRIMINAL LAW AMENDMENT ACT, 1938

²ACT NO. XX OF 1938

[14th September, 1938]

An Act to amend the criminal law

WHEREAS it is expedient to supplement the criminal law by providing for the punishment of certain acts prejudicial to the recruitment of persons to serve in, and to the discipline of, His Majesty's Forces;

¹ For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 271; for Report of the Select Committee, see *ibid.*, 1938, Pt. V, p. 27.

² For Statement of Objects and Reasons, see Gazette of India, 1938, Pt. V, page 276.

The Act has been applied to Baluchistan, see Notification No. 309-F., dated the 15th December, 1938, Gazette of India, 1938, Pt. I, p. 2041, and 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 also 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 is hereby enacted as follows:—

Short title,
extent and
commence-
ment.

1.—(1) This Act may be called the Criminal Law Amendment Act, 1938.

(2) It extends to [all the Provinces and the Capital of the Federation].

(3) It shall come into force in a Province on such date as the Provincial Government may, by notification in the official Gazette, appoint in this behalf for such Province.

Dissuasion
from enlist-
ment and
instigation
to mutiny or
insubordi-
nation after
enlistment.

2. Whoever—

(a) with intent to affect adversely the recruitment of persons to serve in the Military, Naval or Air Forces of His Majesty, wilfully dissuades or attempts to dissuade the public or any person from entering any such Forces, or

(b) without dissuading or attempting to dissuade any person from entering such Forces, instigates the public or any person to do, after entering any such Force, any thing which is an offence punishable as mutiny or insubordination under section 27 of the Indian Army Act, 1911, or sections 10 to 12 and 14 to 17 inclusive of the Naval Discipline Act as applied to the ²[Pakistan Navy] by the ²[Pakistan Navy] (Discipline) Act, 1934, or sections 35 to 37 inclusive of the Indian Air Force Act, 1932, as the case may be,

VIII of
1911.

XXXIV
of 1934.
XIV of
1932.

shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

No person shall be prosecuted for any offence under this Act except with the previous sanction of the Provincial Government.

Exception 1.—The provisions of clause (a) of this section do not extend to comments on or criticism of the policy of Government in connection with the Military, Naval or Air Forces, made in good faith without any intention of dissuading from enlistment.

Exception 2.—The provisions of clause (a) of this section do not extend to the case in which advice is given in good faith for the benefit of the individual to whom it is given, or for the benefit of any member of his family or of any of his dependants.

THE EMPLOYERS' LIABILITY ACT, 1938

³Act No. XXIV OF 1938

[24th September, 1938]

An Act to declare that certain defences shall not be raised in suits for

¹ Subs. by the A. O., 1949, for "the whole of British India".

² Subs. *ibid.*, for "Indian Navy".

³ For Statement of Objects and Reasons, see Gazette of India, 1938, Pt. V, page 286.

The Act has been applied to Baluchistan, see Notification No. 309-F., dated the 15th December, 1938, Gazette of India, 1938, Pt. I, p. 2041.

damages in ¹[the Provinces and the Capital of the Federation] in respect of injuries sustained by workmen.

WHEREAS it is expedient to declare that certain defences shall not be raised in suits for damages in ¹[the Provinces and the Capital of the Federation] in respect of injuries sustained by workmen ; It is hereby enacted as follows:—

1.—(1) This Act may be called the Employers' Liability Act, 1938.

Short title
and extent.

(2) It extends to ²[all the Provinces and the Capital of the Federation].

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

Definitions.

(a) "workman" means any person who has entered into, or works under a contract of, service or apprenticeship with an employer whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, oral or in writing; and

(b) "employer" includes any body of persons whether incorporated or not, any managing agent of an employer, and the legal representatives of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means such other person while the workman is working for him.

3. Where personal injury is caused to a workman—

Defence of
common
employment
barred in
certain cases.

(a) by reason of the omission of the employer to maintain in good and safe condition any way, works, machinery or plant connected with or used in his trade or business, or by reason of any like omission on the part of any person in the service of the employer who has been entrusted by the employer with the duty of seeing that such way, works, machinery or plant are in good and safe condition; or

(b) by reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him, whilst in the exercise of such superintendence; or

(c) by reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where the injury resulted from his having so conformed; or

(d) by reason of any act or omission of any person in the service of the employer done or made in obedience to any rule or bye-law of the employer (not being a rule or bye-law which is required by or under any law for the time being in force to be approved by any authority and which has been so approved) or in obedience to particular instructions given by any person to whom the employer has

¹ Subs. by the A. O., 1949, for "British India".

² Subs. *ibid.*, for "the whole of British India".

delegated authority in that behalf or in the normal performance of his duties;

a suit for damages in respect of the injury instituted by the workman or by any person entitled in case of his death shall not fail by reason only of the fact that the workman was at the time of the injury a workman of, or in the service of, or engaged in the work of, the employer.

Risk not to be deemed to have been assumed without full knowledge.

4. In any such suit for damages, the workman shall not be deemed to have undertaken any risk attaching to the employment unless the employer proves that the risk was fully explained to and understood by the workman and that the workman voluntarily undertook the same.

Saving.

5. Nothing in this Act shall affect the validity of any decree or order of a civil Court passed before the commencement of this Act in any such suit for damages.

THE EMPLOYMENT OF CHILDREN ACT, 1938

¹ACT NO. XXVI OF 1938

[1st December, 1938]

An Act to regulate ²[the employment of children in] certain industrial employments.

WHEREAS it is expedient to regulate ²[the employment of children in] certain industrial employments; It is hereby enacted as follows:—

Short title and extent.

1.—(1) This Act may be called the Employment of Children Act, 1938.

(2) It extends to ³[all the Provinces and the Capital of the Federation].

Definitions.

2. In this Act—

⁴[(a)] “competent authority”, in respect of a major port, as defined in the Ports Act, 1908, and in respect of a federal railway, as defined in the Railways Act, 1890, means the

XV of 1908.
IX of 1890.

¹ For Statement of Objects and Reasons, see Gazette of India, 1938, Pt. V, page 284.

The Act has been applied to:—

(i) Baluchistan, see Notification No. 201-F., dated the 26th September, 1939, Gazette of India, 1939, Pt. I, p. 1634;

(ii) the partially excluded areas of the Mymensingh district with effect from the 1st October, 1939, see Notification No. 301-Com., dated the 26th September, 1939, Calcutta Gazette, dated the 28th September, 1939.

² Subs. by the Employment of Children (Amendment) Act, 1951 (28 of 1951), s. 2, for “the admission of children to”.

³ Subs. by the A. O., 1949, for “the whole of British India”.

⁴ The letter and brackets “(a)” ins. by the Employment of Children (Amendment) Act, 1939 (15 of 1939), s. 2 (with effect from the 1st October, 1939).

Central Government, and in any other case means the Provincial Government;

¹[(b) "occupier" of a workshop means the person who has ultimate control over the affairs of the workshop;

²[(bb) "port authority" means a body of port commissioners or any other authority administering a port;]

(c) "prescribed" means prescribed by rules made under this Act;

(d) "workshop" means any premises (including the precincts thereof) wherein any industrial process is carried on, but does not include any premises to which the provisions of section 50 of the Factories Act, 1934, for the time being apply.]

3.—³[(1) No child who has not completed his fifteenth year shall be employed or permitted to work in any occupation—

(a) connected with the transport of passengers, goods or mails by railway; or

(b) involving the handling of goods within the limits of any port.

Prohibition of employment of children in certain occupations.

(2) No child who has completed his fifteenth year but has not completed his seventeenth year shall be employed or permitted to work in any occupation referred to in sub-section (1), unless the periods of work of such child for any day are so fixed as to allow an interval of rest for at least twelve consecutive hours which shall include at least such seven consecutive hours between 10 P.M. and 7 A.M. as may be prescribed:

Provided that nothing in this sub-section shall apply to any child referred to herein while employed or permitted to work in such circumstances and in accordance with such conditions as may be prescribed in any occupation aforesaid either as an apprentice or for the purpose of receiving vocational training therein:

Provided further that the competent authority may, where it is of opinion that an emergency has arisen and the public interest so requires, by notification in the official Gazette, declare that the provisions of this sub-section shall not be in operation for such period as may be specified in the notification.]

⁴[(3) No child who has not completed his twelfth year shall be employed, or permitted to work, in any workshop wherein any of the processes set forth in the Schedule is carried on:

Provided that nothing in this sub-section shall apply to any workshop wherein any process is carried on by the occupier with the aid of his family only and without employing hired labour or to any school established by, or receiving assistance or recognition from, a Provincial Government.]

¹ Cls. (b), (c) and (d) added by the Employment of Children (Amendment) Act, 1939 (15 of 1939), s. 2 (with effect from the 1st October, 1939).

² Clause (bb) ins. by the Employment of Children (Amendment) Act, 1951 (28 of 1951), s. 3.

³ Subs. by Act 28 of 1951, s. 4, for the original sub-sections (1) and (2).

⁴ Sub-section (3) added by Act 15 of 1939, s. 3 (from the 1st October, 1939).

Power to
amend the
Schedule.

¹[3A. The Provincial Government, after giving, by notification in the official Gazette, not less than three months' notice of its intention so to do, may, by like notification, add any description of process to the Schedule, and thereupon the Schedule shall have force in the Province as if it has been enacted accordingly.]

Notice to
inspector
before
carrying
on work in
certain
processes.

3B. Before work in any of the processes set forth in the Schedule is carried on in any workshop after the 1st day of October, 1939, the occupier shall send to the inspector, within whose local limits the workshop is situated, a written notice containing—

- (a) the name and situation of the workshop,
- (b) the name of the person in actual management of the workshop,
- (c) the address to which communications relating to the workshop should be sent, and
- (d) the nature of the processes to be carried on in the workshop.

Disputes as
to age.

3C. If any question arises between an inspector and an employer as to whether any child has or has not completed his twelfth or fifteenth year, as the case may be, the question shall, in the absence of a certificate as to the age of such child, granted by a prescribed medical authority, be referred by the inspector for decision to the prescribed medical authority.]

Maintenance
of register.

²[3D. There shall be maintained by every employer, in respect of children employed or permitted to work in pursuance of sub-section (2) of section 3 in any occupation referred to in sub-section (1) of that section, a register to be available for inspection by an Inspector at all times during working hours or when work is being carried on in any such occupation, showing—

- (a) the name and date of birth of every child who has not completed his seventeenth year so employed or permitted to work;
- (b) the periods of work of any such child and the intervals of rest to which he is entitled;
- (c) the nature of work of any such child; and
- (d) such other particulars as may be prescribed.

Display of
notice
containing
abstracts of
sections 3
and 4.

3E. Every railway administration and every port authority shall cause to be displayed in a conspicuous and accessible place at every station on the railway or within the limits of the port, as the case may be, a notice in such language as may be prescribed and in English containing an abstract of sub-sections (1) and (2) of section 3 and section 4 of this Act.

Explanation.—In this section, “railway administration” has the meaning assigned to it in the Railways Act, 1890.]

IX of
1890.

¹ Ss. 3A, 3B and 3C ins. by the Employment of Children (Amendment) Act, 1939 (15 of 1939), s. 4 (with effect from the 1st October, 1939).

² Ss. 3D and 3E ins. by the Employment of Children (Amendment) Act, 1951 (28 of 1951), s. 5.

¹[4. Whoever—

Penalty.

(a) employs any child or permits any child to work in contravention of the provisions of section 3; or

(b) fails to give notice as required by section 3B and section 3E; or

(c) fails to maintain a register as required by section 3D or makes any false entry in any such register,

shall be punishable with the fine which may extend to five hundred rupees.]

5.—(1) No prosecution under this Act shall be instituted except by or with the previous sanction of an inspector appointed under section 6. Procedure relating to offences.

²[(2) Every certificate as to the age of a child which has been granted by a prescribed medical authority shall, for the purposes of this Act, be conclusive evidence as to the age of the child to whom it relates.]

(3) No Court inferior to that of ³* * * a Magistrate of the first class shall try any offence under this Act.

6. The competent authority may appoint persons to be inspectors for the purpose of securing compliance with the provisions of this Act, and any inspector so appointed shall be deemed to be a public servant within the meaning of the Pakistan Penal Code. Appointment of inspectors.

7.—(1) The competent authority may by notification in the official Gazette and subject to the condition of previous publication make rules for carrying into effect the provisions of this Act. Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) regulate the procedure of inspectors appointed under section 6; ⁴*

(b) make provision for the grant of certificates of age in respect of young persons in employment or seeking employment, ⁵[the medical authorities] which may issue such certificates, the form of such certificate, the charges which may be made therefor, and the manner in which such certificates may be issued:

Provided that no charge shall be made for the issue of any such

¹ Subs. by the Employment of Children (Amendment) Act, 1951 (28 of 1951), s. 6, for the original section 4, as amended by the Employment of Children (Amendment) Act, 1939 (15 of 1939), s. 5.

² Subs. by Act 15 of 1939, s. 6, for the original sub-section (2) (with effect from the 1st October, 1939).

³ The words "a Presidency Magistrate or" omitted by the A. O., 1949.

⁴ The word "and" omitted by the Employment of Children (Amendment) Act, 1951 (28 of 1951), s. 7.

⁵ Subs. by Act 15 of 1939, s. 7, for "the authorities" (with effect from the 1st October, 1939).

certificate if the application is accompanied by evidence of age deemed satisfactory by the authority concerned;

- ¹[(c) fix the seven consecutive hours between 10 P.M. and 7 A.M. for the purpose of sub-section (2) of section 3;
- (d) specify the circumstances in which and the conditions subject to which a child may be employed or permitted to work either as an apprentice or for the purpose of receiving vocational training in any occupation referred to in sub-section (1) of section 3;
- (e) specify any other particulars to be entered in the register maintained under section 3D;
- (f) specify the language in which a notice referred to in section 3B and 3E shall be published; and
- (g) provide for exemption from the provisions of sub-section (2) of section 3 in case of an emergency which could not have been controlled or foreseen, which is not of a periodical character and which interferes with the normal working of any occupation referred to in sub-section (1) of section 3.]

8. [*Amendment of section 6, Act XV of 1908.*] *Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.*

²[THE SCHEDULE

(See sections 3, 3A and 3B)

List of Processes

1. *Bidi*-making.
2. Carpet-weaving.
3. Cement manufacture, including bagging of cement.
4. Cloth-printing, dyeing and weaving.
5. Manufacture of matches, explosives and fireworks.
6. Mica-cutting and splitting.
7. Shellac manufacture.
8. Soap manufacture.
9. Tanning.
10. Wool cleaning.]

¹ Cls. (c) to (g) added by the Employment of Children (Amendment) Act, 1951 (28 of 1951), s. 7.

² Schedule added by the Employment of Children (Amendment) Act, 1939 (15 of 1939), s. 8 (with effect from the 1st October, 1939).

THE MOTOR VEHICLES ACT, 1939

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¹ACT No. IV of 1939

[16th February, 1939]

An Act to consolidate and amend the law relating to motor vehicles

WHEREAS it is expedient to consolidate and amend the law relating to motor vehicles in ²[the Provinces and the Capital of the Federation]; It is hereby enacted as follows:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1.—(1) This Act may be called the Motor Vehicles Act, 1939.

(2) It extends to ³[all the Provinces and the Capital of the Federation] ⁴[except that sub-section (4) of section 43, sections 43A, 43B and 43C and sub-section (2) of section 45 shall not apply to East Bengal].

(3) It shall come into force on the 1st day of July, 1939; but ⁵[section 38 and Chapter IV shall not have effect until the 1st day of April, 1940, or such earlier date as the Provincial Government may, by notification in the official Gazette, appoint, and], Chapter VIII shall not have effect until the 1st day of July, ⁶[1946].

Definitions.

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

(1) “axle weight” means in relation to an axle of a vehicle the

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1938, Pt. V, p. 114; for Report of the Select Committee, *see ibid.*, p. 187. *See also* the Indian Independence (Miscellaneous Transitional Provisions) Order, 1947 (G. G. O. 13 of 1947), Art. 3.

This Act has been applied to—

Baluchistan, *see* Notification No. 41-F, dated the 14th March, 1939, Gazette of India, 1939, Pt. I, p. 446, and Notification No. 126-F, dated the 3rd July, 1939, Gazette of India, 1939, Pt. I, p. 1180;

the partially excluded areas of the Mymensingh district subject to modifications and exceptions, *see* Notifications No. 1771-PL, dated the 15th August, 1939, Calcutta Gazette, dated the 24th August, 1939 and Bengal Govt. Notification No. 2393-PL, dated the 1st December, 1939.

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, *see* N. W. F. P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950; and extended to the Excluded Area of Upper Tanawal other than Phulera by the N. W. F. P. (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from the 1st June, 1951, *see* N. W. F. P. Gazette, Extraordinary, dated the 1st June, 1951.

The Act has been amended in its application to Sind, by the Motor Vehicles (Sind Amendment) Act, 1948 (Sind Act 14 of 1948).

² Subs. by the A. O., 1949, for “British India”.

³ Subs. *ibid.*, for “the whole of British India”.

⁴ Added by the Motor Vehicles (Amendment) Act, 1951 (17 of 1951), s. 1A.

⁵ Ins. by the Motor Vehicles (Amendment) Act, 1939 (40 of 1939), s. 2 (with effect from the 1st July, 1939).

⁶ Subs. by the Motor Vehicles (Amendment) Act, 1943 (1 of 1943), s. 2, for “1943”.

(Chapter I.—Preliminary)

total weight transmitted by the several wheels attached to that axle to the surface whereon the vehicle rests;

- (2) "certificate of registration" means the certificate issued by a competent authority to the effect that a motor vehicle has been duly registered in accordance with the provisions of Chapter III;
- (3) "contract carriage" means a motor vehicle which carries a passenger or passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum and from one point to another without stopping to pick up or set down along the line of route passengers not included in the contract; and includes a motor cab notwithstanding that the passengers may pay separate fares;

Explanation.—"Contract carriage" does not include a motor vehicle, possession of which has been temporarily transferred in accordance with an express agreement of hire for use as a private vehicle and which is used in accordance with the terms of such agreement;

- (4) "delivery van" means any goods vehicle the registered laden weight of which does not exceed 5,000 pounds avoirdupois;
- (5) "driver" includes, where a separate person acts as steersman of a motor vehicle, that person as well as any other person engaged in the driving of the vehicle;
- (6) "fares" includes sums payable for a season ticket or in respect of the hire of a contract carriage;
- (7) "goods" includes live-stock, and anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons; but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of passengers travelling in the vehicle;
- (8) "goods vehicle" means any motor vehicle constructed or adapted for use for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers;
- (9) "heavy transport vehicle" means a transport vehicle the registered axle weight of which exceeds 10,600 pounds avoirdupois, or the registered laden weight of which exceeds 14,500 pounds avoirdupois;
- (10) "invalid carriage" means a motor vehicle the unladen weight of which does not exceed five hundredweights, specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;
- (11) "licence" means the document issued by a competent authority authorising the person specified therein to drive a motor vehicle or a motor vehicle of any specified class or description;

- (12) "licensing authority" means an authority empowered to grant licences, appointed by the Provincial Government by rule made under section 21;
- (13) "light transport vehicle" means any public service vehicle other than a motor cab, or any goods vehicle other than a heavy transport vehicle or a delivery van;
- (14) "locomotive" means a motor vehicle which is itself not constructed to carry any load (other than equipment used for the purpose of propulsion), the unladen weight of which exceeds 16,000 pounds avoirdupois; but does not include a road-roller;
- (15) "motor cab" means any motor vehicle constructed, adapted or used to carry not more than six passengers excluding the driver, for hire or reward;
- (16) "motor car" means any motor vehicle other than a transport vehicle, locomotive, road-roller, tractor, motor cycle or invalid carriage;
- (17) "motor cycle" means a motor vehicle, other than an invalid carriage, with less than four wheels the unladen weight of which, inclusive of any side-car attached to the vehicle, does not exceed 900 pounds avoirdupois;
- (18) "motor vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer; but does not include a vehicle running upon fixed rails or used solely upon the premises of the owner;
- (19) "owner" means, where the person in possession of a motor vehicle is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire purchase agreement, the person in possession of the vehicle under that agreement;
- (20) "permit" means the document issued by a Provincial or Regional Transport Authority authorising the use of a Transport vehicle as a contract carriage, or stage carriage, or authorising the owner as a private carrier or public carrier to use such vehicle;
- (21) "prescribed" means prescribed by rules made under this Act;
- (22) "private carrier" means an owner of a transport vehicle other than a public carrier who uses that vehicle solely for the carriage of goods which are his property or the carriage of which is necessary for the purposes of his business not being a business of providing transport, or who uses the vehicle for any of the purposes specified in sub-section (2) of section 42;
- (23) "public carrier" means an owner of a transport vehicle who transports or undertakes to transport goods, or any class of goods, for another person at any time and in any public place for hire or reward, whether in pursuance of the terms of a contract or agreement or otherwise and

(Chapter I.—Preliminary)

includes any person, body, association or company engaged in the business of carrying the goods of persons associated with that person, body, association or company for the purpose of having their goods transported;

- (24) "public place" means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage;
- (25) "public service vehicle" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a motor cab, contract carriage, and stage carriage;
- (26) "registered axle weight" means in respect of any vehicle the axle weight certified and registered by the registering authority as permissible for that vehicle;
- (27) "registered laden weight" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;
- (28) "registering authority" means an authority empowered to register motor vehicles under Chapter III;
- (29) "stage carriage" means a motor vehicle carrying or adapted to carry more than six persons excluding the driver which carries passengers for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey;
- (30) "tractor" means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion) the unladen weight of which does not exceed 16,000 pounds avoirdupois; but excludes a road-roller;
- (31) "traffic signs" includes all signals, warning sign posts, direction posts, or other devices for the information, guidance or direction of drivers of motor vehicles;
- (32) "trailer" means any vehicle other than a side-car drawn or intended to be drawn by a motor vehicle;
- (33) "transport vehicle" means a public service vehicle, a goods vehicle, a locomotive or a tractor other than a locomotive or tractor used solely for agricultural purposes;
- (34) "unladen weight" means the weight of a vehicle, or trailer including all equipment ordinarily used with the vehicle or trailer when working, but excluding the weight of a driver or attendant; and where alternative parts or bodies are used the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;
- (35) "weight" means the total weight transmitted for the time being by the wheels of a vehicle to the surface on which the vehicle rests.

(Chapter II.—Licensing of Drivers of Motor Vehicles)

CHAPTER II

LICENSING OF DRIVERS OF MOTOR VEHICLES

Necessity
for driving
licence.

3.—(1) No person shall drive a motor vehicle in any public place unless he holds an effective licence issued to himself authorising him to drive the vehicle; and no person shall so drive a motor vehicle as a paid employee or shall so drive a public service vehicle unless his licence specifically entitles him so to do.

(2) A Provincial Government may prescribe the conditions subject to which sub-section (1) shall not apply to a person receiving instruction in driving a motor vehicle.

1* * * * *

Age limit in
connection
with driving
of motor
vehicles.

4.—(1) No person under the age of eighteen years shall drive a motor vehicle in any public place.

(2) Subject to the provisions of section 14, no person under the age of twenty years shall drive a transport vehicle in any public place.

2* * * * *

Responsibil-
ity of owners
of motor
vehicles for
contraven-
tions of sec-
tions 3 and 4.

5. No owner or person in charge of a motor vehicle shall cause or permit any person who does not satisfy the provisions of section 3 or section 4 to drive the vehicle.

Restrictions
on the
holding of
licences.

6.—(1) No person shall, while he holds any licence for the time being in force, hold any other licence except a licence issued in accordance with the provisions of section 14, or a document authorising, in accordance with the rules made under section 92, the person specified therein to drive a motor vehicle.

(2) No holder of a licence shall permit it to be used by any other person.

(3) Nothing in this section shall prevent a licensing authority having the jurisdiction referred to in sub-section (1) of section 7 from adding to the classes of vehicle which the licence authorises the holder to drive.

Grant of
licence.

7.—(1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a licence may apply to the licensing authority having jurisdiction in the area in which he ordinarily resides or carries on business or, if the application is for a licence to drive as a paid employee, in which the employer resides or carries on business, for the issue to him of a licence.

(2) Every application under sub-section (1) shall be in Form A as set forth in the First Schedule, shall be signed by, or bear the

¹ Sub-section (3) omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 2.

² Sub-section (3) omitted *ibid.*, s. 3.

(Chapter II.—Licensing of Drivers of Motor Vehicles)

thumb impression of, the applicant in two places, and shall contain the information required by the form.

(3) Where the application is for a licence to drive as a paid employee or to drive a transport vehicle, or where in any other case the licensing authority for reasons to be stated in writing so requires, the application shall be accompanied by a medical certificate in Form C, as set forth in the First Schedule, signed by a registered medical practitioner.

(4) Every application for a licence to drive as a paid employee and every application for a licence to drive a transport vehicle shall be accompanied by three clear copies of a recent photograph of the applicant.

(5) If, from the application or from the medical certificate referred to in sub-section (3), it appears that the applicant is suffering from any disease or disability specified in the Second Schedule or any other disease or disability which is likely to cause the driving by him of a motor vehicle of the class which he would be authorised by the licence applied for to drive to be a source of danger to the public or to the passengers, the licensing authority shall refuse to issue the licence:

Provided that—

- (a) a licence limited to driving an invalid carriage may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such a carriage,
 - (b) the applicant may, except where he suffers from a disease or disability specified in the Second Schedule, claim to be subjected to a test of his fitness or ability to drive a motor vehicle of a particular construction or design, and, if he passes such test to the satisfaction of the licensing authority and is not otherwise disqualified, the licensing authority shall grant him a licence to drive such motor vehicle as the licensing authority may specify in the licence.
- (6) No licence shall be issued to any applicant unless—
- ¹ he passes to the satisfaction of the licensing authority the test of competence to drive specified in the Third Schedule, ²*

3* * * * *

Provided that, where the application is for a licence to drive a motor cycle or a motor car, the licensing authority shall exempt the applicant from Part I of the test specified in the Third Schedule if the licensing authority is satisfied that the applicant has previously held a licence to drive and has had not less than twelve months' recent experience of driving a motor cycle or a motor car as the case may be:

Provided further that where the application is for a licence to drive a motor vehicle (not being a transport vehicle) otherwise than

¹ The brackets and letter "(a)" omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 4.

² The word "or" omitted, *ibid.*

³ Clause (b) omitted, *ibid.*

(Chapter II.—Licensing of Drivers of Motor Vehicles)

as a paid employee, the licensing authority may exempt the applicant from * * * the test specified in the Third Schedule if the applicant possesses a driving certificate issued by an automobile association recognised in this behalf by the Provincial Government.

(7) The test of competence to drive shall be carried out in a vehicle of the type to which the application refers, and, for the purposes of Part I of the test,—

- (a) a person who passes the test in driving a motor car or a motor cab or a delivery van shall be deemed to have passed the test for all of these vehicles;
- (b) a person who passes the test in driving a light transport vehicle shall be deemed also to have passed the test in driving the vehicles referred to in clause (a), and
- (c) a person who passes the test in driving a heavy transport vehicle shall be deemed also to have passed the test in driving any motor vehicle other than a motor cycle.

(8) When an application has been duly made to the appropriate licensing authority and the applicant has satisfied such authority of his physical fitness and of his competence to drive and has paid to the authority a fee of five rupees, the licensing authority shall grant the applicant a licence unless the applicant is disqualified under section 4 for driving a motor vehicle or is for the time being disqualified for holding or obtaining a licence:

Provided that—

- 2* * * * * *
- 3* a licensing authority may issue a licence to drive a motor cycle or a motor car notwithstanding that it is not the appropriate licensing authority, if the licensing authority is satisfied that there is good reason for the applicant's inability to apply to the appropriate licensing authority.

Form and
contents of
licence.

8.—(1) Every licence, except a licence issued under section 14, shall be in Form D as set forth in the First Schedule and shall have affixed thereto one of the signatures or thumb impressions given on the form of application for the licence and, in the case of a licence to drive as a paid employee or to drive a transport vehicle, one of the photographs referred to in sub-section (4) of section 7.

(2) A licence shall specify whether the holder is entitled to drive as a paid employee and whether he is entitled to drive a public service vehicle and shall further be expressed as entitling the holder to drive a motor vehicle of one or more of the following classes, namely:—

- (a) motor cycle,
- (b) motor car,
- (c) motor cab,

¹ The words "Part I of" omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 4.

² Clause (a) omitted, *ibid*.

³ The brackets and letter "(b)" omitted, *ibid*.

(Chapter II.—Licensing of Drivers of Motor Vehicles)

- (d) delivery van,
- (e) light transport vehicle,
- (f) heavy transport vehicle,
- (g) locomotive,
- (h) tractor,
- (i) road-roller,
- (j) invalid carriage, or
- (k) motor vehicle of a specified description.

9.—(1) Subject to any rules made by a Provincial Government under sub-section (3), a licence issued under the foregoing sections shall be effective throughout ¹[the Provinces and the Capital of the Federation].

Extent of
validity of
licence.

