

[AS PASSED BY THE SENATE]

A

BILL

*to provide for establishment of a High Court for Islamabad Capital Territory*

**WHEREAS** Article 175 of the Constitution of the Islamic Republic of Pakistan [\*\*\*\*] provides for a High Court for Islamabad Capital Territory, hereinafter in this Act referred to as the Islamabad High Court;

**AND WHEREAS IN** in pursuance of Article 175 of the Constitution, a High Court for Islamabad Capital Territory has been established vide Law, Justice and Parliamentary Affairs Division's Notification No. F. 9(1)/2008-A.II, dated the 22<sup>nd</sup> April, 2010;

**AND WHEREAS** It is necessary to make provisions for effective functioning of the Islamabad High Court;

It is hereby enacted as follows:-

**1. Short title and commencement.**—(1) This Act may be called the Islamabad High Court Act, 2010

(2) It shall come into force at once.

**2. Definitions.**— In this Act, unless there is anything repugnant in the subject or context,-

(a) "appointed date" means the date to be appointed by the Federal Government for the purposes of this Act;

(b) "Chief Justice" means the Chief Justice of Islamabad High Court and includes a Judge for the time being acting as Chief Justice of the said Court; and

(c) "Constitution" means the Constitution of the Islamic Republic of Pakistan;

(d) "Judge" means a judge of the Islamabad High Court and includes the Chief Justice and a person who is an Additional Judge of that Court.

**3. Islamabad High Court.-** (1) The Islamabad High Court shall consist of a Chief Justice and six other judges to be **appointed from the Provinces and other Territories of Pakistan, in accordance with the Constitution.**

(2) The Islamabad High Court shall start functioning from the appointed date.

(3) The principal seat of Islamabad High Court shall be at Islamabad.

**4. Jurisdiction.-** Islamabad High Court shall have, in respect of the Islamabad Capital Territory, original, appellate, revisional and other jurisdiction, as under the Constitution or the laws in force immediately before the commencement of this Act, is exercisable in respect of the said territory by the Lahore High Court:

Provided that Islamabad High Court shall have original jurisdiction in suits and proceedings having pecuniary value of ten million rupees or more.

**5. Powers of Chief Justice and other Judges.-** Any law in force immediately before the appointed date relating to the powers of the Chief Justice and of single Judges and Benches of the Lahore High Court, and with respect to all matters ancillary to the exercise of those powers, shall, *mutatis mutandis*, apply in relation to Islamabad high Court.

**6. Other courts.-** (1) Subject to the provisions of this Act and any order of the competent authority, all civil, criminal and revenue courts, and all tribunals and Special Courts established under any law, which were exercising jurisdiction and functions in the Islamabad Capital Territory immediately

before the commencement of this Act shall continue to exercise their respective jurisdiction and functions and all persons holding office in such courts or tribunals or Special Courts shall continue to hold their respective offices on the same terms and conditions as were applicable to them immediately before the commencement of this Act, unless otherwise determined by the competent authority.

(2) Notwithstanding anything contained in any other law for the time being in force, all civil, criminal and revenue courts and all tribunals and Special Courts functioning in Islamabad Capital Territory which were within the jurisdiction and under the superintendence and control of the Lahore High Court before the commencement of this Act shall, as from the appointed date, fall within the jurisdiction and under the supervision and control of the Islamabad High Court.

(3) The Islamabad High Court shall take necessary steps for establishing subordinate judiciary for the Islamabad Capital Territory within six month of the commencement of this Act. The Judges of the subordinate Judiciary working on deputation shall be sent back to the respective High Courts after establishment of the subordinate judiciary for the Islamabad Capital Territory.

(4) There shall be two Sessions Divisions in the Islamabad Capital Territory with such territorial limits as may be determined in this behalf by Notification in the official Gazette.

**7. Procedure as to appeals to Supreme Court.-** any law in force immediately before the appointed date relating to appeals to the Supreme Court from the Lahore High Court in respect of cases relating to Islamabad Capital Territory shall, with the necessary modifications, apply in relation to Islamabad High court.

