

COMPANY LAW

An exhaustive and upto-date commentary
on Companies Ordinance, 1984

with

Companies Rules, 1985

and

Other connected and relevant Statutes and Statutory Rules

SHAUKAT MAHMOOD
NADEEM SHAUKAT

THIRD EDITION

LEGAL RESEARCH CENTRE

COMPANY LAW

*An exhaustive and upto-date commentary
on Companies Ordinance, 1984
with
Companies Rules, 1985
and
Other connected and relevant Statutes and Statutory Rules*

~~By~~

SHAUKAT MAHMOOD

Advocate High Court

NADEEM SHAUKAT

Advocate High Court

**Third Edition
September 1997**

LEGAL RESEARCH CENTRE

NOOR VILLA

5, ARYA NAGAR, POONCH ROAD, LAHORE-54500 - (Pakistan)

Price : Rs. 1000.00

Published by

LEGAL RESEARCH CENTRE

NOOR VILLA

5, ARYA NAGAR, POONCH ROAD, LAHORE-54500 (Pakistan)

First Edition 1986

Second Edition 1995

Printed at:

NEWFINE PRINTING PRESS

76-LYTTON ROAD, LAHORE

CONTENTS

COMPANY LAW

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| PART I--PRELIMINARY | |
| 1. Short title, extent and commencement | ... 1 |
| 2. Definitions | ... 2 |
| 3. Meaning of "subsidiary" and "holding company". | ... 24 |
| 4. Ordinance not to apply to certain corporations | ... 24 |
| 5. Application of Ordinance to non-trading companies with purely provincial objects. | ... 25 |
| 6. Ordinance to override memorandum, articles, etc. | ... 25 |
| PART II--JURISDICTION OF COURTS | |
| 7. Jurisdiction of the Courts | ... 26 |
| 8. Constitution of Company Benches | ... 31 |
| 9. Procedure of the Court | ... 31 |
| 10. Appeals against Court orders | ... 32 |
| PART III-CORPORATE LAW AUTHORITY | |
| 11. Constitution of Corporate Law Authority | ... 42 |
| 12. Powers and functions of the Authority | ... 42 |
| 13. Reference by the Federal Government or Authority to the Court | ... 44 |
| PART IV--INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO | |
| 14. Obligation to register certain associations, partnerships, etc. as companies | ... 45 |
| MEMORANDUM OF ASSOCIATION | |
| 15. Mode of forming a company | ... 51 |
| 16. Memorandum of company limited by shares | ... 53 |
| 17. Memorandum of company limited by guarantee | ... 54 |
| 18. Memorandum of unlimited company | ... 59 |
| 19. Printing, signature, etc., of memorandum | ... 60 |
| 20. Restriction on alteration of memorandum | ... 60 |
| 21. Alteration of memorandum | ... 61 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| 22. Power of Authority when confirming alteration | ... 63 |
| 23. Exercise of discretion by Authority | ... 63 |
| 24. Procedure on confirmation of the alteration | ... 71 |
| 25. Effect of failure to register within ninety days | ... 72 |
| ARTICLES OF ASSOCIATION | |
| 26. Registration of articles | ... 72 |
| 27. Printing, signature, etc., of articles | ... 74 |
| 28. Alteration of articles | ... 75 |
| FORMS OF MEMORANDUM AND ARTICLES | |
| 29. Form of memorandum and articles | ... 78 |
| GENERAL PROVISIONS WITH RESPECT TO REGISTRATION OF MEMORANDUM AND ARTICLES | |
| 30. Registration of memorandum and articles, etc. | ... 79 |
| 31. Effect of memorandum and articles | ... 80 |
| 32. Effect of registration | ... 86 |
| 33. Conclusiveness of certificate of incorporation | ... 93 |
| 34. Effect of alteration in memorandum or articles | ... 94 |
| 35. Copies of memorandum and articles to be given to members | ... 94 |
| 36. Alteration of memorandum or articles to be noted in every copy | ... 94 |
| PROVISIONS WITH RESPECT TO NAMES OF COMPANIES | |
| 37. Prohibition of certain names | ... 95 |
| 38. Rectification of name of a company | ... 96 |
| 39. Change of name by a company | ... 97 |
| 40. Registration of change of name and effect thereof | ... 97 |
| 41. Alteration of names on commencement of Ordinance and change of status of company | ... 98 |
| ASSOCIATIONS NOT FOR PROFIT | |
| 42. Power to dispense with "Limited" in the name of charitable and other companies | ... 99 |
| COMPANIES LIMITED BY GUARANTEE | |
| 43. Provision as to companies limited by guarantee | ... 101 |
| PROVISIONS RELATION TO CONVERSION OF PUBLIC COMPANY INTO PRIVATE COMPANY AND VICE VERSA, AND OTHER MATTERS | |
| 44. Conversion of public company into private company | ... 101 |

| <i>Section</i> | | <i>Page</i> |
|---|---|-------------|
| 45. | Prospectus or statement in lieu of prospectus to be filed by private company on ceasing to be private company | ... 101 |
| 46. | Consequence of default in complying with conditions constituting a company a private company | ... 103 |
| CARRYING ON BUSINESS WITH LESS THAN THE LEGAL MINIMUM OF MEMBERS | | |
| 47. | Liability for carrying on business with less than seven or, in the case of a private company, two members | ... 104 |
| SERVICE AND AUTHENTICATION OF DOCUMENTS | | |
| 48. | Service of documents on company | ... 104 |
| 49. | Service of documents on registrar | ... 104 |
| 50. | Service of notice on members, etc. | ... 104 |
| 51. | Authentication of documents and proceedings | ... 106 |
| PART V--PROSPECTUS, ALLOTMENT, ISSUE AND TRANSFER OF SHARES AND DEBENTURES, DEPOSITS, ETC. | | |
| PROSPECTUS | | |
| 52. | Prospectus to be dated | ... 107 |
| 53. | Matters to be stated and reports to be set out in prospectus | ... 107 |
| 54. | Expert to be unconnected with formation or management of company | ... 111 |
| 55. | Expert's consent to issue of prospectus containing statement by him. | ... 111 |
| 56. | Penalty and interpretation | ... 111 |
| 57. | Approval, issue and registration of prospectus | ... 112 |
| 58. | Terms of contract mentioned in prospectus or statement in lieu of prospectus not to be varied | ... 114 |
| 59. | Civil liability for misstatements in prospectus | ... 114 |
| 60. | Criminal liability for misstatements in prospectus | ... 118 |
| 61. | Document containing offer of shares or debentures for sale to be deemed prospectus | ... 119 |
| 62. | Offer of shares or debentures for sale by certain persons | ... 120 |
| 62A. | Issue of securities outside Pakistan | ... 121 |
| 63. | Interpretation of provisions relation to prospectus | ... 121 |
| 64. | Newspaper advertisement of prospectus | ... 123 |
| 65. | Construction of reference to offering shares or debentures to the public, etc. | ... 123 |
| 66. | Penalty for fraudulently inducing persons to invest money | ... 124 |
| ALLOTMENT | | |
| 67. | Application for, and allotment of, shares and debentures | ... 125 |
| 68. | Restriction as to allotment | ... 125 |

