

SIND ACT No. II. of 1940.¹

[THE PUBLIC INQUIRIES ACT, 1940.]

[7th March, 1940]

An Act to provide for the constitution of Courts of Inquiry for holding public inquiries into certain matters.

WHEREAS it is expedient to provide for the constitution of Courts of Inquiry for holding public inquiries into certain matters ; It is hereby enacted as follows :—

1. This Act may be called the Public Inquiries Act, 1940. Short title.
2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

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(a) " High Court " means a High Court as defined in section 219 of the Government of India Act, 1935 ;

(b) " Court " means a Court of Inquiry constituted under this Act ;

(c) " prescribed " means prescribed³ by rules made under this Act.

3. The Provincial Government may, if it is of opinion that it is necessary in the interests of the Province that a public inquiry should be held in any matter of public importance affecting the Province, appoint a Court by order in writing recording the reasons for such appointment, which order shall be published in the *Official Gazette*, and may, by such order, refer such matter to the Court for inquiry and report. Appointment of Courts.

4. (1) A Court shall consist of a president and two other members or may, if the Provincial Government thinks fit, consist of one member only. Constitution of Courts.

(2) The members of the Court shall be appointed by the Provincial Government ;

Provided that no Judge of a High Court may be appointed a member of a Court without the previous assent of the High Court.

¹ For Statement of Objects and Reasons, see S.G.G., 1940, Pt. IV, p. 69 and for proceedings in Assembly see S. L. A. Debates, 1940, Vol. X—Book No. 9, pp. 48-73.

(3) The members shall possess such qualifications as may be prescribed but where the Court consists of more than one member at least one member of the Court shall be or have been or be eligible to be appointed Judge of a High Court.

(4) The Provincial Government may appoint one of the members as president of the Court but where one of the members is a Judge of a High Court he shall be the president.

(5) If the services of any member are not available for the purposes of the inquiry or if during the course of the inquiry any member is unable to continue to attend thereat the Provincial Government shall appoint another member and the inquiry shall recommence before the Court as so reconstituted :

Provided that the Court may direct that any of the evidence already recorded shall remain upon record, and in that case it shall not be necessary to re-examine those witnesses who have already been examined and discharged.

Duties of Courts.

5. (1) A Court shall ordinarily inquire into the matters referred to it in public.

(2) A court may, if it thinks fit, make interim reports.

Procedure and powers.

6. (1) A Court shall, subject to the provisions of this Act, follow such procedure as may be prescribed.

(2) A Court shall have the same powers as are vested in Courts under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters :—

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(a) enforcing the attendance of any person and examining him on oath ;

(b) compelling the production of documents and material objects ; and

(c) issuing commissions for the examination of witnesses ;

and shall have such further powers as may be prescribed ; and every inquiry by the Court shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the [Pakistan] Penal Code.

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1 Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w. o. f. 30th May 1951), for "Indian".

7. The report of the Court shall be in writing and shall be signed by all the members of the Court : Form of report.

Provided that nothing in this section shall be deemed to prevent any member of the Court from recording a minute of dissent from the report or from any recommendation made therein.

8. (1) The final and any interim report of a Court, together with any minute of dissent recorded therewith, shall, as soon as possible after their receipt by the Provincial Government, be published by the Provincial Government in such manner as it thinks fit : Publication of the result of inquiry.

Provided that the Provincial Government may, if the Court recommends that the publication of the report or any part thereof will not be in the public interest, withhold publication of the report or such part :

Provided further that the Provincial Government may, with the previous concurrence of the Court, withhold publication of the report or any part thereof.

(2) The Provincial Government may publish, from time to time, in such manner as it thinks fit, any information obtained by the Court as the result or in the course of its inquiry.

9. No order of the Provincial Government appointing a Court or any person as a member of a Court shall be called in question in any civil or criminal court. Finality of the order constituting a Court.

10. Nothing in this Act shall affect—

Savings.

(a) any proceedings in any civil or criminal court or the provisions of any statute relating to any such proceeding,

(b) any inquiry for which express provision is made in any statute, or

(c) any inquiry into any of the matters enumerated in the Federal Legislative List in the Seventh Schedule to the Government of India Act, 1935.

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11. (1) The Provincial Government may, after consultation with the High Court of this Province, make rules¹ for the purpose of giving effect to the provisions of this Act. Rules.

¹ No rules have been made so far.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters :—

- (a) the qualifications of members of a Court ;
- (b) the powers and procedure of Courts including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry ;
- (c) the allowances admissible to members of Courts and to witnesses ;
- (d) the ministerial establishment which may be allowed to a Court and the salaries and allowances payable to members of such establishment ;
- (e) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be published in the *Official Gazette* and shall on such publication have effect as if enacted in this Act.

(4) Rules made under this section shall be laid upon the table of the Sind Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall, after publication by a notification in the *Official Gazette*, be deemed to have come into force.