(2) Subject, in the case of international driving permits issued in pursuance of the International Convention relative to motor traffic concluded at Paris on the 24th day of April, 1926, or of any Convention modifying the same, to any rules made by the Central Government under section 92 and subject in any other case to the provisions of sub-section (4), a licence to drive a motor vehicle issued by a competent authority in any ²[Acceding State or a non-Acceding State] or in the French or Portuguese Settlements bounded by India shall, if the holder is ordinarily resident in the State or Settlement in which the licence was issued, be valid throughout ¹[the Provinces and the Capital of the Federation] as if it were a licence issued under this Act:

Provided that such holder is not disqualified under any of the provisions of this Act for holding or obtaining a licence in ¹[the Provinces and the Capital of the Federation].

(3) A Provincial Government may, by rules made under section 21,—

- (a) provide that a specification entitling the holder of a licence to drive a public service vehicle shall be made in the licence only by or under the authority of the Regional Transport Authority constituted under Chapter IV,
- (b) regulate the submission of applications for such licences to the said authority, or
- (c) require as a condition of its validity in a Province, that a licence entitling the holder to drive a public service vehicle shall be countersigned by a prescribed authority in the Province.

(4) If the Central Government is satisfied that licences issued in ¹[the Provinces and the Capital of the Federation] under this Act are not effective in any ²[Acceding State or a non-Acceding State] or French or Portuguese Settlement bounded by India or are effective subject to unreasonable conditions or that like conditions and requirements to those imposed by this Act are not imposed in a

¹ Subs. by the A. O., 1949, for "British India".

² Subs. *ibid.*, for "Indian State".

(Chapter II.—Licensing of Drivers of Motor Vehicles)

reasonable degree upon the issue of licences in any State or Settlement as aforesaid, the Central Government shall, by notification in the official Gazette, declare that licences generally or any particular class of licence issued in any such State or Settlement shall not be valid in—¹[the Provinces and the Capital of the Federation].

Currency of licences.

10. A licence issued under the foregoing sections shall, subject to the provisions contained in this Act as to the cancellation of licences and the disqualification of holders of licences for holding or obtaining licences, be effective without renewal for a period of twelve months only from the date of issue or last renewal.

Renewal of licences.

11.—(1) Any licensing authority may on application made to it renew a licence issued under the provisions of this Act.

(2) An application for the renewal of a licence shall be made in Form B as set forth in the First Schedule and shall contain the declaration required by that form; provided that where the applicant does not or is unable to subscribe to the said declaration the provisions of sub-section (5) of section 7 shall apply.

(3) The fee payable for the renewal of a licence shall be three rupees, if the application for renewal is made previous to, or not more than fifteen days subsequent to, the date on which the licence is due to expire and shall be five rupees in any other case, unless the licensing authority is satisfied that the holder was prevented by good cause from applying for the renewal of the licence within fifteen days after its expiry.

(4) When the authority renewing the licence is not the authority which issued the licence, it shall intimate the fact of renewal to the authority which issued the licence.

Revocation of licence on grounds of disease or disability.

12. Notwithstanding anything contained in the foregoing sections, a licensing authority may at any time revoke a licence issued by it, or may require, as a condition of continuing to hold such licence, the holder thereof to furnish a fresh medical certificate in Form C as set forth in the First Schedule signed as required by sub-section (3) of section 7, if the licensing authority has reasonable grounds to believe that the holder of the licence is, by virtue of any disease or disability, unfit to drive a motor vehicle.

Orders refusing or revoking licences and appeals therefrom.

13.—(1) Where the licensing authority refuses to issue or revokes or refuses to renew any licence, it shall do so by an order communicated to the applicant or the holder, as the case may be, giving the reasons in writing for such refusal or revocation.

(2) Any person aggrieved by the refusal of a licensing authority to grant or renew a licence or by the revocation of a licence may, within thirty days of the service on him of the order of such refusal or revocation, appeal to the prescribed authority, who shall decide the appeal after giving the licensing authority an opportunity of being heard, and the decision of the appellate authority shall be binding on the licensing authority.

¹ Subs. by the A. O., 1949, for, "British India".

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(3) The order of a licensing authority shall, unless the appellate authority, conditionally or unconditionally, directs otherwise, be in force pending the disposal of an appeal under sub-section (2).

14.—(1) The authority specified in Part A of the Fourth Schedule may grant licences, valid throughout ¹[the Provinces and the Capital of the Federation], to persons who have completed their eighteenth year to drive motor vehicles which are the property ²[or for the time being under the exclusive control] of the Central Government.

Licences to drive motor vehicles, the property of the Central Government.

(2) A licence issued under this section shall specify the class or classes of vehicle which the holder is entitled to drive and the period for which he is so entitled.

(3) A licence issued under this section shall not entitle the holder to drive any motor vehicle except a motor vehicle which is the property ²[or for the time being under the exclusive control] of the Central Government.

(4) The authority issuing any licence under this section shall at the request of any Provincial Government furnish such information respecting any person to whom a licence is issued as that Government may at any time require.

15.—(1) If a licensing authority is satisfied after giving him an opportunity of being heard that any person—

Power of licensing authority to disqualify for holding a licence.

(a) is a habitual criminal or a habitual drunkard, or

(b) is using or has used a motor vehicle in the commission of a cognisable offence, or

(c) has by his previous conduct as driver of a motor vehicle shown that his driving is likely to be attended with danger to the public,

it may, for reasons to be recorded in writing, make an order disqualifying that person for a specified period for holding or obtaining a licence.

(2) Upon the issue of any such order a person affected, if he is the holder of a licence, shall forthwith surrender his licence to the licensing authority making the order, if the licence has not already been surrendered, and the licensing authority shall—

(a) if the licence is a licence issued under this Act, keep it until the disqualification has expired or has been removed, or

(b) if it is not a licence issued under this Act, endorse the disqualification upon it and send it to the licensing authority by which it was issued.

(3) Any person aggrieved by an order made by a licensing authority under this section may, within thirty days of the receipt of the order, appeal to the prescribed authority, and such appellate authority shall give notice to the licensing authority and hear either

¹ Subs. by the A. O., 1949, for "British India".

² Ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 5.

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party if so required by that party and may make such inquiry into the matter as it thinks fit. An order made by any such appellate authority shall be final.

Power of
Regional
Transport
Authority to
disqualify.

16.—(1) A Regional Transport Authority constituted under Chapter IV may for reasons to be recorded in writing and subject to any prescribed conditions declare any person disqualified, for a specified period, for holding or obtaining a licence to drive a public service vehicle in the Province.

(2) Any person aggrieved by an order of a Regional Transport Authority made under sub-section (1) may within thirty days of the receipt of intimation of such order appeal against the order to the prescribed authority.

Power of
Court to
disqualify.

17.—(1) Where a person is convicted of an offence under this Act, or of an offence in the commission of which a motor vehicle was used, the Court by which such person is convicted may, subject to the provisions of this section, in addition to imposing any other punishment authorised by law, declare the person so convicted to be disqualified, for such period as the Court may specify, for holding any licence or for holding a licence to drive a particular class or description of vehicle.

(2) A Court shall not order the disqualification of an offender convicted for the first or second time of an offence punishable under section 115.

(3) A Court shall order the disqualification of an offender convicted of an offence punishable under section 117, and such disqualification shall be for a period of not less than six months.

(4) A Court shall order the disqualification of an offender convicted of an offence against the provisions of clause (c) of sub-section (1) of section 87 or of section 89, and such disqualification shall be for a period of not less than one month.

(5) A Court shall, unless for special reasons to be recorded in writing it thinks fit to order otherwise, order the disqualification of an offender—

(a) who having been convicted of an offence punishable under section 116 is again convicted of an offence punishable under that section,

(b) who is convicted of an offence punishable under section 120, or

(c) who is convicted of an offence punishable under section 123:

Provided that the period of disqualification shall not exceed, in the cases referred to in clauses (a) and (b), two years, or, in the case referred to in clause (c), one year.

(6) A Court ordering the disqualification of an offender convicted of an offence punishable under section 116 may direct that the offender shall, whether he has previously passed the test of competence to drive specified in the Third Schedule or not, remain disqualified until he has subsequent to the making of the order of disqualification passed that test to the satisfaction of the licensing authority.

(Chapter II.—Licensing of Drivers of Motor Vehicles)

(7) The Court to which an appeal lies from any conviction of an offence of the nature specified in sub-section (1) may set aside or vary any order of disqualification made by the Court below, and the Court to which appeals ordinarily lie from any Court may set aside or vary any order of disqualification made by that Court, notwithstanding that no appeal lies against the conviction in connection with which such order was made.

18.—(1) A person in respect of whom any disqualification order is made shall be debarred to the extent and for the period specified in such order from holding or obtaining a licence and the licence, if any, held by such person at the date of the order shall cease to be effective during such period.

Effect of
disqualifica-
tion order.

(2) The operation of a disqualification order made under section 17 shall not be suspended or postponed while an appeal is pending against such order or against the conviction as a result of which such order is made, unless the appellate Court so directs.

(3) Any person in respect of whom any disqualification order has been made may at any time after the expiry of six months from the date of the order apply to the Court or other authority by which the order was made, to remove the disqualification; and the Court or authority, as the case may be, may, having regard to all the circumstances, either remove or vary the order of disqualification:

Provided that where an application has been made under this section a second application thereunder shall not be entertained before the expiry of a further period of three months.

19.—(1) The Court or authority making an order of disqualification shall endorse or cause to be endorsed upon the licence, if any, held by the person disqualified particulars of the order of disqualification and of any conviction of an offence in respect of which an order of disqualification is made; and particulars of any removal or variation of an order of disqualification made under sub-section (3) of section 18 shall be similarly so endorsed.

Endorse-
ments.

(2) A Court by which any person is convicted of an offence specified in the Fifth Schedule shall, whether or not an order of disqualification is made in respect of such conviction, endorse or cause to be endorsed particulars of such conviction on any licence held by the person convicted.

(3) Any person accused of an offence specified in the Fifth Schedule shall when attending the Court bring with him his licence if it is in his possession.

20.—(1) An endorsement on any licence shall be transferred to any new or duplicate licence obtained by the holder thereof until the holder becomes entitled under the provisions of this section to have a licence issued to him free from endorsement.

Transfer of
endorsement
and issue of
licence free
from en-
dorsement.

(2) Where a licence is required to be endorsed and the licence is at the time not in the possession of the Court or authority by which the endorsement is to be made then—

(a) if the person in respect of whom the endorsement is to be

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made is at the time the holder of a licence, he shall produce the licence to the Court or authority within five days, or such longer time as the Court or authority may fix, or

- (b) if, not being then the holder of a licence, he subsequently obtains a licence, he shall within five days after obtaining the licence produce it to the Court or authority;

and if the licence is not produced within the time specified it shall on the expiration of such time be of no effect until it is produced for the purpose of endorsement.

(3) A person whose licence has been endorsed shall, if during a continuous period of three years since the last endorsement was made no further order of endorsement has been made against him, be entitled, on surrendering his licence and on payment of a fee of five rupees to receive a new licence free from all endorsements. If the endorsement was only in respect of exceeding a speed limit, he shall be entitled to have a clean licence issued on the expiration of one year from the date of the order:

Provided that in reckoning the said period of three years and one year, respectively, any period during which the said person was disqualified for holding or obtaining a licence shall be excluded.

(4) When a licence is endorsed by or an order of endorsement is made by any Court, the Court shall send particulars of the endorsement or order, as the case may be, to the licensing authority by which the licence was last renewed and to the licensing authority which granted the licence.

(5) Where the holder of a licence is disqualified by the order of any Court for holding or obtaining a licence, the Court shall take possession of the licence and forward it to the licensing authority by which it was granted or last renewed and that authority shall keep the licence until the disqualification has expired or has been removed and the person entitled to the licence has made a demand in writing for its return to him:

Provided that, if the disqualification is limited to the driving of a motor vehicle of a particular class or description, the Court shall endorse the licence to this effect and shall send a copy of the order of disqualification to the licensing authority by which the licence was granted and shall return the licence to the holder.

(6) Where on an appeal against any conviction or order of a Court which has been endorsed on a licence, the appellate Court varies or sets aside the conviction or order, the appellate Court shall inform the licensing authority by which the licence was last renewed and the licensing authority which granted the licence, and shall amend or cause to be amended the endorsement of such conviction or order.

Power to
make rules.

21.—(1) A Provincial Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

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

- (a) the appointment, jurisdiction, control and functions of

licensing authorities and other prescribed authorities;

- ¹[(b) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees:

Provided that no fee so fixed shall exceed two rupees;]

- (c) the issue of duplicate licences to replace licences lost, destroyed or mutilated, the replacement of photographs which have become obsolete, and the issue of temporary licences to persons receiving instruction in driving, and the fees to be charged therefor;
- (d) the conditions subject to which a Regional Transport Authority may disqualify a person for holding a licence to drive a public service vehicle;
- (e) the medical examination and testing of applicants for licences and of drivers and the fees to be charged therefor;
- ¹[(f) the exemption of prescribed persons, or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter;]
- (g) the granting by registered medical practitioners of the certificates referred to in sub-section (3) of section 7;
- (h) the communication of particulars of licences granted by one licensing authority to other licensing authorities;
- (i) the control of schools or establishments for the instruction of drivers of motor vehicles and the acceptance of driving certificates issued by such schools or establishments as qualifying the holder for exemption from Part I of the test specified in the Third Schedule;
- (j) the exemptions of drivers of road-rollers from all or any of the provisions of this Chapter or of the rules made thereunder; and
- (k) any other matter which is to be or may be prescribed.

CHAPTER III

REGISTRATION OF MOTOR VEHICLES

22.—(1) No person shall drive any motor vehicle and no owner of a motor vehicle shall cause or permit the vehicle to be driven in any public place or in any other place for the purpose of carrying passengers or goods unless the vehicle is registered in accordance with this Chapter and the certificate of registration of the vehicle has not been suspended or cancelled and the vehicle carries a registration mark displayed in the prescribed manner.

Necessity for registration.

(2) Nothing in this section shall apply to a motor vehicle while being driven within the limits of jurisdiction of one registering authority to or from the appropriate place of registration for the purpose of being registered under section 23, 25 or 39 or to a motor vehicle

¹ Subs. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 6, for the original clause.

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exempted from the provisions of this Chapter while in the possession of a dealer in motor vehicles.

Registra-
tion, where
to be made.

23. 1* Subject to the provisions of section 25 and section 39, every owner of a motor vehicle shall cause the vehicle to be registered by a registering authority in the Province in which he has the residence or place of business where the vehicle is normally kept.

2* * * * *

Registra-
tion, how to
be made.

24.—(1) An application by or on behalf of the owner of a motor vehicle for registration shall be in Form E as set forth in the First Schedule, shall contain the information required by that form, and shall be accompanied by the prescribed fee.

(2) The registering authority shall issue to the owner of a motor vehicle registered by it a certificate of registration in Form G as set forth in the First Schedule and shall enter in a record to be kept by it particulars of such certificate.

(3) The registering authority shall assign to the vehicle, for display thereon in the prescribed manner, a distinguishing mark (in this Act referred to as the registration mark) consisting of one of the groups of letters allotted to the Province by the Sixth Schedule followed by a number containing not more than four figures.

Temporary
registration.

25.—(1) Notwithstanding anything contained in section 23, the owner of a motor vehicle may apply to any registering authority to have the vehicle temporarily registered in the prescribed manner and for the issue in the prescribed manner of a temporary certificate of registration and a temporary registration mark.

(2) A registration made under this section shall be valid only for a period not exceeding one month, and shall not be renewable.

Production
of vehicle
at time of
registration.

26. The registering authority may before proceeding to register a motor vehicle require the person applying for registration of the vehicle to produce the vehicle either before itself or such authority as the Provincial Government may by order appoint in order that the registering authority may satisfy itself that the particulars contained in the application are true and that the vehicle complies with the requirements of Chapter V and of the rules made thereunder.

Refusal of
registration.

27. The registering authority may refuse to register any motor vehicle if the vehicle is mechanically defective or fails to comply with the requirements of Chapter V or of the rules made thereunder, or if the applicant fails to furnish particulars of any previous registration of the vehicle, and it shall furnish the applicant whose vehicle is refused registration with the reasons in writing for such refusal.

Effective-

28.—(1) Subject to the provisions of section 29, a motor vehicle

¹ The brackets and figure "(1)" omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 7.

² Sub-sections (2) and (3) omitted, *ibid.*

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registered in accordance with this Chapter in any Province ¹* * * shall not require to be registered ²[in any other Province] and a certificate of registration issued or in force under this Act in respect of such vehicle shall be effective throughout ³[the Provinces and the Capital of the Federation].

ness in the
Provinces,
etc. of
registration.

—* * * * *

(2) Subject, in the case of international motor vehicle certificates issued in pursuance of the International Convention relative to motor traffic concluded at Paris on the 24th day of April, 1926, ⁵[or of any Convention modifying the same,] to any rules made by the Central Government under section 92, and subject in any other case to the provisions of ⁶* * * section 23 and sub-section (3) and sub-section (4) of this section, a motor vehicle registered by a competent authority in any ⁷[Acceding State or a non-Acceding State] or in the French or Portuguese Settlements bounded by India shall not require to be registered in ³[the Provinces and the Capital of the Federation]:

Provided that there is in force in respect of the vehicle a certificate conforming to and containing substantially the same particulars as the certificate of registration in Form G as set forth in the First Schedule issued by such competent authority in respect of such vehicle.

(3) A certificate complying with the requirements of the proviso to sub-section (2) shall be effective throughout ³[the Provinces and the Capital of the Federation] as if it were a certificate of registration issued under this Act.

(4) Sub-section (2) shall not apply to any motor vehicle previously registered in ³[the Provinces and the Capital of the Federation], if the certificate of registration of the vehicle in ³[the Provinces and the Capital of the Federation] is for the time being suspended or cancelled for any reason other than that of permanent removal of the vehicle from ³[the Provinces and the Capital of the Federation].

(5) If at any time the Central Government is satisfied that motor vehicles registered in ³[the Provinces and the Capital of the Federation] under this Act are not permitted to be driven in any ⁷[Acceding State or a non-Acceding State] or French or Portuguese Settlement without fresh registration in such State or Settlement or are permitted to be driven only subject to unreasonable conditions or that like conditions and requirements to those imposed under this Act (including the specification of the particulars required by Form G as set forth in the First Schedule) are not imposed in a reasonable degree upon the issue and for the continued effectiveness of certificates of registration in any State or Settlement as aforesaid, the Central Government shall, by notification in the official Gazette, declare that certificates of

¹ The words "or deemed to be registered under this Act" omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 8.

² Subs. by the A. O., 1949, for "elsewhere in British India".

³ Subs. *ibid.*, for "British India".

⁴ Proviso omitted by Act 20 of 1942, s. 8.

⁵ *Ins., ibid.*

⁶ The words, brackets and figure "sub-section (1) of" omitted by the Repealing and Amending Act, 1945 (6 of 1945), s. 3 and Second Schedule.

⁷ Subs. by the A. O., 1949, for "Indian State".

registration generally or in respect of any particular class of motor vehicle issued in any such State or Settlement shall not be effective in [the Provinces and the Capital of the Federation].

Assignment
of fresh
registration
mark on
removal to
another
Province.

29.—(1) When a motor vehicle registered in one Province has been kept in another Province for a period exceeding twelve months, the owner of the vehicle shall apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration to that registering authority.

(2) The registering authority, to which application is made under sub-section (1), shall assign the vehicle a registration mark in accordance with the Sixth Schedule to be carried thenceforth on the vehicle and shall enter the mark upon the certificate of registration before returning it to the applicant and shall, in communication with the registering authority by whom the vehicle was previously registered, arrange for the transfer of the registration of the vehicle from the records of that registering authority to its own records.

(3) A Provincial Government may make rules under section 41 requiring the owner of a motor vehicle not registered within the Province, which is brought into or is for the time being in the Province, to furnish to a prescribe authority in the Province such information with respect to the motor vehicle and its registration as may be prescribed.

Change of
residence or
place of
business.

30.—(1) If the owner of a motor vehicle ceases to reside or have his place of business at the address recorded in the certificate of registration of the vehicle, he shall, within thirty days of any such change of address, intimate his new address to the registering authority by which the certificate of registration was issued, or, if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time forward the certificate of registration to the registering authority in order that the new address may be entered therein.

(2) A registering authority other than the original registering authority making any such entry shall communicate the altered address to the original registering authority.

(3) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificate of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

Transfer of
ownership.

31.—(1) Within thirty days of the transfer of ownership of any motor vehicle registered under this Chapter, the transferee shall report the transfer to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that registering authority together with the prescribed fee in order that particulars of the transfer of ownership may be entered therein.

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(2) A registering authority other than the original registering authority making any such entry shall communicate the transfer of ownership to the original registering authority.

32.—(1) If a motor vehicle is so altered that the particulars ~~contained in the certificate of registration~~ are no longer accurate, the owner of the vehicle shall, within fourteen days of the making of any such alteration report the alteration to the registering authority within whose jurisdiction he resides and shall forward the certificate of registration to that authority together with the prescribed fee in order that particulars of the alteration may be entered therein:

Alteration
in motor
vehicle.

Provided that it shall not be necessary to report any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent. of the weight entered in the certificate of registration.

(2) A registering authority other than the original registering authority making any such entry shall communicate the details of the entry to the original registering authority.

33.—(1) A registering authority or other prescribed authority, which has reason to believe that any motor vehicle within its jurisdiction is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of Chapter V or of the rules made thereunder, may, after giving the owner an opportunity of making any representation he may wish to make, for reasons to be recorded in writing suspend the certificate of registration of the vehicle until the defects are remedied to its satisfaction.

Suspension
of registra-
tion.

(2) An authority other than a registering authority shall, when making a suspension order under sub-section (1), intimate in writing the fact of suspension and the reasons therefor to the registering authority within whose jurisdiction the vehicle is at the time of the suspension.

(3) Where the registration of a motor vehicle has been suspended under sub-section (1) for a continuous period of not less than one month, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, shall, if it is not the original registering authority, inform that authority of the suspension; and when the suspension has continued without interruption for a period of not less than six months, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended, may, if it is the original registering authority, cancel the registration, and if it is not the original registering authority, shall forward the certificate of registration to that authority which may cancel it forthwith.

(4) The owner of a motor vehicle shall, on the demand of a registering authority or other prescribed authority which has suspended the certificate of registration of the vehicle under this section, surrender the certificate of registration and any token or card issued to authorise the use of the vehicle in a public place.

(5) A certificate of registration and any token or card surrendered under sub-section (4) shall be returned to the owner when the order suspending registration has been rescinded and not before.

(Chapter III.—Registration of Motor Vehicles)

Cancellation
of registra-
tion.

34.—(1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, within fourteen days or as soon as may be, report the fact to the registering authority within whose jurisdiction he resides and shall forward to that authority the certificate of registration of the vehicle together with any token or card issued to authorise the use of the vehicle in a public place.

(2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not, shall forward the report and the certificate of registration to the original registering authority and that authority shall cancel the registration and the certificate of registration.

(3) Any registering authority may order the examination of a motor vehicle within its jurisdiction by such authority as the Provincial Government may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make, it is satisfied that the vehicle is in such a condition that its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may cancel the registration of the vehicle.

(4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of [the Provinces and the Capital of the Federation], the registering authority shall cancel the registration.

(5) A registering authority cancelling the registration of a motor vehicle under section 33 or under this section shall communicate the fact in writing to the owner of the vehicle and the owner of the vehicle shall forthwith surrender to that authority the certificate of registration of the vehicle and any token or card issued to authorise the use of the vehicle in a public place.

(6) A registering authority making an order of cancellation under this section shall, if it is the original registering authority, cancel the certificate of registration and the entry relating to the vehicle in its records, and, if it is not the original registering authority, forward the certificate of registration to that authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records.

(7) The expression "original registering authority" in this section and in sections 30, 31, 32 and 33 means the registering authority in whose records the registration of the vehicle is recorded.

Appeals.

35.—(1) Any owner of a motor vehicle aggrieved by an order of refusal under section 27 to register a motor vehicle or under sub-section (1) of section 38 to issue a certificate of fitness or by an order of suspension or cancellation made under section 33 or 34 or by an order of cancellation under sub-section (3) of section 38 may, within thirty days of the date on which he has received notice of such order, appeal against the order to the prescribed authority.

(2) The appellate authority shall give notice of the appeal to the original authority and after giving opportunity to the original authority and the appellant to be heard either personally or by

¹ Subs. by the A. O., 1949, for "British India".

(Chapter III.—Registration of Motor Vehicles)

pleader in the appeal pass such orders as it thinks fit:

Provided that orders of the original authority shall remain in force pending the disposal of the appeal unless the appellate authority otherwise directs.

~~36.—(1) * * * A registering authority shall refuse to register any transport vehicle other than a motor cab, unless the application for registration is accompanied by a document in Form F as set forth in the First Schedule signed by the maker of the vehicle or an assembler duly authorised by the maker in this behalf stating the greatest laden weight and greatest axle weights for which the vehicle is and the several axles are designed:~~

Special requirement for registration of transport vehicle.

~~2* * * * *~~

(2) Where a transport vehicle or chassis, as the case may be, has affixed to it a metal plate, bearing the stamp of the maker or assembler and identified as appertaining to the particular vehicle or chassis to which it is attached, which contains the particulars specified in sub-section (1), that plate may at the discretion of a registering authority be deemed to be the document referred to in sub-section (1).

37.—(1) A registering authority, when registering a transport vehicle other than a motor cab, shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely:—

Special particulars to be recorded on registration of transport vehicle.

(a) the unladen weight of the vehicle;

(b) the number, nature and size of the tyres attached to each wheel;

(c) the registered laden weight of the vehicle and the registered axle weights pertaining to the several axles thereof, fixed in accordance with sub-section (2) with reference to the particulars of the tyres entered in the certificate of registration; and

(d) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided,

and the owner of the vehicle shall have the said particulars exhibited in the prescribed manner on the vehicle.

(2) Notwithstanding any statement contained in the document referred to in sub-section (1) of section 36 as supplied by the maker or assembler of a transport vehicle, the registered weight to be recorded by the registering authority for any axle shall not exceed the permissible weight for that axle calculated in accordance with the Seventh Schedule, nor shall the registered laden weight of the vehicle exceed the sum of the several axle weights as so determined:

Provided that where it appears to a Provincial Government that heavier weights than those specified in the Seventh Schedule may be permitted in a particular locality for vehicles of a particular type, the Provincial Government may by notification in the official Gazette

¹ The words "After the commencement of this Act" omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 9.

² Proviso omitted, *ibid.*

direct that the provisions of this sub-section shall apply with such modifications as may be specified in the notification.

(3) When by reason of an alteration in the number, nature or size of tyres attached to the vehicle the registered laden weight or any registered axle weight recorded in the certificate of registration no longer accords with the laden weight or the axle weight as determined in accordance with sub-section (2), the provisions of section 32 shall apply, and the registering authority shall enter in the certificate of registration a revised registered laden weight and registered axle weights.

Certificate
of fitness of
transport
vehicle.

38.—(1) Subject to the provisions of section 39, a transport vehicle shall not be deemed to be validly registered for the purposes of section 22, unless it carries a certificate of fitness in Form H as set forth in the First Schedule, issued by the prescribed authority, to the effect that the vehicle complies for the time being with all the requirements of Chapter V and the rules made thereunder. Where the prescribed authority refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal.

(2) Subject to the provisions of sub-section (3) a certificate of fitness shall remain effective for three years, unless a shorter period, not being in any case less than six months, is specified in the certificate by the prescribed authority.

(3) The issuing authority or other prescribed authority may for reasons to be recorded in writing cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Act and the rules made thereunder; and on such cancellation the certificate of registration of the vehicle and any permit granted in respect of the vehicle under Chapter IV shall be deemed to be suspended until a new certificate of fitness has been obtained.

1* * * * * *

Registration
of vehicles,
the property
of the Cen-
tral Gov-
ernment.

39.—(1) The authority specified in Part B of the Fourth Schedule may register any motor vehicle which is the property ²[or for the time being under the exclusive control] of the Central Government; and any vehicle so registered shall not, so long as it remains the property ²[or under the exclusive control] of the Central Government, require to be registered otherwise under this Act.

(2) A transport vehicle registered under this section shall carry a certificate of fitness in Form H as set forth in the First Schedule issued by the authority referred to in sub-section (1).

(3) An authority registering a vehicle under sub-section (1) shall assign a registration mark in accordance with the provisions contained in the Fourth Schedule and shall issue a certificate in respect of the vehicle that the vehicle has been registered under this section.

¹ Sub-section (4) omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 10.

² Ins. *ibid.*, s. 11.

(Chapter III.—Registration of Motor Vehicles)

(4) If a vehicle registered under this section ceases to be the property ¹[or under the exclusive control] of the Central Government, the provisions of section 23 shall thereupon apply.

(5) The authority registering a vehicle under sub-section (1) shall furnish to any Provincial Government all such information regarding the general nature, overall dimensions, and axle weights of the vehicle as the Provincial Government may at any time require.

40.—(1) The registration mark assigned to a trailer shall be displayed in the prescribed manner on the side of the vehicle.

