

## THE OFFENCE OF ZINA (ENFORCEMENT OF HUDOOD) ORDINANCE, 1979

Pages	Contents
	Preamble
1	Short title, extent and commencement
2	Definitions
3	Ordinance to override other laws
4	Zina
5	Zina liable to Hadd
6	Zina bil-jabr
7	Punishment for Zina or Zina bil-jabr where convict is not an adult
8	Proof of Zina or Zina bil-jabr liable to Hadd
9	Case in which Hadd shall not be enforced
10	Zina or zina-bil-jabr liable to Tazir
11	Kidnapping, abducting or inducing woman to compel for marriage etc
12	Kidnapping or abducting in order to subject to unnatural lust
13	Selling Person for purposes of prostitution, etc
14	Buying person for purposes of prostitution, etc
15	Cohabitation caused by a man deceitfully inducing a belief of lawful marriage
16	Enticing or taking away or detaining with criminal intent a woman
17	Mode of execution of punishment of death
18	Punishment for attempting to commit an offence
19	Application of certain provisions of Pakistan penal Code, and amendment
20	Application of code of criminal procedure 1898 and amendment
21	Presiding officer of Court to be Muslim
22	Saving

## THE OFFENCE OF ZINA (ENFORCEMENT OF HUDOOD) ORDINANCE, 1979

ORDINANCE NO VII OF 1979

[9<sup>th</sup> February 1979]

**An Ordinance** to bring in conformity with the injunctions of Islam the law relating to the offence of Zina.

**WHEREAS** it is necessary to modify the existing law relating to zina so as to bring it in conformity with the Injunctions of Islam as set out in the Holy Quran and Sunnah;

**AND WHEREAS** the President is satisfied that circumstances exist which render it necessary to take immediate action;

**NOW THEREFORE**, in pursuance of the Proclamation of the fifth day of July, 1977 read with the laws (Continuance in Force) order, 1977 (C.M.L.A Order No. I of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following ordinance:-

**1. Short title extent and commencement.**—(1) This Ordinance may be called offence of Zina (Enforcement of Hudood) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

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

(a) "adult" means a person who has attained, being a male, the age of eighteen years or, being a female, the age of sixteen years, or has attained puberty;

(b) "Hadd" means punishment ordained by the Holy Quran or Sunnah;

(c) "marriage" means marriage which is not void according to the personal law of the parties, and "married" shall be construed accordingly;

(d) "Mushin" means—

(i) a Muslim adult man who is not insane and has had sexual inter-course with a Muslim adult woman who, at the time he had sexual intercourse with her, was married to him and was not insane; or

(ii) a Muslim adult woman who is not insane and has had sexual inter-course with a Muslim adult man who, at the time she had sexual inter-course with him, was married to her and was not insane; and

(e) "Tazir" means any punishment other than Hadd, and all other terms and expressions not defined in this Ordinance shall have the same meaning as the Pakistan Penal Code, or the Code of Criminal Procedure, 1898.

**3. Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

**4. Zina.**—A man and a woman are said to commit Zina if they willfully have sexual inter-course without being validly married to each other.

**Explanation.**—Penetration is sufficient to constitute the sexual inter-course necessary to the offence of Zina.

**5. Zina liable to Hadd.**—(1) Zina is Zina liable to Hadd if—

(a) It is committed by a man who is an adult and is not insane with a woman to whom he is not, and does not suspect himself to be married; or

(b) It is committed by a woman who is an adult and is not insane with a man to whom she is not, and does not suspect herself.

(2) Whoever is guilty of Zina liable to Hadd shall, subject to the provisions of this Ordinance,—

(a) if he or she is a Mushin, be stoned to death at public place; or

(b) if he or she is not Mushin, be punished, at a public place, with whipping numbering one hundred stripes.

