

REGISTERED No. **S. 1033**
Lr-7646

The Gazette  **of Pakistan**

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, WEDNESDAY, JULY 21, 1976

PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 21st July, 1976

The following Acts of Parliament received the assent of the President on the 16th July, 1976, and are hereby published for general information:—

An Act further to amend the Pakistan Army Act, 1952

WHEREAS it is expedient further to amend the Pakistan Army Act, 1952 (XXXIX of 1952), and to repeal the Commander-in-Chief (Delegation of Powers) Ordinance, 1971 (VI of 1971), for the purposes hereinafter appearing :

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Pakistan Army (Amendment) Act, 1976.

(2) It shall come into force at once.

2. Amendment of section 3, Act XXXIX of 1952.—In the said Act, in section 3, in sub-section (1), after the word, brackets and letter “ clause (c) ”, the words, brackets and letter “ or clause (d) ” shall be inserted.

3. Amendment of section 8, Act XXXIX of 1952.—In the said Act, in section 8,—

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

“ (2) “ Chief of the Army Staff ” means the Officer commanding the Pakistan Army ;

(3) “ civil offence ” means an offence which, if committed in Pakistan, would be triable by a criminal court. ” ; and

(ii) for clause (12) the following shall be substituted, namely :—

(12) “ officer ” means a person, other than a junior commissioned officer, commissioned, gazetted or in pay as an officer of the Pakistan Army and includes, in relation to a person subject to this Act when serving under such conditions as may be prescribed, an officer of the Pakistan Navy and an officer of the Pakistan Air Force. ”.

4. Omission of section 9A, Act XXXIX of 1952.—In the said Act, section 9A shall be omitted.

5. Amendment of section 15, Act XXXIX of 1952.—In the said Act, in section 15, in sub-section (1), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that, if the person to be attested is a Muslim, this section shall have effect as if reference therein to affirmation were omitted. ”

6. **Omission of section 15A, Act XXXIX of 1952.**—In the said Act, section 15A shall be omitted.

7. **Amendment of section 20, Act XXXIX of 1952.**—In the said Act, in section 20, in sub-section (3), for the words “ transportation or imprisonment ” the words “ imprisonment for life or for a shorter term ” shall be substituted.

8. **Amendment of section 36, Act XXXIX of 1952.**—In the said Act, in section 36, in sub-section (1), for the words and comma “ for the first offence with rigorous imprisonment for a term which may extend to two years or with such less punishment as is in this Act mentioned, and for the second or any subsequent offence with rigorous imprisonment for a term which may extend to ten years ” the words “ with rigorous imprisonment for a term which may extend to five years ” shall be substituted.

9. **Amendment of section 37, Act XXXIX of 1952.**—In the said Act, in section 37 for the words “ five years ” the words “ three years ” shall be substituted.

10. **Amendment of section 48, Act XXXIX of 1952.**—In the said Act, in section 48, in clause (a) for the word “ of ” the word “ or ” shall be substituted.

11. **Amendment of section 59, Act XXXIX of 1952.**—In the said Act, in section 59, in sub-section (1),—

(a) in clause (a), for the word “ transportation ” the words “ imprisonment for life ” shall be substituted ; and

(b) in clause (b), the word “ with ”, occurring twice, shall be omitted.

12. **Amendment of section 60, Act XXXIX of 1952.**—In the said Act, in section 60,—

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

“ (b) imprisonment for life ; ” ; and

(ii) in the proviso, in clause (1), for the word “ transportation ” the words “ imprisonment for life ” shall be substituted.

13. **Amendment of section 62, Act XXXIX of 1952.**—In the said Act, in section 62, sub-sections (1), (2) and (5), for the word “ transportation ” the words “ imprisonment for life ” shall be substituted.

14. **Amendment of section 63, Act XXXIX of 1952.**—In the said Act, in section 63, for the word “ transportation ”, wherever occurring, the words “ imprisonment for life ” shall be substituted.

15. **Amendment of section 65, Act XXXIX of 1952.**—In the said Act, in section 65, in sub-section (2),—

- (i) in clause (a), the word and comma “transportation,” shall be omitted; and
- (ii) in the Explanation, in paragraph (iv), the word and comma “transportation,” shall be omitted.

16. **Amendment of section 78, Act XXXIX of 1952.**—In the said Act, in section 78,—

- (a) in sub-section (1), for the words “sixty days” the words “thirty days” shall be substituted; and
- (b) after sub-section (2), the following new sub-section shall be added namely:—

“(3) Notwithstanding anything contained in sub-section (1), a person who, after enrolment, fails to report to the corps or unit to which he is required to report within thirty days of the date on which he was required to so report, the commanding officer of the corps or unit shall declare such failure and enter in the court martial book of the corps or unit, as the case may be, a record of the declaration; and if the person in respect of whom such declaration has been made does not afterwards surrender, or is not apprehended, he shall, for the purposes of this Act, be deemed to be a deserter.”

17. **Amendment of section 89, Act XXXIX of 1952.**—In the said Act, in section 89, in sub-section (2), the words “of the judge advocate or” shall be omitted.