Application
of Chap-
ter III to
trailers.

(2) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed in the prescribed manner on the trailer or on the last trailer in the train, as the case may be.

41.—(1) A Provincial Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

Power to
make rules.

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

- (a) the conduct and hearing of appeals that may be preferred under this Chapter ²[, the fees to be paid in respect of such appeals and the refund of such fees];
- (b) the appointment, functions and jurisdiction of registering and other prescribed authorities;
- (c) the issue of certificates of registration and duplicate certificates of registration to replace certificates lost, destroyed or mutilated;
- (d) the temporary registration of motor vehicles, and the issue of temporary certificates of registration and marks;
- (e) the manner in which registration marks and the particulars referred to in sub-section (1) of section 37, and other prescribed particulars shall be exhibited;
- (f) the fees to be charged for the issue or alteration of certificates of registration, for certificates of fitness, for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees;
- ³[(ff) the exemption of prescribed persons or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter;]
- (g) the forms, other than those set forth in the First Schedule, to be used for the purposes of this Chapter;
- (h) the communication between registering authorities of particulars of certificates of registration and by owners of vehicles registered outside the Province of particulars of such vehicles and of their registration;

¹ Ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 11.

² Added *ibid.*, s. 12.

³ Cl. (ff) ins., *ibid.*

(Chapter III.—Registration of Motor Vehicles. Chapter IV.—
Control of Transport Vehicles.)

- (i) the particulars to be furnished by the owner of any motor vehicle to the registering authority, upon the transfer of possession of the motor vehicle under the terms of a hiring agreement;
- (j) the extension of the validity of certificates of fitness pending consideration of applications for their renewal;
- (k) the exemption from the provisions of this Chapter, and the conditions and fees for exemption, of motor vehicles in the possession of dealers;
- (l) the exemption of road-rollers ¹], graders and other vehicles designed and used solely for the construction, repair and cleansing of roads] from all or any of the provisions of this Chapter and the rules made thereunder, and the conditions governing such exemption; and the exemption of delivery vans from the provisions of section 38 and the conditions governing such exemption; and
- (m) any other matter which is to be or may be prescribed.

CHAPTER IV

CONTROL OF TRANSPORT VEHICLES

Necessity
for permits.

42.—(1) No owner of a transport vehicle shall use or permit the use of the vehicle in any public place, save in accordance with the conditions of a permit granted or countersigned by a Regional or Provincial Transport Authority authorising the use of the vehicle in that place in the manner in which the vehicle is being used:

Provided that a stage carriage permit shall, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a contract carriage:

Provided further that a stage carriage permit may, subject to any conditions that may be specified in the permit, authorise the use of the vehicle as a goods vehicle either when carrying passengers or not:

Provided further that a public carrier's permit shall, subject to any conditions that may be specified in the permit, authorise the holder to use the vehicle for the carriage of goods for or in connection with a trade or business carried on by him.

(2) In determining, for the purposes of this Chapter, whether a transport vehicle is or is not used for the carriage of goods for hire or reward,—

- (a) the delivery or collection by or on behalf of the owner of goods sold, used or let on hire or hire-purchase in the course of any trade or business carried on by him other than the trade or business of providing transport,
- (b) the delivery or collection by or on behalf of the owner of goods which have been or which are to be subjected to a process or treatment in the course of a trade or business carried on by him, or

¹ Ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 12.

(Chapter IV.—Control of Transport Vehicles)

(c) the carriage of goods in a transport vehicle by a manufacturer of or agent or dealer in such goods whilst the vehicle is being used for demonstration purposes, shall not be deemed to constitute a carrying of the goods for hire or reward; but the carriage in a transport vehicle of goods by a person not being a dealer in such goods who has acquired temporary ownership of the goods for the purpose of transporting them to another place and there relinquishing ownership shall be deemed to constitute a carrying of the goods for hire or reward.

(3) Sub-section (1) shall not apply—

- (a) to any transport vehicle owned by or on behalf of the Central Government or a Provincial Government other than a vehicle used in connection with the business of [a Pakistan State Railway];
- (b) to any transport vehicle owned by a local authority or by a person acting under contract with a local authority and used solely for road cleansing, road watering or conservancy purposes;
- (c) to any transport vehicle used solely for police, fire brigade or ambulance purposes;
- (d) to any transport vehicle used solely for the conveyance of corpses;
- (e) to any transport vehicle used for towing a disabled vehicle or for removing goods from a disabled vehicle to a place of safety;
- (f) to any transport vehicle used for any other public purpose prescribed in this behalf;
- (g) to any transport vehicle owned by, and used solely for the purposes of, any educational institution which is recognised by the Provincial Government or whose managing committee is a society registered under the Societies Registration Act, 1860;
- (h) subject to any prescribed conditions, to any transport vehicle owned by the Government of any ²[Acceding State or a non-Acceding State] or French or Portuguese Settlement bounded by India used for Government purposes unconnected with any commercial enterprise; or
- (i) to any trailer used for any purpose other than the carriage of goods for hire or reward when drawn by a motor vehicle constructed for the carriage of not more than six passengers excluding the driver.

(4) Subject to the provisions of sub-section (3), sub-section (1) shall, if the Provincial Government by rule made under section 68 so prescribes, apply to any motor vehicle adapted to carry more than nine passengers excluding the driver.

43.—(1) A Provincial Government, having regard to—

(a) the advantages offered to the public, trade and industry

Power to
Provincial
Government

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "an Indian State Railway".

² Subs. by the A. O., 1949, for "Indian State".

(Chapter IV.—Control of Transport Vehicles)

to control
road trans-
port.

- by the development of motor transport, and
- (b) the desirability of co-ordinating road and rail transport, and
- (c) the desirability of preventing the deterioration of the road system, and
- (d) the desirability of preventing uneconomic competition among motor vehicles,

and after having heard the representatives of the interests affected and having consulted the Provincial and Regional Transport Authorities concerned, may by notification in the official Gazette,

- (i) prohibit or restrict throughout the Province or in any area or on any route within the Province, subject to such conditions as it may think desirable, the conveying of long distance goods traffic generally, or of prescribed classes of goods, by private or public carriers; or
- (ii) fix maximum or minimum fares or freights for stage carriages and public carriers to be applicable throughout the Province or within any area or on any route within the Province.

(2) The Provincial Government shall permit, at such intervals of time as it may fix, the interests affected by any notification issued under sub-section (1) to make representations urging the cancellation or variation of the notification on the following grounds, namely:—

- (a) that the railways are not giving reasonable facilities or are taking unfair advantage of the action of the Provincial Government under this section; or
- (b) that conditions have changed since the publication of the notification; or
- (c) that the special needs of a particular industry or locality require to be considered afresh.

(3) If the Provincial Government, after considering any representation made to it under sub-section (2) and having heard the representatives of the interests affected and the Provincial and Regional Transport Authorities, is satisfied that any notification issued under sub-section (1) ought to be cancelled or varied, it may cancel the notification or vary it in such manner as it thinks fit.

¹[(4) Notwithstanding anything in the foregoing sub-sections the Provincial Government may by a notification under this sub-section—

- (a) cancel generally or in relation to a specified area any permit or class of permits granted under this Chapter in respect of transport vehicles in order to enable the Road Transport Board to use its transport vehicles on the routes thus rendered vacant; and
- (b) give effect to the term of any agreement entered into with the Central Government relating to the regulation of motor transport generally and in particular to its co-ordination with railways.]

¹ Sub-section (4) added by the Motor Vehicles (Amendment) Act, 1951 (17 of 1951), s. 2,

(Chapter IV.—Control of Transport Vehicles)

[43A.—(1) Where a Provincial Government decides to operate transport services itself it shall constitute a Road Transport Board.

Road Transport Board.

(2) The Board shall consist of seven members, of whom four including the Chairman shall be appointed by the Provincial Government and three by the Central Government.

(3) Members of the Board shall hold office for such period, as may be specified in the order appointing them, but notwithstanding the foregoing provision any member may resign or may be removed at any time, or may be re-appointed, by the appointing authority.

(4) The Provincial Government shall consult the Board in all matters relating to the co-ordination of road and rail transport and in the fixation of fares and freights under this Chapter.

(5) The Road Transport Board shall reserve for and allot to the Central Government, as represented by the railways, not less than 25% of its total share capital.

(6) If a dispute arises between the Central Government and a Provincial Government in respect of any matter concerning the fixation of fares and freights, and no settlement is arrived at by negotiation, the dispute shall be referred to the arbitration of the Chief Justice of the Federal Court or of a Judge of the Federal Court nominated by him, and the award of the Chief Justice or Judge aforesaid shall be final and binding on the parties and shall not be called in question in any court of law nor shall anything in the Arbitration Act, 1940, apply to such arbitration.

(7) The Provincial Government shall make rules, with the previous concurrence of the Central Government and not inconsistently with this Act, prescribing the powers and functions of the Board.

43B.—(1) The Road Transport Board may operate motor transport on any route it may think fit and where it so operates such transport, the Provincial Transport Authority and the Regional Transport Authority shall, notwithstanding anything in this Act, have no jurisdiction in relation to that transport.

Jurisdiction of Transport Authorities barred.

(2) Where the Provincial Government has cancelled any permit or class of permits under clause (iii) of sub-section (1) of section 43, the Provincial Transport Authority and the Regional Transport Authority shall, notwithstanding anything in this Act, have no jurisdiction in respect of such permit or class of permits.

43C.—(1) The Road Transport Board shall have power to acquire any property—movable or immovable—used in, or for, or ancillary to, the operation of any motor transport conducted under a permit granted under this Chapter.

Road Transport Board to have power to acquire property of road transport operators.

(2) Such acquisition may be made by serving a notice of acquisition on the owner of the property, or if such owner is not readily traceable or the ownership is in dispute, by a notice of acquisition published in the official Gazette of the Province, and shall take effect

¹ Sections 43A, 43B and 43C, ins. by the Motor Vehicles (Amendment) Act, 1951 (17 of 1951), s. 3.

from the beginning of the day on which the notice is served or published.

(3) For any property so acquired there shall be paid compensation equivalent to the market value of the property acquired to be calculated in such manner as the Provincial Government may prescribe.

(4) If any dispute arises as to the amount of compensation payable under sub-section (3) it shall be referred to the arbitration of a person who is or has been a High Court Judge and his award shall be final and binding on the parties and shall not be called in question in any court of law nor shall anything in the Arbitration Act, 1940, apply to the arbitration.] X of 1940.

Transport
authorities.

44.—(1) The Provincial Government shall, by notification in the official Gazette, constitute for the Province a Provincial Transport Authority to exercise and discharge the powers and functions specified in sub-section (3), and shall in like manner constitute Regional Transport Authorities to exercise and discharge throughout such areas (in this Chapter referred to as regions) as may be specified in the notification, in respect of each Regional Transport Authority, the powers and functions conferred by or under this Chapter on such Authorities:

Provided that in the North-West Frontier Province and in Chief Commissioner's Provinces the Provincial Government may abstain from constituting any Regional Transport Authority:

Provided further that the area specified as the region of a Regional Transport Authority shall in no case be less than an entire district, * * *.

(2) A Provincial Transport Authority or a Regional Transport Authority shall consist of such number of officials and non-officials as the Provincial Government may think fit to appoint; but no person who has any financial interest whether as proprietor, employee or otherwise in any transport undertaking shall be appointed as or continue as a member of a Provincial or Regional Transport Authority, and, if any person being a member of any such Authority acquires a financial interest in any transport undertaking, he shall, within four weeks of so doing, give notice in writing to the Provincial Government of the acquisition of such interest and shall vacate office.

(3) A Provincial Transport Authority shall exercise and discharge throughout the Province the following powers and functions, namely:—

- (a) to co-ordinate and regulate the activities and policies of the Regional Transport Authorities, if any, of the Province;
- (b) to perform the duties of a Regional Transport Authority where there is no such Authority and, if it thinks fit or if so required by a Regional Transport Authority, to perform those duties in respect of any route common to two or more regions;

¹ The words "or the whole area of a Presidency-town" omitted by the A. O., 1949.

(Chapter IV.—Control of Transport Vehicles)

(c) to settle all disputes and decide all matters on which differences of opinion arise between Regional Transport Authorities; and

(d) to discharge such other functions as may be prescribed.

(4) For the purpose of exercising and discharging the powers and functions specified in sub-section (3), a Provincial Transport Authority may, subject to such conditions as may be prescribed, issue directions to any Regional Transport Authority and the Regional Transport Authority shall be guided by such directions.

¹[(5) The Provincial Transport Authority and any Regional Transport Authority, if authorized in this behalf by rules made under section 68, may delegate such of its powers and functions to such authority or person and subject to such restrictions, limitations and conditions as may be prescribed by the said rules.]

²[45.—(1)] Every application for a permit shall be made to the Regional Transport Authority of the region or of one of the regions in which it is proposed to use the vehicle and, if the applicant resides or has his principal place of business in any one of those regions, to the Regional Transport Authority of that region.

General provision as to applications for permits.

³[(2) Nothing in sub-section (1) shall apply to road transport services operated by a Road Transport Board.]

46. An application for a permit to use a motor vehicle as a stage carriage (in this Chapter referred to as a stage carriage permit) shall contain the following particulars, namely:—

Application for stage carriage permit.

- (a) the type and seating capacity of the vehicle in respect of which the application is made;
- (b) the route or routes on which or the area within which it is intended to use the vehicle;
- (c) the time table, if any, of the service to be provided; and
- (d) such other matters as may be prescribed.

47.—(1) A Regional Transport Authority shall, in deciding whether to grant or refuse a stage carriage permit, have regard to the following matters, namely:—

Procedure of Regional Transport Authority in considering application for stage carriage permit.

- (a) the interest of the public generally;
- (b) the advantages to the public of the service to be provided, including the saving of time likely to be effected thereby and any convenience arising from journeys not being broken;
- (c) the adequacy of existing road passenger transport services between the places to be served, the fares charged by those services and the effect upon those services of the service proposed;

¹ Sub-section (5) added by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 13.

² Re-numbered by the Motor Vehicles (Amendment) Act, 1951 (17 of 1951), s. 4 as sub-section (1) of s. 45.

³ Sub-section (2) added, *ibid.*

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- (d) the benefit to any particular locality or localities likely to be afforded by the service;
- (e) the operation by the applicant of other transport services and in particular of unremunerative services in conjunction with remunerative services; and
- (f) the condition of the roads included in the proposed route or routes;

and shall also take into consideration any representations made by persons already providing road transport facilities along or near the proposed route or routes or by any local authority or police authority within whose jurisdiction any part of the proposed route or routes lies or by any association interested in the provision of road transport facilities.

(2) A Regional Transport Authority shall refuse to grant a stage carriage permit if it appears from any time table furnished that the provisions of this Act relating to the speed at which vehicles may be driven are likely to be contravened:

Provided that before such refusal an opportunity shall be given to the applicant to amend the time table so as to conform to the said provisions.

Power to restrict the number of stage carriages and impose conditions on stage carriage permits.

48. A Regional Transport Authority may, after consideration of the matters set forth in sub-section (1) of section 47,—

- ¹[(a) limit the number of stage carriages or stage carriages of any specified type for which stage carriage permits may be granted in the region or in any specified area or on any specified route within the region;]
- ²[(b)] issue a stage carriage permit in respect of a particular stage carriage or a particular service of stage carriages;
- ²[(c)] regulate timings of arrival or departure of stage carriages whether they belong to a single or more owners; or
- ²[(d)] attach to a stage carriage permit any prescribed condition, or any one or more of the following conditions, namely:—
 - (i) that the service specified in the permit shall be commenced not later than a specified date and be continued for a specified period;
 - (ii) that the service may be varied only in accordance with specified conditions;
 - ³[(iia) that the stage carriage or stage carriages shall be used only on specified routes or in a specified area;]
 - (iii) that copies of the fare table and time table shall be exhibited on the stage carriage and that the fare table and time table so exhibited shall be observed;
 - (iv) that not more than a specified number of passengers and not more than a specified amount of luggage shall

¹ Subs. by the Motor Vehicles (Amendment) Act, 1940 (26 of 1940), s. 2, for the original clauses (a) and (b).

² The original cls. (c), (d) and (e) were re-lettered, as cls. (b), (c) and (d), respectively, *ibid.*

³ Sub-clause (iia) ins., *ibid.*

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be carried on any specified vehicle at any one time;

- (v) that within municipal limits and in such other areas and places as may be prescribed passengers shall not be taken up or set down at or except at specified points; or
- (vi) that tickets shall be issued to passengers for the fares paid.

49. An application for a permit to use a motor vehicle as a contract carriage (in this Chapter referred to as a contract carriage permit) shall contain the following particulars, namely:—

Application for contract carriage permit.

- (a) the type and seating capacity of the vehicle;
- (b) the area for which the permit is required;
- (c) in the case of a motor vehicle other than a motor cab, the manner in which it is claimed that the public convenience will be served by the vehicle; and
- (d) any other particulars which may be prescribed.

50. A Regional Transport Authority shall, in deciding whether to grant or refuse a contract carriage permit, have regard to the extent to which additional contract carriages may be necessary or desirable in the public interest; and shall also take into consideration any representations which may then be made or which may previously have been made by persons already holding contract carriage permits in the region or by any local authority or police authority in the region to the effect that the number of contract carriages for which permits have already been granted is sufficient for or in excess of the needs of the region or any area within the region.

Procedure of Regional Transport Authority in considering application for contract carriage permit.

51. A Regional Transport Authority may, after consideration of the matters set forth in section 50,—

- (a) limit the number of contract carriages generally or contract carriages of any specified type for which contract carriage permits may be granted in the region or any specified area within the region;
- (b) fix in the case of motor cabs the fares which may be charged;
- (c) require that every motor cab shall carry a copy of the fare table for inspection by passengers;
- (d) require that any motor cab shall be fitted with a taxi meter; or
- (e) impose on the use of a contract carriage any other condition which may be prescribed.

Power to restrict the number of contract carriages and impose conditions on contract carriage permits.

52. An application for a permit to use a transport vehicle for the carriage of goods for or in connection with a trade or business carried on by the applicant (in this Chapter referred to as a private carrier's permit) shall contain the following particulars, namely:—

Application for private carrier's permit.

- (a) the type and carrying capacity of the vehicle;
- (b) the nature of the goods which the applicant expects normally to carry in connection with his trade or business;

- (c) the area for which the permit is required; and
- (d) any other particular which may be prescribed.

Procedure of Regional Transport Authority in considering application for a private carrier's permit.

53.—(1) A Regional Transport Authority shall, in deciding whether to grant or refuse a private carrier's permit, have regard to the condition of the roads to be used by the vehicle or vehicle in respect of which the application is made, and shall satisfy itself that the vehicle or vehicles for which the permit is required will not be used except in connection with the business of the applicant.

(2) The Regional Transport Authority may in granting a private carrier's permit impose conditions to be specified in the permit relating to the description of goods which may be carried, or the area in which the permit shall be valid, or the maximum laden weight and axle weights of any vehicle used.

(3) If the applicant is the holder of a private carrier's permit which has been suspended or has been the holder of a private carrier's permit which has been revoked, the Regional Transport Authority may at its discretion notwithstanding anything contained in sub-section (1) refuse the application.

Application for public carrier's permit.

54. An application for a permit to use a motor vehicle for the carriage of goods for hire or reward (in this Chapter referred to as a public carrier's permit) shall contain the following particulars, namely:—

- (a) the routes on which or the area in which it is intended to use the vehicle;
- (b) the type and carrying capacity of the vehicle;
- (c) the manner in which it is claimed that a public need will be served by the vehicle;
- (d) such particulars as the Regional Transport Authority may require with respect to any business as a carrier of goods for hire or reward carried on by the applicant at any time before the making of the application, and of the rates charged by the applicant;
- (e) particulars of any agreement or arrangement, affecting in any material respect the provision within the region of the Regional Transport Authority of facilities for the transport of goods for hire or reward, entered into by the applicant with any other person by whom such facilities are provided, whether within or without the region; and
- (f) any other particulars which may be prescribed.

Procedure of Regional Transport Authority in considering application for public carrier's permit.

55. A Regional Transport Authority shall, in deciding whether to grant or refuse a public carrier's permit, have regard to the following matters, namely:—

- (a) the interests of the public generally;
- (b) the advantages to the public of the service to be provided and the convenience afforded to the public by the provision of such service;
- (c) the adequacy of existing road transport services for the

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carriage of goods upon the routes or within the area to be served and the effect upon those services of the service proposed;

- (d) the benefit to any particular locality or localities likely to be afforded by the service;
- (e) the need for providing for occasions when vehicles are withdrawn from service for overhaul or repair; and
- (f) the condition of the roads included in the proposed routes or area;

and shall also take into consideration any representations made by persons already providing road transport facilities along or near to the proposed route or routes or by any local authority within whose jurisdiction any part of the proposed route or routes lies.

56. The Regional Transport Authority may, after consideration of the matters set forth in section 55,—

- (a) limit the number of transport vehicles or transport vehicles of any specified type for which public carrier's permits may be granted in the region or in any specified area or on any specified routes within the region; or
- (b) attach to a public carrier's permit all or any of the following conditions, namely:—
 - (i) that the vehicle shall be used only on specified routes or in a specified area,
 - (ii) that the laden weight and the axle weights of any vehicle used shall not exceed a specified maximum,
 - (iii) that such records as may be prescribed relating to the plying of the vehicle shall be maintained, and
 - (iv) any other prescribed condition appropriate to the service to be provided by the vehicle which the Regional Transport Authority thinks proper to impose in the public interest or with a view to prevent uneconomic competition between road transport services.

Power to restrict the number of and attach conditions to public carrier's permits.

57.—(1) An application for a contract carriage permit or a private carrier's permit may be made at any time.

(2) An application for a stage carriage permit or a public carrier's permit shall be made not less than six weeks before the date on which it is desired that the permit shall take effect, or, if the Regional Transport Authority appoints dates for the receipt of such applications, on such dates.

(3) On receipt of an application for a stage carriage permit or a public carrier's permit, the Regional Transport Authority shall make the application available for inspection at the office of the Authority and shall publish the application or the substance thereof in the prescribed manner together with a notice of the date before which representations in connection therewith may be submitted and the date, not being less than thirty days from such publication, on which, and the time and place at which, the application and any representations received will be considered.

Procedure in applying for and granting permits.

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(4) No representation in connection with an application referred to in sub-section (3) shall be considered by the Regional Transport Authority unless it is made in writing before the appointed date and unless a copy thereof is furnished simultaneously to the applicant by the person making such representation.

(5) When any representation such as is referred to in sub-section (3) is made, the Regional Transport Authority shall dispose of the application at a public hearing at which the applicant and the person making the representation shall have an opportunity of being heard either in person or by a duly authorised representative.

(6) When any representation has been made by the persons or authorities referred to in section 50 to the effect that the number of contract carriages for which permits have already been granted in any region or any area within a region is sufficient for or in excess of the needs of the region or of such area, whether such representation is made in connection with a particular application for the grant of a contract carriage permit or otherwise, the Regional Transport Authority may take any such steps as it considers appropriate for the hearing of the representation in the presence of any persons likely to be affected thereby.

(7) When a Regional Transport Authority refuses an application for a permit of any kind, it shall give to the applicant in writing its reasons for the refusal.

Duration
and renewal
of permits.

58.—(1) A permit other than a temporary permit issued under section 62 shall be effective without renewal for such period, not less than three years and not more than five years, as the Regional Transport Authority may in its discretion specify in the permit:

Provided that in the case of a permit issued or renewed within two years of the commencement of this Act, the permit shall be effective without renewal for such period of less than three years as the Provincial Government may prescribe.

(2) A permit may be renewed on an application made and disposed of as if it were an application for a permit:

Provided that, other conditions being equal, an application for renewal shall be given preference over new applications for permits.

General
conditions
attaching to
all permits.

59.—(1) Save as provided in section 61, a permit shall not be transferable from one person to another except with the permission of the transport authority which granted the permit and shall not without such permission operate to confer on any person to whom a vehicle covered by the permit is transferred any right to use that vehicle in the manner authorised by the permit.

(2) The holder of a permit may, with the permission of the authority by which the permit was granted, replace by another vehicle of the same nature and capacity any vehicle covered by the permit.

(3) The following shall be conditions of every permit—

(a) that the vehicle or vehicles to which the permit relates are at all times so maintained as to comply with the requirements of Chapter V and the rules made thereunder;

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- (b) that the vehicle or vehicles to which the permit relates are not driven at a speed exceeding the speed lawful under this Act;
- (c) that any prohibition or restriction imposed and any maximum or minimum fares or freights fixed by notification made under section 43 are observed in connection with any vehicle or vehicles to which the permit relates;
- (d) that the vehicle or vehicles to which the permit relates are not driven in contravention of the provisions of section 72;
- (e) that the provisions of this Act limiting the hours of work of drivers are observed in connection with any vehicle or vehicles to which the permit relates; and
- (f) that the provisions of Chapter VIII so far as they apply to the holder of the permit are observed.

60.—(1) The transport authority which granted a permit may cancel the permit or may suspend it for such period as it thinks fit—

Cancellation and suspension of permits.

- (a) on the breach of any condition specified in sub-section (3) of section 59, or of any condition contained in the permit, or
- (b) if the holder of the permit uses or causes or allows a vehicle to be used in any manner not authorised by the permit, or
- (c) if the holder of the permit ceases to possess the vehicle or vehicles covered by the permit, or
- (d) if the holder of the permit has obtained the permit by fraud or misrepresentation:

Provided that no permit shall be cancelled unless an opportunity has been given to the holder of the permit to submit his explanation.

(2) Where a transport authority cancels or suspends a permit, it shall give to the holder in writing its reasons for the revocation or suspension.

61.—(1) Where the holder of a permit dies, the person succeeding to the possession of the vehicles covered by the permit may, for a period of three months, use the permit as if it had been granted to himself:

Transfer of permit on death of holder.

Provided that such person has, within thirty days of the death of the holder, informed the transport authority which granted the permit of the death of the holder and of his own intention to use the permit:

Provided further that no permit shall be so used after the date on which it would have ceased to be effective without renewal in the hands of the deceased holder.

(2) The transport authority may, on application made to it within three months of the death of the holder of a permit, transfer the permit to the person succeeding to the possession of the vehicles covered by the permit.

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Temporary
permits.

62.¹ * A Regional Transport Authority may at its discretion, and without following the procedure laid down in section 57, grant permits, to be effective for a limited period not in any case to exceed four months, to authorise the use of a transport vehicle temporarily—

- (a) for the conveyance of passengers on special occasions such as to and from fairs and religious gatherings, or
- (b) for the purposes of a seasonal business, or
- (c) to meet a particular temporary need,

and may attach to any such permit any condition it thinks fit.

2* * * * *

Validation
of permits
for use out-
side region
in which
granted.

63.—(1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one Province shall not be valid in any other Province unless countersigned by the Provincial Transport Authority of that other Province or by the Regional Transport Authority concerned.

(2) A Regional Transport Authority when countersigning the permit may attach to the permit any condition which it might have imposed if it had granted the permit, and may likewise vary any condition attached to the permit by the Authority by which the permit was granted.

(3) The provisions of this Chapter relating to the grant, revocation and suspension of permits shall apply to the grant, revocation and suspension of countersignatures of permits.

(4) Notwithstanding anything contained in sub-section (1), a Regional Transport Authority of one region may issue a temporary permit under clause (a) or clause (c) of sub-section (1) of section 62 to be valid in another region or Province with the concurrence, given generally or for the particular occasion, of the Regional Transport Authority of that other region or of the Provincial Transport Authority of that other Province, as the case may be.

Appeals.

64. Any person—

- (a) aggrieved by the refusal of the Provincial or a Regional Transport Authority to grant a permit, or by any condition attached to a permit granted to him, or
- (b) aggrieved by the revocation or suspension of the permit or by any variation of the conditions thereof, or
- (c) aggrieved by the refusal to transfer the permit to the person succeeding on the death of the holder of a permit, or

¹ The brackets and figure “(1)” omitted by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 14.

² Sub-section (2) omitted, *ibid*.

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- (d) aggrieved by the refusal of the Provincial or a Regional Transport Authority to countersign a permit, or by any condition attached to such countersignature, or
- (e) aggrieved by the refusal of renewal of a permit, or
- (f) being a local authority or police authority or an association which, or a person providing transport facilities who, having opposed the grant of a permit, is aggrieved by the grant thereof or by any condition attached thereto, or
- (g) being the holder of a licence, who is aggrieved by the refusal of a Regional Transport Authority to grant an authorisation to drive a public service vehicle,

may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority who shall give such person and the original authority an opportunity of being heard.

65.—(1) No person shall cause or allow any person who is employed by him for the purpose of driving a transport vehicle or who is subject to his control for such purpose to work—

Restriction of hours of work of drivers.

- (a) for more than five hours before he has had an interval of rest of at least half an hour; or
- (b) for more than nine hours in one day; or
- (c) for more than fifty-four hours in the week.

(2) The Provincial Government may by rule made under section 68 grant such exemptions from the provisions of sub-section (1) as it thinks fit, to meet cases of emergency or of delays by reason of circumstances which could not be foreseen.