(3) No punishment under sub-section (2) shall be executed until it has been confirmed by the Court to which an appeal from the order of conviction lies; and if the punishment be of whipping, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

Court Decisions

Appeal against conviction based on confession Competencies of Accused not admitted confession or related from confession—Held: An appeal would be competent at the instance of a person who has been convicted and awarded had sentence by the Court and at the time of appeal or before the finding of the appeal he retracts his confession. PSC 1984 FSC 698

**6. Zina bil-jabr.**—(1) A person is said to commit zina bil-jabr if he or she has sexual inter-

course with a woman or man, as the case may be, to whom he or she is not validly married, in any of the following circumstances, namely:-

(a) against the will of the victim,

(b) without the consent of the victim,

(c) with the consent of the victim, when the consent has been obtained by putting the victim in fear of death or of hurt, or

(d) with the consent of the victim, when the offender knows that the offender is not validly married to the victim and that the consent is given because the victim believes that the offender is another person to whom the victim is or believes herself or himself to be validly married.

**Explanation,** Penetration is sufficient to constitute the sexual inter-course necessary to the offence of zina-bil-jabr.

(2) zina-bil-jabr is zina-bil-jabr liable to Hadd if it is committed in the circumstances specified in sub-section (1) of section 5.

(3) Whoever is guilty of zina-bil-jabr liable to Hadd shall subject to the provisions of this ordinance,-

(a) if he or she is a Mushin, be stoned to death at a public place; or

(b) if he or she is not Mushin, be punished with whipping numbering one hundred stripes, at a public place, and with such other punishment, including the sentence of death, as the court may deem fit having regard to the circumstances of the case.

(4) No punishment under sub-section (3) shall be executed until it has been confirmed by the court to which an appeal from the order of conviction lies; and if the Punishment be of whipping until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

**7. Punishment for Zina or zina bil-jabr where convict is not an adult.**—A person guilty of zina or Zina bil-jabr shall, if he is not an adult, be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both, and may also be awarded the punishment of whipping not with fine, or with both, any may also be awarded the punishment of whipping exceeding thirty stripes:

**Provided that,** in the case of zina bil-jabr, if the offender is not under the age of fifteen years, the Punishment of whipping shall be awarded with or without any other punishment.

**8. Proof of Zina or Zina bil-jabr liable to Hadd.** Proof of Zina bil-jabr liable to Hadd shall be in one of the following forms, namely:-

(a) the accused makes before a court of competent jurisdiction a confession of the commission of the offence; or

(b) at least four Muslim adult male witnesses, about whom the court is satisfied, having regard to the requirements of tazkiyah al-shuhood, that they are truthful persons and abstain from major sins (kabair), give evidence as eye-witnesses of the act of penetration necessary to the offence:

**Provided that,** if the accused is a non-Muslim, the eye-witnesses may be non Muslims.

**Explanation** In this section "tazkiyah al-shuhood" means the mode of inquiry adopted by a court to satisfy itself as to the credibility of a witness.

**9. Case in which hadd shall not be enforced.**—(1) In a case in which the offence of zina or zina-bil-jabr is proved only by the confession of the convict, hadd, or such part of it as is yet to be enforced, shall not be enforced if the convict retracts his confession before the hadd or such part is enforced.

(2) In a case in which the offence of zina or zina-bil-jabr is proved only by testimony, hadd or such part of it as is yet to be enforced, shall not be enforced if any witness resiles from his testimony before hadd or such part is enforced, so as reduce the number of eye-witnesses to less than four.

(3) In the case mentioned in sub-section (1), the court may order retrial.

(4) In the case mentioned in sub-section (2), the court may award tazir on the basis of the evidence on record.

Appeal against conviction based on confession Competencies of Accused not admitted confession or related from confession-Held: An appeal would be competent at the instance of a person who has been convicted and awarded had sentence by the Court and at the time of appeal or before the finding of the appeal he retracts his confession. PSC 1984 FSC 698

**10. Zina or zina-bil-jabr liable to tazir.—**(1) Subject to the provisions of section 7, whoever commits zina or zina-bil-jabr which is not liable to hadd, or for which proof in either of the forms mentioned in section 8 is not available and punishment of qazf liable to hadd has not been awarded to the complainant, or for which hadd may not be enforce under this Ordinance, shall be liable to tazir.

(2) Whoever commits zina liable to tazir shall be punished with rigorous imprisonment for a term which may extend to ten years and with whipping numbering thirty stripes, and shall also be liable to fine.

