

THE PROVINCIAL EMPLOYEES SOCIAL SECURITY
ORDINANCE, 1965

(W.P. Ordinance X of 1965)

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'THE 7[PROVINCIAL] EMPLOYEES SOCIAL SECURITY

Preamble.

Short title, extent,
commencement
and application.

ORDINANCE, 1965

(West Pakistan Ordinance X of 1965)

[17" May, 1965]

An Ordinance to introduce a scheme of Social Security for providing benefits to certain employees or their dependents in the event of sickness, maternity, employment, injury or death and for matters ancillary thereto.

WHEREAS it is expedient to introduce a scheme of Social Security for providing benefits to certain employees or their dependents in the event of sickness, maternity, employment, injury or death, and for matters ancillary thereto;

AND WHEREAS the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of Article 79 of the Constitution', the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

1. (1) This Ordinance may be called the *[Provincial] Employees Social Security Ordinance, 1965.

(2) It extends to the whole of *[Pakistan]>.

(3) It shall come into force at once, but shall apply only to such areas, classes of persons, industries or establishments, from such date or dates, and with regard to the provision of such benefits as Government may, by notification,

This Ordinance was promulgated by the Governor of West Pakistan on 14" May, 1965; approved by the Provincial Assembly of

Pakistan on 8" July, 1965, under clause (3) of Article 79 of the Constitution of the Islamic Republic of Pakistan (1962); and, published in the West Pakistan Gazette (Extraordinary), dated 8" July, 1965, pages 3579-3610.

2 Substituted by President Order No. 4 of 1975, for the words "West Pakistan". Gazette of Pakistan, Extraordinary, Part 2, 1 A

p.435.

Part 2, 1* August, 1975. p.435.

No. 52, dated 29" July, 1974.

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That is the Constitution of Islamic Republic of Pakistan, 1962.

Substituted by President Order No. 4 of 1975, for the words "West Pakistan, except the Tribal Areas". Gazette of Pakistan, Ex

Extended to the Tribal Areas of Balochistan by Balochistan Regulation III of 1974; published in the Balochistan Gazette (Extra

Definitions.

specify in this behalf.

In this Ordinance, unless the context otherwise

requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

(1) "appointed day" means in relation to any area, class of persons, industries, establishments or benefits, the day on which this Ordinance is applied to such area or in respect of such class of persons, industries, establishments or benefits;

(2) "Chairman" means the Chairman of the Governing Body;

(3) "Commissioner" means the Commissioner of the Institution;

(4) "confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child, whether alive or dead;

(5) "contribution" means the sum of money payable to the institution by an employer in respect of an employee, '***] in accordance with the provisions of this Ordinance;

(6) "dependent" means the wife or wives or a needy invalid husband ?[, dependents parents] and any unmarried children under the age of *[twenty one] years dependent upon the secured person*[:]

'[Provided that such age limit shall not apply to unmarried dependent daughters; |

(7) "disablement" means a condition caused by an employment injury which, as certified by a medical practitioner authorised for the purpose as provided in the regulations, has permanently reduced or is likely to reduce permanently a secured person's earning capacity, and

The words "and includes any amount payable by or on behalf of the employee" omitted by Ordinance IX of 1972; made by the of Pakistan on 13" April, 1972; and published in the Gazette of Pakistan, Extraordinary, dated 13" April, 1972.

Inserted by the Labour Laws (Amendment) Act, 1994 (Act XI of 1994) passed by Majlis-e-Shoora (Parliament) and received th

of President of Pakistan on 19" June, 1994; published in the Gazette of Pakistan, Extraordinary, Part I, dated 29" June, 1994.

Substituted *ibid*, for the word "sixteen".

Substituted *ibid*, for semi-colon.

Proviso added by the Labour Laws (Amendment) Act, 1994 (Act XI of 1994) passed by Majlis-e-Shoora (Parliament) and rece

assent of President of Pakistan on 19" June, 1994; published in the Gazette of Pakistan, Extraordinary, Part I, dated 29" June.

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disablement shall be "minor" where the loss of earning capacity '[is less than twenty per centum], "partial" where the loss of earning capacity ranges from twenty-one per centum to sixty-six per centum, and "total" where the loss

of earning capacity is in excess of sixty-six per centum;

*[(7-a) "domestic servant" means any person working whole-time in connection with the work of any household for any consideration, whether in cash or in kind];

3[(8) "employee" means any person employed, whether directly or through any other person for wages or otherwise to do any skilled or unskilled, supervisory, clerical, manual or other work in, or in connection with the affairs of an industry or establishment, under a contract of service or apprenticeship, whether written or

oral, expressed or implied but does not

include—]

(a) persons in the service of the State, including members of the Armed Forces, Police Force and Railway servants;

(b) — persons employed in any under-taking under the control of any Defence Organisation or Railway Administration;

(c) persons in the service of a local council, a municipal committee, a cantonment board or any other local authority;

(d) any person in the service of his father, mother, wife, son or daughter, or of her husband;

(f) any person employed on _ wages

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exceeding *[five thousand] rupees per

to twenty per centum".