(3) The Provincial Government¹ [or, if authorized in this behalf by the Provincial Government by rules made under section 68, the Provincial or a Regional Transport Authority] may require persons employing any persons whose work is subject to any of the provisions of sub-section (1) to fix beforehand the hours of work of such persons so as to conform with those provisions, and may provide for the recording of the hours so fixed.

(4) No person shall work or shall cause or allow any other person to work outside the hours fixed or recorded for the work of such persons in compliance with any rule made under sub-section (3).

(5) The Provincial Government may prescribe the circumstances under which any period during which the driver of a vehicle although not engaged in work is required to remain on or near the vehicle may be deemed to be an interval for rest within the meaning of sub-section (1):

66. Any contract for the conveyance of a passenger in a stage carriage or contract carriage, in respect of which a permit has been issued under this Chapter, shall, so far as it purports to negative or restrict the liability of any person in respect of any claim made against that person in respect of the death of, or bodily injury to, the passenger while being carried in, entering or alighting from the

Voidance of contracts restrictive of liability.

¹ Ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 15.

(Chapter IV.—Control of Transport Vehicles)

vehicle, or purports to impose any conditions with respect to the enforcement of any such liability, be void.

Power to make rules as to stage carriages and contract carriages.

67.—(1) A Provincial Government may make rules to regulate, in respect of stage carriages and contract carriages,—

- (a) the conduct of persons licensed to act as drivers of, and the licensing of and the conduct of conductors of, such vehicles when acting as such; and
- (b) the conduct of passengers in such vehicles.

(2) Without prejudice to the generality of the foregoing provisions, such rules may—

- (a) authorise the removal from such vehicle of any person infringing the rules by the driver or conductor of the vehicle, or, on the request of the driver or conductor, or any passenger, by any police officer;
- (b) require a passenger who is reasonably suspected by the driver or conductor of contravening the rules to give his name and address to a police officer or to the driver or conductor on demand;
- (c) require a passenger to declare, if so requested by the driver or conductor, the journey he intends to take or has taken in the vehicle and to pay the fare for the whole of such journey and to accept any ticket provided therefor;
- (d) require, on demand being made for the purpose by the driver or conductor or other person authorised by the owner of the vehicle, production during the journey and surrender at the end of the journey by the holder thereof of any ticket issued to him;
- (e) require a passenger, if so requested by the driver or conductor, to leave the vehicle on the completion of the journey the fare for which he has paid;
- (f) require the surrender by the holder thereof on the expiry of the period for which it is issued of a ticket issued to him;
- (g) require the maintenance of complaint books in stage carriages and prescribe the conditions under which passengers can record any complaints in the same.

Power to make rules for the purposes of this Chapter.

68.—(1) A Provincial Government may make rules¹ for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of the foregoing power, rules under this section may be made with respect to all or any of the following matters, namely:—

- (a) the period of appointment and the terms of appointment of and the conduct of business by Regional and Provincial Transport Authorities and the reports to be furnished by them;
- (b) the conduct and hearing of appeals that may be preferred under this Chapter², the fees to be paid in respect of such

¹ For an instance of such rules, see Dacca Gazette, 1948, Pt. I, p. 28.

² Ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 16.

(Chapter IV.—Control of Transport Vehicles)

- appeals and the refund of such fees];
- (c) the forms to be used for the purposes of this Chapter, including the forms of permits;
 - (d) the issue of copies of permits in place of permits lost or destroyed;
 - (e) the documents, plates and marks to be carried by transport vehicles, the manner in which they are to be carried and the languages in which any such documents are to be expressed;
 - (f) the badges and uniform to be worn by drivers and conductors of stage carriages and contract carriages;
 - (g) the fees to be paid in respect of permits, duplicate permits, plates and badges;
 - ¹[(gg) the exemption of prescribed persons or prescribed classes of persons from payment of all or any or any portion of the fees payable under this Chapter;]
 - (h) the custody, production and cancellation on revocation or expiration of permits, and the return of permits which have become void or have been revoked;
 - (i) the conditions subject to which a permit issued in one region shall be valid in another region;
 - (j) the authorities to whom, the time within which and the manner in which appeals may be made;
 - (k) the construction and fittings of, and the equipment to be carried by, stage and contract carriages, whether generally or in specified areas;
 - (l) the determination of the number of passengers a stage or contract carriage is adapted to carry and the number which may be carried;
 - (m) the conditions subject to which goods may be carried on stage and contract carriages partly or wholly in lieu of passengers;
 - (n) the safe custody and disposal of property left in a stage or contract carriage;
 - (o) prohibiting the painting or marking of a stage or a contract carriage in such colour or manner as to induce any person to believe that the vehicle is used for the transport of mails;
 - (p) the conveyance in stage or contract carriages of corpses or persons suffering from any infectious or contagious disease or goods likely to cause discomfort or injury to passengers and the inspection and disinfection of such carriages, if used for such purposes;
 - (q) the provision of taxi meters on motor cabs requiring approval or standard types of taxi meters to be used and examining, testing and sealing taxi meters;
 - (r) prohibiting the picking up or setting down of passengers by stage or contract carriages at specified places or in

¹ Cl. (gg) ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), section 16.

(Chapter IV.—Control of Transport Vehicles. Chapter V.—Construction, Equipment and Maintenance of Motor Vehicles.)

specified areas or at places other than duly notified stands or halting places and requiring the driver of a stage carriage to stop and remain stationary for a reasonable time when so required by a passenger desiring to board or alight from the vehicle at a notified halting place;

- (s) the requirements (including the provision of proper sanitary arrangements) which shall be complied with in any duly notified stand or halting place;
- (t) requiring the owners of transport vehicles to notify any change of address or to report the failure of or damage to any vehicle used for the conveyance of passengers for hire or reward;
- (u) requiring the person in charge of a stage carriage to carry any person tendering the legal or customary fare;
- (v) the conditions under which and the types of containers or vehicles in which animals or birds may be carried and the seasons during which animals or birds may or may not be carried;
- ¹[(w) the licensing of and the regulation of the conduct of agents or canvassers who engage in the sale of tickets for travel by public service vehicles or otherwise solicit custom for such vehicles;]
- (x) the inspection of transport vehicles and their contents and of the permits relating to them;
- (y) the carriage of persons other than the driver in goods vehicles;
- (z) the records to be maintained and the returns to be furnished by the owners of transport vehicles; and
- (za) any other matter which is to be or may be prescribed.

CHAPTER V

CONSTRUCTION, EQUIPMENT AND MAINTENANCE OF MOTOR VEHICLES.

General provision regarding construction and maintenance.

69. Every motor vehicle shall be so constructed and so maintained as to be at all times under the effective control of the person driving the vehicle.

Power to make rules.

70.—(1) A Provincial Government may make rules regulating the construction, equipment and maintenance of motor vehicles and trailers.

(2) Without prejudice to the generality of the foregoing power, rules may be made under this section governing any of the following matters either generally in respect of motor vehicles or trailers or in respect of motor vehicles or trailers of a particular class or in particular circumstances, namely:—

- (a) the width, height, length and overhang of vehicles and of

¹ Subs. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 16, for the original clause (w).

(Chapter V.—Construction, Equipment and Maintenance of Motor Vehicles. Chapter VI.—Control of Traffic.)

- the loads carried;
- (b) seating arrangements in public service vehicles and the protection of passengers against the weather;
 - (c) the size, nature and condition of tyres;
 - (d) brakes and steering gear;
 - (e) the use of safety glass;
 - (f) signalling appliances, lamps and reflectors;
 - (g) speed governors;
 - (h) the emission of smoke, visible vapour, sparks, ashes, grit or oil;
 - (i) the reduction of noise emitted by or caused by vehicles;
 - (j) prohibiting or restricting the use of audible signals at certain times or in certain places;
 - (k) prohibiting the carrying of appliances likely to cause annoyance or danger;
 - (l) the periodical testing and inspection of vehicles by prescribed authorities;
 - (m) the particulars other than registration marks to be exhibited by vehicles and the manner in which they shall be exhibited; and
 - (n) the use of trailers with motor vehicles.

CHAPTER VI

CONTROL OF TRAFFIC

71.—(1) No person shall drive a motor vehicle or cause or allow a motor vehicle to be driven in any public place at a speed exceeding the maximum speed fixed for the vehicle by or under this Act or by or under any law for the time being in force: Limits of speed.

Provided that such maximum speed shall in no case exceed the maximum fixed for the vehicle in the Eighth Schedule.

(2) The Provincial Government or any authority authorised in this behalf by the Provincial Government may, if satisfied that it is necessary to restrict the speed of motor vehicles in the interests of public safety or convenience or because of the nature of any road or bridge, by notification in the official Gazette, fix such maximum speed limits as it thinks fit for motor vehicles or any specified class of motor vehicles or for motor vehicles to which a trailer is attached, either generally or in a particular area or on a particular road or roads.

72.—(1) The Provincial Government may prescribe conditions for the issue of permits for heavy transport vehicles by the Provincial or Regional Transport Authorities and may prohibit or restrict the use of such vehicles in any area or route within the Province: Limits of weight and limitations on use.

Provided that any permit issued before the commencement of this Act may be continued or renewed by the competent authority for a period not exceeding three years under the conditions upon

which the permit was originally issued, unless the Provincial Government directs otherwise.

(2) Except as may be otherwise prescribed, no person shall drive or cause or allow to be driven in any public place any motor vehicle which is not fitted with pneumatic tyres.

(3) No person shall drive or cause or allow to be driven in any public place any motor vehicle or trailer—

- (a) the unladen weight of which exceeds the unladen weight specified in the certificate of registration of the vehicle, or
- (b) the laden weight of which exceeds the registered laden weight specified in the certificate of registration, or
- (c) any axle weight of which exceeds the maximum axle weight specified for that axle in the certificate of registration.

(4) Where the driver or person in charge of a motor vehicle or trailer driven in contravention of sub-section (2) or clause (a) of sub-section (3) is not the owner, a Court may presume that the offence was committed with the knowledge of or under the orders of the owner of the motor vehicle or trailer.

Power to
have vehicle
weighed.

73. Any person authorised in this behalf by the Provincial Government may, if he has reason to believe that a goods vehicle or trailer is being used in contravention of section 72, require the driver to convey the vehicle to a weighing device, if any, within a distance of one mile from any point on the forward route or within a distance of five miles from the destination of the vehicle for weighing; and if on such weighing the vehicle is found to contravene in any respect the provisions of section 72 regarding weight, he may, by order in writing, direct the driver to convey the vehicle or trailer to the nearest place, to be specified in the notice, where facilities exist for the storage of goods, and not to remove the vehicle or trailer from that place until the laden weight or axle weight has been reduced or the vehicle has otherwise been treated so that it complies with section 72.

Power to
restrict the
use of vehi-
cles.

74. The Provincial Government or any authority authorised in this behalf by the Provincial Government, if satisfied that it is necessary in the interests of public safety or convenience, or because of the nature of any road or bridge, may by notification in the official Gazette prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class of motor vehicles or the use of trailers either generally in a specified area or on a specified road.

Power to
erect traffic
signs.

75.—(1) The Provincial Government or any authority authorised in this behalf by the Provincial Government may cause or permit traffic signs to be placed or erected in any public place for the purpose of regulating motor vehicle traffic.

(2) Traffic signs erected under sub-section (1) for any purpose for which provision is made in the Ninth Schedule shall be of the size, colour and type and shall have the meanings set forth in the Ninth

Schedule, but the Provincial Government or any authority empowered in this behalf by the Provincial Government may make or authorise the addition to any sign set forth in the said Schedule, of transcriptions of the words, letters or figures thereon in such script as the Provincial Government may think fit, provided that the transcriptions shall be of similar size and colour to the words, letters or figures set forth in the Ninth Schedule.

(3) Except as provided by sub-section (1) no traffic sign shall, after the commencement of this Act, be placed or erected on or near any road; but all traffic signs erected prior to the commencement of this Act by any competent authority shall for the purposes of this Act be deemed to be traffic signs erected under the provisions of sub-section (1).

(4) A Provincial Government may, by notification in the official Gazette, empower any District Magistrate or Superintendent of Police ¹* * * to remove or cause to be removed any sign or advertisement which is so placed in his opinion as to obscure any traffic sign from view or any sign or advertisement which is in his opinion so similar in appearance to a traffic sign as to be misleading.

76. The Provincial Government or any authority authorised in this behalf by the Provincial Government may, in consultation with the local authority having jurisdiction in the area concerned, determine places at which motor vehicles may stand either indefinitely or for a specified period of time, and may determine the places at which public service vehicles may stop for a longer time than is necessary for the taking up and setting down of passengers.

Parking
places and
halting
stations.

77. A Provincial Government or any authority authorised in this behalf by the Provincial Government may, by notification in the official Gazette or by the erection at suitable places of the appropriate traffic sign referred to in Part A of the Ninth Schedule, designate certain roads as main roads for the purposes of the regulations contained in the Tenth Schedule.

Main roads.

²[78.—(1)] Every driver of a motor vehicle shall drive the vehicle in conformity with any indication given by ³[a mandatory traffic sign] and in conformity with the driving regulations set forth in the Tenth Schedule, and shall comply with all directions given him by any police officer for the time being engaged in the regulation of traffic in any public place.

Duty to obey
traffic signs.

⁴[(2) In this section “mandatory traffic sign” means a traffic sign included in Part A of the Ninth Schedule, or any traffic sign of similar form (that is to say, consisting of or including a circular disc displaying a device, word or figure and having a red ground or

¹ The words and brackets “(or, in the Presidency-towns, the Chief Presidency Magistrate or the Commissioner of Police)”, which were ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 17, omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Second Schedule.

² S. 78 re-numbered by Act 20 of 1942, s. 18.

³ Subs. *ibid.*, for “a traffic sign included in Part A of the Ninth Schedule”

⁴ Sub-section (2) added, *ibid.*

border) erected for the purpose of regulating motor vehicle traffic under sub-section (1) of section 75.]

Signals and
signalling
devices.

79. The driver of a motor vehicle shall on the occasions specified in the Eleventh Schedule make the signals specified therein:

Provided that the signal of an intention to turn to the right or left or to stop may be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle.

Vehicles with
left hand
control.

80. No person shall drive or cause or allow to be driven in any public place any motor vehicle with a left hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature and in working order.

Leaving
vehicle in
dangerous
position.

81. No person in charge of a motor vehicle shall cause or allow the vehicle or any trailer to remain at rest on any road in such a position or in such a condition or in such circumstances as to cause or be likely to cause danger, obstruction or undue inconvenience to other users of the road.

Riding on
running
board.

82. No person driving or in charge of a motor vehicle shall carry any person or permit any person to be carried on the running board or otherwise than within the body of the vehicle.

Obstruction
of driver.

83. No person driving a motor vehicle shall allow any person to stand or sit or anything to be placed in such a manner or position as to hamper the driver in his control of the vehicle.

Stationary
vehicles.

84. No person driving or in charge of a motor vehicle shall cause or allow the vehicle to remain stationary in any public place, unless there is in the driver's seat a person duly licensed to drive the vehicle or unless the mechanism has been stopped and a brake or brakes applied or such other measures taken as to ensure that the vehicle cannot accidentally be put in motion in the absence of the driver.

Pillion
riding.

85. No driver of a two-wheeled motor cycle shall carry more than one person in addition to himself on the cycle and no such person shall be carried otherwise than sitting on a proper seat securely fixed to the cycle behind the driver's seat.

Duty to pro-
duce licence
and certifi-
cate of regis-
tration.

86.—(1) The driver of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination.

(2) The owner of a motor vehicle, or in his absence the driver or other person in charge of the vehicle, shall, on demand by a registering authority or any person authorised in this behalf by the Provincial Government, produce the certificate of registration of the

¹ This section has been amended in its application to the North-West Frontier Province; see the Motor Vehicles (N.-W. F. P. Amendment) Act, 1950 (12 of 1950), s. 2.

vehicle and, where the vehicle is a transport vehicle, the certificate of fitness referred to in section 38.

(3) If the licence or certificates, as the case may be, are not at the time in the possession of the person to, whom demand is made, it shall be a sufficient compliance with this section if such person produces the licence or certificates within ten days at any police station in [the Provinces and the Capital of the Federation] which he specifies to the police officer or authority making the demand:

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to a driver driving as a paid employee, or to the driver of a transport vehicle or to any person required to produce the certificate of registration or the certificate of fitness of a transport vehicle.

87.—(1) The driver of a motor vehicle shall cause the vehicle to stop and remain stationary so long as may reasonably be necessary—

Duty of driver to stop in certain cases.

- (a) when required to do so by any police officer in uniform, or
- (b) when required to do so by any person in charge of an animal if such person apprehends that the animal is, or being alarmed by the vehicle will become, unmanageable, or
- (c) when the vehicle is involved in the occurrence of an accident to a person, animal or vehicle or of damage to any property, whether the driving or management of the vehicle was or was not the cause of the accident or damage,

and he shall give his name and address and the name and address of the owner of the vehicle to any person affected by any such accident or damage who demands it provided such person also furnishes his name and address.

(2) The driver of a motor vehicle shall, on demand by a person giving his own name and address and alleging that the driver has committed an offence punishable under section 116, give his name and address to that person.

(3) In this section the expression “animal” means any horse, cattle, elephant, camel, ass, mule, sheep or goat.

88. The owner of a motor vehicle the driver of which is accused of any offence under this Act shall, on the demand of any police officer authorised in this behalf by the Provincial Government, give all information regarding the name and address of and the licence held by the driver which is in his possession or could by reasonable diligence be ascertained by him.

Duty of owner of motor vehicle to give information

89. When any person is injured as the result of an accident in which a motor vehicle is involved, the driver of the vehicle or other person in charge of the vehicle shall—

Duty of driver in case of accident and injury to a person

- (a) take all reasonable steps to secure medical attention for the injured person, and, if necessary, convey him to the nearest hospital, unless the injured person or his guardian, in case he is a minor, desires otherwise;

¹ Subs. by the A. O., 1949, for “British India”.

- (b) give on demand by a police officer any information required by him, or, if no police officer is present, report the circumstances of the occurrence at the nearest police station as soon as possible, and in any case within twenty-four hours of the occurrence.

Inspection
of vehicle
involved in
accident.

90. When any accident occurs in which a motor vehicle is involved, any person authorised in this behalf by the Provincial Government may, on production if so required of his authority, inspect the vehicle and for that purpose may enter at any reasonable time any premises where the vehicle may be, and may remove the vehicle for examination:

Provided that the place to which the vehicle is so removed shall be intimated to the owner of the vehicle and the vehicle shall be returned without unnecessary delay.

Power to
make rules.

91.—(1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

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

- (a) the nature of the mechanical or electrical signalling devices which may be used on motor vehicles;
- (b) the removal and the safe custody of vehicles including their loads which have broken down or which have been left standing or have been abandoned on roads;
- (c) the installation and use of weighing devices;
- (d) the exemption from all or any of the provisions of this Chapter of Fire Brigade vehicles, ambulances and other special classes of vehicle, subject to such conditions as may be prescribed;
- (e) the maintenance and management of parking places and stands and the fees, if any, which may be charged for their use;
- (f) prohibiting the driving down hill of a motor vehicle with the gear disengaged either generally or in a specified place;
- (g) prohibiting the taking hold of or mounting of a motor vehicle in motion;
- (h) prohibiting the use of foot-paths or pavements by motor vehicles;
- (i) generally, the prevention of danger, injury or annoyance to the public or any person, or of danger or injury to property or of obstruction to traffic; and
- (j) any other matter which is to be or may be prescribed.

(Chapter VII.—Motor Vehicles temporarily leaving or visiting the Provinces and the Capital of the Federation.)

CHAPTER VII

MOTOR VEHICLES TEMPORARILY LEAVING OR VISITING ¹[THE PROVINCES AND THE CAPITAL OF THE FEDERATION].

92.—(1) The Central Government may, by notification in the official Gazette, make rules for all or any of the following purposes, namely:—

Power of Central Government to make rules.

- (a) the grant and authentication of travelling passes, certificates or authorisations to persons temporarily taking motor vehicles out of ¹[the Provinces and the Capital of the Federation] to any place ²[outside Pakistan] or to persons temporarily proceeding out of ¹[the Provinces and the Capital of the Federation] to any place ²[outside Pakistan], and desiring to drive a motor vehicle during their absence from ¹[the Provinces and the Capital of the Federation];
- (b) prescribing the conditions subject to which motor vehicles brought temporarily into ¹[the Provinces and the Capital of the Federation] from ²[outside Pakistan] by persons intending to make a temporary stay in ¹[the Provinces and the Capital of the Federation] may be possessed and used in ¹[the Provinces and the Capital of the Federation]; and
- (c) prescribing the conditions subject to which persons entering ¹[the Provinces and the Capital of the Federation] from any place ²[outside Pakistan] for a temporary stay in ¹[the Provinces and the Capital of the Federation] may drive motor vehicles in ¹[the Provinces and the Capital of the Federation].

(2) No rule made under this section shall operate to confer on any person any immunity in any Province from the payment of any tax levied in that Province on motor vehicles or their users.

(3) Rules made under clauses (b) and (c) of sub-section (1) shall, in case of motor vehicles and persons entering ¹[the Provinces and the Capital of the Federation] from the French and Portuguese Settlements bounded by India, be applicable only to motor traffic to which the International Convention relating to motor traffic concluded at Paris on the 24th day of April, 1926, ³[or any Convention modifying the same] applies.

(4) Nothing in this Act or in any rule made thereunder by a Provincial Government relating to—

- (a) the registration and identification of motor vehicles, or
- (b) the requirements as to construction, maintenance and equipment of motor vehicles, or
- (c) the licensing and the qualifications of drivers of motor vehicles;

shall apply to any motor vehicle to which or to any driver of a motor vehicle to whom any rules made under clause (b) or clause (c) of sub-section (1) apply.

¹ Subs. by the A. O., 1949, for "British India".

² Subs. *ibid.*, for "outside India".

³ Ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 19.

CHAPTER VIII

INSURANCE OF MOTOR VEHICLES AGAINST THIRD PARTY RISKS

Definitions.

93. In this Chapter—

- ¹[(a) “authorised insurer” means an insurer in whose case the requirements of the Insurance Act, 1938, or of the corresponding law of a reciprocating territory with respect to the registration of insurers are complied with, and includes, where the business of insuring motor vehicles against third party risks is carried on by the Central Government or a Provincial Government or the Government of an ²[Acceding State or a non-Acceding State] which is a reciprocating territory, such Government;]
- (b) “certificate of insurance” means a certificate issued by an authorised insurer in pursuance of sub-section (4) of section 95; and includes ³[a cover note complying with such requirements as may be prescribed, and] where more than one certificate has been issued in connection with a policy, or where a copy of a certificate has been issued, all those certificates or that copy, as the case may be;
- ⁴[(c) “reciprocating territory” means any such ²[Acceding State or a non-Acceding State] ⁵* * * as may be notified by the Central Government in the official Gazette to be a reciprocating territory for the purposes of this Chapter.]

Necessity for insurance against third party risk.

94.—(1) No person shall use except as a passenger or cause or allow any other person to use a motor vehicle in a public place, unless there is in force in relation to the use of the vehicle by that person or that other person, as the case may be, a policy of insurance complying with the requirements of this Chapter.

Explanation.—A person driving a motor vehicle merely as a paid employee, while there is in force in relation to the use of the vehicle no such policy as is required by this sub-section, shall not be deemed to act in contravention of the sub-section unless he knows or has reason to believe that there is no such policy in force.

⁶[(2) Subject to any prescribed conditions, sub-section (1) shall not apply to any vehicle owned by any of the following authorities, namely:—

- (i) the Central Government;

¹ Subs. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 2, for the original clause (a) (with effect from the 1st March, 1949).

² Subs. by the A. O., 1949, for “Indian State”.

³ Ins. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 2 (with effect from the 1st March, 1949).

⁴ Clause (c) added, *ibid.* (with effect from the 1st March, 1949).

⁵ The words “or such area administered by the Crown Representative” omitted, by the A. O., 1949.

⁶ Subs. by Act 27 of 1947, s. 3, for the “original sub-section (2) (with effect from the 1st March, 1949).

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- (iii) any Provincial Government;
- (iv) the Government of any ²[Acceding State or a non-Acceding State];
- (v) the Government of the French or Portuguese Settlements bounded by India;
- (vi) any local authority in ³[the Provinces and the Capital of the Federation] exempted from the operation of sub-section (1) by order of the Central Government or of a Provincial Government;
- (vii) any local authority established or continued by the authority of the Crown Representative exempted from the operation of sub-section (1) by order of the Central Government;
- (viii) any local authority in an ²[Acceding State or a non-Acceding State] wherein policies of insurance are required by provision of law to be taken out in relation to the use of motor vehicles, which has been exempted from the operation of such provision.]

95.—(1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which—

Requirements of policies and limits of liability.

- (a) is issued by a person who is an authorised insurer ⁴[or by a co-operative society allowed under section 108 to transact the business of an insurer], and
- (b) insures the person or classes of person specified in the policy to the extent specified in sub-section (2) against any liability which may be incurred by him or them in respect of the death of or bodily injury to any person caused by or arising out of the use of the vehicle in a public place ⁴[in ³[the Provinces and the Capital of the Federation] or in a reciprocating territory]:

Provided that a policy shall not, ⁵* * *, be required—

- (i) to cover liability in respect of the death, arising out of and in the course of his employment, of the employee of a person insured by the policy or in respect of bodily injury sustained by such an employee arising out of and in the course of his employment, ⁴[other than a liability arising under the Workmen's Compensation Act, 1923, in respect

¹ Cl. (ii) omitted by the A. O., 1949.

² Subs. *ibid.*, for "Indian State".

³ Subs. *ibid.*, for "British India".

⁴ Ins. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 4 (with effect from the 1st March, 1949).

⁵ The words "except as may be otherwise provided under sub-section (3)" omitted by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 4 (with effect from the 1st March, 1949).

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of the death of, or bodily injury to, any such employee—

- (a) engaged in driving the vehicle, or
- (b) if it be a public service vehicle, engaged as a conductor of the vehicle or in examining tickets on the vehicle, or
- (c) if it be a goods vehicle, being carried in the vehicle,] or
- (ii) except where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, to cover liability in respect of the death of or bodily injury to persons being carried in, or upon or entering or mounting or alighting from the vehicle at the time of the occurrence of the event out of which a claim arises, or
- (iii) to cover any contractual liability.

(2) Subject to the proviso to sub-section (1), a policy of insurance shall cover any liability incurred in respect of any one accident up to the following limits, namely:—

- ¹[(a) where the vehicle is a goods vehicle, a limit of twenty thousand rupees in all, the liabilities, if any, arising under the Workmen's Compensation Act, 1923, in respect of the death of, or bodily injury to, employees other than the driver being carried in the vehicle being limited to six such employees;]
- (b) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment, in respect of persons other than passengers carried for hire or reward, a limit of twenty thousand rupees; and in respect of passengers a limit of twenty thousand rupees in all, and four thousand rupees in respect of an individual passenger, if the vehicle is registered to carry not more than six passengers excluding the driver or two thousand rupees in respect of an individual passenger, if the vehicle is registered to carry more than six passengers excluding the driver;
- (c) where the vehicle is a vehicle of any other class the amount of the liability incurred.

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(4) A policy shall be of no effect for the purposes of this Chapter unless and until there is issued by the insurer in favour of the person by whom the policy is effected a certificate of insurance ³* * * in the prescribed form and containing the prescribed particulars of any conditions subject to which the policy is issued and of any other prescribed matters; and different forms, particulars and matters may be prescribed in different cases.

¹ Subs. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 4 (with effect from the 1st March, 1949), for the original clause (a).•

² Sub-section (3) omitted, *ibid.* (with effect from the 1st March, 1949).

³ The words "or a cover note" omitted, *ibid.* (with effect from the 1st March, 1949).

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(5) Notwithstanding anything elsewhere contained in any law, a person issuing a policy of insurance under this section shall be liable to indemnify the person or classes of persons specified in the policy in respect of any liability which the policy purports to cover in the case of that person or those classes of person.

96.—(1) If, after a certificate of insurance¹ * * * has been issued under sub-section (4) of section 95 in favour of the person by whom a policy has been effected, judgment in respect of any such liability as is required to be covered by a policy under clause (b) of sub-section (1) of section 95 (being a liability covered by the terms of the policy) is obtained against any person insured by the policy, then, notwithstanding that the insurer may be entitled to avoid or cancel or may have avoided or cancelled the policy, the insurer shall, subject to the provisions of this section, pay to the person entitled to the benefit of the decree any sum not exceeding the sum assured payable thereunder, as if he were the judgment-debtor, in respect of the liability, together with any amount payable in respect of costs and any sum payable in respect of interest on that sum by virtue of any enactment relating to interest on judgments.

Duty of insurers to satisfy judgments against persons insured in respect of third party risks.

