



THE PAKISTAN (EXCHANGE OF PRISONERS) ORDINANCE, 1948



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THE PAKISTAN (EXCHANGE OF PRISONERS) ORDINANCE, 1948.

¹ORDINANCE NO. XII OF 1948

[19th March, 1948]

An Ordinance to implement an agreement with ²* * * India regarding the exchange of certain classes of prisoners between ²* * * Pakistan and ²* * * India.

WHEREAS an agreement has been reached between the two ³[Countries] to exchange certain classes of prisoners;

AND WHEREAS an emergency has arisen which makes it necessary immediately to implement the said agreement in so far as Pakistan is concerned;

¹ The Ordinance has been applied to Baluchistan with effect from the 19th March, 1948, see Gaz. of P., 1952, Pt. 1, p. 104; and extended to the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (G. G. O. 3 of 1950).

It has been applied also in the Federated Areas of Baluchistan, see Gaz. of P., 1953, Pt. 1, p. 152.

It has also been extended to—

(a) the Province of Sind and to Karachi, see Gaz. of P., Ext., 1948, p. 451;

(b) the Khairpur State, see the Khairpur (Federal Laws) (Extension) Order, 1953 (G. G. O. 5 of 1953), as amended; and

(c) the State of Bahawalpur, see the Bahawalpur (Extension of Federal Laws) Order, 1953 (G. G. O. 11 of 1953), as amended.

² The original words "The Dominion of" omitted by A. O., 1961, Art. 2 and Sch. (with effect from the 23rd March, 1956).

³ Subs. *ibid.*, for "Dominions" (with effect from the 23rd March, 1956).

NOW, THEREFORE, in exercise of the powers conferred by section 42 of the Government of India Act, 1935 (26 Geo,5 c,2), as adapted by the Pakistan (Provisional Constitution) Order, 1947, the Governor-General is pleased to make and promulgate the following Ordinance:—

PART I

PRELIMINARY

1. Short title, extent and Commencement.— (1) This Ordinance may be called the Pakistan (Exchange of Prisoners) Ordinance, 1948.

¹[(2) It shall extend to the Punjab, the North-West Frontier Baluchistan, in the first instance, but may at any time by notification in the Gazette of Pakistan be extended to any other part of Pakistan.

(3) It shall come into force in the Punjab, the North-west Frontier and Baluchistan at once, and in any other part of Pakistan on such date as the Government of the Province concerned may by notification in the official Gazette specify.]

2. The provisions of this Ordinance shall have force and operation notwithstanding anything contrary or repugnant thereto in any other law for the time being in force.

PART II

OF THE TRANSFER OF PRISONERS

3. Power of the Provincial Government to order removal of transferable prisoners. A Provincial Government may issue a warrant for the custody and removal of any transferable prisoner from any prison or other place of detention, and for his delivery at a place and to a person specified in the warrant:

¹ Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (21 of 1960), s.3 and 2nd Sch. (with effect from the 14th October, 1955), for the original sub-sections (2) and (3), as amended by the Federal Laws (Revision and Declaration) Act, 1951 (26 of 1951), s. 3 and Sch. II.

Provided that such person specified in the warrant shall be an official of ¹* * * India, or of any Province thereof, or of any State that has acceded thereto, who has been duly authorised in writing by name or designation of office, to receive such prisoner.

4. Officer-in-Charge of prison or place of detention to deliver custody of transferable prisoner. Upon presentation of a warrant issued under section 3 the Officer-in-Charge of the prison or other place of detention where the transferable prisoner named in the warrant is confined shall cause him to be delivered to the person to whom the warrant is directed together with the warrant of commitment, the history sheet and all other documents relating to him, and personal effects taken from him at the time of his admission, and such person shall furnish to such Officer-in-Charge a written receipt in respect of such delivery.

5. Avoidance of jurisdiction of Courts and authorities over transferable prisoners.—(1) Upon the delivery of custody of a transferable prisoner in compliance with a warrant issued under section 3 to the person, being an official of ¹* * * India or of any Province thereof or of any State that has acceded thereto, all Courts and authorities whatsoever in Pakistan shall cease to have and exercise jurisdiction in relation to such prisoner, in respect of the offence or other matter which was the cause of his confinement or detention in any Province of Pakistan.

(2) The Provincial Government may requisition the record of any proceedings (including judicial proceedings) relating to any transferable prisoner for whose removal a warrant has been issued under section 3, from any court or office where such record may be kept, and may direct that such record shall be delivered along with such prisoner to the person being an official of ¹* * * India or of any Province thereof or of any State that has acceded thereto specified in the aforesaid warrant, or otherwise forwarded to an appropriate authority in ¹* * * India.

¹ The original words "the Dominion of" omitted by A. O. 1961. Art. 2 and Sch. (with effect from the 23rd March 1956).