| <i>Section</i> | <i>Page</i> |
|---|-------------|
| 69. Statement in lieu of prospectus | 128 |
| 70. Effect of irregular allotment | 130 |
| 71. Repayment of money received for shares not allotted | 131 |
| 72. Allotment of shares and debentures to be dealt with on stock exchange | 132 |
| 73. Return as to allotments | 133 |
| CERTIFICATES OF SHARES AND DEBENTURES | |
| 74. Limitation of time for issue of certificates | 138 |
| 75. Issue of depuplicate certificates | 139 |
| TRANSFER OF SHARES AND DEBENTURES | |
| 76. Transfer of shares and debentures | 139 |
| 77. Directors not to refuse transfer of shares | 149 |
| 78. Notice of refusal to transfer | 153 |
| 79. Transfer to successor-in-interest | 153 |
| 80. Transfer to nominee of a deceased member | 153 |
| 81. Transfer by nominee or legal representative | 154 |
| COMMISSION, DISCOUNT, PREMUM AND REDEMABLE PREFERENCLE SHARES | |
| 82. Power to pay certain commissions, and prohibition of payment of othelr commissions, discounts, etc. | 155 |
| 83. Application of premiums received on issue of shares | 157 |
| 84. Power to issue shares at a discount | 158 |
| 85. Redemption of preference shares | 159 |
| FURTHER ISSUE OF CAPITAL | |
| 86. Further issue of capital | 161 |
| 87. Issue of shares in lieu of outstanding balance of any loans etc. | 166 |
| REGULATION OF DEPOSITS | |
| 88. Deposits not to be invited without issuing an advertisement | 167 |
| PART VI--SHARE CAPITAL AND DEBENTURES | |
| NATURE, LNUMBERING AND CERTIFICATE OF SHARES | |
| 89. Nature of shares and certificate of shares | 169 |
| CLASSES AND KINDS OF SHARES | |
| 90. Classes and kinds of share capital | 173 |
| GENERAL PROVISIONSL AS TO SHARE CAPITAL | |
| 91. Only fully paid shares to be issued | 174 |

| <i>Section</i> | | <i>Page</i> |
|--|--|-------------|
| 92. | Power of company limited by shares to alter its share capital | ... 174 |
| 93. | Notice to registrar of consolidation of share capital, etc. | ... 177 |
| 94. | Notice of increase of share capital or of members | ... 177 |
| 95. | Prohibition of purchaser or grant of financial assistance by a company for purchase of its own or its holding company's shares | ... 178 |
| REDUCTION OF SHARE CAPITAL | | |
| 96. | Reduction of share capital | ... 180 |
| 97. | Application to Court for confirming order | ... 186 |
| 98. | Addition to name of company of "and reduced". | ... 187 |
| 99. | Objection by creditors and settlement of list of objecting creditors | ... 189 |
| 100. | Power to dispense with consent of creditors on security being given for his debt | ... 189 |
| 101. | Order confirming reduction | ... 190 |
| 102. | Registration of order and minute of reduction | ... 191 |
| 103. | Minute to form part of memorandum | ... 192 |
| 104. | Liability of members in respect of reduced shares | ... 192 |
| 105. | Penalty on concealment of name of creditor | ... 193 |
| 106. | Publication of reasons for reduction | ... 193 |
| 107. | Increase and reduction of share capital in case of a company limited by guarantee having a share capital | ... 193 |
| VARIATION OF SHAREHOLDERS' RIGHTS | | |
| 108. | Variation of shareholders' rights | ... 194 |
| REGISTRATION OF UNLIMITED COMPANY AS LIMITED | | |
| 109. | Registration of unlimited company as limited | ... 195 |
| 110. | Power of unlimited company to provide for reserve share capital on re-registration | ... 196 |
| UNLIMITED LIABILITY OF DIRECTORS | | |
| 111. | Limited company may have directors with unlimited liability | ... 196 |
| 112. | Special resolution of limited company making liability of directors unlimited | ... 196 |
| SPECIAL PROVISIONS AS TO DEBENTURES | | |
| 113. | Rights of debenture-holder and share-holder to have copies of trust deed | ... 197 |
| 114. | Debentures not to carry voting rights | ... 197 |
| 115. | Perpetual debentures | ... 197 |
| 116. | Power to re-issue redeemed debentures in certain cases | ... 198 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| 117. Specific performance of contract to subscribe for debentures | ... 199 |
| 118. Payment of certain debts out of assets subject to floating charge in priority to claims under the charge | ... 199 |
| 119. Powers and liability of trustee | ... 200 |
| 120. Issue of securities and redeemable capital not based on interest | ... 202 |
| PART VII--REGISTRATION OF MORTGAGES, CHARGES, ETC. | |
| 121. Certain mortgages and charges to be void if not registered | ... 204 |
| 122. Registration of charges on properties acquired subject to charge | ... 213 |
| 123. Particulars in case of series of debentures entitling holders <i>pari passu</i> | ... 214 |
| 124. Particulars in case of commission, etc., on debentures | ... 215 |
| 125. Register of mortgages and charges | ... 215 |
| 126. Index to register of mortgages and charges | ... 216 |
| 127. Certificate of registration | ... 216 |
| 128. Endorsement of certificate of registration on debenture or certificate of debenture stock | ... 216 |
| 129. Duty of company and right of interested party as regards registration | ... 217 |
| 130. Copy of instrument creating mortgage or charge to be kept at registered office | ... 217 |
| 131. Rectification of register of mortgages | ... 217 |
| 132. Registration of payment or satisfaction of mortgages and charges | ... 220 |
| 133. Power of registrar to make entries of satisfaction and release in absence of intimation from company | ... 221 |
| 134. Penalties | ... 222 |
| 135. Company's register of mortgages | ... 223 |
| 136. Right to inspect copies of instruments creating mortgages and charges and company's register of mortgages | ... 223 |
| RECEIVERS AND MANAGERS | |
| 137. Registration of appointment of receiver or manager | ... 224 |
| 138. Filing of accounts of receiver or manager | ... 224 |
| 139. Disqualification for appointment as receiver or manager | ... 225 |
| 140. Application to Court | ... 225 |
| 141. Power of Court to fix remuneration, etc. of receiver or manager | ... 226 |