(2) No sum shall be payable by an insurer under sub-section (1) in respect of any judgment unless before or after the commencement of the proceedings in which the judgment is given the insurer had notice through the Court of the bringing of the proceedings, or in respect of any judgment so long as execution is stayed thereon pending an appeal; and an insurer to whom notice of the bringing of any such proceedings is so given shall be entitled to be made a party thereto and to defend the action on any of the following grounds, namely:—

- (a) that the policy was cancelled by mutual consent or by virtue of any provision contained therein before the accident giving rise to the liability, and that either the certificate of insurance was surrendered to the insurer or that the person to whom the certificate was issued has made an affidavit stating that the certificate has been lost or destroyed, or that either before or not later than fourteen days after the happening of the accident the insurer has commenced proceedings for cancellation of the certificate after compliance with the provisions of section 105; or
- (b) that there has been a breach of a specified condition of the policy, being one of the following conditions, namely:—
 - (i) a condition excluding the use of the vehicle—
 - (a) for hire or reward, where the vehicle is on the date of the contract of insurance a vehicle not covered by a permit to ply for hire or reward, or
 - (b) for organised racing and speed testing, or
 - (c) for a purpose not allowed by the permit under which the vehicle is used, where the vehicle is a public service vehicle or a goods vehicle, or

¹ The words "or a cover note" omitted by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 5 (with effect from the 1st March, 1949).

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- (d) without side-car being attached, where the vehicle is a motor cycle; or
- (ii) a condition excluding driving by a named person or persons or by any person who is not duly licensed, or by any person who has been disqualified for holding or obtaining a driving licence during the period of disqualification; or
- (iii) a condition excluding liability for injury caused or contributed to by conditions of war, civil war, riot or civil commotion; or
- (c) that the policy is void on the ground that it was obtained by the non-disclosure of a material fact or by a representation of fact which was false in some material particular.

¹[(2A) Where any such judgment as is referred to in sub-section (1) is obtained from a Court in a reciprocating territory and in the case of a foreign judgment is, by virtue of the provisions of Section 13 of the Code of Civil Procedure, 1908, conclusive as to any matter adjudicated upon by it, the insurer (being an insurer registered under the Insurance Act, 1938, and whether or not he is registered under the corresponding law of the reciprocating territory) shall be liable to the person entitled to the benefit of the decree in the manner and to the extent specified in sub-section (1) as if the judgment were given by a Court in ^{v of 1908.} ^{IV of 1938.} the Provinces and the Capital of the Federation]:

Provided that no sum shall be payable by the insurer in respect of any such judgment unless, before or after the commencement of the proceedings in which the judgment is given, the insurer had notice through the Court in the reciprocating territory of the bringing of the proceedings and the insurer to whom notice is so given is entitled under the corresponding law of the reciprocating territory, to be made a party to the proceedings and to defend the action on grounds similar to those specified in sub-section (2).]

(3) Where a certificate of insurance ³* * * has been issued under sub-section (4) of section 95 to the person by whom a policy has been effected, so much of the policy as purports to restrict the insurance of the persons insured thereby by reference to any conditions other than those in clause (b) of sub-section (2) shall, as respects such liabilities as are required to be covered by a policy under clause (b) of sub-section (1) of section 95, be of no effect:

Provided that any sum paid by the insurer in or towards the discharge of any liability of any person which is covered by the policy by virtue only of this sub-section shall be recoverable by the insurer from that person.

(4) If the amount which an insurer becomes liable under this section to pay in respect of a liability incurred by a person insured by a policy exceeds the amount for which the insurer would apart

¹ Sub-section (2A) ins. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 5 (with effect from the 1st March, 1949).

² Subs. by the A. O., 1949, for "British India".

³ The words "or cover note" omitted by Act 27 of 1947, s. 5 (with effect from the 1st March, 1949).

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from the provisions of this section be liable under the policy in respect of that liability, the insurer shall be entitled to recover the excess from that person.

(5) In this section the expressions “material fact” and “material particular” mean, respectively, a fact or particular of such a nature as to influence the judgment of a prudent insurer in determining whether he will take the risk and, if so, at what premium and on what conditions, and the expression “liability covered by the terms of the policy” means a liability which is covered by the policy or which would be so covered but for the fact that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy.

(6) No insurer to whom the notice referred to in sub-section (2) ¹[or sub-section (2A)] has been given shall be entitled to avoid his liability to any person entitled to the benefit of any such judgment as is referred to in sub-section (1) ¹[or sub-section (2A)] otherwise than in the manner provided for in sub-section (2) ¹[or in the corresponding law of the reciprocating territory, as the case may be].

97.—(1) Where under any contract of insurance effected in accordance with the provisions of this Chapter a person is insured against liabilities which he may incur to third parties then—

Rights of
third parties
against in-
surers on in-
solvency of
the insured.

- (a) in the event of the person becoming insolvent or making a composition or arrangement with his creditors, or
- (b) where the insured person is a company, in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to the company or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge,

if, either before or after that event, any such liability is incurred by the insured person, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where an order for the administration of the estate of a deceased debtor is made according to the law of insolvency, then, if any debt provable in insolvency is owing by the deceased in respect of a liability to a third party against which he was insured under a contract of insurance in accordance with the provisions of this Chapter, the deceased debtor's rights against the insurer in respect of that liability shall, notwithstanding anything to the contrary in any provision of law, be transferred to and vest in the person to whom the debt is owing.

(3) Any condition in a policy issued for the purposes of this Chapter purporting either directly or indirectly to avoid the policy or to alter the rights of the parties thereunder upon the happening to the insured person of any of the events specified in clause (a) or

¹ Ins. by the Motor Vehicles (Amdt.) Act, 1947 (27 of 1947), s. 5 (with effect from the 1st March, 1949).

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clause (b) of sub-section (1) or upon the making of an order for the administration of the estate of a deceased debtor according to the law of insolvency shall be of no effect.

(4) Upon a transfer under sub-section (1) or sub-section (2) the insurer shall be under the same liability to the third party as he would have been to the insured person, but—

- (a) if the liability of the insurer to the insured person exceeds the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the insured person against the insurer in respect of the excess, and
- (b) if the liability of the insurer to the insured person is less than the liability of the insured person to the third party, nothing in this Chapter shall affect the rights of the third party against the insured person in respect of the balance.

Duty to give
information
as to insur-
ance.

98.—(1) No person against whom a claim is made in respect of any liability referred to in clause (b) of sub-section (1) of section 95 shall on demand by or on behalf of the person making the claim refuse to state whether or not he was insured in respect of that liability by any policy issued under the provisions of this Chapter, or would have been so insured if the insurer had not avoided or cancelled the policy, nor shall he refuse, if he was or would have been so insured, to give such particulars with respect to that policy as were specified in the certificate of insurance issued in respect thereof.

(2) In the event of any person becoming insolvent or making a composition or arrangement with his creditors or in the event of an order being made for the administration of the estate of a deceased person according to the law of insolvency, or in the event of a winding up order being made or a resolution for a voluntary winding up being passed with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge on any property comprised in or subject to the charge, it shall be the duty of the insolvent debtor, personal representative of the deceased debtor or company, as the case may be, or the official assignee or receiver in insolvency, trustee, liquidator, receiver or manager, or person in possession of the property to give at the request of any person claiming that the insolvent debtor, deceased debtor or company is under such liability to him as is covered by the provisions of this Chapter, such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by section 97, and for the purpose of enforcing such rights, if any; and any such contract of insurance as purports whether directly or indirectly to avoid the contract or to alter the rights of the parties thereunder upon the giving of such information in the events aforesaid, or otherwise to prohibit or prevent the giving thereof in the said events, shall be of no effect.

(3) If, from the information given to any person in pursuance of sub-section (2) or otherwise, he has reasonable ground for supposing that there have or may have been transferred to him under this

*(Chapter VIII.—Insurance of Motor Vehicles against
Third Party Risks.)*

Chapter rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said sub-section on the persons therein mentioned.

(4) The duty to give the information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

99.—(1) No settlement made by an insurer in respect of any claim which might be made by a third party in respect of any liability of the nature referred to in clause (b) of sub-section (1) of section 95 shall be valid unless such third party is a party to the settlement.

Settlement
between
insurers and
insured
persons.

(2) Where a person who is insured under a policy issued for the purposes of this Chapter has become insolvent, or where, such insured person is a company, a winding up order has been made, or a resolution for a voluntary winding up has been passed with effect to the company no agreement made between the insurer and the insured person after liability has been incurred to a third party and after the commencement of the insolvency or winding up, as the case may be, nor any waiver, assignment or other disposition made by or payment made to the insured person after the commencement aforesaid shall be effective to defeat the rights transferred to the third party under this Chapter, but those rights shall be the same as if no such agreement, waiver, assignment or disposition or payment has been made.

100.—(1) For the purposes of sections 97, 98 and 99, a reference to "liabilities to third parties" in relation to a person insured under any policy of insurance shall not include a reference to any liability of that person in the capacity of insurer under some other policy of insurance.

Saving in
respect of
sections 97,
98 and 99.

(2) The provisions of sections 97, 98 and 99 shall not apply where a company is wound up voluntarily merely for the purposes of reconstruction or of an amalgamation with another company.

101. Where a certificate of insurance has been issued to the person by whom a policy has been effected, the happening in relation to any person insured by the policy of any such event as is mentioned in sub-section (1) or sub-section (2) of section 97 shall, notwithstanding anything in this Chapter, not affect any liability of that person of the nature referred to in clause (b) of sub-section (1) of section 95; but nothing in this section shall affect any rights against the insurer conferred under the provisions of sections 97, 98 and 99 on the person to whom the liability was incurred.

Insolvency
of insured
persons not
to affect
liability of
insured or
claims by
third parties

102. Notwithstanding anything contained in section 306 of the Succession Act, 1925, the death of a person in whose favour a certificate of insurance ¹ * * * had been issued, if it occurs after

Effect of
death on
certain
causes of
action.

¹ The words "or cover note" omitted by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 6 (with effect from the 1st March, 1949).

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the happening of an event which has given rise to a claim under the provisions of this Chapter, shall not be a bar to the survival of any cause of action arising out of the said event against his estate or against the insurer.

Effect of
certificate of
insurance.

103. When an insurer has issued a certificate of insurance in respect of a contract of insurance between the insurer and the insured person, then—

- (a) if and so long as the policy described in the certificate has not been issued by the insurer to the insured, the insurer shall, as between himself and any other person except the insured, be deemed to have issued to the insured person a policy of insurance conforming in all respects with the description and particulars stated in such certificate; and
- (b) if the insurer has issued to the insured the policy described in the certificate, but the actual terms of the policy are less favourable to persons claiming under or by virtue of the policy against the insurer either directly or through the insured than the particulars of the policy as stated in the certificate, the policy shall, as between the insurer and any other person except the insured, be deemed to be in terms conforming in all respects with the particulars stated in the said certificate.

Duty to
surrender
certificate on
cancellation
of policy.

104.—(1) Whenever the period of cover under a policy of insurance issued under the provisions of this Chapter is terminated or suspended by any means before its expiration by effluxion of time, the insured person shall within seven days after such termination or suspension deliver to the insurer by whom the policy was issued the latest certificate of insurance given by the insurer in respect of the said policy, or, if the said certificate has been lost or destroyed, make an affidavit to that effect.

(2) Whoever fails to surrender a certificate of insurance or to make an affidavit, as the case may be, in accordance with the provisions of this section shall be punishable with fine which may extend to fifteen rupees for every day that the offence continues subject to a maximum of five hundred rupees.

Duty of in-
surer to
notify
registering
authority
cancellation
or
suspension
of the policy.

105. Whenever a policy of insurance issued under the provisions of this Chapter is cancelled or suspended by the insurer who has issued the policy, the insurer shall within seven days notify such cancellation or suspension to the registering authority in whose records the registration of the vehicle covered by the policy of insurance is recorded or to such other authority as the Provincial Government may prescribe.

Production
of certificate
of insurance.

106.—(1) Any person driving a motor vehicle in any public place shall on being so required by a police officer in uniform¹ authorised

¹ Ins. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 7 (with effect from the 1st March, 1949).

(Chapter VIII.—Insurance of Motor Vehicles against
Third Party Risks.)

in this behalf by the Provincial Government] produce the certificate of insurance relating to the use of the vehicle:

1* * * * *

(2) If, where owing to the presence of a motor vehicle in a public place an accident occurs involving bodily injury to another person, the driver of the vehicle does not at the time produce the certificate of insurance to a police officer, he shall produce the certificate of insurance at the police station at which he makes the report required by section 89:

1* * * * *

²[(2A) No person shall be liable to conviction under sub-section (1) or sub-section (2) by reason only of the failure to produce the certificate of insurance if, within seven days from the date on which its production was required under sub-section (1) or, as the case may be, from the date of occurrence of the accident, he produces the certificate at such police station as may have been specified by him to the police officer who required its production or, as the case may be, to the police officer at the site of the accident or to the officer in charge of the police station at which he reported the accident:

Provided that, except to such extent and with such modifications as may be prescribed, the provisions of this sub-section shall not apply to the driver of a transport vehicle.]

(3) The owner of a motor vehicle shall give such information as he may be required by or on behalf of a police officer empowered in this behalf by the Provincial Government to give for the purpose of determining whether the vehicle was or was not being driven in contravention of section 94 and on any occasion when the driver was required under this section to produce his certificate of insurance.

(4) In this section the expression "produce his certificate of insurance" means produce for examination the relevant certificate of insurance or such other evidence as may be prescribed that the vehicle was not being driven in contravention of section 94.

107. A Provincial Government may make rules requiring the owner of any motor vehicle when applying whether by payment of a tax or otherwise for authority to use the vehicle in a public place to produce such evidence as may be prescribed by those rules to the effect that either—

Production of certificates of insurance on application for authority to use vehicle.

(a) on the date when the authority to use the vehicle comes into operation there will be in force the necessary policy of insurance in relation to the use of the vehicle by the applicant or by other persons on his order or with his permission, or

(b) the vehicle is a vehicle to which section 94 does not apply.

¹ Proviso omitted by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 7 (with effect from the 1st March, 1949).

² Sub-section (2A) ins., *ibid.* (with effect from the 1st March, 1949).

(Chapter VIII.—Insurance of Motor Vehicles against Third Party Risks.)

Co-operative Insurance.

108.—(1) A Provincial Government may, on the application of a co-operative society of ¹[transport vehicle] owners registered or deemed to have been registered under the Co-operative Societies Act, 1912, or under an Act of a Provincial Legislature governing the registration of Co-operative Societies and subject to the control of the Registrar of Co-operative Societies of the Province, allow ²the society to transact the business of an insurer for the purposes of this Chapter ³* * *, subject to the following conditions, namely:—

- (a) the society shall establish and maintain a fund of not less than twenty-five thousand rupees for the first fifty vehicles or fractional part thereof and *pro rata* for every additional vehicle in the possession of members of ⁴[and insured with,] the society and the said fund shall be lodged in such custody as the Provincial Government may prescribe and shall not be available for meeting claims or other expenses except in the event of the winding up of the society;
- ⁵[(b) the insurance business of the society shall except to the extent permitted under clause (cc) be limited to transport vehicles owned by its members, and its liability shall be limited as specified in sub-section (2) of section 95;]
- (c) the society shall, if required by the Provincial Government, re-insure against claims above ⁶[such amount as may be specified by the Provincial Government];
- ⁷[(cc) the society may, if permitted by the Provincial Government and subject to such conditions and limitations as may be imposed by it, accept reinsurances from other societies allowed to transact the business of an insurer under this section;]
- (d) the provisions of this Chapter, in so far as they relate to the protection of third parties and to the issue and production of certificates, shall apply in respect of any insurance effected by the society;
- (e) an independent authority not associated with the society shall be appointed by the Provincial Government to facilitate and assist in the settling of claims against the society;
- (f) the society shall operate on an insurance basis, that is to say,—
 - (i) it shall levy its premiums in respect of a period not exceeding twelve months, during which period the insured shall be held covered in respect of all accidents arising, subject to the limits of liability specified in ⁸* * * sub-section (2) of section 95;

¹ Subs. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 8, for “public service vehicle” (with effect from the 1st March, 1949).

² The words “as if the society were an authorised insurer” omitted, *ibid.*, (from the 1st March, 1949.)

³ Ins., *ibid.* (from the 1st March, 1949.)

⁴ Subs. *ibid.*, for the original clause (b) (from the 1st March, 1949.)

⁵ Subs. *ibid.*, for “a prescribed amount” (from the 1st March, 1949.)

⁶ The words “clause (b) of” omitted *ibid.* (from the 1st March, 1949).

(Chapter VIII.—Insurance of Motor Vehicles against Third Party Risks.)

(ii) it shall charge premiums estimated to be sufficient, having regard to the risks, to meet the capitalised value of all claims arising during the period of cover, together with an adequate charge for expenses attaching to the issue of policies and to the settlement of claims arising thereunder;

(g) the society shall furnish to the Superintendent of Insurance the returns required to be furnished by insurers under the provisions of the Insurance Act, 1938, and the Superintendent of Insurance may exercise in respect thereof any of the powers exercisable by him in respect of returns made to him under the said Act; and

¹[(h) the society shall, in respect of any business transacted by it of the nature referred to in clause (i) of the proviso to sub-section (1) of section 95, be deemed to be an insurer within the meaning of sub-section (1) of section 10 and sub-section (6) of section 13 of the Insurance Act, 1938.]

IV of
1938.

IV of
1938.

of
1938.

²[(2) The provisions of the Insurance Act, 1938, relating to the winding up of insurance companies shall, to the exclusion of any other law inconsistent therewith and subject to such modifications as may be prescribed, apply to the winding up of a co-operative society allowed to transact the business of an insurer under this section as if it were an insurance company; but save as hereinbefore provided, the Insurance Act, 1938, shall not apply to any such society.]

109. A registering authority or the officer in charge of a police station shall, if so required by a person who alleges that he is entitled to claim compensation in respect of an accident arising out of the use of a motor vehicle, or if so required by an insurer against whom a claim has been made in respect of any motor vehicle, furnish to that person or to that insurer, as the case may be, on payment of the prescribed fee any information at the disposal of the said authority or the said police officer relating to the identification marks and other particulars of the vehicle and the name and address of the person who was using the vehicle at the time of the accident or was injured by it.

Duty to
furnish
particulars
of vehicle
involved
in accident.

110. A Provincial Government may, by notification in the official Gazette, appoint a person or a body of persons to investigate and report on accidents involving the death of or bodily injury to any person arising out of the use of motor vehicles and the extent to which their claims to compensation have been satisfied and to advise and assist such persons or their representatives in presenting their claims for compensation:

Power to
appoint
persons to
investigate
and report
on accidents.

Provided that nothing in this section shall confer on any such person or body of persons the right to adjudicate in any way on

¹ Subs. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 8, for the original clause (h) (with effect from the 1st March, 1949).

² Subs. *ibid.*, for the original sub-section (2) (with effect from the 1st March 1949).

• (Chapter VIII.—Insurance of Motor Vehicles against Third Party Risks. Chapter IX.—Offences, Penalties and Procedure.)

the liability of the insurer or on the amount of damages to be awarded except at the express desire of the insurer concerned.

Power to
make rules.

111.—(1) The Central Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

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

- (a) the forms to be used for the purposes of this Chapter;
- (b) the making of applications for and the issue of certificates of insurance;
- (c) the issue of duplicates to replace certificates of insurance ¹[mutilated, defaced,] lost or destroyed;
- (d) the custody, production, cancellation and surrender of certificates of insurance;
- (e) the records to be maintained by insurers of policies of insurance issued under this Chapter;
- (f) the identification by certificates or otherwise of persons or vehicles exempted from the provisions of this Chapter;
- (g) the furnishing of information respecting policies of insurance by insurers;
- (h) the carrying into effect of the provisions of section 108;
- (i) adapting the provisions of this Chapter to vehicles brought into ²[the Provinces and the Capital of the Federation] by persons making only a temporary stay therein by applying those provisions with prescribed modifications; and
- (j) any other matter which is to be or may be prescribed.

CHAPTER IX

OFFENCES, PENALTIES AND PROCEDURE

General
provision for
punishment
of offence.

112. Whoever contravenes any provision of this Act or of any rule made thereunder shall, if no other penalty is provided for the offence, be punishable with fine which may extend to twenty rupees, or, if having been previously convicted of any offence under this Act he is again convicted of an offence under this Act, with fine which may extend to one hundred rupees.

Disobedience
of orders,
obstruction
and refusal
of informa-
tion.

113. Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions which such person or authority is required or empowered under this Act to discharge, or, being required by or under this Act to supply any information, withholds such information or

¹ Ins. by the Motor Vehicles (Amendment) Act, 1947 (27 of 1947), s. 9 (with effect from the 1st March, 1949).

² Subs. by the A. O., 1949, for "British India"

(Chapter IX.—Offences, Penalties and Procedure)

gives information which he knows to be false or which he does not believe to be true, shall, if no other penalty is provided for the offence, be punishable with fine which may extend to two hundred rupees.

114. Whoever, being disqualified under this Act for holding or obtaining a licence, drives a motor vehicle in a public place or applies for or obtains a licence or, not being entitled to have a licence issued to him free of endorsement, applies for or obtains a licence without disclosing the endorsements made on a licence previously held by him or, being disqualified under this Act for holding or obtaining a licence, uses in [the Provinces and the Capital of the Federation] a licence such as is referred to in sub-section (2) of section 9, shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both, and any licence so obtained by him shall be of no effect.

Offences relating to licences.

115.—(1) Whoever drives a motor vehicle in contravention of section 71 shall be punishable with fine which may extend to one hundred rupees.

Driving at excessive speed.

(2) Whoever causes any person who is employed by him or is subject to his control in driving to drive a motor vehicle in contravention of section 71 shall be punishable with fine which may extend to two hundred rupees.

(3) No person shall be convicted of an offence punishable under sub-section (1) solely on the evidence of one witness to the effect that in the opinion of the witness such person was driving at a speed which was unlawful, unless that opinion is shown to be based on an estimate obtained by the use of some mechanical timing device.

(4) The publication of a time table under which, or the giving of any direction that, any journey or part of a journey is to be completed within a specified time shall, if in the opinion of the Court it is not practicable in the circumstances of the case for that journey or part of a journey to be completed in the specified time without infringing the provisions of section 71, be *prima facie* evidence that the person who published the time table or gave the direction has committed an offence punishable under sub-section (2).

116. Whoever drives a motor vehicle at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case including the nature, condition and use of the place where the vehicle is driven and the amount of traffic which actually is at the time or which might reasonably be expected to be in the place, shall be punishable on a first conviction for the offence with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may

Driving recklessly or dangerously

¹ Subs. by the A. O., 1949, for "British India".

(Chapter IX.—Offences, Penalties, and Procedure)

extend to two years, or with fine which may extend to one thousand rupees, or with both.

Driving while under the influence of drink or drugs.

117. Whoever while driving or attempting to drive a motor vehicle is under the influence of drink or a drug to such an extent as to be incapable of exercising proper control over the vehicle, shall be punishable for a first offence with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and for a subsequent offence if committed within three years of the commission of a previous similar offence with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both.

Driving when mentally or physically unfit to drive.

118. Whoever drives a motor vehicle in any public place when he is to his knowledge suffering from any disease or disability calculated to cause his driving of the vehicle to be a source of danger to the public, shall be punishable for a first offence with fine which may extend to two hundred rupees and for a second or subsequent offence with fine which may extend to five hundred rupees.

Punishment for abetment of certain offences.

119. Whoever abets the commission of an offence under section 116, 117 or 118, shall be punishable with the punishment provided for the offence.

Racing and trials of speed.

120. Whoever without the written consent of the Provincial Government permits or takes part in a race or trial of speed between motor vehicles in any public place shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to three hundred rupees, or with both.

Using vehicle in unsafe condition.

121. Any person who drives or causes or allows to be driven in any public place a motor vehicle or trailer while the vehicle or trailer has any defect, which such person knows of or could have discovered by the exercise of ordinary care and which is calculated to render the driving of the vehicle a source of danger to persons and vehicles using such place, shall be punishable with fine which may extend to two hundred and fifty rupees or, if as a result of such defect an accident is caused causing bodily injury or damage to property, with fine which may extend to five hundred rupees.

Sale of vehicle in or alteration of vehicle to a condition contravening this Act.

122. Whoever, being an importer or dealer in motor vehicles, sells or delivers or offers to sell or deliver a motor vehicle or trailer in such condition that the use thereof in a public place would be in contravention of Chapter V or any rule made thereunder or alters the motor vehicle or trailer so as to render its condition such that its use in a public place would be in contravention of Chapter V or any rule made thereunder shall be punishable with fine which may extend to two hundred rupees:

Provided that no person shall be convicted under this section if he proves that he had reasonable cause to believe that the vehicle would not be used in a public place until it had been put into a condition in which it might lawfully be so used.

(Chapter IX.—Offences, Penalties and Procedure)

123.—(1) Whoever drives a motor vehicle or causes or allows a motor vehicle to be used or lets out a motor vehicle for use in contravention of the provisions of sub-section (1) of section 42 shall be punishable for a first offence with fine which may extend to five hundred rupees, and for a subsequent offence if committed within three years of the commission of a previous similar offence with a fine which shall not be less than one hundred rupees and may extend to one thousand rupees.

Using
vehicle
without
permit.

(2) Nothing in this section shall apply to the use of a motor vehicle in an emergency for the conveyance of persons suffering from sickness or injury or for the transport of materials for repair or of food or materials to relieve distress or of medical supplies for a like purpose:

Provided that the person using the vehicle reports such use to the Regional Transport Authority within seven days.

124. Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 72 or of the conditions of any permit issued thereunder, or in contravention of any prohibition or restriction imposed under section 74 shall be punishable for a first offence with fine which may extend to one hundred rupees, and for a second or subsequent offence with fine which may extend to five hundred rupees.

Driving
vehicle
exceeding
permissible
weight.

125. Whoever drives a motor vehicle or causes or allows a motor vehicle to be driven in contravention of the provisions of section 94 shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

Driving
uninsured
vehicle.

126. Whoever takes and drives away any motor vehicle without having either the consent of the owner thereof or other lawful authority shall be punishable with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both:

Taking
vehicle
without
authority.

Provided that no accused person shall be convicted under this section if the Court is satisfied that the accused acted in the reasonable belief that he had lawful authority or in the reasonable belief that the owner would in the circumstances of the case have given his consent if he had been asked therefor.

127. Whoever otherwise than with lawful authority or reasonable excuse enters or mounts any stationary motor vehicle or tampers with the brake or any part of the mechanism of a motor vehicle shall be punishable with fine which may extend to one hundred rupees.

Unauthorised
interference
with
vehicle.

128.—(1) A police officer in uniform may arrest without warrant any person who commits in his view an offence punishable under section 116 or section 117 or section 126:

Power of
arrest with-
out warrant.

Provided that any person so arrested in connection with an

¹ This section has been amended in its application to the Province of Sind, see the Motor Vehicles (Sind Amendment) Act, 1951 (Sind Act 18 of 1951), s. 2.

offence punishable under section 117 shall be subjected to a medical examination by a registered medical practitioner within two hours of his arrest or shall then be released from custody.

(2) A police officer in uniform may arrest without warrant—

- (a) any person who being required under the provisions of this Act to give his name and address refuses to do so, or gives a name or address which the police officer has reason to believe to be false, or
- (b) any person concerned in an offence under this Act or reasonably suspected to have been so concerned, if the police officer has reason to believe that he will abscond or otherwise avoid the service of a summons.

(3) A police officer arresting without warrant the driver of a motor vehicle shall, if the circumstances so require, take or cause to be taken any steps he may consider proper for the temporary disposal of the vehicle.

Power of
police
officer to
impound
document.

129.—(1) Any police officer authorised in this behalf or other person authorised in this behalf by the Provincial Government may, if he has reason to believe that any identification mark carried on a motor vehicle or any licence, permit, certificate of registration, certificate of insurance or other document produced to him by the driver or person in charge of a motor vehicle is a false document within the meaning of section 464 of the Pakistan Penal Code, seize the mark or document and call upon the driver or owner of the vehicle to account for his possession of or the presence in the vehicle of such mark or document. XLV, 1860.

(2) Any police officer authorised in this behalf by the Provincial Government may, if he has reason to believe that the driver of a motor vehicle who is charged with any offence under this Act may abscond or otherwise avoid the service of a summons, seize any licence held by such driver and forward it to the Court taking cognizance of the offence.

(3) A police officer seizing a licence under sub-section (2) shall give to the person surrendering the licence a temporary acknowledgment therefor and such acknowledgment shall authorise the holder to drive until the licence has been returned to him or the Court has otherwise ordered.

Power to
detain vehi-
cles used
without cer-
tificate of
registration
or permit.

[129A. Any police officer authorized in this behalf or other person authorized in this behalf by the Provincial Government may, if he has reason to believe that a motor vehicle has been or is being used in contravention of the provisions of sub-section (1) of section 22 or without the permit required by sub-section (1) of section 42 or in contravention of any condition of such permit relating to the route on which or the area in which or the purpose for which the vehicle may be used, seize and detain the vehicle, and for this purpose take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle.]

¹ Section 129A ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 20.

130.—(1) A Court taking cognizance of an offence under this Act may, unless the offence is an offence specified in Part A of the Fifth Schedule, state upon the summons to be served on the accused person that he—

Summary disposal of cases.

