

**THE PRISONERS ACT, 1900**  
**(III of 1900)**

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TEXT

<sup>1</sup>**THE PRISONERS ACT, 1900**  
**(III of 1900)**

[15 February 1900]

An  
Act

*to consolidate the law relating to Prisoners confined by order of a Court.*

**WHEREAS** it is expedient to consolidate the law relating to prisoners confined by order of a Court;

It is hereby enacted as follows:—

**PART I**  
**Preliminary**

**1. Short title, extent and commencement.**— (1) This Act may be called the Prisoners Act, 1900.

<sup>2</sup>[(2) It extends to the whole of Pakistan.]

<sup>3</sup>[(3) \* \* \* \* \*]

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

(a) “Court” includes a Coroner and any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(b) “prison” includes any place which has been declared by the <sup>4</sup>[Provincial Government], by general or special order, to be a subsidiary jail.

**PART II**  
**General**

**3. Officers in charge of prisons to detain persons duly committed to their custody.**— The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the

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<sup>1</sup>This Act was published in the Gazette of India, Part IV, dated: 15 February 1900, pp. 5-14. For Statement of Objects and Reasons, see Gazette of India, 1899, Part V, p. 101; for report of the Select Committee, see *ibid.*, 1900, p. 23; for proceedings in Council, see *ibid.*, 1899, Part VI, pp. 102 and 242; *ibid.*, 1900, p. 21.

<sup>2</sup>Substituted by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960); assented to by the President on 7 June 1960; and, was published in the Gazette of Pakistan (Extraordinary), dated: 9 June 1960, pp. 725-845, s. 3 read with the Second Schedule: it came into force on 14 October 1955. Certain words were substituted by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), published in the Gazette of Pakistan (Extraordinary), dated: 12 May 1951, pp. 340-388, s. 4 read with the Third Schedule. It was earlier substituted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>3</sup>Repealed by the Repealing and Amending Act, 1914 (X of 1914), published in the Gazette of India, dated: 21 March 1914, pp. 47-59, s. 3 read with Second Schedule.

<sup>4</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

exigency of any writ, warrant, or order by which such person has been committed, or until such person is discharged or removed in due course of law.

**4. Officers in charge of prisons to return writs, etc., after execution or discharge.**— The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

<sup>1</sup>  
**[PART III  
Prisoners in the Presidency-towns. \* \* \* \* \*]**

**PART IV  
<sup>2</sup>[Execution of Sentences]**

**14. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.**— In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

**15. Power for officers in charge of prisons to give effect to sentences of certain Courts.**— (1) Officers in charge of prisons <sup>3</sup>[\* \* \*] may give effect to any sentence or order or warrant for the detention of any person passed or issued—

- (a) by any Court or tribunal acting, whether within or without <sup>4</sup>[the Provinces <sup>5</sup>[\* \* \* \* \*] ], under the general or special authority of <sup>6</sup>[ <sup>7</sup>[the <sup>8</sup>[Federal] Government], or of any Provincial Government, or of the Government of Burma] <sup>9</sup>[or of any Court or tribunal which was before the twenty-third day of March, 1956, acting under the general or special authority of Her Majesty, or of the Crown Representative], or

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<sup>1</sup>Omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>2</sup>Substituted *ibid.*, for the heading "PRISONERS OUTSIDE THE PRESIDENCY-TOWNS".

<sup>3</sup>The words "outside the Presidency-towns" were omitted *ibid.*

<sup>4</sup>Substituted *ibid.*, for the words "British India", Article 3(2) read with Article 4.

<sup>5</sup>The expression "and the Federal Territory of Karachi" was omitted by the Central Adaptation of Laws Order, 1964 (P. O. No. 1 of 1964); made by the President on 27 May 1964; and, was published in the Gazette of Pakistan (Extraordinary), dated: 28 May 1964, pp. 251c-251aap, Article 2 read with the Schedule. The words "Federal Territory of Karachi" were earlier substituted for the words "Capital of the Federation" by the Repealing and Amending Ordinance, 1961 (I of 1961), published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 71-101, s. 3 read with the Second Schedule.

<sup>6</sup>Substituted for the expression "Her Majesty, or of the Central Government, or of the Crown representative," by the Central Laws (Adaption) Order, 1961 (P. O. No. 1 of 1961); made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956.

<sup>7</sup>Substituted for the expression "of the Governor General in Council, or of any Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>8</sup>Substituted for the word "Central" by the Punjab Laws (Adaptation) Order, 1974 (Pb. O. No. 1 of 1974), published in the Punjab Gazette (Extraordinary), dated: 20 November 1974, pp. 1425-A to 1425-PP, Article 2 read with the Schedule: it came into force on 14 August 1973.

