

## Appendix C

### <sup>1[1]</sup>The High Courts (Punjab) Order, 1947

In exercise of the powers conferred by Section 9 of the Indian Independence Act, 1947, and of all other powers enabling him in that behalf, the Governor-General is pleased to make the following Order:—

1. This Order may be cited as the High Courts (Punjab) Order, 1947.

2. (1) The Interpretation Act, 1889, applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(2) References herein to an order made by any Court or Judge shall be construed as including references to any sentence, judgment or decree passed or made by that Court or Judge.

3. As from the 15th day of August, 1947 (hereinafter referred to as “the appointed day”), there shall be a High Court of Judicature for the Province of East Punjab; and the said Court is hereinafter referred to as the High Court of East Punjab.

4. (1) Between the coming into force of this Order and the appointed day, His Majesty may appoint a Chief Justice of the said Court and may appoint such other Judges of the said Court as he thinks fit, and any appointments so made shall take effect as from the appointed day :

Provided that no person shall be qualified to be appointed a Judge under this paragraph unless, under the law in force at the time of the making of this Order, he would have been qualified to be appointed a Judge of the High Court at Lahore, and no person shall be qualified to be appointed Chief Justice under this paragraph unless, under the said law, he would have been qualified to be appointed Chief Justice of the High Court at Lahore.

(2) If any Judge of the High Court at Lahore, having elected to be a Judge of the High Court of East Punjab, is appointed to be a Judge of that Court in accordance with the preceding provisions of this Order, then, as from the appointed day, the Judge so appointed shall cease to be a Judge of the High Court at Lahore.

5. The High Court of East Punjab shall be a Court of record, and shall have, in respect of the territories for the time being included in the Province of East Punjab and in the Province of Delhi, all such original appellate and other jurisdiction as, under the law in force immediately before the appointed day, is exercisable in respect of the said territories by the High Court at Lahore.

6. (1) The High Court of East Punjab shall have the like powers to approve, admit, enrol, remove and suspend advocates, vakils and attorneys, and to make rules with respect to advocates, vakils and attorneys, as are, under the law in force immediately before the appointed day, exercisable by the High Court at Lahore.

(2) The right of audience in the High Court of East Punjab shall be regulated in accordance with the like principles as, immediately before the appointed day, are in force with respect to the right of audience in the High Court at Lahore :

Provided that, subject to any rule made or direction given by the High Court of East Punjab in the exercise of the powers conferred by this Article, any person who, immediately before the appointed day, is an advocate, vakil or attorney entitled to practise in the High Court at Lahore, shall be recognised as an advocate, vakil or attorney entitled to practise in the High Court of East Punjab.

7. Subject to the provisions of this Order, the law in force immediately before the appointed day with respect to practise and procedure in the High Court at Lahore shall, with the necessary

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<sup>1[1]</sup>. Published by the Governor General *vide* Notification No. G.G.O. 5, dated 11-8-1947.

modifications, apply in relation to the High Court of East Punjab, and accordingly that High Court shall have all such powers to make rules and orders with respect to practise and procedure as are immediately before the appointed day exercisable by the High Court at Lahore :

Provided that any rules or orders which are in force immediately before the appointed day with respect to practise and procedure in the High Court at Lahore shall, until varied or revoked by rules or orders made by the High Court of East Punjab, apply with any necessary modifications in relation to practise and procedure in the High Court of East Punjab as if made by that Court.

8. (1) The High Court of East Punjab shall have a Seal consisting of the Royal Arms with an *exergue* or label surrounding the same with the inscription "The Seal of the High Court of Judicature in East Punjab."

(2) The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court at Lahore shall, with the necessary modifications, apply with respect to the custody of the seal of the High Court of East Punjab.

9. The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court at Lahore shall, with any necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of East Punjab.

10. The law in force immediately before the appointed day relating to the powers of the Chief Justice and of single Judges and Divisional Courts of the High Court at Lahore, and with respect to all matters ancillary to the exercise of those powers, shall, with the necessary modifications, apply in relation to the High Court of East Punjab.

11. The High Court of East Punjab and the Judges and Divisional Courts thereof shall sit at such places in the Provinces of East Punjab and Delhi as the Chief Justice of the said Court may, with the approval of the Governor of East Punjab, appoint.

12. Subject to any relevant provisions contained in Part IX of the Government of India Act, 1935, as it applies in India after the appointed day, the law in force immediately before the appointed day relating to appeals to His Majesty in Council from the High Court at Lahore and the Judges and divisions thereof shall, with necessary modifications, apply in relation to appeals to His Majesty in Council from the High Court of East Punjab and the Judges and divisions thereof.

13. (1) Subject as, hereinafter provided, the High Court at Lahore shall have no jurisdiction in respect of the territories for the time being included in the Province of East Punjab or in the Province of Delhi.

(2) Notwithstanding anything contained in this Order —

(a) any proceedings which, immediately before the appointed day, are pending in the High Court at Lahore on its original side, including any proceedings then pending in the said High Court as a Court of reference, shall be heard and determined by that Court";—

(b) the High Court at Lahore shall have the like jurisdiction to hear and determine any appeal from an order of a Judge of the said Court on its original side as if this Order had not been made, and the High Court of the East Punjab shall have jurisdiction to hear or determine any such appeal; and

(c) the High Court of Lahore shall have the like jurisdiction to review any order made by any Judge of the said High Court as it would have had if this Order had not been made, and the High Court of East Punjab shall have no jurisdiction to review any such order.

(3) Subject to the preceding provisions of this Article, all proceedings pending on the appellate side of the High Court at Lahore immediately before the appointed day, shall, where the Court of origin is, as from that day, situated in the Province of East Punjab or in the Province of Delhi, stand transferred by virtue of this Order to the High Court of East Punjab.

(4) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court at Lahore either —

(a) before the appointed day; or

(b) in any proceedings with respect to which the said High Court retains jurisdiction by virtue of paragraphs (2) and (3) of this Article;

shall for all purposes have effect not only as an order of the High Court at Lahore but also as an

order made by the High Court of East Punjab.

(5) Subject to the following provisions of this Article with respect to appeals, any order made by the High Court of East Punjab in proceedings transferred to that High Court by virtue of this Article shall for all purposes have effect not only as an order of that Court but also as an order made by the High Court at Lahore.

(6) Where any such order as is mentioned in paragraphs (4) and (5) of this Article has, whether before or after the appointed day, been confirmed, varied or reversed on appeal, effect shall be given to the decision of the appellate Court as if the order appealed from were an order not only of the High Court by which it was made, but also of the High Court at Lahore or the High Court of East Punjab, as the case may be.

(7) Any reference in this Article to a High Court shall be construed as including a reference to a Judge or division thereof; and for the purposes of this Article proceedings shall be deemed to be pending in a particular Court until that Court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of the proceedings.

14. Nothing in this Order shall prejudice the application to the High Court of East Punjab of any relevant provisions of Part IX of the Government of India Act, 1935, as it applies in relation, to India, and the provisions of this Order shall have effect subject to any provision made on or after the appointed day with respect to the High Court at Lahore or the High Court of East Punjab by any legislature or other authority having power to make such provision.

MOUNTBATTEN OF BURMA,  
*Governor-General*

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