- (a) may appear by pleader and not in person, or
- (b) may by a specified date prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the Court such sum not exceeding twenty-five rupees as the Court may specify.

(2) Where the offence dealt with in accordance with sub-section (1) is an offence specified in Part B of the Fifth Schedule, the accused person shall, if he pleads guilty to the charge, forward his licence to the Court with the letter containing his plea in order that the conviction may be endorsed on the licence.

(3) Where an accused person pleads guilty and remits the sum specified and has complied with the provisions of sub-section (2), no further proceedings in respect of the offence shall be taken against him, nor shall he be liable to be disqualified for holding or obtaining a licence by reason of his having pleaded guilty.

131. No person prosecuted for an offence punishable under section 115 or section 116 shall be convicted unless—

Restriction on conviction.

- (a) he was warned at the time the offence was committed that the question of prosecuting him would be taken into consideration, or
- (b) within fourteen days from the commission of the offence, a notice specifying the nature of the offence and the time and place where it is alleged to have been committed was served on or sent by registered post to him or the person registered as the owner of the vehicle at the time of the commission of the offence, or
- (c) within twenty-eight days of the commission of the offence, a summons for the offence was served on him:

Provided that nothing in this section shall apply where the Court is satisfied that—

- (a) the failure to serve the notice or summons referred to in this sub-section was due to the fact that neither the name and address of the accused nor the name and address of the registered owner of the vehicle could with reasonable diligence have been ascertained in time, or
- (b) such failure was brought about by the conduct of the accused.

132. No Court inferior to that of ¹* * * a Magistrate of the second class shall try any offence punishable under this Act or any rule made thereunder.

Jurisdiction of Courts.

¹ The words " a Presidency Magistrate or " omitted by the A. O., 1949.

CHAPTER X

MISCELLANEOUS

Publication
of and com-
mencement
of rules.

133.—(1) Every power to make rules given by this Act is subject to the condition of the rules being made after previous publication.

(2) All rules made under this Act shall be published in the official Gazette, and shall, unless some later date is appointed, come into force on the date of such publication.

(3) All rules made under this Act by the Central Government or by any Provincial Government shall be laid for not less than fourteen days before the Central or Provincial Legislature, as the case may be, as soon as possible after they are made, and shall be subject to such modifications as the Legislature may make during the session in which they are so laid.

Appointment
of motor
vehicles
officer.

¹[133A.—(1) The Provincial Government may, for the purpose of carrying into effect the provisions of this Act, establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit.

(2) Every such officer shall be deemed to be a public servant within the meaning of the Pakistan Penal Code. XLV of 1860.

(3) The Provincial Government may make rules to regulate the discharge by officers of the Motor Vehicles Department of their functions and in particular and without prejudice to the generality of the foregoing power to prescribe the uniform to be worn by them, the authorities to which they shall be subordinate, the duties to be performed by them, the powers (including the powers exercisable by police officers under this Act) to be exercised by them, and the conditions governing the exercise of such powers.]

Repeal.

134.—(1) The Indian Motor Vehicles Act, 1914, is hereby repealed. VIII of 1914.

2* * * * * *

(3) Notwithstanding the repeal of the Indian Motor Vehicles Act, 1914, rules made or purporting to be made by a Provincial Government under sub-section (2) of section 11 of that Act, requiring or relating to the insurance of motor vehicles, being rules in force at the commencement of this Act, shall, until Chapter VIII of this Act takes effect in the Province, have effect as if enacted in this Act. VIII of 1914.

3* * * * * *

4* * * * * *

¹ S. 133A ins. by the Motor Vehicles (Amdt.) Act, 1942 (20 of 1942), s. 21.

² Sub-section (2) which was subs., for the original sub-section (2) by the Motor Vehicles (Amendment) Act, 1939 (40 of 1939), s. 3 (with effect from the 1st July, 1939), has been omitted by Act 20 of 1942, s. 22.

³ Sub-section (4) omitted by Act 20 of 1942, s. 22.

⁴ Sub-section (5) which had been ins. by Act 40 of 1939 s. 3, omitted by Act 20 of 1942, s. 22.

THE SCHEDULES

THE FIRST SCHEDULE

FORMS

FORM A

[See section 7 (2)]

Form of application for licence to drive a motor vehicle

I

Application

**I apply for a licence to enable me to drive
as a paid employee**

*otherwise than as a paid employee

*vehicles of the following description:—

- (a) motor cycles,
- (b) motor cars,
- (c) invalid carriages,
- (d) motor cabs,
- (e) delivery vans,
- (f) light transport vehicles $\frac{\text{*including}}{\text{excluding}}$ public service vehicles,
- (g) heavy transport vehicles $\frac{\text{*including}}{\text{excluding}}$ public service vehicles,
- (h) tractors,
- (i) road-rollers,
- (j) locomotives,
- (k) a vehicle of a special type (description attached) constructed or adapted to be driven by me.

***Strike out whichever inapplicable.**

II

Particulars to be furnished by the applicant

1. Full name and name of father.....
2. Permanent address.....
3. Temporary address.....
4. Age at date of application.....
5. Particulars of any licence previously held by applicant.....
6. Particulars and date of every conviction which has been ordered to be endorsed on any licence held by the applicant.
7. Have you been disqualified for obtaining a licence to drive? If so, for what reason?
8. Have you been subjected to a driving test as to your fitness or ability to drive a vehicle in respect of which a licence to drive is applied for? If so, give date, testing authority and result of test.

III

• *Declaration as to physical fitness of applicant*

The applicant is required to answer "Yes" or "No" in the space provided opposite each question.

- (a) Do you suffer from epilepsy, or from sudden attacks of disabling giddiness or fainting?

FORM A.—*contd.*

- (b) Are you able to distinguish with each eye at a distance of 25 yards in good daylight (with glasses, if worn) a motor car number plate containing seven letters and figures?
- (c) Have you lost either hand or foot or are you suffering from any defect in movement, control, or muscular power of either arm or leg?
- ¹[(d)] Can you readily distinguish the pigmentary colours red and green?
- (e) Do you suffer from night blindness?
- ²[(f)] Do you suffer from a defect of hearing?
- ²[(g)] Do you suffer from any other disease or disability likely to cause your driving of a motor vehicle to be a source of danger to the public?

If so, give particulars.

I declare that to the best of my information and belief the particulars given in Section II and the declaration made in Section III hereof are true.

NOTE.—An applicant who answers “Yes” to questions (b) and (c) in the declaration and “No” to the other questions may claim to be subjected to a test as to his competency to drive vehicles of a specified type or types.

Date.....19 .

Signature or Thumb Impression of applicant.

Certificate of test of ability to drive

The applicant has ^{passed}~~failed in~~ the test specified in the Third Schedule to the Motor Vehicles Act, 1939. The test was conducted on a *
on (date)

Signature of Testing Authority.

Duplicate Signature or Thumb Impression of applicant.

*Here enter description of vehicle.

FORM B

[See section 11 (2)]

Form of application for renewal of driving licence

I hereby apply for a renewal of the licence under the Motor Vehicles Act, 1939, which was issued to me on the.....(state title of licensing authority).
by.....

I hereby declare that I am not subject to any disease or disability likely to cause my driving of a motor vehicle to be a source of danger to the public.

Date.....19 .

Signature of Applicant.

¹ Subs. by the Motor Vehicles (Amendment) Act, 1939 (40 of 1939), s. 4, for the original question (d).

² The original questions (e) and (f) re-lettered as (f) and (g), *ibid.*

FORM C

[See section 7(3) and section 12]

Form of medical certificate in respect of an applicant for a licence to drive any transport vehicle or to drive any vehicle as a paid employee.

(To be filled up by a registered medical practitioner)

1. What is the applicant's apparent age?
2. Is the applicant, to the best of your judgment, subject to epilepsy, vertigo or any mental ailment likely to affect his efficiency?
3. Does the applicant suffer from any heart or lung disorder which might interfere with the performance of his duties as a driver?
4. (a) Is there any defect of vision? If so, has it been corrected by suitable spectacles?
- 1[(b) Can the applicant readily distinguish the pigmentary colours red and green?
- (c) Does the applicant suffer from night blindness?]
- 2[(d)] Does the applicant suffer from a degree of deafness which would prevent his hearing the ordinary sound signals?
5. Has the applicant any deformity or loss of members which would interfere with the efficient performance of his duties as a driver?
6. Does he show any evidence of being addicted to the excessive use of alcohol, tobacco or drugs?
7. Is he, in your opinion, generally fit as regards (a) bodily health, and (b) eyesight?
8. Marks of identification.

I certify that to the best of my knowledge and belief the applicant.....
.....is the person hereinabove described and that the attached photograph is a reasonably correct likeness.

(Signature)

[Space for photograph]

Name

Designation... ..

NOTE.—Special attention should be directed to distant vision and to the condition of the arms and hands and the joints of both extremities.

¹ Subs. by the Motor Vehicles (Amendment) Act, 1939 (40 of 1939), s. 3, for the original question (b)

² The original question (c) re-lettered as (d), *ibid.*

Motor Vehicles
(The First Schedule.—Form D)

[1939 : Act IV]

FORM D
[See section 8 (1)]
Driving Licence

No..... 19.....

(Name).....*

son/daughter of (father's name).....

of (permanent address).....

.....

(temporary address)

.....

Photograph
if necessary.

Signature or thumb impression.

is licensed to drive, throughout ¹[the Provinces and the Capital of the Federation], vehicles of the following description:—*

- (a) Motor cycle.
- (b) Motor car.
- (c) Motor cab.
- (d) Delivery van.
- (e) Light transport vehicle.
- (f) Heavy transport vehicle.
- (g) Locomotive.
- (h) Tractor.
- (i) Invalid carriage.
- (j) Road-roller.
- (k) A motor vehicle hereunder described:—

.....

He is also authorised to drive as a paid employee*.

This licence is valid from.....to.....

(*To be struck out if inapplicable)

*Signature and designation of Licensing
Authority.*

Date.....19

¹ Subs. by the A. O., 1949, for "British India".

FORM D.—*contd.*

Authorisation to drive a public service vehicle

So long as this licence is valid and is renewed from time to time, the holder is authorised to drive a public service vehicle within the Province of.....

Date.....19 .

*Signature and designation of
prescribed authority.*

And within the Province of.....

Date.....19 .

*Signature and designation of
prescribed authority.*

And within the Province of.....

Date.....19 ..

Signature and designation of prescribed authority.

This licence is hereby renewed up to

Signature of Licensing Authority.

the.....day of.....19 ..

.....

theday of.....19 ..

.....

the.....day of.....19 ..

.....

the.....day of.....19 ..

.....

the.....day of.....19 .

.....

ENDORSEMENTS

Date.	Section and Rule.	Fine or other punishment.	Signature of Endorsing Authority.

Motor Vehicles
(The First Schedule.—Form E)

[1939 : Act IV]

FORM E

[See section 24 (1)]

Form of Application for the Registration of a Motor Vehicle

1. Full name, name of father, and address of person to be registered as registered owner.....
2. Class of vehicle.....
3. Type of body.....
4. Maker's name.....
5. Year of manufacture.....
6. Number of cylinders.....
7. Horse power.....
8. Maker's classification or, if not known, wheel-base.....
9. Chassis number.....
10. Engine number.....
11. Seating capacity (including driver).....
12. Unladen weight.....
13. Particulars of previous registration and registered number (if any).....

Additional particulars to be completed only in the case of transport vehicles other than motor cabs—

14. Number, description and size of tyres—
 - (a) front axle.....
 - (b) rear axle.....
 - (c) any other axle.....
15. Maximum laden weight.....lbs.
16. Maximum axle weight—
 - (a) front axle.....lbs.
 - (b) rear axle.....lbs.
 - (c) any other axle.....lbs.

The above particulars are to be filled in for a rigid frame motor vehicle of two or of three axles, for an articulated vehicle of three axles, or, to the extent applicable, for a trailer (other than the trailer to be registered as part of an articulated vehicle) as the case may be. Where a second trailer or additional trailers are to be registered with an articulated motor vehicle the following particulars are to be furnished for each such trailer:—

17. Type of body.....
18. Unladen weight.....
19. Number, description and size of tyres on the axle.....
20. Maximum axle weight.....

Date.....19

Signature of applicant.

Explanation.—An articulated vehicle means a tractor to which a trailer is attached in such a manner that part of the trailer is superimposed on and part of the weight of the trailer is borne by the tractor.

NOTE.—The motor vehicle above described is held by the person to be registered as the registered owner, under a hire purchase agreement with.....

Signature of owner.

Signature of Hire Purchase Company.

FORM F

[See section 36 (1)]

Document to be furnished by the maker or authorised assembler in the case of transport vehicles other than motor cabs.

Certified that the.....vehicle
Chassis No.....and Engine No.....is designed for maximum weights as follows when fitted with the tyre-equipment specified below:—

Maximum laden weight.....lbs.

Maximum weight front axle.....lbs.

Maximum weight rear axle.....lbs.

Maximum weight any other axle.....lbs.

Tyres—

Front wheels.....

Rear wheels

Other wheels.....

.....

.....

Date.....19 .

*Signature of maker
or authorised assembler.**Special certificate to be furnished by an assembler*

Certified that I am authorised by the maker of the vehicle described above to issue this certificate.

Signature of authorised assembler.

FORM G

[See section 24 (2)]

Form of Certificate of Registration

Registered number.....

Brief description of vehicle,

(e.g., Ford touring car, Chevrolet 22 seater bus, Albion lorry, trailer, etc.)

Name, name of father, and address of Registered Owner.....

.....

Signature of registering authority.

Transferred to

Signature of registering authority.

Transferred to

*Signature of registering authority.**Detailed description*

1. Class of vehicle.....

2. Maker's name.....

3. Type of body.....

4. Year of manufacture.....

5. Number of cylinders.....

Motor Vehicles [1939 : Act IV
(*The First Schedule.—Forms G and H*)

FORM G.—*contd.*

Detailed description.—contd.

6. Chassis number.....
7. Engine number.....
8. Horse power.....
9. Maker's classification or, if not known, wheel-base.....
10. Seating capacity (including driver).....
11. Unladen weight.....

Additional particulars in the case of all transport vehicles other than motor cabs—

12. Registered laden weight.....
13. Number, description and size of tyres—
 - (a) front axle.....
 - (b) rear axle.....
 - (c) any other axle.....
14. Registered axle weight—
 - (a) front axle.....lbs.
 - (b) rear axle.....lbs.
 - (c) any other axle.....lbs.

Additional particulars of alternative or additional trailer or trailers registered with an articulated vehicle—

15. Type of body.....
16. Unladen weight.....lbs.
17. Number, description and size of tyres on the axle.....
18. Registered axle weight.....lbs.

Date.....19 . *Signature of registering authority.*

NOTE.—The motor vehicle above described is held by the person registered as the registered owner under a hire purchase agreement with.....

Date.....19 . *Signature of registering authority.*

FORM H

[See sections 38 and 39 (2)]

Certificate of fitness (applicable in the case of transport vehicles only)

Vehicle No.....is certified as complying with the provisions of Chapter V of the Motor Vehicles Act, 1939, and the rules made thereunder. This certificate will expire on.....

Date.....19 . *Signature and Designation of Inspecting Authority.*

The certificate of fitness is hereby renewed—

up to.....19 .	
up to.....19 .	
up to.....19 .	

• *Signature of Inspecting Authority.*

THE SECOND SCHEDULE

[See section 7 (5)]

I. DISEASES AND DISABILITIES ABSOLUTELY DISQUALIFYING A PERSON FOR OBTAINING A LICENCE TO DRIVE A MOTOR VEHICLE.

1. Epilepsy.
2. Lunacy.
3. Heart disease likely to produce sudden attacks of giddiness or fainting.
4. Inability to distinguish with each eye at a distance of twenty-five yards in good day light (with the aid of glasses, if worn) a series of seven letters and figures in white on a black ground of the same size and arrangement as those of the registration mark of a motor car.
5. A degree of deafness which prevents the applicant from hearing the ordinary sound signals.
6. ¹[Inability readily to distinguish the pigmentary colours red and green.]
7. Night-blindness.

II. DISEASES AND DISABILITIES ABSOLUTELY DISQUALIFYING A PERSON FOR OBTAINING A LICENCE TO DRIVE A PUBLIC SERVICE VEHICLE.

1. Leprosy.

THE THIRD SCHEDULE

[See sections 7 (6) (a) and 17 (6)]

TEST OF COMPETENCE TO DRIVE

Part I

The candidate shall satisfy the person conducting the test that he is able to—

1. Start the engine of the vehicle.
2. Move away straight ahead or at an angle.
3. Overtake, meet or cover the path of other vehicles and take an appropriate course.
4. Turn right and left corners correctly.
5. Stop the vehicle in an emergency and normally, and in the latter case bring it to rest at an appropriate part of the road.
6. Drive the vehicle backwards and whilst so doing enter a limited opening either to the right or left.
7. Cause the vehicle to face in the opposite direction by means of forward and reverse gears.

¹ Subs. by the Motor Vehicles (Amendment) Act, 1939 (40 of 1939), s. 5.

(The Third Schedule. The Fourth Schedule)

8. Give by hand and by mechanical means (if fitted to the vehicle), or, in the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions.
9. Act correctly and promptly on all signals given by traffic signs and traffic controllers, and take appropriate action on signs given by other road users.

NOTE.—(i) Requirements 6 and 7 are not applicable in the case of a motor cycle or tricycle not equipped with means for reversing.

(ii) Requirements 6, 7 and 8 are not applicable in the case of invalid carriages.

Part II

The candidate shall satisfy the person conducting the test that he is cognizant of the provisions of sections 81, 82, 83, 84 and 85 and of the Tenth Schedule; that he knows the meaning of the traffic signs specified in the Ninth Schedule; and, if he has not been medically examined, that he is not so deaf as to be unable to hear the ordinary sound signals, and is able to distinguish with each eye at a distance of twenty-five yards in good day light (with the aid of glasses, if worn) a registration mark containing seven letters and figures.

THE FOURTH SCHEDULE

[See sections 14 (1) and 39 (1) and (3)]

AUTHORITIES ENTITLED TO GRANT LICENCES TO DRIVE, AND TO REGISTER MOTOR VEHICLES, THE PROPERTY ¹[OR FOR THE TIME BEING UNDER THE EXCLUSIVE CONTROL] OF THE CENTRAL GOVERNMENT, AND REGISTRATION MARKS FOR SUCH VEHICLES.

Part A

The authorities specified in the second column may grant licences in respect of vehicles, the property ¹[or for the time being under the exclusive control] of the Department of the Central Government specified in the first column.

Defence Department of the Central Government.

1. District Commanders.
2. Commanders of independent brigades.
3. Officers commanding units having mechanically propelled vehicles in their charge.
4. Commanders, Royal Engineers.

Part B

The authorities specified in the second column may register motor vehicles, the property ¹[or for the time being under the exclusive

¹ Ins. by Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 23.

(The Fourth Schedule. The Fifth Schedule)

control] of the Department of the Central Government specified in the first column, and may grant certificates of fitness in respect of such vehicles.

Defence Department of the Central Government.	The Master General of the Ordnance in ¹ [Pakistan] ² [or any person authorized by him in this behalf].
---	---

Part C

Registration marks for vehicles registered under section 39

³[A broad arrow followed by not more than six figures, or a broad arrow followed by a single letter and not more than five figures.]

THE FIFTH SCHEDULE

[See sections 19 (2) and (3) and 130]

OFFENCES ON CONVICTION OF WHICH AN ENDORSEMENT SHALL BE
MADE ON THE LICENCE OF THE PERSON AFFECTED.

Part A

1. Driving recklessly or dangerously (section 116).
2. Driving while under the influence of drink or drugs (section 117).
3. Abetment of an offence under section 116 or 117 (section 119).
4. Taking part in unauthorised race or trial of speed (section 120).
5. Driving when disqualified (section 18).
6. Obtaining or applying for a licence without giving particulars of endorsement (section 114).
7. Failing to stop on the occurrence of an accident (section 87).
8. Altering a licence or using an altered licence.
9. Any offence punishable with imprisonment in the commission of which a motor vehicle was used.

Part B

1. Driving without a licence, or without a licence which is effective, or without a licence applicable to the vehicle driven (section 3).
2. Allowing a licence to be used by another person [section 6 (2)].

¹ Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 4 and Third Sch., for "India".

² Added by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 23.

³ Subs. *ibid.*, for "A broad arrow above two figures representing the last two figures of the year of purchase of the vehicle followed by not more than four figures".

3. Driving at excessive speed (section 115).
4. Driving when mentally or physically unfit to drive (section 118).
5. Abetment of an offence punishable under section 115 or 118.
6. Refusing or failing within specified time to produce licence (section 86).
7. Failing to stop when required (section 87).
8. Driving an unregistered vehicle (section 22).
9. Driving a transport vehicle not covered by a certificate of fitness (section 38).
10. Driving in contravention of any rule made under section 70 (2) (g) relating to speed governors.
11. Driving a vehicle exceeding the permissible limit of weight (section 124).
12. Failure to comply with a requisition made under section 73.
13. Using a vehicle in unsafe condition (section 121).
14. Driving a transport vehicle in contravention of section 42.

¹[THE SIXTH SCHEDULE

[See section 24 (3) and 29 (2)]

REGISTRATION MARKS

The group of letters specified in the second column followed by any other letter shall be used as the registration mark for a vehicle in the Province or town specified in the first column.

East Bengal	...	...	EB
North-West Frontier Province		...	FP
Sind	...	...	SN
² [The Punjab]	...	...	WP
³ [Baluchistan]	...	...	QT
The Capital of the Federation		...	KA

NOTE.—These letters shall be followed by not more than four figures and the letters and figures shall be shown—

1. In the case of transport vehicles ... In black on a white ground.
2. In the case of temporary registrations ... In red on a yellow ground.
(section 25).
3. In the case of registration marks ... In white on a red ground.
allotted to dealers [section 41 (2) (k)].
4. In other cases ... In white on a black ground.]

¹ Subs. by the A. O., 1949, for the Sixth Schedule as amended by the Motor Vehicles (Amendment) Act, 1939 (40 of 1939), s. 6.

² Subs. by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 8, for "West Punjab".

³ Subs. *ibid.*, for "British Baluchistan".

THE SEVENTH SCHEDULE

[See section 37(2)]

MAXIMUM AXLE WEIGHTS PERMISSIBLE FOR TRANSPORT VEHICLES

Table A

For each low pressure pneumatic tyre fitted to a wheel on the axle, of a nominal size—					The permissible weight in pounds is—
5·00-17	...	...	...	...	980
5·25-17	...	...	...	...	1,060
5·25-18	...	...	...	...	1,100
5·50-17	...	...	...	...	1,140
5·50-18	...	...	...	...	1,195
5·50-20	...	...	...	...	1,225
6·00-16	...	...	...	...	1,200
6·00-17	...	...	...	...	1,350
6·00-18	...	...	...	...	1,450
6·00-20	...	...	...	...	1,550
6·25-16	...	...	...	...	1,300
6·50-16	...	...	...	...	1,400
6·50-17	...	...	...	...	1,550
6·50-18	...	...	...	...	1,700
6·50-20	...	...	...	...	1,850
7·00-15	...	...	...	...	1,500
7·00-16	...	...	...	...	1,675
7·00-17	...	...	...	...	1,850
7·00-18	...	...	...	...	2,050
7·00-20	...	...	...	...	2,200
7·50-15	...	...	...	...	1,700
7·50-16	...	...	...	...	2,050
7·50-17	...	...	...	...	2,150
7·50-18	...	...	...	...	2,450
7·50-20	...	...	...	...	2,650
7·50-24	...	...	...	...	2,650
8·25-18	...	...	...	...	2,900
8·25-20	...	...	...	...	3,100
8·25-22	...	...	...	...	3,100
8·25-24	...	...	...	...	3,100
9·00-15	...	...	...	...	2,650
9·00-18	...	...	...	...	3,300
9·00-20	...	...	...	...	3,550
9·00-22	...	...	...	...	3,550
9·00-24	...	...	...	...	3,650
9·75-15	...	...	...	...	3,475
9·75-18	...	...	...	...	3,900
9·75-20	...	...	...	...	4,200
9·75-22	...	...	...	...	4,200
9·75-24	...	...	...	...	4,400
10·50-20	...	...	...	...	4,850
10·50-22	...	...	...	...	5,000
10·50-24	...	...	...	...	5,200
11·25-20	...	...	...	...	5,450
11·25-22	...	...	...	...	5,800
11·25-24	...	...	...	...	6,050

Table B

For each high pressure pneumatic tyre, fitted to a wheel on the axle, of a nominal size—					The permissible weight in pounds is—
30 × 5	...	...	...	...	2,000
33 ¹ × 5	...	...	...	...	2,000
34 × 5	...	...	...	...	2,000
35 × 5	...	...	...	...	2,000
32 × 6	...	...	...	...	2,650
34 × 6	...	...	...	...	2,650
36 × 6	...	...	...	...	2,650
32 × 6½	...	...	...	...	2,950
32 × 7	...	...	...	...	3,000
34 × 7	...	...	...	...	3,300
36 × 7	...	...	...	...	3,300
38 × 7	...	...	...	...	3,300
36 × 8	...	...	...	...	4,000
38 × 8	...	...	...	...	4,200
40 × 8	...	...	...	...	4,400
38 × 9	...	...	...	...	4,850
40 × 9	...	...	...	...	5,100
42 × 9	...	...	...	...	5,300
40 × 10	...	...	...	...	5,700
44 × 10	...	...	...	...	6,150

Explanation.—The figures “5·00-17”, etc., in Table A represent, respectively, the nominal sectional diameter of the tyre and the diameter of the wheel rim; and the figures “30×5”, etc., in Table B represent, respectively, the over-all diameter of wheel and tyre and the nominal sectional diameter of the tyre, all figures being in inches. The actual sectional diameter of the tyre when mounted on its appropriate rim and inflated shall in no case be less than the nominal sectional diameter.

NOTE.—Tyres may be calibrated in so called metric sizes, for example, “170×20”. In that case the first number represents the sectional diameter of the tyre in millimetres and the second number represents the diameter of the rim in inches. The permissible weight in pounds for each such tyre shall be determined by dividing the nominal sectional diameter of the tyre in millimetres by the figure 25·4, the quotient being the nominal sectional diameter in inches. The permissible weight given in Table A for the nearest equivalent nominal sectional diameter in inches and the actual rim-diameter shall be the permissible weight for that tyre.

THE EIGHTH SCHEDULE

(See section 71)

LIMITS OF SPEED FOR MOTOR VEHICLES

Class of Vehicle.	Maximum speed per hour. <i>Miles.</i>
1. Passenger vehicles, that is to say, vehicles constructed solely for the carriage of passengers and their effects:—	
(a) if all the wheels are fitted with pneumatic tyres and the vehicle is not drawing a trailer:—	
(i) if the vehicle is a motor cycle, motor car or motor cab	No limit.
(ii) if the vehicle is a public service vehicle other than a motor cab	30
(b) if the vehicle, being a motor car or motor cab, is drawing two-wheeled trailer of a laden weight not exceeding 1,700 pounds <i>avoirdupois</i> , and if all the wheels of the vehicle and trailer are fitted with pneumatic tyres	30
(c) any other vehicle, including an invalid carriage	20
2. Goods vehicles, that is to say, vehicles constructed or adapted for use or used for the conveyance of goods:—	
¹ [(a) if all the wheels are fitted with pneumatic tyres and the vehicle is a delivery van and is not drawing a trailer]	No limit.]
² [(b)] if all the wheels are fitted with pneumatic tyres and the vehicle is a light transport vehicle and is not drawing a trailer	25
¹ [(c) if all the wheels are fitted with pneumatic tyres and the registered laden weight of the vehicle does not exceed 17,000 pounds <i>avoirdupois</i> and the vehicle is not drawing a trailer]	20]
² [(d)] in any other case	15
3. Tractors:—	
(a) if drawing not more than one trailer and all the wheels of the tractor and trailer are fitted with pneumatic tyres	15
(b) in any other case	6
4. Locomotives, whether drawing a trailer or not	6

¹ Clauses (a) and (c) were ins. by the Motor Vehicles (Amendment) Act, 1942 (20 of 1942), s. 24.