<sup>9</sup>Inserted by the Central Laws (Adaption) Order, 1961 (P. O. No. 1 of 1961); made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956.

- (b) by any Court or tribunal in <sup>1</sup>[any <sup>2</sup>[Acceding State] ]—
- (i) if the presiding Judge, or if the Court or tribunal consists of two or more Judges, at least one of the Judges, is an officer of the <sup>3</sup>[Government] authorized to sit as such Judge <sup>4</sup>[by the State or the Ruler thereof] or by <sup>5</sup>[the <sup>6</sup>[Federal] Government or the Crown Representative], and
- (ii) if the reception, detention or imprisonment <sup>7</sup>[\* \* \*] in any province <sup>8</sup>[\* \* \*] of persons sentenced by any such Court, or tribunal has been authorized by general or special order by <sup>9</sup>[\* \* \* \* \*] the <sup>10</sup>[Provincial Government], <sup>11</sup>[\* \* \* \* \*], or
- (c) by any other Court or tribunal <sup>12</sup>[in any <sup>13</sup>[Acceding State] ], with the previous sanction <sup>14</sup>[\* \* \* \* \*] of the <sup>15</sup>[Provincial Government] in the case of each such sentence, order or warrant.
- <sup>16</sup>[Provided that effect shall not be given to any sentence or order or warrant for detention passed or issued by any Court or tribunal in Burma without the previous sanction of the Provincial Government concerned.]

(2) Where a Court or tribunal of such a <sup>17</sup>[Ruler] or State has passed a sentence which cannot be executed without the concurrence of an officer of the <sup>1</sup>[Government], and

<sup>1</sup>Substituted for the expression “the territories of any Native Prince, or State in India” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>2</sup>Substituted for the words “Indian State” by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), published in the Gazette of Pakistan (Extraordinary), dated: 12 May 1951, pp. 340-388, s. 4 read with the Third Schedule.

<sup>3</sup>Substituted for the words “Crown” by the Central Laws (Adaption) Order, 1961 (P.O. No. 1 of 1961); made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956. It was earlier substituted for the words “British Government” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>4</sup>*Ibid.*, for the words “by the Native Prince or State”.

<sup>5</sup>Substituted for the words “the Governor-General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>6</sup>Substituted for the word “Central” by the Punjab Laws (Adaptation) Order, 1974 (Pb. O. No. 1 of 1974), published in the Punjab Gazette (Extraordinary), dated: 20 November 1974, pp. 1425-A to 1425-PP, Article 2 read with the Schedule: it came into force on 14 August 1973.

<sup>7</sup>The words “in British India or” were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>8</sup>The words “of British India” were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>9</sup>The words “the Governor-General in Council or” were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>10</sup>Substituted *ibid.*, for the words “Local Government”, Article 4 read with the Table of General Adaptations.

<sup>11</sup>The words “as the case may be” were omitted *ibid.*, Article 3 read with the First Schedule.

<sup>12</sup>Substituted *ibid.*, for the words “in the territories of any Native Prince or State in India”.

<sup>13</sup>Substituted for the words “Indian State” by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), published in the Gazette of Pakistan (Extraordinary), dated: 12 May 1951, pp. 340-388, s. 4 read with the Third Schedule.

<sup>14</sup>The words “of the Governor General in Council or” were omitted by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>15</sup>Substituted *ibid.*, for the words “Local Government”, Article 4 read with the Table of General Adaptations.

<sup>16</sup>Inserted *ibid.*, Article 3 read with the First Schedule.

<sup>17</sup>Substituted *ibid.*, for the words “Native Prince”.

such sentence has been considered on the merits and confirmed by any such officer specially authorised in that behalf, such sentence, and any order or warrant issued in pursuance thereof, shall be deemed to be the sentence, order or warrant of a Court or tribunal acting under the authority of <sup>2</sup>[the <sup>3</sup>[Federal] Government or the Crown Representative].

**16. Warrant of officer of such Court to be sufficient authority.**— A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

**17. Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this Part.**— (1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the <sup>4</sup>[Provincial Government], by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-section (1), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

**18. Execution in <sup>5</sup>[the Provinces] of certain capital sentences not ordinarily executable there.**— (1) Where a <sup>6</sup>[Court established by the authority of the <sup>7</sup>[Federal] Government] exercising, in or with respect to territory beyond the limits of <sup>8</sup>[the Provinces <sup>9</sup>[\* \* \* \* \*]], jurisdiction which <sup>10</sup>[the <sup>11</sup>[Government] ] has in such territory,—

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<sup>1</sup>Substituted for the word “Crown” by the Central Laws (Adaption) Order, 1961 (P.O. No. 1 of 1961); made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956. It was earlier substituted for the words “British Government” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>2</sup>Substituted for the words “the Governor-General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>3</sup>Substituted for the word “Central” by the Punjab Laws (Adaptation) Order, 1974 (Pb. O. No. 1 of 1974), published in the Punjab Gazette (Extraordinary), dated: 20 November 1974, pp. 1425-A to 1425-PP, Article 2 read with the Schedule: it came into force on 14 August 1973.

