

(1)

REGISTERED No. S. 1033  
L-7646

# The Gazette of Pakistan



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

---

---

**ISLAMABAD, THURSDAY, JANUARY 8, 1976**

---

---

PART I

**Acts, Ordinances, President's Orders and Regulations**

**NATIONAL ASSEMBLY SECRETARIAT**

*Islamabad, the 8th January, 1976*

The following Acts of Parliament received the assent of the President on the 3rd January, 1976, and are hereby published for general information :—

*An Act further to amend the Divorce Act*

WHEREAS it is expedient further to amend the Divorce Act (IV of 1869), for the purposes hereinafter appearing :

It is hereby enacted as follows :—

**1. Short title and commencement.**—(1) This Act may be called the Divorce (Amendment) Act, 1975.

(2) It shall come into force at once.

**2. Amendment of section 3, Act IV of 1869.**—In the Divorce Act (IV of 1869), hereinafter referred to as the said Act, in section 3,—

(a) for clauses (1), (2), (3) and (4) the following shall be substituted, namely :—

- |                          |   |
|--------------------------|---|
| “ ‘ Civil Judge ’        | .. (1) “ ‘ Civil Judge ’ means a Civil Judge appointed under the West Pakistan Civil Courts Ordinance, 1962 (W.P. Ordinance No. II of 1962) ;   |
| ‘ Court of Civil Judge ’ | .. (2) “ ‘ Court of Civil Judge ’ means, in the case of any petition under this Act, the Court of the Civil Judge within the local limits of whose ordinary jurisdiction the husband and wife reside or last resided together ; |

' Court '

(3) " Court " means the High Court, the District Court or the Court of Civil Judge, as the case may be ; and

(b) in clause (5), for the word " Native ", occurring twice, the word " Pakistani " shall be substituted."

3. **Omission of section 4, Act IV of 1869.**—In the said Act, section 4 shall be omitted.

4. **Omission of sections 5 and 6, Act IV of 1869.**—In the said Act, sections 5 and 6 shall be omitted.

5. **Amendment of section 7, Act IV of 1869.**—In the said Act, in section 7,—

(a) for the words " High Courts and District Courts " the word " Court " shall be substituted ; and

(b) for the words " said Courts " the word " Court " shall be substituted.

6. **Omission of section 8, Act IV of 1869.**—In the said Act, section 8 shall be omitted.

7. **Omission of section 9, Act IV of 1869.**—In the said Act, section 9 shall be omitted.

8. **Amendment of section 10, Act IV of 1869.**—In the said Act, in section 10, for the words " District Court or to the High Court ", occurring twice, the words " Court of Civil Judge " shall be substituted.

9. **Amendment of section 13, Act IV of 1869.**—In the said Act, in section 13, the last clause beginning with the words " When a petition " and ending in the words " High Court " shall be omitted.

10. **Amendment of section 14, Act IV of 1869.**—In the said Act, in section 14, in the fourth clause, the words and figures " in the manner and subject to all the provisions and limitations in sections 16 and 17 made and declared " shall be omitted.

11. **Omission of sections 16, 17 and 17A, Act IV of 1869.**—In the said Act, sections 16, 17 and 17A shall be omitted.

12. **Amendment of section 18, Act IV of 1869.**—In the said Act, in section 18, for the words " District Court or to the High Court " the words " Court of Civil Judge " shall be substituted.

13. **Amendment of section 19, Act IV of 1869.**—In the said Act, in section 19, for the words " High Court " the word " Court " shall be substituted.

14. **Omission of section 20, Act IV of 1869.**—In the said Act, section 20 shall be omitted.

15. **Amendment of sections 23, 27, 32 and 34, Act IV of 1869.**—In the said Act, in sections 23, 27, 32 and 34, for the words " District Court or the High Court ", wherever occurring, the words " Court of Civil Judge " shall be substituted.

16. **Amendment of section 35, Act IV of 1869.**—In the said Act, in section 35, the last clause beginning with the words “Whenever any application” and ending in the words “occasioned by the application” shall be omitted.

17. **Amendment of section 37, Act IV of 1869.**—In the said Act, in section 37,—

- (a) the first two clauses shall be omitted ; and
- (b) in the third clause, for the word “order” the following shall be substituted, namely :—

“The Court may, if it thinks fit, on any decree declaring a marriage to be dissolved, or on any decree of judicial separation obtained by the wife, order”.

18. **Amendment of section 40, Act IV of 1869.**—In the said Act, in section 40,—

- (a) the first two clauses shall be omitted ; and
- (b) in the third clause, for the word “may” the following shall be substituted, namely :—

“The Court, after making a decree for dissolution of marriage or a decree of nullity of marriage, may”.