18. **Amendment of section 92, Act XXXIX of 1952.**—In the said Act, in section 92, in sub-section (2), in the proviso, after the word and figure “section 31” the words and figure “or section 40” shall be inserted.

19. **Amendment of section 98, Act XXXIX of 1952.**—In the said Act, in section 98, for the word “transportation” the words “imprisonment for life” shall be substituted.

20. **Amendment of section 101, Act XXXIX of 1952.**—In the said Act, in section 101, for the word “transportation” the words “imprisonment for life” shall be substituted.

21. **Insertion of new section 108A, Act XXXIX of 1952.**—In the said Act, after section 108, the following new section shall be inserted, namely:—

“108A. *Affirmation not allowed in the case of Muslim.*—Where the person referred to in section 106 or section 107 or section 108 is a Muslim, the said section shall have effect as if reference therein to affirmation were omitted.”

22. **Amendment of section 124, Act XXXIX of 1952.**—In the said Act, in section 124,—

- (a) for the words “transportation for life” the words “imprisonment for life” shall be substituted;
- (b) in the first proviso,—
 - (i) for the word “transportation” the words “imprisonment for life” shall be substituted; and
 - (ii) for the colon at the end a full stop shall be substituted; and
- (c) the second proviso shall be omitted.

23. **Amendment of section 131, Act XXXIX of 1952.**—In the said Act, in section 131, in sub-section (1), for the words and comma “prescribed officer, provided that such prescribed officer is higher in rank than” the words “prescribed officer who is superior in command to” shall be substituted.

24. **Amendment of section 135, Act XXXIX of 1952.**—In the said Act, in section 135, for the word “transportation” the words “imprisonment for life” shall be substituted.

25. **Amendment of section 136, Act XXXIX of 1952.**—In the said Act, in section 136, for the word “transportation”, thrice occurring, the words “imprisonment for life” shall be substituted.

26. **Omission of section 139, Act XXXIX of 1952.**—In the said Act, section 139 shall be omitted.

27. **Amendment of section 140, Act XXXIX of 1952.**—In the said Act, in section 140, for the word “transportation” the words “imprisonment for life” shall be substituted.

28. **Amendment of section 143, Act XXXIX of 1952.**—In the said Act, in section 143,—

- (i) in sub-section (1), in the proviso, the words and comma “transportation shall not be commuted for a sentence of rigorous imprisonment for a term exceeding the term of transportation awarded by the court, and a sentence of” shall be omitted; and
- (ii) in sub-section (2), in the proviso, for the word “transportation” the words “imprisonment for life” shall be substituted.

29. **Amendment of section 144, Act XXXIX of 1952.**—In the said Act, in section 144, for the word “transportation” the words “imprisonment for life” shall be substituted.

30. **Amendment of section 166, Act XXXIX of 1952.**—In the said Act, in section 166, in clause (1) for the words “sixty days” the words “thirty days” shall be substituted.

31. **Amendment of section 176, Act XXXIX of 1952.**—In the said Act, in section 176, in sub-section (2), in clause (i), for the word “transportation” the words “imprisonment for life” shall be substituted.

32. Insertion of new sections 176B, 176C and 176D, Act XXXIX of 1952.—In the said Act, after section 176A, the following new sections shall be inserted, namely :—

“176B. *Reference to Commander-in-Chief in other Laws.*—Reference in any law, and in any rule, regulation, bye-law, notification, order, warrant, bond, document or other instrument made or issued under any law, to the “Commander-in-Chief” in relation to the Pakistan Army shall be construed as reference to the Chief of the Army Staff.

176C. *Delegation of powers of the Chief of the Army Staff.*—(1) Federal Government may, by order in writing, authorise the officer appointed as Deputy Chief of the Army Staff to exercise and perform, during any period when the Chief of the Army Staff is absent on leave or otherwise, all or any of the powers and functions vested in him, as such Chief of the Army Staff, under any law or under any rules, regulations, orders and instructions for the time being in force.

(2) The Deputy Chief of the Army Staff shall exercise the powers and perform the functions conferred upon him under sub-section (1) in accordance with such general or special directions as may be given in that behalf by the Federal Government.

176D. *Validation.*—Any power or function of the Commander-in-Chief, Pakistan Army, which has been exercised or performed by the Chief of Staff of the Pakistan Army or the Chief of the Army Staff or by an acting Chief of Staff of the Pakistan Army or by an acting Chief of the Army Staff or by an officer under the command or the authority of any of them at any time on or after the third day of March, 1972, and before the commencement of the Pakistan Army (Amendment) Act, 1976, shall be deemed to have been validly exercised or performed as if the Chief of Staff of the Pakistan Army, or the Chief of the Army Staff or the acting Chief of Staff of the Pakistan Army or the acting Chief of the Army Staff or such other officer as aforesaid, as the case may be, were duly authorised to exercise such power or perform such function.”

33. Omission of Chapter XVI, Act XXXIX of 1952.—In the said Act, Chapter XVI shall be omitted.

34. Repeal.—The Commander-in-Chief (Delegation of Powers) Ordinance, 1971 (VI of 1971), is hereby repealed.

M. A. HAQ,
Secretary.