² The original clauses (a) and (b) were re-lettered as clauses (b) and (d), respectively, *ibid.*

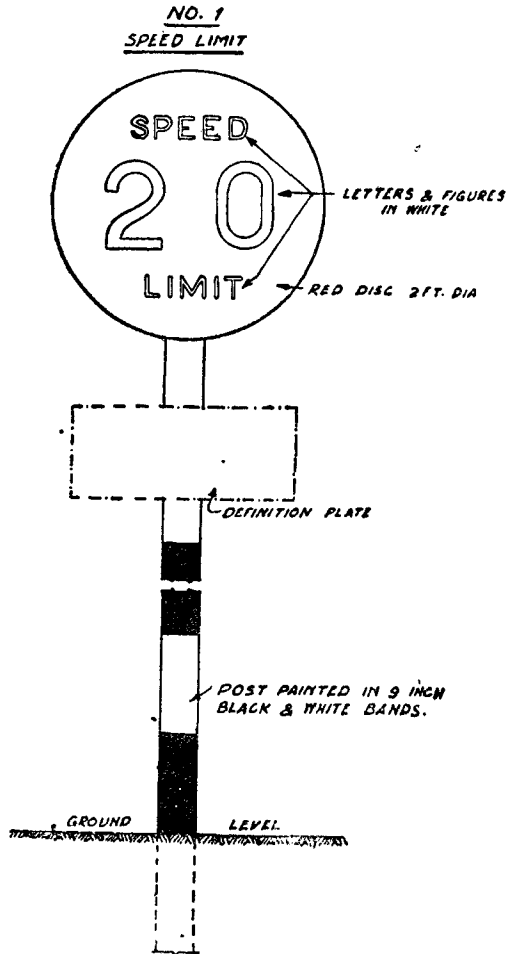
(The Ninth Schedule.—Part A—Mandatory Signs)

THE NINTH SCHEDULE

(See sections 75, 77 and 78)

TRAFFIC SIGNS

Part A.—Mandatory Signs



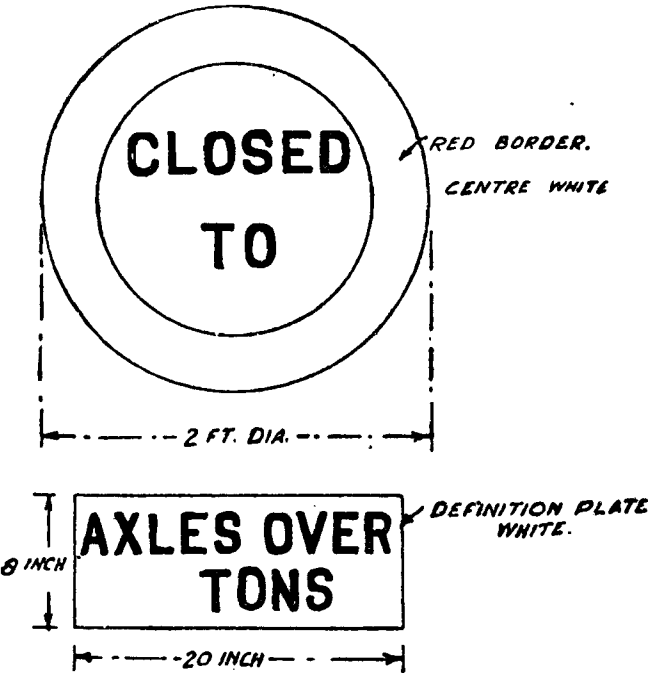
NOTES:—

(1) The figure 20 is given merely as an example. The actual figures will be as prescribed in each case where this sign is used.

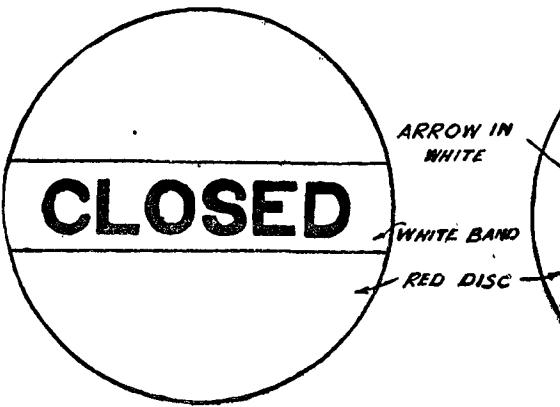
(2) The general design of the post is given for guidance.

(3) Where the speed limit is, or is to be, imposed only on a certain class or classes of motor vehicle the class or classes will be specified on the "definition plate". Where in addition to a general speed limit applicable to other motor vehicles a special speed limit is, or is to be imposed on vehicles of a certain class or classes, the general speed limit will be specified on the disc and the special speed limit together with the class or classes of vehicle to which it applies will be specified on the "definition plate".

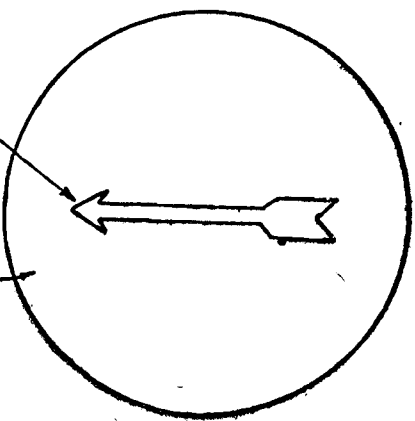
NO. 2
WEIGHT LIMIT



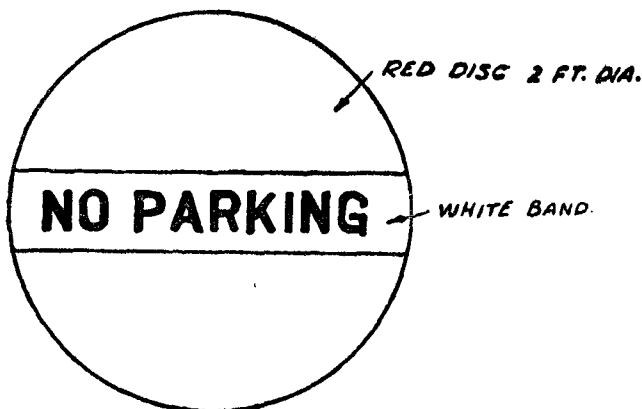
NO. 3
TOTAL PROHIBITION



NO. 4
DIRECTION SIGN

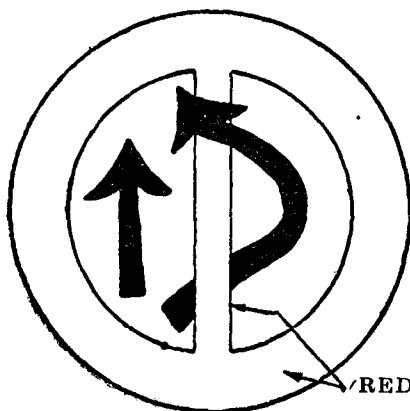


NO. 5
NO PARKING

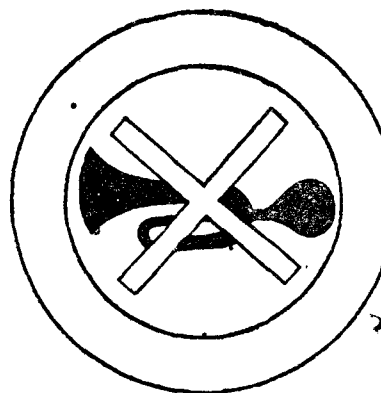


Note.—Sign No. 5 as here set forth may be amplified by instructions inscribed upon a definition plate placed below it as in the general arrangement set forth in sign No. 1 of this Part. Upon definition plate may be set forth the times during which parking is prohibited. In like manner an arrow-head inscribed on the definition plate will indicate that parking is prohibited on that part of the street or road lying to the side of the sign to which the arrow-head points.

NO. 6
OVERTAKING PROHIBITED

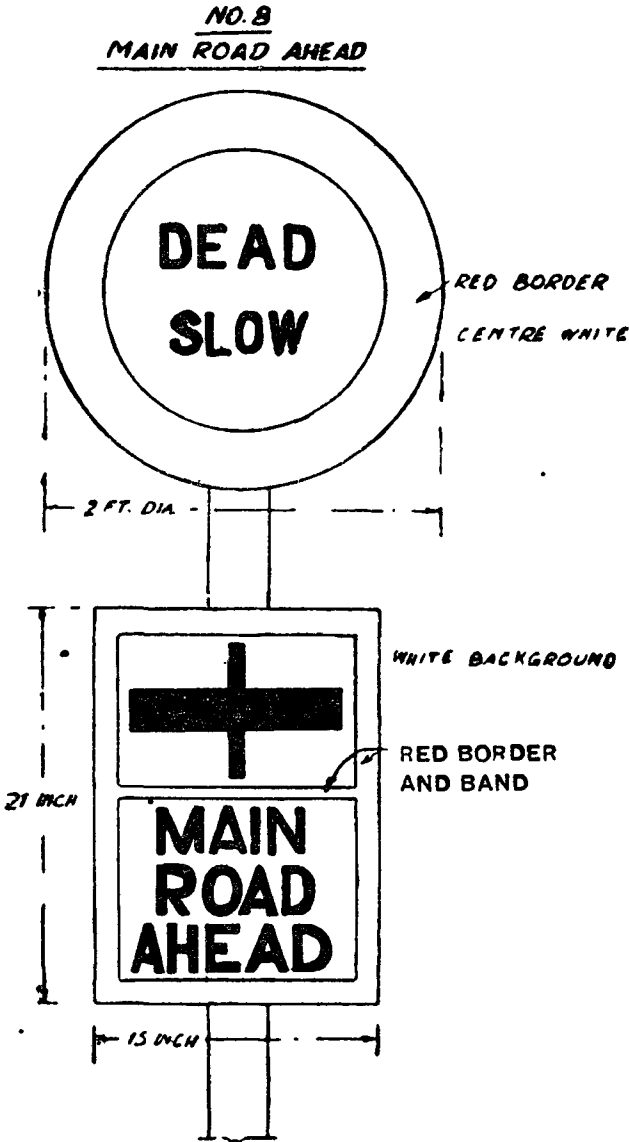


¹ NO. 7
USE OF SOUND SIGNALS PROHIBITED

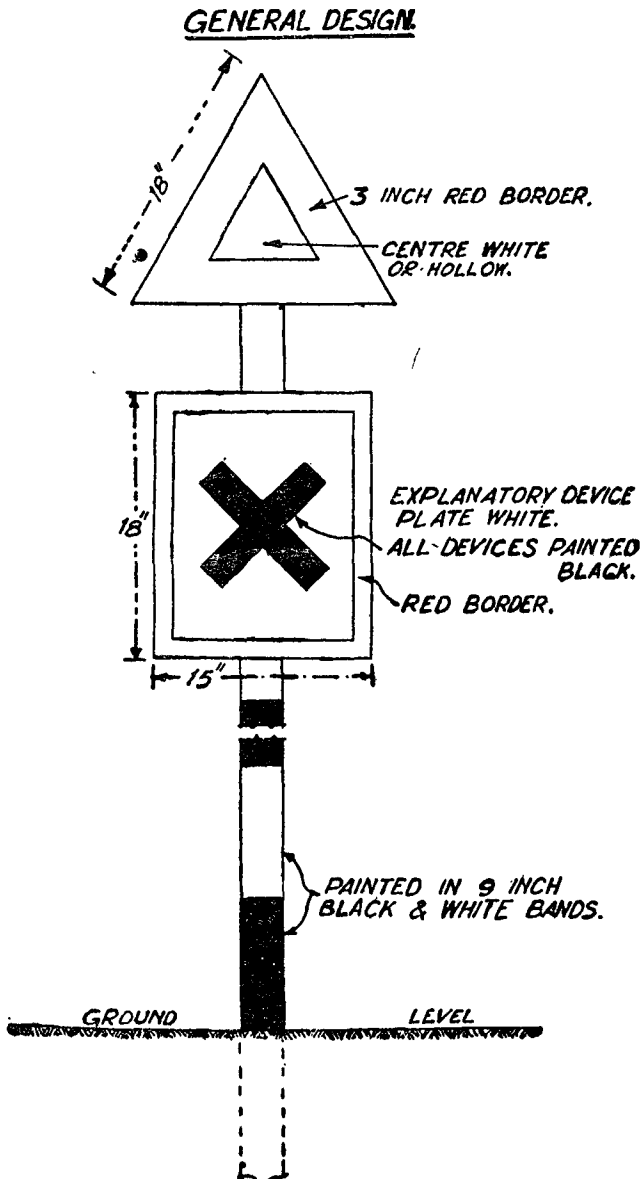


Cross and border—Red
Background—White
Device—Black.]

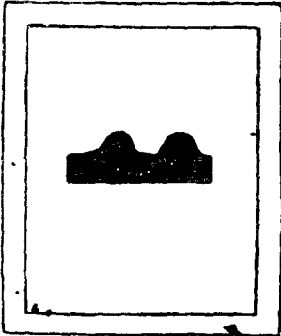
¹ Subs. by the Motor Vehicles (Amendment) Act, 1939 (40 of 1939), s. 7



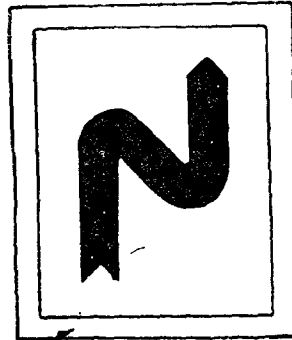
Part B.—Cautionary Signs



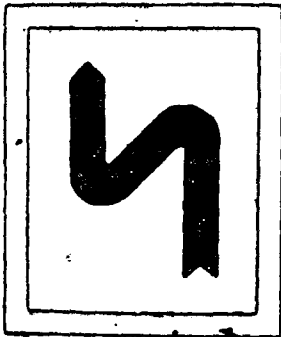
NO. 1
ROUGH ROAD



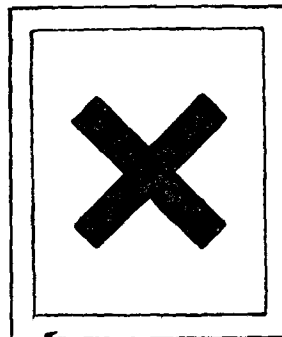
NO. 2
ZIG-ZAG (RIGHT)



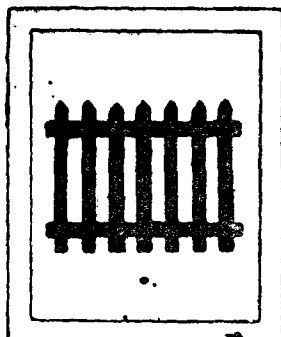
NO. 2
ZIG-ZAG (LEFT)



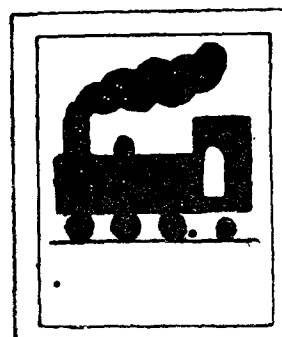
NO. 3
CROSS ROADS



NO. 4
LEVEL CROSSING
(GUARDED)



NO. 5
LEVEL CROSSING
(UNGUARDED)

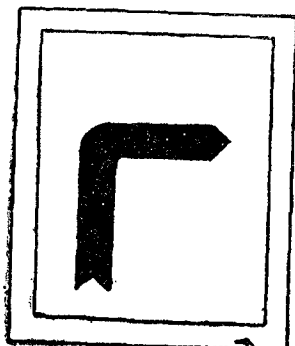


RED BORDER

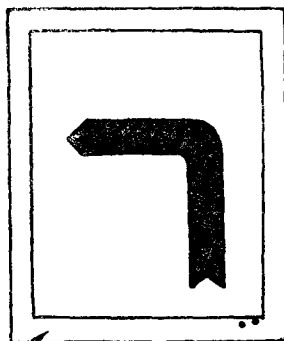
RED BORDER

RED BORDER

NO. 6
RIGHT TURN



NO. 6
LEFT TURN



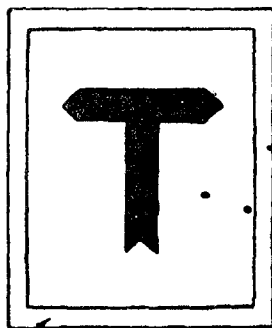
RED BORDER

NO. 7
SCHOOL

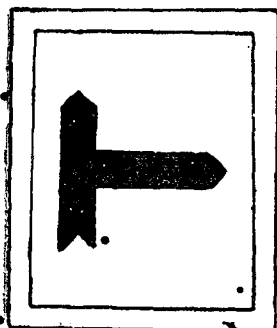


RED BORDER

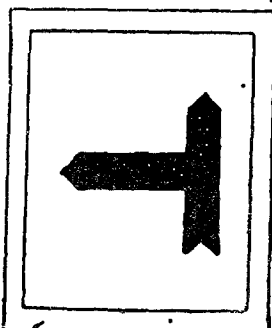
NO. 8
DEAD END CROSS ROAD



NO. 9
SIDE ROAD (RIGHT)

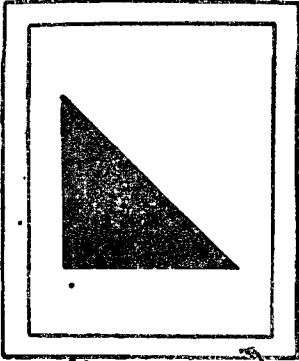


NO. 9
SIDE ROAD (LEFT)

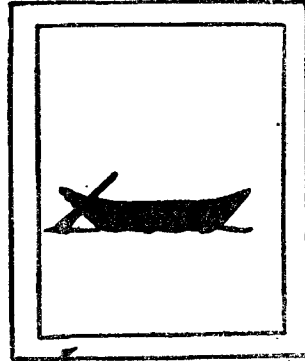


RED BORDER

NO. 10
STEEP HILL



NO. 11
FERRY

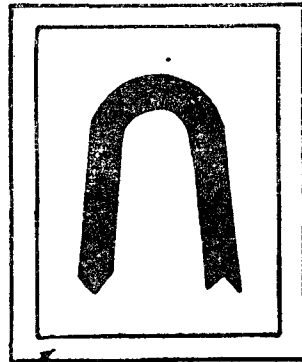


RED BORDER

NO. 12
HAIR PIN BEND (RIGHT)

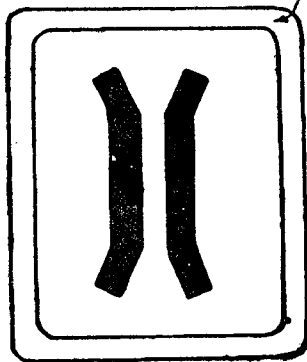


NO. 12
HAIR PIN BEND (LEFT)



RED BORDER

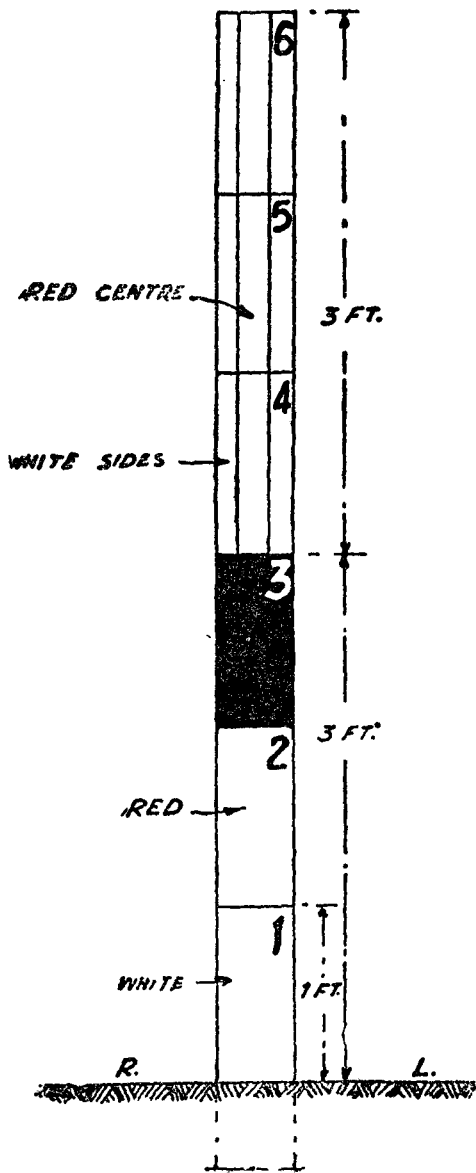
NO 13
NARROW BRIDGE



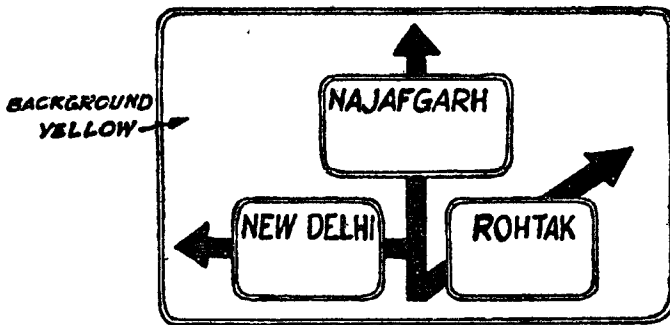
RED BORDER

Part C.—Informatory Signs

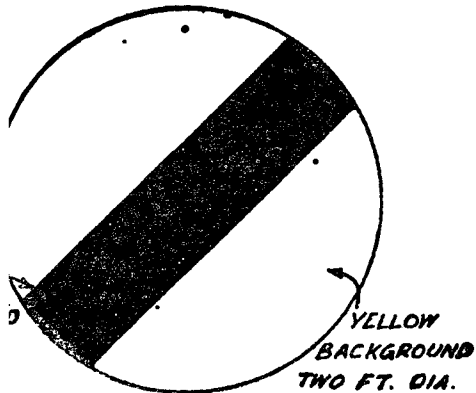
NO. 1
FLOOD GAUGE
SIDE ELEVATION.



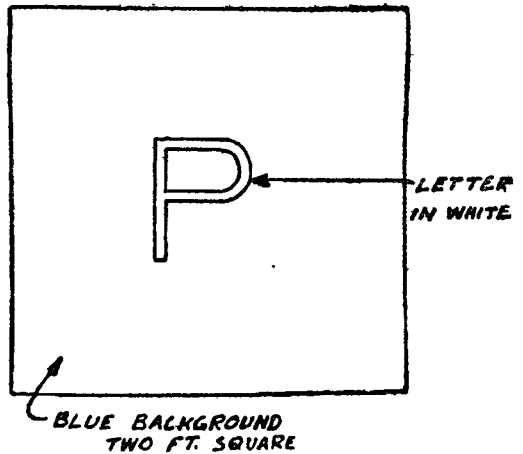
NO. 2
ROAD JUNCTION APPROACH.



NO. 3
END OF SPEED LIMIT.



NO. 4
PARKING SIGN.



THE TENTH SCHEDULE

(See sections 77 and 78)

DRIVING REGULATIONS

1. The driver of a motor vehicle shall drive the vehicle as close to the left hand side of the road as may be expedient, and shall allow all traffic which is proceeding in the opposite direction to pass him on his right hand side.

2. Except as provided in regulation 3, the driver of a motor vehicle shall pass to the right of all traffic proceeding in the same direction as himself.

3. The driver of a motor vehicle may pass to the left of a vehicle the driver of which having indicated an intention to turn to the right has drawn to the centre of the road and may pass a tram-car or other vehicle running on fixed rails, whether travelling in the same direction as himself or otherwise, on either side:

Provided that in no case shall he pass a tram-car at a time or in a manner likely to cause danger or inconvenience to other users of the road or pass on the left hand side a tram-car, which, when in motion would be travelling in the same direction as himself, while the tram-car is at rest for the purpose of setting down or taking up passengers.

4. The driver of a motor vehicle shall not pass a vehicle travelling in the same direction as himself—

- (a) if his passing is likely to cause inconvenience or danger to other traffic proceeding in any direction, or
- (b) where a point or corner or a hill or an obstruction of any kind renders the road ahead not clearly visible.

5. The driver of a motor vehicle shall not, when being overtaken or being passed by another vehicle, increase speed or do anything in any way to prevent the other vehicle from passing him.

6. The driver of a motor vehicle shall slow down when approaching a road intersection, a road junction or a road corner, and shall not enter any such intersection or junction until he has become aware that he may do so without endangering the safety of persons thereon.

7. The driver of a motor vehicle shall on entering a road intersection, if the road entered is a main road designated as such, give way to the vehicles proceeding along that road, and in any other case give way to all traffic approaching the intersection on his right hand.

8. The driver of a motor vehicle shall, when passing or meeting a procession or a body of troops or police on the march or when passing workmen engaged on road repair, drive at a speed not greater than fifteen miles an hour.

9. The driver of a motor vehicle shall—

- (a) when turning to the left, drive as close as may be to the left

(The Tenth Schedule. The Eleventh Schedule)

hand side of the road from which he is making the turn and of the road which he is entering;

- (b) when turning to the right, draw as near as may be to the centre of the road along which he is travelling and cause the vehicle to move in such a manner that—
 - (i) as far as may be practicable it passes beyond, and so as to leave on the driver's right hand, a point formed by the intersection of the centre lines of the intersecting roads; and
 - (ii) it arrives as near as may be at the left hand side of the road which the driver is entering.

THE ELEVENTH SCHEDULE

(See section 79)

SIGNALS

1. When about to turn to the right or to drive to the right hand side of the road in order to pass another vehicle or for any other purpose, a driver shall extend his right arm in a horizontal position outside of and to the right of his vehicle with the palm of the hand turned to the front.

2. When about to turn to the left or to drive to the left hand side of the road, a driver shall extend his right arm and rotate it in an anti-clockwise direction.

3. When about to slow down, a driver shall extend his right arm with the palm downward and to the right of the vehicle and shall move the arm so extended up and down several times in such a manner that the signal can be seen by the driver of any vehicle which may be behind him.

4. When about to stop, a driver shall raise his right forearm vertically outside of and to the right of the vehicle, palm to the front.

5. When a driver wishes to indicate to the driver of a vehicle behind him that he desires that driver to overtake him, he shall extend his right arm and hand horizontally outside of and to the right of the vehicle and shall swing the arm backwards and forwards in a semi-circular motion.

THE PAKISTAN NAVAL RESERVE FORCES (DISCIPLINE) ACT, 1939¹.

[29th March, 1939]

An Act] to provide for the discipline of members of the ²[Pakistan Naval Reserve Forces] raised in ³[the Provinces and the Capital of the Federation] on behalf of His Majesty.

WHEREAS it is expedient to provide for the discipline of members— of the ²[Pakistan Naval Reserve Forces] raised in ³[the Provinces and the Capital of the Federation] on behalf of His Majesty, and in furtherance of that purpose to amend the First Schedule to the XXXI Pakistan Navy (Discipline) Act, 1934; It is hereby enacted as of 193 follows:—

Short title,
extent and
commence-
ment.

1.—(1) This Act may be called the ²[Pakistan Naval Reserve Forces] (Discipline) Act, 1939.

(2) It extends to ⁴[all the Provinces and the Capital of the Federation], and applies to members of the ²[Pakistan Naval Reserve Forces] wherever they may be.

(3) It shall come into force on such date⁵ as the Central Government may, by notification in the official Gazette, appoint in this behalf.

The Pakistan
Naval
Reserve
Forces.

2. The ²[Pakistan Naval Reserve Forces] shall consist of the ⁶[Royal Pakistan Fleet Reserve], the ⁷[Royal Pakistan Naval Reserve], the ⁸[Royal Pakistan Naval Volunteer Reserve], ⁹[the Pakistan Women Naval Reserve] and the ¹⁰[Royal Pakistan Naval Communications Reserve].

Power to
make rules
for Regula-
tion of Naval
Reserve
Forces.

3. The Central Government may make rules for the govern- ment, discipline and regulation of the ²[Pakistan Naval Reserve Forces].

Liability
to Naval
Discipline
Act.

4. Every member of the ²[Pakistan Naval Reserve Forces], while undergoing training on board any vessel or otherwise, in pursuance of rules made under section 3, or when called into actual service in

¹ This Act was made by the Governor General under s. 67B of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935. No number was given to this Act.

For Statement of Objects and Reasons, see Gazette of India, 1939, Pt. V, p. 16.

² Subs. by the A. O., 1949, for "Indian Naval Reserve Forces".

³ Subs. *ibid.*, for "British India".

⁴ Subs. *ibid.*, for "the whole of British India".

⁵ The 3rd June, 1939, see Notification No. 693, dated the 3rd June, 1939, Gazette of India, 1939, Pt. I, p. 959.

⁶ Subs. by the A. O., 1949, for "Royal Indian Fleet Reserve".

⁷ Subs. *ibid.*, for "Royal Indian Naval Reserve".

⁸ Subs. *ibid.*, for "Royal Indian Naval Volunteer Reserve".

⁹ Ins. by the Pakistan Naval Reserve Forces (Discipline) (Amendment) Act, 1951 (16 of 1951), s. 2 (with effect from the 15th August, 1952).

¹⁰ Subs. by the A. O., 1949, for "Royal Indian Naval Communications Reserve".

(
XIV
1934.

the ¹[Royal Pakistan Navy], on board any vessel or otherwise, in pursuance of the said rules, shall be subject to the Naval Discipline Act as set out in the First Schedule to the Pakistan Navy (Discipline) Act, 1934, in the same manner as a person in or belonging to the ²[Pakistan Navy] and shall continue to be so subject until duly released from such training or service, as the case may be:

³[Provided that the members of the Pakistan Woman Naval Reserve shall not be so subject while undergoing training on board ~~any~~ vessel or otherwise.]

5.—(1) If any member of the ⁴[Pakistan Naval Reserve Forces] ⁵[other than a member of the Pakistan Women Naval Reserve], when required, in pursuance of rules made under section 3, to attend on board any vessel or at any place for the purpose of undergoing training, fails without reasonable excuse to attend in accordance with such requirement, he shall be punishable with fine which may extend to two hundred rupees.

Penalty for failure to attend when required or called.