19. **Substitution of section 43, Act IV of 1869.**—In the said Act, for section 43 the following shall be substituted, namely :—

“43. *Power to make orders as to custody of children in suits for dissolution or nullity.*—In any suit for obtaining a dissolution of marriage or a decree of nullity of marriage, the Court may from time to time, before making its decree, make such interim orders, and may make such provision in the decree, as it deems proper with respect to the custody, maintenance and education of the minor children, the marriage of whose parents is the subject of the suit ; and may, if it thinks fit, direct proceedings to be taken for placing such children under the protection of the Court.”.

20. **Substitution of section 44, Act IV of 1869.**—In the said Act, for section 44 the following shall be substituted, namely :—

“44. *Power to make such orders after decree.*—The Court, after a decree for dissolution of marriage or a decree of nullity of marriage, may, upon application by petition for the purpose, make from time to time all such orders and provision, with respect to the custody, maintenance and education of the minor children, the marriage of whose parents was the subject of the decree, or for placing such children under the protection of the Court, as might have been made by such decree or by such interim orders as aforesaid.”.

21. **Amendment of section 55, Act IV of 1869.**—In the said Act, in section 55,—

- (a) the first proviso shall be omitted ; and
- (b) in the second proviso, the word “also” shall be omitted.

22. **Omission of section 56, Act IV of 1869.**—In the said Act, section 56 shall be omitted.

23. **Substitution of section 57, Act IV of 1869.**—In the said Act, for section 57 the following shall be substituted, namely:—

“ 57. *Liberty to parties to marry again.*—After the expiry of six months from the date of a decree for the dissolution of a marriage, or, where an appeal has been presented against any such decree, after the dismissal of such appeal or the declaration of the marriage as dissolved as a result of such appeal, but not sooner, it shall be lawful for the parties to the marriage to marry again as if the prior marriage had been dissolved by death.”

24. **Amendment of Schedule of Forms, Act IV of 1869.**—In the said Act, in the Schedule of Forms, the brackets and word “(High)”, the words and brackets “To the Hon’ble Mr. Justice [or To the Judge of]” and the brackets and word “(Hon’ble)”, wherever occurring, shall be omitted.

25. **Saving.**—All suits, appeals and proceedings in causes and matters matrimonial pending in any High Court or District Court in which recording of evidence has commenced immediately before the commencement of this Act shall be dealt with and decided by such Court, so far as may be, as if this Act had not come into force.

M. A. HAQ,  
*Secretary.*

GOVERNMENT OF PAKISTAN

**MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS**

**(Law Division)**

*Islamabad, the 8th January, 1976*

**No. F. 24 (1)/76-Pub.**—The following Ordinance made by the President on the 6th January, 1976, is hereby published for general information:—

ORDINANCE No. 1 OF 1976

AN

**ORDINANCE**

*to declare the holders of the office of Adviser to the Governor not to be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly;*

WHEREAS paragraph (d) of clause (1) of Article 63 read with Article 127 of the Constitution provides that a person holding any office of profit in the service of Pakistan may be declared by law not to be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly;

AND, WHEREAS, it is expedient in the public interest to declare that persons holding the office of Adviser to a Governor during certain period shall not be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly;

AND, WHEREAS, the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance :--

**1. Short title and commencement.**—(1) This Ordinance may be called the Members of Parliament and Provincial Assemblies (Exemption of Advisers from Disqualification) Ordinance, 1976.

(2) It shall come into force at once and shall be deemed to have taken effect on the thirty-first day of December, 1975.

**2. Adviser to Governor not to be disqualified.**—It is hereby declared that any person holding the office of Adviser to the Governor of a Province during the period—

- (a) that an Order under paragraph (c) of clause (2) of Article 232 of the Constitution is in force whereby the Federal Government has assumed to itself, or directed the Governor of a Province to assume on its behalf, all or any of the functions of the Government of that Province ; or

- (b) a Proclamation under Article 234 of the Constitution is in force ;

shall not be disqualified from being elected or chosen as, and from being, a member of Parliament or a Provincial Assembly.

FAZAL ELAHI CHAUDHRY,  
*President.*

Countersigned.

ZULFIKAR ALI BHUTTO,  
*Prime Minister.*

ZIAUL HAQ CHANA,  
*Secretary.*

---

### CORRIGENDA

[To the Gazette of Pakistan, Extraordinary, Part I, dated the 29th December, 1975, containing Ordinance Nos. XXIX, XXX and XXXI of 1975.]

Page 663 : In line 2, from the bottom, for "end" read "end,".

Page 664 : In the second line, for "commas," read "comma,".

Page 664 : In line 5, for "498 amended as aforesaid," read "498,".

Page 665 : In the second line, for "(Act of 1908)," read "(Act V of 1908),".