PART VIII--MANAGEMENT AND ADMINISTRATION

REGISTERED OFFICE, PUBLICATION OF NAME, ETC.

| | | | |
|------|--|-----|-----|
| 142. | Registered office of company | ... | 228 |
| 143. | Publication office of company | ... | 229 |
| 144. | Penalties for non-publication of name | ... | 230 |
| 145. | Publication of authorized as well as paid-up capital | ... | 231 |

COMMENCEMENT OF BUSINESS BY A PUBLIC COMPANY

| | | | |
|------|---|-----|-----|
| 146. | Restriction on commencement of business | ... | 231 |
|------|---|-----|-----|

REGISTER OF MEMBERS AND DEBENTURE-HOLDERS

| | | | |
|------|---|-----|-----|
| 147. | Register of members and index | ... | 233 |
| 148. | Trusts not to be entered on register | ... | 236 |
| 149. | Register and index of debenture-holders | ... | 237 |
| 150. | Inspection of registers | ... | 238 |
| 151. | Power to close register | ... | 240 |
| 152. | Power of Court to rectify register | ... | 241 |
| 153. | Punishment for fraudulent entries in and omission from register | ... | 258 |
| 154. | Notice to registrar of rectification of register | ... | 258 |
| 155. | Register to be evidence | ... | 258 |
| 156. | Annual list of members, etc. | ... | 260 |

MEETINGS AND PROCEEDINGS

| | | | |
|------|---|-----|-----|
| 157. | Statutory meeting of company Annual general meeting | ... | 264 |
| 158. | Annual general meeting | ... | 267 |
| 159. | Calling of extraordinary general meeting | ... | 275 |
| 160. | Provisions as to meetings and votes | ... | 277 |
| 161. | Proxies | ... | 281 |
| 162. | Representation of corporations at meetings of companies and of creditors | ... | 287 |
| 163. | Representation of Federal Government, etc. at meetings of companies | ... | 288 |
| 164. | Notice of resolution | ... | 289 |
| 165. | Voting to be by show of hands in first instance | ... | 290 |
| 166. | Chairman's declaration of result of voting by show of hands to be evidence | ... | 290 |
| 167. | Demand for poll | ... | 292 |
| 168. | Time of taking poll | ... | 293 |
| 169. | Resolution passed at adjourned meeting | ... | 294 |
| 170. | Power of registrar to call meetings | ... | 294 |
| 171. | Penalty for default in complying with the directions of the registrar for holding the meeting | ... | 296 |

| <i>Section</i> | | <i>Page</i> |
|-----------------|---|-------------|
| 172. | Filing of resolution, etc. | ... 297 |
| 173. | Minutes of proceedings of general meetings and directors | ... 297 |
| DIRECTORS | | |
| 174. | Minimum number of directors | ... 300 |
| 175. | Only natural persons to be directors | ... 305 |
| 176. | First directors and their term | ... 305 |
| 177. | Retirement of directors | ... 307 |
| 178. | Procedure for election of directors | ... 308 |
| 179. | Circumstances in which election of directors may be declared invalid | ... 310 |
| 180. | Term of office of directors | ... 311 |
| 181. | Removal of director | ... 311 |
| 182. | Creditors may nominate directors | ... 312 |
| 183. | Certain provisions not to apply to directors representing special interests | ... 312 |
| 184. | Consent to act as director to be filed with registrar | ... 313 |
| 185. | Validity of acts of directors | ... 314 |
| 186. | Penalties | ... 315 |
| 187. | Ineligibility of certain persons to become director | ... 316 |
| 188. | Vacation of office by the directors | ... 316 |
| 189. | Penalty for unqualified person acting as director, etc. | ... 318 |
| 190. | Ineligibility of bankrupt to act as director, etc. | ... 318 |
| 191. | Restriction on director's remuneration, etc. | ... 318 |
| 192. | Restriction assignment of office by directors | ... 319 |
| 193. | Proceedings of directors | ... 320 |
| 194. | Liabilities, etc. of directors and officers | ... 320 |
| 195. | Loans to directors, etc. | ... 321 |
| 196. | Powers of directors | ... 325 |
| 197. | Prohibition regarding making of political contributions | ... 330 |
| CHIEF EXECUTIVE | | |
| 198. | Appointment of first chief executive | ... 331 |
| 199. | Appointment of subsequent chief executive | ... 331 |
| 200. | Terms of appointment of chief executive and filling up of casual vacancy | ... 331 |
| 201. | Restriction on appointment of chief executive | ... 331 |
| 202. | Removal of chief executive | ... 332 |
| 203. | Chief executive not to engage in business competing with company's business | ... 332 |
| 204. | Penalty | ... 332 |