**8. Practice and procedure.-** (1) Subject to the provisions of this Act, all laws which are in force immediately before the commencement of this Act, applicable to the Sindh High Court or any court subordinate to it with respect to practice and procedure shall *mutatis mutandis* apply to the Islamabad High Court.

(2) Subject to the provisions of this Act, all rules, including Sindh Chief Court Rules, or orders which are in force immediately before the commencement of this Act, with respect to practice and procedure in the Sindh High Court or any court subordinate to it, shall, until varied or revoked by rules or orders made by Islamabad High Court, apply with necessary modifications in relation to practice and procedure in Islamabad High Court or any court subordinate to it as if they were made by the Islamabad High Court.

**9. Transfer of proceedings.-** All appeals, petitions and other proceedings pending in the Lahore High Court or in any other High Court in relation to Islamabad Capital Territory immediately before the appointed date shall stand transferred to the Islamabad High Court.

**Explanation.-** for the purposes of this section or any other provision of this Act where subject so requires, the expression "Lahore High Court" includes Rawalpindi Bench of the Lahore High Court.

**10. Enforcement of orders etc of Lahore High Court.-** (1) Subject to the provisions of sub-section (2), any order or decision made by the Lahore High Court before the appointed date in relation to Islamabad Capital Territory shall for all purposes be as effective and executable as if made by the Islamabad High Court.

(2) Where any such order or decision as is mentioned in sub-section (1) has, whether before or after the appointed date, been confirmed, varied or reversed on appeal, review or revision, effect shall be given to the order or decision of the appellate court or that of the Lahore High Court as if the order appealed from was an order of the Islamabad High Court.

**11. power to appoint officers and staff.-** (1) the chief Justice may appoint the Registrar, officers and staff of Islamabad High Court as may be prescribed.

- (2) The employees of the defunct Islamabad High Court.-
- (i) on surplus pool;
  - (ii) retained and still working on the strength of the aforesaid High Court;
  - (iii) reverted but not accepted by a parent department; or
  - (iv) reverted and joined their parent departments;

shall be adjusted in the Islamabad High Court established vide Law, Justice and Parliamentary Affairs Division's Notification dated the 22<sup>nd</sup> April, 2010, as may be determined by the Federal Government in this regard:

Provided that the employees who have joined their parent departments may report to the High Court at Islamabad within fifteen days of the commencement of this Act, failing which they shall lose the option of reversion to said High Court.

**12. Power to adapt laws.-** For the purpose of facilitating the application of any law in relation to the Islamabad Capital Territory, the Federal Government may, before the expiration of two years from the appointed date by order make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient to give effect to the provisions of this Act and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent legislature or other competent authority.

**13. Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Act within one year of its commencement, the Federal Government, in consultation with the Chief Justice of the Islamabad High Court, may remove such difficulty.

**14. Amendment of Code of Criminal Procedure.-** In the Code of Criminal Procedure, 1898 (Act V of 1898), in section 4, in clause (j), after the word "Province" the words "and the Islamabad Capital Territory" shall be added.

**15. Amendment of P.O No. 1 of 1970.-** In the Province of West Pakistan (Dissolution) Order, 1970 (P.O.1 of 1970), in Article 14, clause (2) shall be omitted.

**16. Amendment of P.O. No. 8 of 1970.-** In the High Courts (Establishment) Order, 1970 (P.O. No. 8 of 1970), in Article 3, in clause (1), in paragraph (b), the words "and the Islamabad Capital Territory" shall be omitted.

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### **STATEMENT OF OBJECTS AND REASONS**

Article 175 of the Constitution of the Islamic Republic of Pakistan as amended by the Constitution (Eighteenth amendment) Act, 2010 (X of 2010), provides for the establishment of a High Court for Islamabad Capital Territory. A Notification to that effect has already been issued. The Bill is designed to make provisions for its composition, jurisdiction, practice and procedure, transfer of pending proceedings and for matters connected therewith or ancillary thereto.

**Dr. Zaheeruddin Babar Awan**  
**Minister for Law, Justice and Parliamentary Affairs**  
**Member-in-Charge**