<sup>4</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>5</sup>Substituted for the words “British India” by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3(2) read with Article 4.

<sup>6</sup>*Ibid.*, for the words “British Court”, Article 3 read with the Schedule.

<sup>7</sup>Substituted for the word “Central” by the Punjab Laws (Adaptation) Order, 1974 (Pb. O. No. 1 of 1974), published in the Punjab Gazette (Extraordinary), dated: 20 November 1974, pp. 1425-A to 1425-PP, Article 2 read with the Schedule: it came into force on 14 August 1973.

<sup>8</sup>Substituted for the words “British India” by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3(2) read with Article 4.

<sup>9</sup>The expression “and the Federal Territory of Karachi” was omitted by the Central Adaptation of Laws Order, 1964 (P. O. No. 1 of 1964); made by the President on 27 May 1964; and, was published in the Gazette of Pakistan (Extraordinary), dated: 28 May 1964, pp. 251c-251aap, Article 2 read with the Schedule. The words “Federal Territory of Karachi” were earlier substituted for the words “Capital of the Federation” by the Repealing and Amending Ordinance, 1961 (I of 1961), published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 71-101, s. 3 read with the Second Schedule.

<sup>10</sup>Substituted for the words “the Governor General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>11</sup>Substituted for the word “Crown” by the Central Laws (Adaption) Order, 1961 (P.O. No. 1 of 1961); made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was

- (a) has sentenced any person to death, and,
- (b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in <sup>1</sup>[the Provinces <sup>2</sup>[\* \* \* ]], has issued its warrant for the execution of such sentence to the officer in charge of a prison in <sup>3</sup>[the Provinces <sup>4</sup>[\* \* \* ]],

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898<sup>5</sup>.

(2) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid <sup>6</sup>[shall in each Province be such as the Provincial Government] may, by general or special order, direct.

(3) A Court shall be <sup>7</sup>[deemed, for the purposes of this section, to be a Court established by the <sup>8</sup>[Federal] Government ] if the presiding Judge, or if the Court consists of two or more Judges, at least one of the Judges, is an officer of the <sup>9</sup>[Government] authorized to act as such Judge

<sup>10</sup>[by any <sup>11</sup>[Acceding State] ] or the Ruler thereof or the <sup>1</sup>[Federal] Government <sup>2</sup>[\* \* \* ]]:

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published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956.

<sup>1</sup>Substituted for the words "British India" by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp.223-283, Article 3(2) read with Article 4.

<sup>2</sup>The words "and the Federal Territory of Karachi" were omitted by the Central Adaptation of Laws Order, 1964 (P.O. 1 of 1964), published in the Gazette of Pakistan (Extraordinary), dated: 28 May 1964, pp. 251c to 251aap, Article 2 and Schedule. The words "Federal Territory of Karachi" were earlier substituted for the words "Capital of the Federation" by the Repealing and Amending Ordinance, 1961 (I of 1961), published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 71-101, s. 3 read with the Second Schedule.

<sup>3</sup>Substituted for the words "British India" by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3(2) read with Article 4.

<sup>4</sup>The words and brackets "and the Federal Territory of Karachi" were omitted by the Central Adaptation of Laws Order, 1964 (P.O. 1 of 1964), published in the Gazette of Pakistan (Extraordinary), dated 28 May 1964, pp.251 c to 251 aap, Article 2 read with the Schedule. The words in crotchets were substituted for the words "Capital of the Federation" by the Repealing and Amending Ordinance, 1961 (I of 1961), published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 71-101, s. 3 read with the Second Schedule.

<sup>5</sup>V of 1898.

<sup>6</sup>Substituted for the words "shall be such as the Governor-General in Council or a Local Government authorised by the Governor General in Council in this behalf" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>7</sup>Substituted for the words "deemed to be a British Court for the purposes of this section" by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>8</sup>Substituted for the word "Central" by the Punjab Laws (Adaptation) Order, 1974 (Pb. O. No. 1 of 1974), published in the Punjab Gazette (Extraordinary), dated: 20 November 1974, pp. 1425-A to 1425-PP, Article 2 read with the Schedule.