| <i>Section</i> | | <i>Page</i> |
|----------------|--|-------------|
| | REGISTER OF DIRECTORS AND OTHER OFFICERS | |
| 205. | Register of directors, officers, etc. ... | 332 |
| | BAR ON APPOINTMENT OF MANAGING AGENTS, SOLE PURCHASE & SALES AGENTS, ETC. | |
| 206. | Bar on appointment of managing agents, sole purchase, sales agents, etc. ... | 335 |
| | TERMS OF APPOINTMENT OF MANAGING AGENT | |
| 207. | Terms and conditions of appointment of managing agents ... | 336 |
| | MISCELLANEOUS PROVISIONS REGARDING INVESTMENTS, CONTRACTS OFFICERS AND SHAREHOLDINGS, S TRADING AND INTERESTS | |
| 208. | Investments in associated companies and undertakings ... | 337 |
| 209. | Investments of company to be held in its own name ... | 339 |
| 210. | Form of contract ... | 341 |
| 211. | Bills of exchange and promissory notes ... | 345 |
| 212. | Execution of deeds ... | 346 |
| 213. | Power for company to have official seal for use abroad ... | 346 |
| 214. | Disclosure of interest by director ... | 347 |
| 215. | Interest of other officers, etc. ... | 351 |
| 216. | Interested director not to participate or vote in proceedings of directors ... | 351 |
| 217. | Declaring a director to be lacking fiduciary behaviour ... | 353 |
| 218. | Disclosure to members of director's interest in contract appointing chief executive, managing agent or secretary ... | 353 |
| 219. | Register of contracts, arrangements and appointments in which directors, etc, are interested ... | 355 |
| 220. | Register of directors' shareholdings, etc ... | 356 |
| 221. | Duty of directors, etc., to make disclosure of shareholdings, etc ... | 358 |
| 222. | Submission of statements of beneficial owners of listed securities ... | 358 |
| 223. | Prohibition of short selling ... | 359 |
| 224. | Trading by directors, officers and principal share-holders ... | 359 |
| 225. | Contracts by agents of company in which company is undisclosed principal ... | 360 |
| 226. | Securities and deposits, etc. ... | 361 |
| 227. | Employees' provident funds and securities ... | 361 |
| 228. | Right to see bank receipts for money or securities ... | 363 |
| 229. | Penalty for contravention of section 226, 227 or 228 ... | 363 |

ACCOUNTS

| | | |
|--|--|---------|
| 230. | Books of account to be kept by company | ... 364 |
| 231. | Inspection of books of account by registrar, etc. | ... 367 |
| 232. | Default in compliance with provisions of section 231 | ... 368 |
| 233. | Annual accounts and balance-sheet | ... 368 |
| 234. | Contents of balance-sheet | ... 371 |
| 235. | Treatment of surplus arising out of revaluation of fixed assets | ... 375 |
| 236. | Director's report | ... 375 |
| 237. | Balance-sheet of holding company to include certain particulars as to its subsidiaries | ... 377 |
| 238. | Financial year of holding company and subsidiary | ... 380 |
| 239. | Rights of holding company's representatives and members | ... 381 |
| 240. | Balance sheet of modaraba company to include modaraba accounts, etc. | ... 381 |
| 241. | Authentication of balance-sheet | ... 381 |
| 242. | Copy of balance-sheet to be forwarded to the registrar | ... 382 |
| 243. | Right of member of company to copies of the balance-sheet, etc., and the auditor's report | ... 385 |
| 244. | Penalty for improper issue, circulation or publication of balance sheet or profit and loss account | ... 385 |
| 245. | Half-yearly accounts of listed companies | ... 386 |
| 246. | Power of Authority to require submission of additional statements of accounts and reports | ... 386 |
| 247. | Rights of debenture-holders, etc. as to receipt and inspection of report, etc. | ... 386 |
| DIVIDENDS AND MANNER AND TIME OF PAYMENT THEREOF | | |
| 248. | Certain restrictions on declaration of dividends | ... 387 |
| 249. | Dividend to be paid only out of profits | ... 389 |
| 250. | Dividend not to be paid except to registered share-holders or other order or to their bankers | ... 390 |
| 251. | Period for payment of dividend | ... 390 |
| AUDIT | | |
| 252. | Appointment and remuneration of auditors | ... 392 |
| 253. | Provision as to resolutions relating to appointment and removal of auditors | ... 393 |
| 254. | Qualification and disqualification of auditors | ... 395 |
| 255. | Powers and duties of auditors | ... 396 |
| 256. | Reading and inspection of auditors' report | ... 401 |
| 257. | Signature on audit report, etc. | ... 401 |
| 258. | Audit of cost accounts | ... 401 |

CONTENTS

xiii

| <i>Section</i> | | <i>Page</i> |
|----------------|--|-------------|
| 259. | Penalty for non-compliance with provisions by companies | 401 |
| 260. | Penalty for non-compliance with provisions by auditors | 401 |
| | POWER OF REGISTRAR TO CALL FOR INFORMATION, ETC. | |
| 261. | Power of registrar to call for information or explanation | 403 |
| 262. | Seizure of documents by registrar | 405 |
| | INVESTIGATION AND RELATED MATTERS | |
| 263. | Investigation of affairs of company on application by members or report by registrar | 406 |
| 264. | Application by members to be supported by evidence and power to call for security | 408 |
| 265. | Investigation of company's affairs in other cases | 408 |
| 266. | Inspector to be a Court for certain purposes | 412 |
| 267. | Power of inspectors to carry investigation into affairs of associated companies | 412 |
| 268. | Duty of officers, etc. to assist the Inspector | 413 |
| 269. | Inspectors report | 414 |
| 270. | Prosecution | 415 |
| 271. | Power of Authority to initiate action against management | 416 |
| 272. | Effect of Court's order | 417 |
| 273. | No compensation to be payable for annulment or modification of contract | 418 |
| 274. | No right to compensation for loss of office | 418 |
| 275. | Application for winding up of company or an order under section 290 | 418 |
| 276. | Proceedings for recovery of damages or property | 419 |
| 277. | Expenses in investigation | 419 |
| 278. | Inspector's report to be evidence | 421 |
| 279. | Imposition of restrictions on shares and debentures and prohibition of transfer of shares or debentures in certain cases | 421 |
| 280. | Saving for legal advisers and bankers | 424 |
| 281. | Enquires and investigations not to be affected by winding up, etc. | 424 |
| 282. | Application of section 261 to 281 to liquidators and foreign companies | 424 |