(3) Subject to the subsection (4), whoever commits zina-bil-jabr liable to tazir shall be punished with imprisonment for a term which shall not be less than four years nor more than twenty-five years and shall also be awarded the punishment of whipping numbering thirty stripes.

(4) When Zina-bil-jabr liable to Tazir is committed by two or more persons in furtherance of common intention of all, each of such person shall be punished with death.

#### **Court Decisions**

**Police opinion**—Opinion of police is neither binding on the court nor the same can be treated as evidence, however it may be considered as one of the circumstances in support of the observation or examination carried out by the Experts such as Medical officer and Chemical Examiner. **2004 P Cr. L J 201**

**Quashing of F.I.R**—Allegation in F.I.R. was that co-accused along with others had abducted the victim girl for the purpose of committing Zina—Petitioner/accused had contended that she being sui juris had contracted marriage with co-accused and Nikahnama was duly registered—Medical report revealed that accused was a sui juris and had reached the age of majority—Accused being sui juris and had reached the age of majority—Accused being sui juris had lawfully married with co-accused of her own choice, of her own accord and free-will, no offence as alleged in the F.I.R. thus had been made out against him—Conviction of accused in circumstances was not possible and continuation of investigation against accused would simply amount to unnecessary harassment—Law did not prohibit a sui juris girl from marrying a person of her own choice and living with him as a legally-wedded wife—Such was her constitutional guarantee which could not be taken away—High court, in constitutional jurisdiction could interfere in larger interest of justice and could quash criminal investigation if it would come to the conclusion that continuation of criminal investigation would not serve any purpose—F.I.R. registered against accused was quashed, in circumstances. **2004 P Cr. L J 208**

**Dispute with regard to Nikah** :- Petitioner contending that second Nikah of the respondents no valid u/Section 9 of the Azad Jammua and Kashmir Registration of Nikah Rules 1985-Further the Supreme Court in Zina cases seldom allowed bail and in some cases the bail allowed was cancelled-Held: Dispute with regard to Nikah yet to be settled-The case being of further inquiry, bail since granted by the Shariat Court in exercise of its discretion calling for no interference. **KLR 1998 Sh. C.35**

This court has gone through order dated 25/10/1999 Passed by Addl. Session judge - According to para No. 5, said judge had summoned accused No. 2 and she had submitted before him hat she head entered into marriage with accused No. 1 according to her own

free - will be but Addl. Sessions judge dismissed the application of the petitioners on the grounds that accused No. 2 in her statement recorded before the police had stated that accused no. 1 had been committing zina with her - In this Court's view, the statement made by accused No. 2 before Addl. Sessions judge is more weighty than her statement before the police - Nikahnama as is on the record - It was also argued that accused No. 2 is pregnant of seven months - Petition is accepted - Petitioners are allowed bail in the sum of Rs. Fifty thousand each with one surety each in the like amount - Bail granted. **2000 P. Cr. R 447**

Contention that since there was no allegation of zina against the petitioner the offence would not fall within the Schedule of Act (1997) and as such special court Anti - Terrorists was not competent to deal with the matter - Held That: It will not be possible to enter into the deeper appreciation regarding the merits of the case lest it any prejudice the trial - Further held: That it was enough to say that the special court constituted under the act (1997) had taken cognizance of the matter - The petitioner was named in the FIR and had played a specific role in silencing the victim by putting his hand over her mouth - The non - mentioning of his name in the statement u/section 164 Cr. P. C. would not be fatal at this stage so as to create any ground for bail for such an heinous offence of gang rape - Further held: That even otherwise the provisions relating to bail contained in section 497 Cr. P. C. had been specifically excluded by section 30 (3) of the Act (1997) the intention of the legislature was quite clear that once the case had been taken cognizance b the special court for an offence falling within the Schedule of the Act no court other than the special court shall have power or jurisdiction or jurisdiction to grant bail - Petition dismissed. **KLR 1998 Cr. C 301**

**Irregularity** -- Trial Court while convicting appellant under section 10(3) of Ordinance to imprisonment for life has over looked fact that under that section offence is punishable with imprisonment for a term which shall not be less than four years and not more than 25 years - Held Giving of punishment fo imprisonment for life, though technically not envisaged under Section, irregularity would be cured under section 537 Cr. P. C . **PSC 1984 FSC 727**