(2) If any member of the ⁴[Pakistan Naval Reserve Forces], when called into actual service in the ¹[Royal Pakistan Navy] and required by such call to join any vessel or attend at any place, fails without reasonable excuse to comply with such requirement at or within such time as the Central Government may, by order, direct, he shall be liable to be apprehended and punished in the same manner as a person in or belonging to the ²[Pakistan Navy] deserting or improperly absenting himself from duty, except that the punishment shall not exceed imprisonment which may extend to two years.

6. Where any member of the ⁴[Pakistan Naval Reserve Forces] is required, in pursuance of rules made under section 3, to attend on board any vessel or at any place for the purpose of undergoing training, or is called into actual service in the ¹[Royal Pakistan Navy], a certificate purporting to be signed by an officer appointed in this behalf under the said rules and stating that the said member failed to attend in accordance with such requirement or call shall, without proof of the signature or appointment of such officer, be evidence of the matter stated therein.

Rule of evidence.

7. No Court inferior to that of a * * * Magistrate of the first class shall try an offence punishable under sub-section (1) of section 5.

Jurisdiction.

8. [Modification of the Naval Discipline Act.] Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.

¹ Subs. by the A. O., 1949, for "Royal Indian Navy".

² Subs. *ibid.*, for "Indian Navy".

³ Proviso added by the Pakistan Naval Reserve Forces (Discipline) (Amdt.) Act, 1951 (16 of 1951), s. 3 (with effect from the 15th August, 1952).

⁴ Subs. by the A. O., 1949, for "Indian Naval Reserve Forces".

⁵ Ins. by Act 16 of 1951, s. 4 (with effect from the 15th August, 1952).

⁶ The words "Presidency Magistrate or" omitted by the A. O., 1949.

THE DISSOLUTION OF MUSLIM MARRIAGES ACT, 1939.

¹ACT No. VIII OF 1939

[17th March, 1939]

An Act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the Dissolution of Muslim Marriages Act, 1939.

(2) It extends to ²[all the Provinces and the Capital of the Federation].

Grounds
for decree
for dissolu-
tion of
marriage.

2. A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely:—

- (i) that the whereabouts of the husband have not been known for a period of four years;
- (ii) that the husband has neglected or has failed to provide for her maintenance for a period of two years;
- (iii) that the husband has been sentenced to imprisonment for a period of seven years or upwards;
- (iv) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;
- (v) that the husband was impotent at the time of the marriage and continues to be so;
- (vi) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;
- (vii) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years,

¹ For Statement of Objects and Reasons, *see* Gazette of India, 1936, Pt. V, p. 154; for Report of Select Committee, *see* *ibid.*, 1939, Pt. V, p. 1.

This Act has been applied to—

the Chittagong Hill-tracts, *see* Notification No. 7359-E.A., dated the 3rd July, 1939, Calcutta Gazette, dated the 6th July, 1939,

the partially excluded areas of the Mymensingh district, *see* Notification No. 2678-J., dated the 28th July, 1939, Calcutta Gazette, dated the 3rd August, 1939.

It has also been extended to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.-W.F.P., and also 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.

² Subs. by the A. O., 1949, for “the whole of British India”.

repudiated the marriage before attaining the age of eighteen years:

Provided that the marriage has not been consummated;

(viii) that the husband treats her with cruelty, that is to say,—

(a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(b) associates with women of evil repute or leads an infamous life, or

(c) attempts to force her to lead an immoral life, or

(d) disposes of her property or prevents her exercising her legal rights over it, or

(e) obstructs her in the observance of her religious profession or practice, or

(f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Qoran;

(ix) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:

Provided that—

(a) no decree shall be passed on ground (iii) until the sentence has become final;

(b) a decree passed on ground (i) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform his conjugal duties, the Court shall set aside the said decree; and

(c) before passing a decree on ground (v) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

3. In a suit to which clause (i) of section 2 applies—

(a) the names and addresses of the persons who would have been the heirs of the husband under Muslim law if he had died on the date of the filing of the plaint shall be stated in the plaint,

(b) notice of the suit shall be served on such persons, and

(c) such persons shall have the right to be heard in the suit:

Provided that paternal uncle and brother of the husband, if any, shall be cited as party even if he or they are not heirs.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not

Not
be
or
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wi
husband's
whereabout
are not
known.

Effect of
conversion
to another
faith.

apply to a woman converted to Islam from some other faith who re-embraces her former faith.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.

6. [Repeal of s. 5 of Act XXVI of 1937.] Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Sch.

THE STANDARDS OF WEIGHT ACT, 1939

¹ACT No. IX OF 1939

[28th March, 1939]

An Act to establish standards of weight throughout ²[the Provinces and the Capital of the Federation].

WHEREAS it is expedient to establish standards of weight throughout ²[the Provinces and the Capital of the Federation];

It is hereby enacted as follows:—

1.—(1) This Act may be called the Standards of Weight Act, 1939.

(2) It extends to ³[all the Provinces and the Capital of the Federation].

(3) It shall come into force on such date⁴ as the Central Government may, by notification in the official Gazette, appoint.

2.—(1) The unit for weight shall be the standard grain, that is to say, that weight which when multiplied by 1799·84585 is the weight *in vacuo* of the iridio-platinum cylinder in the custody of the ⁵[Mint Master, Lahore], certified by the Standards Department of the British Board of Trade as having a weight of 1799·84585 grains *in vacuo*.

(2) The standard grain shall be the only unit from which all other standard weights shall be ascertained.

3.—(1) There shall be the following standard weights, namely:—

(a) the standard tola, being a weight of 180 standard grains;

¹ For Statement of Objects and Reasons, see Gazette of India, 1939, Pt. V, page 18.

This Act has been applied to Baluchistan, see Gazette of India, 1939, Pt. I, page 1450.

² Subs. by the A. O., 1949, for "British India".

³ Subs. *ibid.*, for "the whole of British India".

⁴ The 1st July, 1942; see Notification No. 33-C(b)/37-A., dated the 13th June, 1942, Gazette of India, 1942, Pt. I, p. 1012.

⁵ Subs. by the A. O., 1949, for "Mint Master, Bombay".

- (b) the standard seer, being a weight of 80 standard tolas or 14,400 standard grains;
- (c) the standard maund, being a weight of 40 standard seers;
- (d) the standard pound, being a weight of 7,000 standard grains;
- (e) the standard ounce, being one-sixteenth part of the weight of a standard pound;
- (f) the standard hundredweight, being a weight of 112 standard pounds;
- (g) the standard ton, being a weight of 2,240 standard pounds.

(2) No weight other than the weights set forth in sub-section (1) and integral multiples or sub-multiples of any such weight shall be used as a standard weight.

4.—(1) The Central Government shall cause to be prepared one set of such of the standard weights specified in sub-section (1) of section 3 or multiples or sub-multiples thereof as the Central Government may consider expedient, and shall cause each weight of such set to be authenticated as having been ascertained from the standard grain, and shall deposit the set in such custody as the Central Government may think fit.

Sets of
standard
weights.

(2) The Central Government shall cause similar sets of weights, similarly authenticated, to be prepared, and shall supply one set to each Provincial Government.

(3) The Central Government shall cause similar sets of weights, similarly authenticated, to be prepared and shall supply one set to the Government of any ¹[Acceding State or non-Acceding State] ²* * * which applies for it and pays the price fixed by the Central Government.

5.—(1) The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

Rules.

(2) Without prejudice to the generality of the foregoing power, rules made under this section may regulate—

- (a) the preparation of the sets of standard weights referred to in section 4;
- (b) the custody of the set of such weights which is to be maintained by the Central Government and the periodical verification and adjustment thereof;
- (c) the periodical verification and adjustment of the sets of standard weights supplied to Provincial and other Governments.

6. [Repeal.] *Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.*

¹ Subs. by the A. O., 1949, for "Indian State".

² The words "or foreign settlement situated in India" omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Second Sch.

THE FINANCE ACT, 1939

[30th March, 1939]

An Act * * * to fix rates of income-tax and super-tax

WHEREAS it is expedient * * * to fix rates of income-tax and super-tax; It is hereby enacted as follows:—

Short title
and extent.

1.—(1) This Act may be called the ³* Finance Act, 1939.

(2) It extends to ⁴[all the Provinces and the Capital of the Federation].

2 to 5. [*Fixation of salt duty. Excise duty on Khandsari sugar. Import duty on raw cotton. Inland postage rates.*] Rep. by the Repealing and Amending Act, 1942 (XXV of 1942), s. 2 and First Schedule.

Income-tax
and super-
tax.

6.—(1) Subject to the provisions of sub-section (2)—

(a) income-tax for the year beginning on the 1st day of April, 1939, shall be charged at the rates specified in Part I of Schedule II, and

(b) rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Income-tax Act, 1922, be those specified in Part II of XI of 1922. Schedule II.

(2) In cases to which section 17 of the Income-tax Act, 1922, applies, the tax chargeable shall be determined in accordance with the provisions of that section with reference to the rates specified in Schedule II. XI of 1922.

(3) For the purpose of this section and of Schedule II, the expression “total income” means total income as determined for the purposes of income-tax or super-tax as the case may be, in accordance with the provisions of the Income-tax Act, 1922. XI of 1922.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), where more than half of the total income of any

¹ This Act was made by the Governor General under s. 67 B of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935. No number was given to this Act.

For Statement of Objects and Reasons, see Gazette of India, 1939, Pt. V, page 100.

This Act has been applied to—

- (i) Baluchistan, see Notification No. 62-F., dated the 30th March 1939, Gazette of India, 1939, Pt. I, p. 581;
- (ii) the Chittagong Hill-tracts in so far as it affects the Post Office Act, 1898 and the Income-tax Act, 1922, see Notification No. 5932-E. A, dated the 20th May, 1939, Calcutta Gazette, Pt. I, dated the 25th May, 1939;
- (iii) the partially excluded areas of the Mymensingh district, see Notification No. 5650-F. B., dated the 3rd July, 1939, Calcutta Gazette, dated the 6th July, 1939.

² Certain words omitted by the Repealing and Amending Act, 1942 (25 of 1942), s. 2 and First Schedule.

³ The word “Indian” omitted by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 2 and Second Schedule.

⁴ Subs. by the A. O., 1949, for “the whole of British India”.

individual or Hindu undivided family consists of income from salaries, interest on securities or dividends in respect of which the individual or Hindu undivided family is deemed, under the provisions of section 49B of the Income-tax Act, 1922, to have paid income-tax imposed in ¹[the Provinces and the Capital of the Federation], or consists of income falling under more than one of those heads—

(a) income-tax for the year beginning on the 1st day of April, 1939, shall be charged in respect of such total incomes at the rates of income-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, and

(b) in cases in which super-tax has been deducted under the provisions of section 18 of the said Act or would have been so deductible had the Indian Income-tax (Amendment) Act, 1939, come into force on the 1st day of April, 1938, the rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Income-tax Act, 1922, be the rates of super-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, as the case may be.

(5) In respect of income to which sub-section (4) applies, the provisions of section 17 of the Income-tax Act, 1922, shall apply to the assessment to be made for the year beginning on the 1st day of April, 1939, as though the Indian Income-tax (Amendment) Act, 1939, had not been passed.

SCHEDULE I.—Rep. by the Repealing and Amending Act, 1942 (XXV of 1942) s. 2 and First Schedule.

SCHEDULE II

[See section 6]

PART I

RATES OF INCOME-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 1,500 of total income	... Nil.
2. On the next Rs. 3,500 of total income	... Nine pies in the rupee.
3. On the next Rs. 5,000 of total income	... One anna* and three pies in the rupee.
4. On the next Rs. 5,000 of total income	... Two annas in the rupee.
5. On the balance of total income	... Two annas and six pies in the rupee.

Provided that—

(i) no income-tax shall be payable on a total income which does not exceed Rs. 2,000;

¹ Subs. by the A. O., 1949, for "British India".

(ii) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 2,000.

B. In the case of every company and local authority, and in every case in which, under the provisions of the Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate
On the whole of total income	... Two annas and six pies in the rupee.

PART II

RATES OF SUPER-TAX

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this Part applies—

	Rate
1. On the first Rs. 25,000 of total income	... Nil.
2. On the next Rs. 10,000 of total income	... One anna in the rupee.
3. On the next Rs. 20,000 of total income	... Two annas in the rupee.
4. On the next Rs. 70,000 of total income	... Three annas in the rupee.
5. On the next Rs. 75,000 of total income	... Four annas in the rupee.
6. On the next Rs. 1,40,000 of total income	... Five annas in the rupee.
7. On the next Rs. 1,50,000 of total income	... Six annas in the rupee.
8. On the balance of total income	... Seven annas in the rupee.

B. In the case of every company and local authority—

	Rate
On the whole of total income	... One anna in the rupee.

THE REGISTRATION OF FOREIGNERS ACT, 1939.

ACT NO. XVI OF 1939

[8th April, 1939]

An Act to provide for the registration of foreigners in ²[Pakistan]

WHEREAS it is expedient to provide for the registration of

¹ For Statement of Objects and Reasons, *see* Gazette of India, Extraordinary, 1939, p. 69; for the Report of Select Committee, *see* Gazette of India, 1939, Pt. V, p. 111.

This Act has been applied to—

- (i) Baluchistan with the omission of Proviso to s. 6, *see* Gazette of India, 1939, Pt. I, p. 854;
- (ii) Tribal areas other than Baluchistan tribal areas, *ibid.*;
- (iii) the Chittagong Hill-tracts, *see* Notification No. 700-E.A., dated the 23rd June, 1939, Calcutta Gazette, dated the 29th June, 1939.

[It was applied to certain persons to whom it did not apply for the time being, by the Registration of Foreigners Act (Extending) Ordinance, 1942 (16 of 1942), since rep. by the Repealing Ordinance, 1946 (1 of 1946), s. 2 and Sch.]

² Subs. by the Registration of Foreigners (Amendment) Act, 1949 (8 of 1950), s. 2, for "the Provinces and the Capital of the Federation" which was subs., for "British India" by the A. O., 1949,

foreigners entering, being present in, and departing from, ¹[Pakistan];

It is hereby enacted as follows:—

1.—(1) This Act may be called the Registration of Foreigners Act, 1939. Short title and extent.

(2) It extends to ²[the whole of Pakistan].

2. In this Act—

Defi

- (a) the word “foreigner” shall denote a person who is not—
 - (i) a British subject domiciled in the United Kingdom; or
 - ³[(ii) a British subject domiciled in Pakistan]; or
 - (iii) a ruler or subject of an ⁴[Acceding State]; or
 - (iv) a person duly appointed by a foreign Government to exercise diplomatic functions; or
 - (v) a consul or a vice-consul;
- (b) “prescribed” means prescribed by rules made under this Act.

3. The Central Government may after previous publication, by notification in the official Gazette, make rules with respect to foreigners for any or all of the following purposes, that is to say— Power to make rules.

- (a) for requiring any foreigner entering, or being present in, ¹[Pakistan] to report his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;
- (b) for requiring any foreigner moving from one place to another place in ¹[Pakistan] to report, on arrival at such other place, his presence to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;
- (c) for requiring any foreigner who is about to leave ¹[Pakistan] to report the date of his intended departure and such other particulars as may be prescribed to such authority and within such period before departure as may be prescribed;
- (d) for requiring any foreigner entering, being present in, or departing from, ¹[Pakistan] to produce, on demand by a prescribed authority, such proof of his identity as may be prescribed;
- (e) for requiring any person having the management of any hotel, boarding-house, sarai or any other premises of like nature to report the name of any foreigner residing therein

¹ Subs. by the Registration of Foreigners (Amendment) Act, 1949 (8 of 1950), s. 2, for “the Provinces and the Capital of the Federation” which was subs. for “British India” by the A. O., 1949.

² The original words “the whole of British India” have been amended by the A. O., 1949 and Act 8 of 1950, s. 3, to read as above.

³ Subs. by the A. O., 1949, for the original clause (ii).

⁴ Subs. *ibid.*, for “Indian State”

for whatever duration, to a prescribed authority within such time and in such manner and with such particulars as may be prescribed;

- (f) for requiring any person having the management or control of any vessel or aircraft to furnish to a prescribed authority such information as may be prescribed regarding any foreigner entering, or intending to depart from, ¹[Pakistan] in such vessel or aircraft, and to furnish to such authority such assistance as may be necessary or prescribed for giving effect to this Act;
- (g) for providing for such other incidental or supplementary matters as may appear to the Central Government necessary or expedient for giving effect to this Act.

Burden of proof.

4. If any question arises with reference to this Act or any rule made thereunder, whether any person is or is not a foreigner, or is or is not a foreigner of a particular class or description, the onus of proving that such person is not a foreigner or is not a foreigner of such particular class or description, as the case may be, shall, notwithstanding anything contained in the Evidence Act, 1872, lie upon such person. 1 of 1872.

Penalties.

5. Any person who contravenes, or attempts to contravene, or fails to comply with, any provision of any rule made under this Act shall be punished, if a foreigner, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both, or if not a foreigner, with fine which may extend to five hundred rupees.

Power to exempt from application of Act.

6. The Central Government may, by order, declare² that any or all of the provisions of the rules made under this Act shall not apply, or shall apply only with such modifications or subject to such conditions as may be specified in the said order, to or in relation to any individual foreigner or any class or description of foreigner:

Provided that a copy of every such order shall be placed on the table of ³* * * the Central Legislature as soon as may be after its promulgation.

Protection to persons acting under this Act.

7. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Application of other laws not barred.

8. The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Foreigners Act, ⁴[1946] and XXXI of 194 any other law for the time being in force.

Application of Act to

5[9. In the application of this Act to any Acceding State, any

¹ Subs. by the Registration of Foreigners (Amendment) Act, 1949 (8 of 1950), s. 4, for "the Provinces and the Capital of the Federation" which was subs. for "British India" by the A. O., 1949.

² For such declarations, *see* Gazette of Pakistan, 1953, Pt. I, pp. 47-48.

³ The words "both Houses of" omitted by the A. O., 1949.

⁴ Subs. by Act 8 of 1950, s. 5, for the figures "1864".

⁵ S. 9 added *ibid.*, s. 6.

reference to an enactment in force in the Provinces or the Capital of the Federation but not in force in the Acceding State shall be construed as a reference to the corresponding law, if any, of that State.]

Acceding States.

THE MEDICAL DIPLOMAS ACT, 1939

¹ACT NO. XXVIII OF 1939

[26th September, 1939]

An Act to make the provision referred to in sub-section (1) of section 120 of the Government of India Act, 1935.

WHEREAS it is expedient to make the provision relating to medical diplomas granted in the United Kingdom or Burma which is referred to in sub-section (1) of section 120 of the Government of India Act, 1935;

It is hereby enacted as follows:—

1.—(1) This Act may be called the Medical Diplomas Act, 1939.

Short title and extent.

(2) It extends to ²[all the Provinces and the Capital of the Federation].

2. In this Act—

Definitions.

(a) “diploma” has the meaning assigned to it in sub-section (7) of section 120 of the Government of India Act, 1935;

(b) “United Kingdom” means the United Kingdom of Great Britain and Northern Ireland.

3. So long as the condition set out in sub-section (3) of section 120 of the Government of India Act, 1935, ³[as originally enacted] continues to be fulfilled, a British subject domiciled in the United Kingdom ⁴[or Pakistan] who, by virtue of a medical diploma granted to him in the United Kingdom, is, or is entitled to be, registered in the United Kingdom as a qualified medical practitioner shall not, by or under any law for the time being in force, be excluded from practising medicine, surgery or midwifery in ⁵[the Provinces and the Capital of the Federation] or in any part thereof, or from being registered as

Conditions for excluding from practice British subjects domiciled in the United Kingdom or Pakistan who hold medical

¹ For Statement of Objects and Reasons, see Gazette of India, 1939, Pt. V, page 148.

This Act has been applied to—

(i) Baluchistan, see Gazette of India, 1940, Pt. I, p. 790;

(ii) the partially excluded areas of the Mymensingh district with effect from the 5th December 1940, see Bengal Govt. Notification No 2660-Medl., dated the 27th November, 1940.

² Subs. by the A. O., 1949, for “the whole of British India”.

³ Ins., *ibid.*.

⁴ Subs. *ibid.*, for “or India”.

⁵ Subs. *ibid.*, for “British India”

diplomas granted in the United Kingdom on the ground of inadequacy of such diplomas.

qualified so to do, on the ground that such diploma does not furnish a sufficient guarantee of his possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, except in accordance with the following conditions, namely:—

- (a) Notice of every proposal for excluding the holders of any such diploma from practice or registration shall be given in such form and in such manner as the Central Government may by rules made in this behalf prescribe, to the university or other body granting that diploma, and where such proposal is not made by the Central Government, to the Central Government also.
- (b) No such proposal shall become operative until the expiration of twelve months after the notices referred to in clause (a) have been given.

1* * * * * *

Conditions for excluding from practice British subjects domiciled in Burma who hold medical diplomas granted in the United Kingdom or Burma on a similar ground.

4. A British subject domiciled in Burma who, by virtue of a medical diploma granted to him in the United Kingdom or Burma, is, or is entitled to be, registered in the United Kingdom as a qualified medical practitioner shall not, by or under any law for the time being in force, be excluded from practising medicine, surgery or midwifery in ²[the Provinces and the Capital of the Federation] or in any part thereof, or from being registered as qualified so to do, on the ground that such diploma does not furnish a sufficient guarantee of his possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, except in accordance with conditions such as are set out in ³[clauses (a) and (b)] of section 3.

THE COMMERCIAL DOCUMENTS EVIDENCE ACT, 1939.

⁴ACT No. XXX OF 1939

[26th September, 1939]

An Act to amend the Law of Evidence with respect to certain commercial documents.

WHEREAS it is expedient to amend the Law of Evidence with

¹ Clause (c) omitted by the A. O., 1949.

² Subs. *ibid.*, for "British India".

³ Subs. *ibid.*, for "clauses (a), (b) and (c)".

⁴ For Statement of Objects and Reasons, see Gazette of India, 1937, Pt. V, p. 119; for Report of Select Committee, see *ibid.*, 1939, Pt. V, p. 157.

This Act has been applied to—

(i) Baluchistan, see Gazette of India, 1940, Pt. I, p. 790;

(ii) the partially excluded areas of the Mymensingh district with effect from the 8th February, 1940, by Bengal Government Notification No. 361-J., dated the 31st January, 1940.

respect to certain commercial documents;

It is hereby enacted as follows:—

1.—(1) This Act may be called the Commercial Documents Evidence Act, 1939. Short title and extent.

(2) It extends to [all the Provinces and the Capital of the Federation].

2. Notwithstanding anything contained in the Evidence Act, 1872, statements of facts in issue or of relevant facts made in any document included in the Schedule as to matters usually stated in such document shall be themselves relevant facts within the meaning of that Act. Statements of relevant facts in scheduled documents to be themselves relevant facts.

3. For the purposes of the Evidence Act, 1872, and notwithstanding anything contained therein, a Court— Presumption as to genuineness of documents.

(a) shall presume, within the meaning of that Act, in relation to documents included in Part I of the Schedule, and

(b) may presume, within the meaning of that Act, in relation to documents included in Part II of the Schedule,—

that any document purporting to be a document included in Part I or Part II of the Schedule, as the case may be, and to have been duly made by or under the appropriate authority, was so made and that the statements contained therein are accurate.

4. In the Schedule the expression “recognised Chamber of Commerce” means a Chamber of Commerce recognised by the Government of its country as being competent to issue certificates of origin, and includes any other association similarly recognised. Definition.

THE SCHEDULE

(See sections 2 and 3)

PART I

Documents in relation to which the Court “SHALL presume”

1. Lloyd’s Register of Shipping.
2. Lloyd’s Daily Shipping Index.
3. Lloyd’s Loading List.
4. Lloyd’s Weekly Casualty Reports.
5. Certificate of delivery of goods to the Manchester Ship Canal Company.
6. Official log book, Supplementary Official log book and official wireless log kept by a British ship.
7. Certificate of Registry, Safety Certificate, Safety Radio-

¹ Subs. by the A. O., 1949, for “the whole of British India”

Telegraphy Certificate, Exemption Certificate, Certificate of Survey, Declaration of Survey, International Load Line Certificate, '[Pakistan Load Line Certificate], Report of Survey of a ship provisionally detained and unsafe, Report of Survey to be served upon the master of a ship declared unsafe upon survey, Docking Certificate, Memorandum issued under Article 56 of the International Convention for the Safety of Life at Sea, 1929.

8. Certificates A and B, issued under the Merchant Shipping Act, 1923.

9. The following documents relating to marine insurance, namely, insurance policy, receipt for premium, certificate of insurance and insurance cover note.

10. Certificate concerning the loss of country craft issued by the appropriate authority under Department of Commerce, Mercantile Marine Department Circular No. 2 of 1938.

11. Protest made before a Notary Public or other duly authorised official by a master of a ship relating to circumstances calculated to affect the liability of the ship-owner.

12. Licence or permit for radio-telegraph apparatus carried in ships or aircraft.

13. Certificate of registration of an aircraft granted by the Government of the country to which the aircraft belongs.

14. Certificate of airworthiness of an aircraft granted or validated by, or under the authority of, the Government of, the country to which the aircraft belongs.

15. Licences and certificates of competency of aircraft personnel granted or validated by, or under the authority of, the Government of the country to which the personnel belongs.

16. Ground Engineer's Licence issued by a competent authority authorised in this behalf by Government.

17. Consular Certificate in respect of goods shipped or shut out, consular certificates of origin, and consular invoice.

18. Certificate of origin of goods issued (but not merely attested) by a recognised Chamber of Commerce, or by a ²[Pakistan or British Consular Officer] or ³[Pakistan or British] Trade Commissioner or Agent.

19. Receipt for payment of customs duty issued by a Customs authority.

20. Schedule issued by a Port, Dock, Harbour, Wharfage or Warehouse authority, or by a Railway company, showing fees, dues, freights or other charges for the storage, transport or other services in connection with goods.

¹ Subs. by the A. O., 1949, for "British India Load Line Certificate".

² Subs. *ibid.*, for "British Consular Officer".

Subs. *ibid.*, for "British or Indian".

21. Tonnage schedule and schedule of fees, commission or other charges for services rendered, issued by a recognised Chamber of Commerce.

1* * * * *

23. Copy, certified by the Registrar of Companies, of the memorandum or the articles of association of a company, filed under the Companies Act, 1913.

24. Protest, noting and certifying the dishonour of a bill of exchange, made before a Notary Public or other duly authorised official.

PART II

Documents in relation to which the Court "MAY presume".

1. Survey Report issued by a competent authority—

- (i) in respect of cargo loaded; or
- (ii) certifying the quantity of coal loaded; or
- (iii) in respect of the security of hatches.

2. Official log book, Supplementary Official log book and official wireless log kept by a foreign ship.

3. Dock certificate, dock chalan, dock receipt or warrant, Port Warehouse certificate or warrant, issued by, or under the authority of, a Port, Dock, Harbour or Wharfage authority.

4. Certificate issued by a Port, Dock, Harbour, Wharfage or other authority having control of acceptance of goods for shipping, transport or delivery, relating to the date or time of shipment of goods, arrival of goods for acceptance, arrival of vessels or acceptance or delivery of goods, or to the allocation of berthing accommodation to vessels.

5. Export Application issued by a Port authority showing dues paid, weight and measurement and the shutting out of a consignment.

6. Certificate or receipt showing the weight or measurement of a consignment issued by the official measurer of the Conference Lines, or by a sworn or licensed measurer, or by a recognised Chamber of Commerce.

7. Reports and publications issued by a Port authority showing the movement of vessels, and certificates issued by such authority relating to such movements.

8. Certificate of safety for flight signed by a licensed Ground Engineer.

9. Aircraft Log Book, Journey Log Book and Log Book, maintained by the owner or operator in respect of aircraft.

¹ Item 22, omitted by the A. O., 1949.

10. Passenger List or Manifest of Goods carried in public transport aircraft.

11. Passenger ticket, issued by a steamship company or air transport company.

12. Air Consignment Note and Baggage Check, issued by an air transport company in respect of goods carried by air, and the counterfoil or duplicate thereof retained by the carrier.

13. Aircraft Load Sheet.

14. Storage warrant of a warehouse recognized by a Customs, Excise, Port, Dock, Harbour or Wharfage authority.

15. Acknowledgment receipt for goods granted by a Port, Dock, Harbour, Wharfage or Warehouse authority or by a Railway or Steamship company.

16. Customs or Excise pass and Customs or Excise permit or certificate, issued by a Customs or Excise authority.

17. *Force majeure* certificate issued by a recognised Chamber of Commerce.

18. Receipt of a Railway or Steamship company granted to a consignor in acknowledgment of goods entrusted to the company for transport.

19. Receipt granted by the Posts and Telegraphs Department.

20. Certificate or survey award issued by a recognised Chamber of Commerce relating to the quality, size, weight or valuation of any goods, count of yarn or percentage of moisture in yarn and other goods.

21. Copy, certified by the Registrar of Companies, of the Balance Sheet, Profit and Loss Account, and audit report of a company, filed with the said Registrar under the Companies Act, 1913, and the rules made thereunder.

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