PART IX--ARBITRATION, ARRANGEMENTS & RECONSTRUCTION

ARBITRATION

| | | |
|------|---|-----|
| 283. | Power for companies to refer matters to arbitration | 425 |
| | COMPROMISES, ARRANGEMENTS AND RECONSTRUCTION | |
| 284. | Power to compromise with creditors and members | 426 |

| <i>Section</i> | <i>Page</i> |
|---|-------------|
| 285. Power of Court to enforce compromises and arrangements | ... 427 |
| 286. Information as to compromises or arrangements with creditors and members | ... 448 |
| ✓ 287. Provisions for facilitating reconstruction and amalgamation of companies | ... 449 |
| 288. Notice to be given to registrar for applications under sections 284 and 287 | ... 454 |
| 289. Power and duty to acquire shares of share-holders dissenting from scheme or contract | ... 455 |

PART X--PREVENTION OF OPPRESSION AND MISMANAGEMENT

| | |
|---|---------|
| 290. Application to Court | ... 460 |
| 291. Powers of Court under section 290 | ... 468 |
| 292. Interim order | ... 468 |
| 293. Claim for damages inadmissible | ... 469 |
| 294. Application of certain sections to proceedings under this Part | ... 469 |
| 295. Management by Administrator | ... 469 |
| 296. Rehabilitation of companies owning sick industrial units | ... 472 |

PART XI--WINDING UP

PRELIMINARY

| | |
|--------------------------|---------|
| 297. Modes of winding up | ... 475 |
|--------------------------|---------|

CONTRIBUTORIES

| | |
|---|---------|
| 298. Liability as contributories of present and past members | ... 476 |
| 299. Liability of directors whose liability is unlimited | ... 481 |
| 300. Definition of "contributory" | ... 482 |
| 301. Nature of liability of contributory | ... 484 |
| 302. Contributories in case of death of member | ... 486 |
| 303. Contributory in case of insolvency of member | ... 488 |
| 304. Contributories in case of winding up of a body corporate which is a member | ... 488 |

WINDING UP BY COURT

CASES IN WHICH COMPANIES MAY BE WOUND UP BY COURT

| | |
|--|---------|
| 305. Circumstances in which company may be wound up by Court | ... 488 |
| 306. company when deemed unable to pay its debts | ... 525 |

TRANSFER OF PROCEEDINGS

| | |
|--|---------|
| 307. Transfer of proceedings to other Courts | ... 533 |
|--|---------|

CONTENTS

xv

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| 308. Withdrawal and transfer of winding up from one Court to another | ... 534 |
| PETITION FOR WINDING UP | |
| 309. Provisions as to applications for winding up | ... 534 |
| 310. Right to present winding up petition where company is being wound up voluntarily or subject to Court's supervision | ... 542 |
| COMMENCEMENT OF WINDING UP | |
| 311. Commencement of winding up by Court | ... 542 |
| POWERS OF COURT HEARING APPLICATION | |
| 312. Hearing of winding up petition by the Court | ... 544 |
| 313. Court may grant injunction | ... 544 |
| 314. Powers of Court on hearing petition | ... 545 |
| 315. Copy of winding up order to be filed with registrar | ... 549 |
| 316. Suits stayed on winding up order | ... 550 |
| 317. Court may require expeditious disposal of suits, etc. | ... 562 |
| 318. Effect of winding up order | ... 562 |
| 319. Power of Court to stay winding up, etc. | ... 563 |
| 320. Court to have regard to wishes of creditors or contributories | ... 565 |
| OFFICIAL LIQUIDATORS | |
| 321. Appointment of official liquidator | ... 567 |
| 322. Registration, removal, filling up vacancies, etc. of official liquidator | ... 569 |
| 323. Remuneration of official liquidator | ... 570 |
| 324. Style of official liquidator | ... 570 |
| 325. Appointment and powers of provisional manager | ... 571 |
| 326. General provisions as to liquidators | ... 574 |
| 327. Receiver not to be appointed of assets with liquidator | ... 576 |
| 328. Statement of affairs to be made to official liquidator | ... 576 |
| 329. Report by official liquidator | ... 579 |
| 330. Custody of company's property | ... 580 |
| 331. Committee of inspection in compulsory winding up | ... 583 |
| 332. Constitution and proceedings of committee of inspection | ... 583 |
| 333. Powers of official liquidator | ... 585 |
| 334. Discretion of official liquidator | ... 595 |
| 335. Provision for assistance to official liquidator | ... 595 |
| 336. Liquidator to keep books containing proceedings of meetings, etc. | ... 596 |
| 337. Liquidator's account | ... 596 |

| <i>Section</i> | | <i>Page</i> |
|----------------|--|-------------|
| 338. | Exercise and control of liquidator's powers | 597 |
| | POWERS OF COURT | |
| 339. | Settlement of list of contributories and application of assets | 599 |
| 340. | Power to require delivery of property | 603 |
| 341. | Power to order payment of debts by contributory | 606 |
| 342. | Power of Court to make calls | 610 |
| 343. | Power to order payment into bank | 613 |
| 344. | Regulation of account with Court | 614 |
| 345. | Order on contributory conclusive evidence | 614 |
| 346. | Power to exclude creditors not proving in time | 614 |
| 347. | Adjustment of rights of contributories | 615 |
| 348. | Power to order costs | 617 |
| 349. | Distribution by official liquidator | 618 |
| 350. | Dissolution of company | 618 |
| 351. | Power to summon persons suspected of having property of company | 623 |
| 352. | Power to order public examination of promoters, directors, etc. | 627 |
| 353. | Power to arrest absconding contributory | 631 |
| 354. | Saving of other proceedings | 631 |
| | ENFORCEMENT OF ORDERS | |
| 355. | Power to enforce orders | 631 |
| 356. | Order made by any Court to be enforced by other Court | 632 |
| 357. | Mode of dealing with orders to be enforced by other Courts | 633 |
| | VOLUNTARY WINDING UP | |
| | RESOLUTION FOR, AND COMMENCEMENT OF, VOLUNTARY WINDING UP | |
| 358. | Circumstance in which company may be wound up voluntarily | 634 |
| 359. | Commencement of voluntary winding up | 635 |
| | CONSEQUENCES OF VOLUNTARY WINDING UP | |
| 360. | Effect of voluntary winding up on status of company | 636 |
| 361. | Notice of resolution to wind up voluntarily | 637 |
| | DECLARATION OF SOLVENCY | |
| 362. | Declaration of solvency in case of proposal to wind up voluntarily | 637 |