<sup>9</sup>Substituted for the word "Crown" by the Central Laws (Adaption) Order, 1961 (P.O. No. 1 of 1961);

made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956. It was earlier substituted for the words "British Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>10</sup>Substituted for the words "by any Native Prince or State in India or by the Governor-General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>11</sup>Substituted for the words "Indian State" by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), published in the Gazette of Pakistan (Extraordinary), dated: 12 May 1951, pp. 340-388, s. 4 read with the Third Schedule.

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consists of more than one Judge, be signed by a Judge who is an officer of the <sup>3</sup>[Government] authorized as aforesaid.

<sup>4</sup>**[PART V  
Persons under Sentence of Penal Servitude]**

**PART VI  
Removal of Prisoners**

**28. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.**— In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

<sup>5</sup>**29. Removal of prisoners.**— (1) The <sup>6</sup>[Provincial Government] may, by general or special order, provide for the removal of any prisoner confined in a prison—

- (a) under sentence of death, or
- (b) under, or in lieu of, a sentence of imprisonment or transportation, or
- (c) in default of payment of a fine, <sup>7</sup>[\*]
- (d) in default of giving security for keeping the peace or for maintaining good behaviour,
- <sup>8</sup>[(e) unconvicted criminal prisoners],

to any other prison in <sup>9</sup>[the Province, or with the consent of the Provincial Government concerned, to any prison in <sup>10</sup>[the other Province]], <sup>1</sup>[or, with the consent of the <sup>2</sup>[Federal Government], to any prison maintained <sup>3</sup>[by it or under its authority] in any part of <sup>4</sup>[Pakistan].

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<sup>1</sup>Substituted for the word "Central" by the Punjab Laws (Adaptation) Order, 1974 (Pb. O. No. 1 of 1974), published in the Punjab Gazette (Extraordinary), dated: 20 November 1974, pp. 1425-A to 1425-PP, Article 2 read with the Schedule: it came into force on 14 August 1973.

<sup>2</sup>The words "or the Crown Representative" were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>3</sup>Substituted for the word "Crown" by the Central Laws (Adaption) Order, 1961 (P.O. No. 1 of 1961); made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956. It was earlier substituted for the words "British Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>4</sup>Omitted by the Criminal Law (Extinction of Discriminatory Privileges Act, 1949) (II of 1950), published in the Gazette of Pakistan (Extraordinary), dated: 13 January 1950, s. 2 read with the Schedule.

<sup>5</sup>Substituted by the Repealing and Amending Act, 1903 (I of 1903), published in the Government Gazette, Punjab and its Dependencies, dated: 19 March 1903, pp. 1-111, s. 3 read with the Second Schedule.

<sup>6</sup>Substituted for the words "Governor General in Council" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>7</sup>The word "or" was deleted by Notification No: Prs. I(M)1572, dated: 6 July 1977.

<sup>8</sup>Added *ibid*.

<sup>9</sup>Substituted for the words "British India or to any prison in Berar" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule. The words "or to any prison in Berar" were earlier added by the Prisoners (Amendment) Act, 1923 (XVII of 1923), published in the Gazette of India, dated: 16 March 1923, s. 2.

<sup>10</sup>Substituted for the words "any other Province" by the Central Adaptation of Laws Order, 1964 (P. O. No. 1 of 1964); made by the President on 27 May 1964; and, was published in the Gazette of Pakistan (Extraordinary), dated: 28 May 1964, pp. 251c-251aap, Article 2 read with the Schedule.

<sup>5</sup>[(2) Subject to the orders, and under the control of the Provincial Government, the Director of Prisons may, in the like manner provide for the removal of any prisoner confined as aforesaid in a prison situate in the area for which he is appointed to any other prison in such area.] ]

<sup>6</sup>[(3) The <sup>7</sup>[Federal Government] may, by general or special order, provide for the removal of any prisoner or class of prisoners confined in any prison to any other prison in Pakistan maintained by or under the authority of the <sup>8</sup>[Federal Government] or of a Provincial Government with the consent, <sup>9</sup>[\* \* \* \* \*], of the Provincial Government concerned.] ]

**30. Lunatic prisoners how to be dealt with.**— (1) Where it appears to the <sup>10</sup>[Provincial Government] that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the <sup>11</sup>[Provincial Government] may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the Province, there to be kept and treated as the <sup>12</sup>[Provincial Government] directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the <sup>13</sup>[Provincial Government] that the prisoner has become of sound mind, the <sup>14</sup>[Provincial Government] shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he

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<sup>1</sup>Added by the Prisoners (Amendment) Ordinance, 1942 (XV of 1942), published in the Gazette of India (Extraordinary), dated: 21 April 1942, s. 2.

