

# PART I

## RELEVANCY OF FACTS

### Chapter I

#### PRELIMINARY

**1. Short title, extent and commencements.** (1) This Order may be called the Qanun-e-Shahadat Order, 1984.

(2) It extends to the whole of Pakistan and applies to all judicial proceedings in or before any Court, including a Court martial, a tribunal or other authority exercising judicial or quasi-judicial powers or jurisdiction but does not apply to proceedings before an arbitrator.

(3) It shall come into force at once.

#### NOTES

**1. Application**—Qanun-e-Shahadat Order, 1984 applies:

1. to proceedings before any Court, Court martial, a Tribunal or other authority exercising judicial or quasi-judicial powers except proceedings before an arbitrator. [NLR 1999 S.D. 376]
2. to Tribunal and Authorities to proceedings under the Ordinance II of 1968. [1991 SCMR 643]
3. to all judicial and quasi-judicial proceedings before any Court/Tribunal or any other authority. [1991 MLD 1631]
4. to Income Tax Authorities. [(1992) 66 Tax 89 = 1993 PTD 206]
5. to proceedings under Labour Courts. [1992 PLC 1164]
4. interpretation of the Order 1984 must be done in conformity with the injunction of Islam. [PLD 1995 Kar 469]
5. Sind Rented Premises Ordinance 1979: Technicalities of law of evidence cannot be allowed to stand in way of doing proper justice. [1991 MLD 724]
6. Application not retrospective. [1991 CLC Notes 120 (p. 97)]
7. Domestic tribunal. Domestic tribunal like inquiry committees and departmental committees constituted statutorily by Universities to probe genuineness and otherwise of a degree are bound by the principles of Qanun-e-Shahadat, 1984. [2014 SCMR 45]

**2. Previous statement**—Previous statement not admissible in subsequent proceedings. [1993 CLC 2152; 1991 MLD 1560]

**2. Interpretation.** (1) In this Order, unless there is anything repugnant in the subject or context.

- (a) "Court" includes all Judges and Magistrate, and all persons, except arbitrators, legally authorized to take evidence;
- (b) "Document" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter;

## Illustrations

A writing is a document;  
 Words printed, lithographed or photographed are documents;  
 A map or plan is a document;  
 An inscription on a metal plate or stone is a document;  
 A caricature is a document.

## (c) "evidence" includes

- (i) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry, such statements are called oral evidence, and
- (ii) all documents produced for the inspection of the Court; such documents are called documentary evidence;

## NOTES

1. Art. 2(1)(b)—Document. Document which is not placed before Court and is not considered by that Court or First Appellate Court cannot be considered by High Court. [1989 CLC 382] Photograph is a document. Movie film is also a photo graph and cannot be excluded from purview of document. [2002 P.Cr.L.J. 1765] Documentary evidence if not disputed, must be given preference, credence over oral testimonies which are otherwise vague and also shattered in cross-examination. [PLD 2004 Lah. 115] Although document not formally admitted in evidence and available on Court's record or elsewhere may, for the purpose of elucidation of certain facts, be looked into, yet the same by no stretch of imagination can be termed or regarded as evidence unless proved and exhibited at the trial in accordance with law. [2004 P.Cr.L.J. 371] Oral evidence cannot exclude documentary evidence. [PLD 2007 S.C. (AJ&K) 63] A document inadmissible in evidence cannot be seen or looked into by court even if it is exhibited without any objection. [2013 MLD 1449]

**Statement made in Court by witness and identification parade.** Statement made in Court by witness is substantive evidence within the purview of Article 2(c), Qanun-e-Shahadat whereas identification made by witness at the parade is only corroborative in nature. Unless substantive or direct evidence is available, conviction cannot be base don any other type of evidence how convincing it may be. [2009 SCMR 4]

2. Art. 2(1)(c). Pleadings—No evidence, [1992 MLD 1879 + PLD 1972 S.C. 52] Pleadings cannot be treated as substitute for evidence. [1991 CLC 1937] No objection raised when copy of attachment order tendered in evidence—Subsequent objection would pale into insignificance. [1992 ALD 612] Evidence—Inconsistent to be discarded. [1992 ALD 665] Conduct of plaintiff—Relevant. [1992 ALD 463] Documents remaining rebutted. [1992 MLD 37] Important piece of evidence not considered—Order without lawful authority. [1992 ALD 102] Site inspection by Court—Cannot be made basis for decision. [1992 MLD 2000, PLD 1980 Kar 108] Plaintiff to succeed on the basis of his own evidence. [1993 PSC (S.C.) 1412] Tribunal's decision must not rest on a suspicion but upon legal grounds established by legal evidence. [2004 YLR 659]

**Evidence.** Evidence is a fact, oral or documentary deposed before a Court competent under the law to prove or disprove a fact at issue. Statement which the Court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry would fall within purview of 'evidence'. [1989 P.Cr.L.J. 1979] Party has to succeed on the basis of evidence produced by him and cannot take benefit of weaknesses in evidence of opposite party. [2004 YLR 423] Evidence more reliable in quantity and quality to be preferred. [PLD 1991 SC 645] Evidence not challenged in cross-examination—Accepted. [1991 CLC Note 329 (p. 252); 1991 SCMR 2300; 1988 SCMR 879; 1991 PLC 44]

**Deposition of a party on oath in his favour.** Such deposition would never remain evidence. [PLD 2014 Pesh 29]