Section

Page

PROVISIONS APPLICABLE TO MEMBERS' VOLUNTARY WINDING UP

| | | | |
|------|---|-----|-----|
| 363. | Provisions applicable to members' voluntary winding up | ... | 639 |
| 364. | Appointment of liquidators | ... | 639 |
| 365. | Power to fill vacancy in office of liquidator | ... | 641 |
| 366. | Notice of appointment of liquidator to be given to registrar alongwith his consent. | ... | 641 |
| 367. | Power to liquidator to accept shares, etc., as consideration for sale of property of company. | ... | 642 |
| 368. | Duty of liquidator to call creditors' meeting in case of insolvency | ... | 644 |
| 369. | Duty of liquidator to call general meeting at the end of each year | ... | 645 |
| 370. | Final meeting and dissolution | ... | 646 |
| 371. | Alternative provisions as to annual and final meetings in case of insolvency. | ... | 647 |

PROVISIONS APPLICABLE TO CREDITORS' VOLUNTARY WINDING UP

| | | | |
|------|--|-----|-----|
| 372. | Provisions applicable to creditors' voluntary winding up | ... | 648 |
| 373. | Meeting of creditors | ... | 648 |
| 374. | Notice of resolution passed by creditors' meeting to be given to registrar | ... | 649 |
| 375. | Appointment of liquidator | ... | 650 |
| 376. | Appointment of committee of inspection | ... | 651 |
| 377. | Fixing of liquidator's remuneration | ... | 651 |
| 378. | Directors' powers to cease on appointment of liquidator | ... | 652 |
| 379. | Power to fill vacancy in office of liquidator | ... | 652 |
| 380. | Application of section 367 to a creditors' voluntary winding up | ... | 652 |
| 381. | Duty of liquidator to call meetings of company and of creditors at the end of every year | ... | 652 |
| 382. | Final meeting and dissolution | ... | 653 |

PROVISIONS APPLICABLE TO EVERY VOLUNTARY WINDING UP

| | | | |
|------|---|-----|-----|
| 383. | Provisions applicable to every voluntary winding up | ... | 656 |
| 384. | Accounts and statment to be audited | ... | 656 |
| 385. | Distribution of property of company | ... | 656 |
| 386. | Application of sections 328 and 329 to voluntary winding up | ... | 659 |
| 387. | Powers and duties of liquidator in voluntary winding up | ... | 659 |
| 388. | Power of Court to appoint and remove liquidator in voluntary winding up | ... | 662 |
| 389. | Notice by liquidator of his appointment | ... | 664 |
| 390. | Arrangement when binding on company and creditors | ... | 664 |

| <i>Section</i> | <i>Page</i> |
|--|-------------|
| 391. Power to apply to Court to have questions determined or powers exercised | ... 665 |
| 392. Application of liquidator to Court for public examination of promoters, directors, etc. | ... 669 |
| 393. Costs of voluntary winding up | ... 669 |
| 394. Saving for right of creditors and contributories | ... 670 |
| 395. Power of Court to adopt proceedings of voluntary winding up | ... 670 |
| WINDING UP SUBJECT TO SUPERVISION OF COURT | |
| 396. Power to order winding up subject to supervision | ... 670 |
| 397. Effect of petition for winding up subject to supervision | ... 672 |
| 398. Court may have regard to wishes of creditors and contributories | ... 672 |
| 399. Power to replace liquidator | ... 672 |
| 400. Effects of supervision order | ... 672 |
| 401. Appointment of voluntary liquidator as official liquidator in certain cases | ... 674 |
| PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP | |
| STATUS OF COMPANIES BEING WOUND UP | |
| 402. Status of companies being wound up, etc. | ... 674 |
| PROOF AND RANKING OF CLAIMS, ETC. | |
| 403. Debts of all descriptions to be proved | ... 674 |
| 404. Application of insolvency rules in winding up insolvent companies | ... 679 |
| 405. Preferential payments | ... 693 |
| 406. Avoidance of transfers, etc. | ... 702 |
| 407. Disclaimer of property | ... 707 |
| EFFECT OF WINDING UP ON ANTECEDENT AND OTHER TRANSACTIONS | |
| 408. Fraudulent preference | ... 710 |
| 409. Liabilities and rights of certain fraudulently preferred persons | ... 712 |
| 410. Avoidance of certain attachments, executions, etc. | ... 712 |
| 411. Effect of floating charge | ... 714 |
| OFFENCES ANTECEDENT TO OR IN COURSE OF WINDING UP | |
| 412. Power of Court to assess damages against delinquent directors, etc. | ... 714 |
| 413. Liability for fraudulent conduct of business | ... 731 |

CONTENTS

xix

Page

Section

| | | |
|------|--|---------|
| 414. | Liability under sections 412 and 413 to extend to partners or directos in firm or body corporate | ... 733 |
| 415. | Penalty for fraud by officers of companes which have gone into liquidation | ... 733 |
| 416. | Liability where proper accounts not kept | ... 734 |
| 417. | Penalty for falsification of books | ... 734 |
| 418. | Prosecution of delinquent directors | ... 735 |
| 419. | Penalty for false evidence | ... 739 |
| 420. | Penal provisions | ... 739 |

SUPPLEMENTARY PROVISIONS AS TO WINDING UP

| | | |
|------|--|---------|
| 421. | Liquidator to exercise certain powers subject to sanction | ... 742 |
| 422. | Meeting to ascertain wishes of credits or ontributores | ... 744 |
| 423. | Documents of company to be evidence | ... 746 |
| 424. | Summary disposal of certain suits by liquidators | ... 746 |
| 425. | Limitation | ... 746 |
| 426. | Court-fees | ... 746 |
| 427. | Inspection of documents | ... 747 |
| 428. | Disposal of books and papers of company | ... 747 |
| 429. | Power of Court to declare dissolution of company void | ... 748 |
| 430. | Information as to pending liquidations | ... 749 |
| 431. | Payments by liquidator into bank | ... 750 |
| 432. | Unclaimed dividends and undistributed assets to be paid to Companies Liquidation Account | ... 751 |
| 433. | Books of accounts and other proceedings to be kept by liquidators | ... 753 |
| 434. | Application of provisions relating to audit | ... 753 |
| 435. | Enforcement of duty of liquidator to make return, etc. | ... 754 |
| 436. | Notification that a company is in liquidation | ... 754 |
| 437. | Court or person before whom affidavit may be sworn | ... 754 |