<sup>2</sup>Substituted for the words "Central Government" by the Federal Adaptation of Laws Order, 1975 (P.O. No. 4 of 1975), published in the Gazette of Pakistan (Extraordinary), dated: 1 August 1975, pp. 435-467, Article 2 read with the Table of General Adaptations. They were earlier substituted for the words "Crown Representative" by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>3</sup>Substituted for the words "by him or under his authority" by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>4</sup>Substituted for the word "India" by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), published in the Gazette of Pakistan (Extraordinary), dated: 12 May 1951, pp. 340-388, s. 4 read with the Third Schedule.

<sup>5</sup>Substituted by the West Pakistan (Adaptation of Laws) Ordinance, 1962 (XXV of 1962), published in the Gazette of West Pakistan (Extraordinary), dated: 2 June 1962, pp. 2195-2200, s. 3 read with the Schedule II.

<sup>6</sup>Added by the Prisoners (Amendment) Act, 1953 ( XVII of 1953), published in the Gazette of Pakistan (Extraordinary), dated: 1 May 1953, p. 91, s. 2.

<sup>7</sup>Substituted for the words "Central Government" by the Federal Adaptation of Laws Order, 1975 (P.O. No. 4 of 1975), published in the Gazette of Pakistan (Extraordinary), dated: 1 August 1975, pp. 435-467, Article 2 read with the Table of General Adaptations.

<sup>8</sup>Substituted for the words "Central Government" by the Federal Adaptation of Laws Order, 1975 (P.O. No. 4 of 1975), published in the Gazette of Pakistan (Extraordinary), dated: 1 August 1975, pp. 435-467, Article 2 read with the Table of General Adaptations.

<sup>9</sup>The expression "where such other prison is situated in a Province not being a Chief Commissioner's Province" was omitted by the Central Adaptation of Laws Order, 1964 (P. O. No. 1 of 1964); made by the President on 27 May 1964; and, was published in the Gazette of Pakistan (Extraordinary), dated: 28 May 1964, pp. 251c-251aap, Article 2 read with the Schedule.

<sup>10</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>11</sup>*Ibid.*

<sup>12</sup>*Ibid.*

<sup>13</sup>*Ibid.*

<sup>14</sup>*Ibid.*

was removed, or to another prison within the Province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 9 of the Lunatic Asylums Act, 1858<sup>1</sup>, shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

<sup>2</sup>[(4) In any case in which the <sup>3</sup>[Provincial Government] is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the <sup>4</sup>[Provincial Government] may order his removal to any such asylum or place within <sup>5</sup>[the other Province] or within <sup>6</sup>[any <sup>7</sup>[Acceding State] ] by agreement with the <sup>8</sup>[Provincial Government] of such other Province or with <sup>9</sup>[such State or the Ruler thereof], as the case may be; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (1) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section.]

<sup>10</sup>**[31. Removal of prisoners from territories under one Local Government to territories under another.— \* \* \* \* \*]**

## PART VII Persons under Sentence of Transportation

**32. Appointment of places for confinement of persons under sentence of transportation and removal thereto.—** <sup>11</sup>[(1)] The <sup>12</sup>[Provincial Government] may appoint places within <sup>13</sup>[the Province] to which persons under sentence of transportation shall be

<sup>1</sup>XXXVI of 1858.

<sup>2</sup>Substituted by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

<sup>3</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>4</sup>*Ibid.*

<sup>5</sup>Substituted for the words "any other Province" by the Central Adaptation of Laws Order, 1964 (P. O. No. 1 of 1964); made by the President on 27 May 1964; and, was published in the Gazette of Pakistan (Extraordinary), dated: 28 May 1964, pp. 251c-251aap, Article 2 read with the Schedule.

<sup>6</sup>Substituted for the words "the territories of any Native Prince or State in India" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>7</sup>Substituted for the words "Indian State" by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951), published in the Gazette of Pakistan (Extraordinary), dated: 12 May 1951, pp. 340-388, s. 4 read with the Third Schedule.

<sup>8</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>9</sup>Substituted *ibid.*, for "such Native Prince or State", Article 3 read with the First Schedule. .

<sup>10</sup>Repealed by the Repealing and Amending Act, 1903 (I of 1903), published in the Government Gazette, Punjab and its Dependencies, Part IV, dated: 19 March 1903, pp. 73-111, s. 4 read with the Schedule III.