Burden of proof---If the accused believed himself not to be adult at the time of commission of the offence, he should have adopted such line of defence in the very beginning of the trial and adduced evidence in order to bring his case within the purview of S.7 of the Ordinance which is in the nature of an exception to subsection (3) of S.10---Age of the accused being "especially" within his knowledge, burden of proving that he was not adult at the time of commission of offence was on him, but' he did not make a mention in this regard much-less bring convincing evidence on record to demonstrate his assertion---Bald and belated plea taken by accused that he was not adult when admittedly Zina-bit-Jabr was committed by him with the victim girl, was therefore, not accepted holding that S.7 of the Ordinance was not attracted to the case---Conviction and sentence of accused were maintained accordingly. 1993 P Cr. L J 1934

Evidence of prosecution witness as to what happened at the time of rape or before was hearsay and was not admissible in evidence under Art. 71 of Qanun-e-Shahadat, 1984 and was rejected on the ground that his claim of being apprised by other witnesses was not confirmed by those witnesses in their earlier statements. 1993 S C M R 550  
Khurshid Ahmad v. Qabool Ahmad PLD 1964 SC 356 ref.

Cross\*examination, -- Examination\*-in-chief without cross--examination---Admissibility---Accused were not nominated in F.I.R. but complainant for the first time named them in her examination-in-chief---Complainant was not cross-examined and the Court believed her and summoned the accused persons ---Validity--\*Cross-examination was essential for the discovery of truth and if opportunity

for cross-examination was not provided the testimony would be inadmissible. 2002 P Cr. L J 1575

Indecent and scandalous questions---Firstly it is the duty of the defence counsel to avoid to put indecent and scandalous questions to witnesses-in such cases and then the duty of the Trial Court to disallow the defence counsel to put such questions in respect of character of a witness---Such questions indeed if not proved may lead to prosecution under the provisions of the Offence of Qazf (Enforcement of Hadd) Ordinance, 1979. 1992 P C r. L J 1944

### **11. Kidnapping, abducting or inducting woman to compel for marriage etc. —**

Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit inter-course, or knowing it to be likely that she will be forced or seduced to illicit inter-course, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine; and whoever by means of criminal intimidation as defined in the Pakistan Penal Code, or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit inter-course with another person shall also be punishable as aforesaid.

#### **Court Decisions**

**Appreciation of evidence** — Opinion of police is neither binding on the court nor the same can be treated as evidence, however it may be considered as one of the circumstances in support of the observation or examination carried out by the Experts such as Medical officer and Chemical Examiner. **2004 P Cr. L J 201**

**Constitutional petition** — Allegation in F.I.R. was that co-accused along with others had abducted the victim girl for the purpose of committing Zina—Petitioner/accused had contended that she being sui juris had contracted marriage with co-accused and Nikahnama was duly registered—Medical report revealed that accused was a sui juris and had reached the age of majority—Accused being sui juris and had reached the age of majority—Accused being sui juris had lawfully married with co-accused of her own choice, of her own accord and free-will, no offence as alleged in the F.I.R. thus had been made out against him—Conviction of accused in circumstances was not possible and continuation of investigation against accused would simply amount to unnecessary harassment—Law did not prohibit a sui juris girl from marrying a person of her own choice and living with him as a legally-wedded wife—Such was her constitutional guarantee which could not be taken away—High court, in constitutional jurisdiction could interfere in larger interest of justice and could quash criminal investigation if it would come to the conclusion that continuation of criminal investigation would not serve any purpose—F.I.R. registered against accused was quashed, in circumstances. **2004 P Cr. L J 208**

**Seeing abductee in the company of accused persons—Effect**—Such seeing does not attract the ingredients of S.11 of Offence of Zina (Enforcement of Hudood) Ordinance, 1979—Ingredients of word 'abduction' as defined in S. 362, P.P.C. are also to be examined in the light of the case of prosecution—Where abductee was not abducted on show of force or in any deceitful manner, the offence of abduction was not proved. **2004 S C M R 425**