COURT RULES

| | | |
|------|---------------------|---------|
| 438. | Power to make rules | ... 755 |
|------|---------------------|---------|

REMOVAL OF DEFUNCT-COMPANIES FROM REGISTER

| | | |
|------|---|---------|
| 439. | Registrar may strike defunct-company off register | ... 756 |
|------|---|---------|

PART XII--APPLICATION OF ORDINANCE TO COMPANIES FORMED AND REGISTERED UNDER PREVIOUS COMPANIES ACT

| | | |
|------|---|---------|
| 440. | Application of Ordinance to companies formed and resigtered under previous Companies Act | ... 763 |
| 441. | Application of Ordinance to companies registered but not formed under previous Companies Acts | ... 763 |

| xx | CONTENTS | Page |
|---|--|---------|
| <i>Section</i> | | |
| 442. | Application of Ordinance to unlimitd companies registered under previous Companies Acts | ... 763 |
| PART XIII-WINDING UP OF UNREGISTERED COMPANIES | | |
| 443. | Meaning of "unregistered company". | ... 765 |
| 444. | Winding up of unregistered companies | ... 766 |
| 445. | Contributories in winding up of unregistered companies | ... 770 |
| 446. | Power to stay or restrain proceedings | ... 770 |
| 447. | Suits stayed on winding up order | ... 770 |
| 448. | Directors as to propeerty in certain cases | ... 771 |
| 449. | Provisions of this Part cumulative | ... 771 |
| PART XIV--COMPANIES ESTABLISHED OUTSIDE PAKISTAN | | |
| PROVISIONS AS TO ESTABLISHMENT OF PLACES OF BUSINESS IN PAKISTAN | | |
| 450. | Application of this Part to foreign companies | ... 772 |
| 451. | Documents to be delivered to registrar by foreign companies | ... 772 |
| 452. | Return to be delivered to registrar by foreign companies whose documents, etc., altered | ... 774 |
| 453. | Accounts of foreign companies | ... 775 |
| 454. | Certain obligations of foreign companies | ... 776 |
| 455. | Service on foreign company | ... 777 |
| 456. | Company's failure to comply with this Part not to affect its liability under contracts, etc. | ... 777 |
| 457. | Provisions relating to names, enquiries, etc., to apply to foreign companies | ... 777 |
| 458. | Intimation of ceasing to have place of business to be given | ... 778 |
| 459. | Penalties | ... 778 |
| 460. | Interpretation of provisions of this Part | ... 778 |
| PROSPECTUS | | |
| 461. | Issue of prospectus | ... 779 |
| 462. | Restriction on canvassing fo sale of securities | ... 779 |
| REGISTRATION O CHARGES, ETC. | | |
| 463. | Registration of charges | ... 780 |
| 464. | Notice of appointment of receiver | ... 780 |
| NOTICE OF LIQUIDATION | | |
| 465. | Notice of liquidation, etc. | ... 781 |
| PART XV--REGISTRATION OFFICES AND FEES | | |
| 466. | Registration offices | ... 782 |

| <i>Section</i> | | <i>Page</i> |
|----------------|--|-------------|
| 467. | Production of documents kept by registrar, etc. | ... 783 |
| 468. | Registrar not to accept defective documents | ... 783 |
| 469. | Acceptance of documents presented after prescribed time. | ... 784 |
| 470. | Fees | ... 784 |
| 471. | Power of the Federal Government of proscribed fees chargeable by companies. | ... 785 |
| 472. | Enforcing compliance with provisions of ordinance | ... 785 |
| 473. | Power of Court, etc., trying offences under ordinance to direct compliance with the provisions | ... 786 |

PART XVI--GENERAL

LEGAL PROCEEDINGS, OFFENCES, ETC.

| | | |
|------|--|---------|
| 474. | Cognizance of offences, etc. | ... 787 |
| 475. | Offences to be non-cognizable | ... 789 |
| 476. | Punishment and adjudication of fine or penalty | ... 789 |
| 477. | Appeal and revision | ... 790 |
| 478. | Powers of the Federal Government, etc., in relation to enquiries and proceedings | ... 791 |
| 479. | Procedure for trial of a corporate body | ... 791 |
| 480. | Power of Federal Government to appoint company prosecutors. | ... 792 |
| 481. | Appeal against acquittal. | ... 792 |
| 482. | Payment of compensation in cases of frivolous or vexatious prosecution | ... 792 |
| 483. | Application of fines | ... 794 |
| 484. | Revision and review | ... 794 |
| 485. | Appeals against orders, etc. | ... 794 |
| 486. | Production and inspection of books where offence suspected | ... 795 |
| 487. | Power to require limited company to give security for costs | ... 796 |
| 488. | Power of Court, etc. to grant relief in certain cases. | ... 796 |
| 489. | Enforcement of orders of Court | ... 800 |
| 490. | Enforcement of orders of Court by other Courts | ... 801 |
| 491. | Protection of acts done in good faith | ... 801 |
| 492. | Penalty for false statement | ... 801 |
| 493. | Penalty for wrongful withholding of property | ... 803 |
| 494. | Liability of directors for allotment of shares for inadequate consideration | ... 805 |
| 495. | Punishment for non-compliance of directive of Court, etc. | ... 806 |
| 496. | Penalty for carrying on <i>ultra vires</i> business. | ... 806 |
| 497. | Penalty for improper use of word "limited" | ... 806 |
| 498. | Penalty where no specific penalty is provided elsewhere in the Ordinance | ... 807 |