<sup>11</sup>Renumbered by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

<sup>12</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations. They were earlier substituted for the words "Governor General in Council" by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

<sup>13</sup>Substituted for the words "British India" by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

sent; and the <sup>1</sup>[Provincial Government], or some officer duly authorized in this behalf by the <sup>2</sup>[Provincial Government], shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

<sup>3</sup>[(2) In any case in which the <sup>4</sup>[Provincial Government] is competent under sub-section (1) to appoint places within the Provinces and to order the removal thereto of persons under sentence of transportation, the <sup>5</sup>[Provincial Government] may appoint such places in <sup>6</sup>[the other Province] by agreement with the <sup>7</sup>[Provincial Government] of that Province and may by like agreement give orders or duly authorize some officer to give orders for the removal thereto of such persons.]

## PART VIII Discharge of Prisoners

**33. Release, on recognizance, by order of High Court, of prisoner recommended for pardon.**— <sup>8</sup>[A High Court] may, in any case in which it has recommended to <sup>9</sup>[the President] the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

## PART IX Provisions for requiring the attendance of Prisoners and obtaining their evidence *Attendance of Prisoners in Court*

**34. References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools.**— In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

**35. Power for Civil Courts to require appearance of prisoner to give evidence.**— Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a

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<sup>1</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>2</sup>*Ibid.*

<sup>3</sup>Added by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

<sup>4</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>5</sup>*Ibid.*

<sup>6</sup>Substituted for the words "any other Province" by the Central Adaptation of Laws Order, 1964 (P. O. No. 1 of 1964); made by the President on 27 May 1964; and, was published in the Gazette of Pakistan (Extraordinary), dated: 28 May 1964, pp. 251c-251aap, Article 2 read with the Schedule.

<sup>7</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>8</sup>Substituted for the expression "Any Court which is a High Court for the purposes of the Government of India Act, 1935" by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960); assented to by the President on 7 June 1960; and, was published in the Gazette of Pakistan (Extraordinary), dated: 9 June 1960, pp. 725-845, s. 3 read with the Second Schedule: it came into force on 14 October 1955. The said expression was earlier substituted for the expression "Any court established under the Indian High Courts Act, 1861" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>9</sup>Substituted for the words "Her Majesty" by the Central Laws (Adaption) Order, 1961 (P.O. No. 1

of 1961); made by the Minister exercising the functions of President under Article 2 of the State Arrangements Order, 1959 on 21 January 1961; and, was published in the Gazette of Pakistan (Extraordinary), dated: 24 January 1961, pp. 102-163, Article 2 read with the Schedule: it came into force on 23 March 1956.

High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

**36. District Judge in certain cases to countersign orders made under section 35.—**

(1) Where an order under section 35 is made in any civil matter pending—

- (a) in a Court subordinate to the District Judge, or
- (b) in a Court of Small Causes <sup>1</sup>[\* \* \*],

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

- (i) the District Judge to which the Court is subordinate, or
- (ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(2) Every order submitted to the District Judge under sub-section (1) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

**37. Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.—**

Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison:

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the <sup>2</sup>[Sessions Judge] to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

**38. Order to be transmitted through Magistrate of the district or sub-division in which person is confined.—**

Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the <sup>3</sup>[Sessions Judge or] Magistrate within the local limits of whose jurisdiction the person is confined, and that <sup>4</sup>[Court] shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

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<sup>1</sup>The words "outside a Presidency-town" were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>2</sup>Substituted for the words "District Magistrate" by the Prisoners (Punjab Amendment) Ordinance, 2001 (XXXIX of 2001), published in the Punjab Gazette (Extraordinary), dated: 14 November 2001, pp. 1797-1798, s. 2: the said Ordinance was saved under Article 270AA of the Constitution of the Islamic Republic of Pakistan, as substituted by the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010), published in the Gazette of Pakistan (Extraordinary), dated: 20 April 2010, pp. 267-316, s. 96.

<sup>3</sup>*Ibid.*, for the words "District or Subdivisional", s. 3.

<sup>4</sup>*Ibid.*, for the word "Magistrate".

**39. Procedure where removal is desired of person confined <sup>1</sup>[\* \* \*] more than one hundred miles from place where evidence is required.**— (1) Where a person is confined <sup>2</sup>[\* \* \* \* \*] in a prison more than one hundred miles distant from the place where any Court, subordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate, apply in writing to the High Court, and the High Court may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(2) The High Court making an order under sub-section (1) shall send it to the <sup>3</sup>[Sessions Judge or] Magistrate within the local limits of whose jurisdiction the person named therein is confined, <sup>4</sup>[\* \* \* \* \*], and such <sup>5</sup>[Court] <sup>6</sup>[\* \*] shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

**40. Persons confined beyond limits of appellate jurisdiction of High Court.**— Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the <sup>7</sup>[Provincial Government] of the territories within which the prison is situate, and the <sup>8</sup>[Provincial Government] may, <sup>9</sup>[\* \* \*], direct that the person be so removed, subject to such rules regulating the escort of prisoners as the <sup>10</sup>[Provincial Government] may prescribe.