Petitioner contending that second Nikah of the respondents no valid u/Section 9 of the Azad Jammua and Kashmir Registration of Nikah Rules 1985-Further the Supreme Court in Zina cases seldom allowed bail and in some cases the bail allowed was cancelled-Held: Dispute with regard to Nikah yet to be settled-The case being of further inquiry, bail since granted by the Shariat Court in exercise of its discretion calling for no interference.KLR 1998 Sh. C.35

Police had submitted report under S.169, Cr. P. C. ., regarding her false involvement therein on account of deficient evidence against her - Case sent up against accused ended in her acquittal under S.265-K, Cr. P. C. ., by the Trial Court - Accused had sought for a direction to the police for registration of a case against the complainant under S.182, P.P.C. - Cognisance under S.182; P.P.C., could only be taken by the Court, on the complaint made by the concerned public servant to whom the false report was given or by some other public servant to whom he was subordinate as provided by S.195, Cr. P. C. . - No such direction could, therefore, be issued to the police by High Court under its Constitutional jurisdiction to register the F.I.R. - Constitutional petition was misconceived and was dismissed in limine accordingly. 2002 MLD 459

Contention that since there was no allegation of zina against the petitioner the offence would not fall within the Schedule of Act (1997) and as such special court Anti - Terrorists was not competent to deal with the matter - Held That: It will not be possible to enter into the deeper appreciation regarding the merits of the case lest it any prejudice the trial - Further held: That it was enough to say that the special court constituted under the act (1997) had taken cognizance of the matter - The petitioner was named in the FIR and had played a specific role in silencing the victim by putting his hand over her mouth - The non - mentioning of his name in the statement u/section 164 Cr. P. C. would not be fatal at this stage so as to create any ground for bail for such an heinous offence of gang rape - Further held: That even otherwise the provisions relating to bail contained in section 497 Cr. P. C. had been specifically excluded by section 30 (3) of the Act (1997) the intention of the legislature was quite clear that once the case had been taken cognizance b the special court for an offence falling within the Schedule of the Act no court other than the special court shall have power or jurisdiction or jurisdiction to grant bail - Petition dismissed. KLR 1998 Cr. C 301

Bail, grant of - This court has gone through order dated 25/10/1999 Passed by Addl. Session judge - According to para No. 5, said judge had summoned accused No. 2 and she had submitted before him hat she head entered into marriage with accused No. 1 according to her own free - will be but Addl. Sessions judge dismissed the application of the petitioners on the grounds that accused No. 2 in her statement recorded before the police had stated that accused no. 1 had been committing zina with her - In this Court's view, the statement made by accused No. 2 before Addl. Sessions judge is more weighty than her statement before the police - Nikahnama as is on the record - It was also argued that accused No. 2 is pregnant of seven months - Petition is accepted - Petitioners are allowed bail in the sum of Rs. Fifty thousand each with one surety each in the like amount - 2000 P. Cr. R 447

Examination\*-in-chief without cross--examination---Admissibility---Accused were not nominated in F.I.R. but complainant for the first time named them in her examination-in-chief---Complainant was not cross-examined and the Court believed her and summoned the accused persons ---Validity--\*Cross-examination was essential for the discovery of truth and if opportunity for cross-examination was not provided the testimony would be inadmissible. 2002 P Cr. L J 1575

**12. Kidnapping or abducting in order to subject to unnatural lust.**—Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with death or rigorous imprisonment for a term which ma extend to twenty-five years, and shall also be liable to fine, and, if the punishment be one of imprisonment, shall also be awarded

the punishment of whipping not exceeding thirty stripes.

**13. Selling Person for purposes of prostitution, etc.**—Whoever sells, lets to hire, or otherwise disposes of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine.

**Explanations.**- (a) When a female is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

(b) For the purposes of this section and section 14 "illicit inter-course" means sexual inter-course between persons not united by marriage.

**14. Buying person for purposes of prostitution, etc.**—Whoever buys, hires or otherwise obtains possession of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine.