| <i>Section</i> | <i>Page</i> |
|----------------|--|
| | POWER TO ACCORD APPROVAL, ETC., SUBJECT TO CONDITIONS |
| 499. | Power to accord approval subject to conditions ... 807 |
| | ANNUAL REPORT ON ADMINISTRATION OF THE ORDINANCE |
| 500. | Annual report by Authority ... 808 |
| | DELEGATION OF POWERS |
| 501. | Delegation of Powers ... 808 |
| | ADVISORY COMMITTEE |
| 502. | Advisory Committee ... 809 |
| | APPLICATION OF ORDINANCE TO COMPANIES GOVERNED BY SPECIAL ENACTMENT |
| 503. | Application of Ordinance to companies governed by special enactments ... 809 |
| | SCHEDULES, TABLES, FORMS AND GENERAL RULES |
| 504. | Forms ... 810 |
| 505. | Power of the Federal Government to alter schedules ... 810 |
| 506. | Power of the Federal Government to make rules ... 810 |
| 507. | Power of the Federal Government to permit use of Urdu words or abbreviations. ... 811 |
| | REPEAL, SAVING, ETC. |
| 508. | Repeal of laws and savings ... 811 |
| 509. | Amendment of Ordinance XVII of 1969. ... 812 |
| 510. | Savings ... 813 |
| 511. | Former registration offices, registers and registrars continued ... 813 |
| 512. | Construction of references to extraordinary resolution in articles, etc. ... 813 |
| 513. | Transitional provisions ... 813 |
| 514. | Removal of difficulties ... 814 |

SCHEDULES

| Table | FIRST SCHEDULE |
|---------|---|
| TABLE A | Regulations for management of a company limited by shares ... 815 |
| TABLE B | Memorandum of association of company limited by shares ... 853 |
| TABLE C | Memorandum and Article of Association of a company limited by guarantee and not having a share capital ... 854 |

CONTENTS

xxiii

Page

Section

| | | |
|---------|---|---------|
| TABLE D | Memorandum and Articles of Association of a company limited by guarantee and having a share capital | ... 859 |
| TABLE E | Memorandum and Articles of Association of an unlimited company having a share capital | ... 861 |
| TABLE F | Omitted by Ord S.7. of 1984, S.7. | ... 864 |

SECOND SCHEDULE

| | | |
|----------|---|---------|
| PART I | Matters to be specified in prospectus and reports to be set out therein | ... 864 |
| PART II | Form of statement in lieu of prospectus to be delivered to registrar by a company which does not issue a prospectus or which does not go to allotment on a prospectus issues, and reports to be set out therein | ... 872 |
| PART III | Form of statement in lieu of prospectus to be delivered to registrar by a private company on becoming a public company and reports to be set out therein | ... 878 |

THIRD SCHEDULE

| | | |
|---------|--|---------|
| PART I | Contents and Form of Annual Return of company having a share capital | ... 885 |
| PART II | Contents and Form of Annual Return of company not having a share capital | ... 895 |

FOURTH SCHEDULE

| | |
|--|---------|
| Requirements as to balance sheet and profit and loss account of listed companies | ... 903 |
|--|---------|

FIFTH SCHEDULE

| | |
|--|---------|
| Requirements as to balance sheet and profit and loss account of non-listed companies | ... 923 |
|--|---------|

SIXTH SCHEDULE

| | |
|---|---------|
| Table of Fees to be paid to the registrar, the Authority and the Federal Government | ... 939 |
|---|---------|

SEVENTH SCHEDULE

| | |
|---------------------|---------|
| Enactments repealed | ... 943 |
|---------------------|---------|

EIGHTH SCHEDULE

| | |
|--|---------|
| Amendment of Ordinance XVII of 1969 Appendixes | ... 944 |
|--|---------|

APPENDICES

| | |
|--|----------|
| Companies (General Provisions and Forms) Rules, 1985 | ... 945 |
| Circular to be sent to members along with the notice offering new shares | ... 1019 |
| Companies Appointment of Trustees Act, 1972 | ... 1022 |
| Companies Appointment of Trustees Rules. | ... 1025 |
| Companies Profits (Workers Participation) Act, 1966. | ... 1026 |
| Companies Profits (Workers, Participation) Rules, 1976. | ... 1041 |
| Companies (Appointment of Legal Advisors) Act, 1974. | ... 1048 |
| Companies (Appointment of Legal Advisors) Rules, 1975. | ... 1050 |
| Companies (Management by Administration) Rules, 1993. | ... 1052 |
| Companies (Invitation and Acceptance of Deposits) Rules, 1987. | ... 1055 |
| Companies (Issue of Capital) Rules, 1996 | ... 1068 |
| Corporate Law Authority Rules, 1984 | ... 1073 |
| Investment Companies and Investment Advisors Rules, 1971. | ... 1075 |
| Securities and Exchange Ordinance. | ... 1090 |
| Securities and Exchange Rules. | ... 1117 |
| Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970. | ... 1152 |
| Monopoly Control Authority Rules, 1971. | ... 1186 |
| Monopoly Control Authority (Net-worth of Stocks and Shares) Rules, 1977. | ... 1197 |
| Monopoly Control Authority (Value of Assets) Rules, 1991. | ... 1198 |
| Companies (Registrar's Offices) Regulations, 1986. | ... 1199 |
| Modaraba Companies and Modarabas (Floatation and Control) Ordinance, 1980. | ... 1207 |
| Modaraba Companies and Modaraba Rules, 1980. | ... 1221 |
| Economic Reforms Order. | ... 1272 |
| Economic Reforms (Acquisition and Compensation) Rules, 1973. | ... 1288 |
| Foreign Private Investment (Promotion and Protection) Act, 1976. | ... 1291 |
| Asset Management Companies Rules, 1995. | ... 1294 |
| Credit Rating Companies Rules, 1995. | ... 1316 |
| Leasing Companies (Establishment and Regulation) Rules, 1995. | ... 1322 |
| Employees' Provident Fund (Investment in Listed Securities) Rules, 1996. | ... 1333 |
| Federal Education Fee. | ... 1335 |
| Federal Education Fee Scheme | ... 1336 |
| Federal Education Fee Rules, 1992. | ... 1340 |
| Dates of Enforcement of Companies Ordinance. | ... 1342 |
| Index. | ... 1343 |