**41. Prisoner to be brought up.**— Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in

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<sup>1</sup>The words “in Presidency-town” deemed to be omitted by virtue of omission of text by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>2</sup>The expression “in a prison within a Presidency-town, or” were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>3</sup>Substituted for the words “District or Subdivisional” by the Prisoners (Punjab Amendment) Ordinance, 2001 (XXXIX of 2001), published in the Punjab Gazette (Extraordinary), dated: 14 November 2001, pp. 1797-1798, s. 4: the said Ordinance was saved under Article 270AA of the Constitution of the Islamic Republic of Pakistan, as substituted by the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010), published in the Gazette of Pakistan (Extraordinary), dated: 20 April 2010, pp. 267-316, s. 96.

<sup>4</sup>The expression “or, in the case of a person confined in a prison within a Presidency-town, to the Commissioner of Police” were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>5</sup>Substituted for the word “Magistrate” by the Prisoners (Punjab Amendment) Ordinance, 2001 (XXXIX of 2001), published in the Punjab Gazette (Extraordinary), dated: 14 November 2001, pp. 1797-1798, s. 4: the said Ordinance was saved under Article 270AA of the Constitution of the Islamic Republic of Pakistan, as substituted by the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010), published in the Gazette of Pakistan (Extraordinary), dated: 20 April 2010, pp. 267-316, s. 96.

<sup>6</sup>The words “or Commissioner” were omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>7</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>8</sup>*Ibid.*

<sup>9</sup>The words “if it thinks fit” were deleted by the Prisoners (Punjab Amendment) Ordinance, 1984 (XXVIII of 1984), published in the Punjab Gazette (Extraordinary), dated: 17 December 1984, pp. 2043-2044, s. 2.

<sup>10</sup>Substituted for the words “Governor General in Council” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

or near the Court until he has been examined or until the Judge or presiding officer of the Court authorizes him to be taken back to the prison in which he was confined.

**42. Power to Government to exempt certain prisoners from operation of this Part.**—<sup>1</sup>[\* \* \* \* \*] the <sup>2</sup>[Provincial Government] may, by notification in <sup>3</sup>[\* \* \* \* \*] the <sup>4</sup>[Official Gazette], <sup>5</sup>[\* \* \* \* \*] direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

**43. Officer in charge of prison when to abstain from carrying out orders.**— In any of the following cases, that is to say,—

- (a) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the <sup>6</sup>[Sessions Judge or] Magistrate within the local limits of whose jurisdiction the prison is situate, and if such <sup>7</sup>[Court], by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or
- (b) where the person named in any such order is under committal for trial; or
- (c) where the person named in any such order is under a remand pending trial or pending a preliminary investigation; or
- (d) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined;

the officer in charge of the prison shall abstain from carrying out the order, and shall send to the Court from which the order has been issued, a statement of the reason for so abstaining:

Provided that such officer as aforesaid shall not so abstain where—

- (i) the order has been made under section 37; and
- (ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed; and

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<sup>1</sup>The words “The Governor General in Council or” were omitted by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

<sup>2</sup>Substituted for the words “Local Government” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>3</sup>The words “the Gazette of India or” were omitted by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

<sup>4</sup>Substituted for the words “local official Gazette” by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>5</sup>The expression “as the case may be,” was omitted by the Devolution Act, 1920 (XXXVIII of 1920), published in the Government Gazette, Punjab and its Dependencies, dated: 24 September 1920, pp. 127-153, s. 2 read with the First Schedule.

<sup>6</sup>Substituted for the words “District or Subdivisional” by the Prisoners (Punjab Amendment) Ordinance, 2001 (XXXIX of 2001), published in the Punjab Gazette (Extraordinary), dated: 14 November 2001, pp. 1797-1798, s. 5: the said Ordinance was saved under Article 270AA of the Constitution of the Islamic Republic of Pakistan, as substituted by the Constitution (Eighteenth Amendment) Act, 2010 (X of 2010), published in the Gazette of Pakistan (Extraordinary), dated: 20 April 2010, pp. 267-316, s. 96.

<sup>7</sup>*Ibid.*, for the word “Magistrate”.

- (iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

### ***Commissions for examination of prisoners***

**44. Commissions for examination of prisoners.**— In any of the following cases, that is to say,—

- (a) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, who, for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in any matter pending before it; or
- (b) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter; or
- (c) where the District Judge declines, under section 36, to countersign an order for removal;

the Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure<sup>1</sup>, for the examination of the person in the prison in which he is confined.