**Explanation.**—Any Prostitute or any person keeping or managing a brothel, who buys, hires or otherwise obtains possession of a female shall, until the contrary is proved, be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

Conviction - Accused was charged for offence of kidnapping under S. 363. PPC but was convicted for offence of buying or hiring victim for purpose of prosecution under S. 14, Offence of Zina (Enforcement of Hudood) Ordinance, 1979-Validity-Accused on charge of one particular offence could not be convicted for distinct offence especially when it fell within a different penal status. 2000 P. Cr. L. J. 537

**15. Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.**—Every man who by deceit causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief, shall be punished with rigorous imprisonment for a term which may extend to twenty-five years and with whipping not exceeding thirty stripes, and shall also be liable to fine.

**16. Enticing or taking away or detaining with criminal intent a woman.**- Whoever takes or entices away any woman with intent that she may have illicit inter-course with any person, or conceals or detains with intent any woman, shall be punished with imprisonment of either description for a term which may extend to seven years and with whipping not exceeding thirty stripes, and shall also be liable to fine.

**17. Mode of execution of punishment of stoning to death.**—The punishment of stoning to death awarded under section 5 or section 6 shall be executed in the following manner, namely:-

Such of the witnesses who deposed against the convict as may be available shall start stoning him and, while stoning is being carried on, he may be shot dead, whereupon stoning and shooting shall be stopped.

**18. Punishment for attempting to commit an offence.**—Whoever attempts to commit an offence punishable under this ordinance with imprisonment or whipping, or to cause such

an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment for a term which may extend to one-half of the longest term provided for that offence, or with whipping not exceeding thirty stripes, or with such fine as is provided for the offence, or with any two of, or all, the Punishment.

**19. Application of certain provisions of Pakistan penal Code, and amendment.**—(1) Unless otherwise expressly provided in this Ordinance, the provisions of sections 34 to 38 of Chapter II, sections 63 to 72 of Chapter III and Chapter V and VA of the Pakistan Penal Code, shall apply, mutatis mutandis, in respect of offences under this Ordinance.

(2) Whoever is guilty of the abetment of an offence liable to be punished under this Ordinance shall be liable to the punishment provided for such offence as if he were the offender.

(3) In the Pakistan Penal Code,

(a) Section 366, section 372, section 373, section 375, and section 376 of Chapter XVI and section 493, section 497 and section 498 of Chapter XX shall stand repealed; and

(b) In section 367, the words and comma or to the unnatural lust of any person, "shall be omitted.

**20. Application of code of criminal procedure 1898 and amendment.** (1) The provisions of the code of Criminal procedure, 1898, hereafter in this section referred to as the code, shall apply, mutatis mutandis in respect of cases under this Ordinance:

**Provided that,** if it appears in evidence that the offender has committed a different offence under any other law, he may, if the court is competent to try that offence and award punishment therefor, be convicted and punished for that offence;

**Provided further that** an offence punishable under this Ordinance shall be triable by a Court of Session and not by a Magistrate authorised under section 30 of the said Code and an appeal from an order of the Court of Session shall lie to the Federal Shariat Court;

**Provided further that** a trial by a Court of Session under this Ordinance shall ordinarily be held at the headquarters of the Tehsil in which the offence is alleged to have been committed.

(2) The provisions of the Code relating to the confirmation of the sentence of death shall apply, mutatis mutandis, to confirmation of sentences under this Ordinance.

(3) The provisions of section 198, section 199, section 199A or section 199B of the Code shall not apply to the cognizance of an offence punishable under section 15 or section 16 of this Ordinance.

(4) The provision of sub-section (3) of section 393 of the Code shall not apply in respect of the punishment of whipping awarded under this Ordinance.

(5) The provisions of Chapter XXIX of the Code shall not apply in respect of punishments awarded under section 5 or section 6 of this Ordinance.

(6) In the Code, section 561 shall stand repealed.

**21. Presiding officer of Court to be Muslim.**—The presiding Officer of the Court by which a case is tried, or an appeal is heard, under this Ordinance shall be a Muslim:

**Provided that,** if the accused is a non-Muslim, the presiding Officer may be a non-Muslim.

**22. Saving.**—Nothing in this Ordinance shall be deemed to apply to the cases pending before any Court immediately before the commencement of this Ordinance, or to offences committed before such commencement.