**45. Commissions for examination of prisoners beyond limits of appellate jurisdiction of High Court.**— Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure<sup>2</sup>, for the examination of the person in the prison in which he is confined.

**46. Commission how to be directed.**— Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situated, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

### ***Service of Process on Prisoners***

**47. Process how served on prisoners.**— When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

**48. Process served to be transmitted at prisoner's request.**— (1) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

(2) Such certificate as aforesaid shall be *prima facie* evidence of the service of the process, and, if the person to whom the process is directed, requests that the copy

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<sup>1</sup>XIV of 1882. Subsequently replaced by the Code of Civil Procedure 1908 (V of 1908).

<sup>2</sup>XIV of 1882. Subsequently replaced by the Code of Civil Procedure 1908 (V of 1908).

shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

### **Miscellaneous**

<sup>1</sup>[49. **Application of Part in certain cases.**— \* \* \* \* \*]

**50. Deposit of costs.**— No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the <sup>2</sup>[Provincial Government] from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the Code of Civil Procedure<sup>3</sup>.

**51. Power to make rules under this Part.**— (1) The <sup>4</sup>[Provincial Government], <sup>5</sup>[\* \* \* \* \*], may make rules—

- (a) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance;
- (b) for regulating the amount to be allowed for the costs and charges of such escort; and
- (c) for the guidance of officers in all other matters connected with the enforcement of this Part.

(2) All rules made under sub-section (1) shall be published in the <sup>6</sup>[official Gazette] <sup>7</sup>[\* \* \*], and shall, from the date of such publication, have the same force as if enacted by this Act.

**52. Power to declare who shall be deemed officer in charge of prison.**— The <sup>8</sup>[Provincial Government] may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.

<sup>9</sup>[53. **Repeals.**— \* \* \* \* \*]

<sup>1</sup>Omitted by the Adaptation of Central Acts and Ordinances Order, 1949 (G.G.O. No. 4 of 1949), published in the Gazette of Pakistan (Extraordinary), dated: 28 March 1949, pp. 223-283, Article 3 read with the Schedule.

<sup>2</sup>Substituted for the word "Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>3</sup>Now the Code of Civil Procedure, 1908 (V of 1908).

<sup>4</sup>Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 4 read with the Table of General Adaptations.

<sup>5</sup>The expression "and in cases arising under section 40, the Governor General in Council" was omitted *ibid.*, Article 3 read with the First Schedule.

<sup>6</sup>Substituted *ibid.*, for the words "local official Gazette", Article 4 read with the Table of General Adaptations.

<sup>7</sup>The expression "or the Gazette of India, as the case may be" was omitted by the Government of India (Adaptation of Indian Laws) Order, 1937, published in the Gazette of India (Extraordinary), dated: 1 April 1937, pp. 75-344, Article 3 read with the First Schedule.

<sup>8</sup>Substituted *ibid.*, for the words "Local Government", Article 4 read with the Table of General Adaptations.

<sup>9</sup>Repealed by the Repealing and Amending Act, 1914 (X of 1914), published in the Gazette of India, dated: 21 March 1914, pp. 47-59, s. 3 read with Second Schedule.

**THE FIRST SCHEDULE**

(See sections 35 and 37.)

Court of \_\_\_\_\_.

To the officer in charge of the \_\_\_\_\_ (*state name of prison*).

You are hereby required to produce \_\_\_\_\_, now a prisoner in \_\_\_\_\_, under safe and sure conduct before the Court of \_\_\_\_\_ at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next by \_\_\_\_\_ of the clock in the forenoon of the same day, there to give evidence in a matter now pending before the said Court, and after the said \_\_\_\_\_ has then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The \_\_\_\_\_ day of \_\_\_\_\_.

A.B.

(Countersigned) C.D.

## THE SECOND SCHEDULE

(See section 37.)

Court of \_\_\_\_\_.

To the officer in charge of the \_\_\_\_\_ (*state name of prison*).

You are hereby required to produce \_\_\_\_\_, now a prisoner in \_\_\_\_\_, under safe and sure conduct before the Court of \_\_\_\_\_ at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ next by \_\_\_\_\_ of the clock in the forenoon of the same day, there to answer a charge now pending before the said Court, and after such charge has been disposed of or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

The \_\_\_\_\_ day of \_\_\_\_\_.

A.B.

(Countersigned) C.D.

<sup>1</sup> [THE THIRD SCHEDULE]

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<sup>1</sup>Repealed by the Repealing and Amending Act, 1914 (X of 1914), published in the Gazette of India, dated: 21 March 1914, pp. 47-59, s. 3 read with Second Schedule.