Inserted by Ordinance IX of 1972.

Substituted by Federal Ordinance CIV of 2002.

Deleted by Ordinance IX of 1972.

Substituted by the Labour Laws (Amendment) Act, 1994 (Act XI of 1994) passed by Majlis-e-Shoora (Parliament) and received assent of President of Pakistan on 19" June, 1994; published in the Gazette of Pakistan, Extraordinary, Part I, dated 29" June,

(9)

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(12)

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mensem ![:]

*[Provided that an employee shall not
cease to be an employee for the reason that his
monthly wages exceed 3(five) thousand rupees; |

"employer" means in the case of works executed
or undertakings carried on by any contractor or
licensee on behalf of the State, the contractor or
licensee working for the State, and in every
other case the owner of the industry, business,
undertaking or establishment in which an
employee works and includes any agent,
manager or representative of the owner;

"employment injury" means a personal injury to
a secured person caused by an accident or by
such occupational disease as may be specified
in the regulations, arising, out of and in the
course of, his employment;

"establishment" means an organisation, whether
industrial, commercial, agricultural or
otherwise;

"Fund" means the Employees Social Security
Fund set up under section 3;

"Governing Body" means the Governing Body of
the Institution;

"Government" means the '[Federal or a]
[Provincial Government] ;

"industry" means any business, _ trade,
undertaking, manufacture or calling of
employers, and includes any calling, service,
employment, handicraft, industrial occupation
or avocation of workmen;

"Institution". means the Employees' Social
Security Institution established under section 3;

"Medical Adviser" means the Medical Adviser
appointed under section 15;

the words "one thousand five hundred", earlier substituted by Act XVI of 1985, for the words "one thousand".

Substituted *ibid*, for "semi colon"
Proviso added, *ibid*.

Substituted by Federal Ordinance LIII of 2001, for the word "three" effective from 1-7-2003.

Inserted by Federal Ordinance CIV of 2002.

Substituted by President Order No. 4 of 1975, for the words "Government of West Pakistan"

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(18) "medical board" means a board consisting of two or more medical practitioners, appointed under section 17;

(19) "medical practitioner" means a person practising medicine and having such qualifications as may be provided in the regulations;

(20) "Member" means a member of the Governing Body;

(21) "prescribed" means prescribed by rules;

(22) "registered Trade Union" means a Trade Union

registered under the Trade Unions Act, 1926 (XVI of 1926);

(23) "regulations" means regulations made under this Ordinance;

(24) "rules" means rules made under this Ordinance;

(25) "secured person" means a person in respect of whom contributions are or were payable under this Ordinance;

(25a) "self-assessment scheme" means a scheme of

social security benefits, effective from the 1st July, 2001, with no intervention through checking by any staff member of the Institution, in respect of employees secured under this Ordinance ?[****] and the employer undertakes to pay a contribution in respect of them [at the fixed rate of hundred ten rupees per month per secured employee. |

(26) "sickness" means a condition which requires medical treatment or necessitates abstention from work on medical grounds;

(27) "Social Security Area" means an area to which this Ordinance has been applied;

(28) "Social Security Court" means a_ court constituted under section 60;

(29) "strike" and "lock-out" shall have the same meaning as is respectively assigned to them in

Clause (25-A) inserted by Federal Ordinance LIII of 2001 effective from 1st July, 2001.

The words, figures and comma "as on 30th June, 2001", omitted by Federal Ordinance CIV of 2002; published in the Gazette of

(Extraordinary) dated 29th October, 2002.

3 Substituted *ibid*, for the words "at the fixed rate of two hundred ten rupees".

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Establishment and
incorporation of
Employees
Social Security
Institution.

Management.

the Industrial Disputes Ordinance, 1959 (LVI of
1959);

(30) "wages" means remuneration for service paid or payable in cash or in kind to a secured person, not being less than remuneration based on the minimum rates of wage declared under the Minimum Wages Ordinance, 1961 (XXXIX of 1961), without taking account of deductions for any purpose, under a contract of service or apprenticeship, expressed or implied, and shall be deemed to include any dearness allowance or other addition in respect of the cost of living and any payment by the employer to a secured person in respect of any period of authorised leave, illegal lock-out or legal strike; but does not include—

(a) any payment for overtime; or

(b) any sum paid to the person employed to defray special expenses entailed by the nature of his employment; or

(c) any gratuity payable on discharge; or

(d) any sum paid as bonus by the employer;

(31) "week" means a _ period of seven days commencing at midnight of Sunday night.

CHAPTER — II ORGANISATION

3. (1) As soon as may be after the commencement of this Ordinance, Government shall establish by notification an institution to be called the Employees' Social Security Institution.

(2) The Institution shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the aforesaid name sue and be sued.

(3) The Institution shall have its own fund, to be called the Employees' Social Security Fund, and may incur out of the said Fund such expenditure as may be necessary.

4. (1) The general direction and superintendence of

Governing Body.

the affairs of the Institution shall vest in a Governing Body which, with the assistance of a Commissioner, may exercise all powers and do all acts and things which may be exercised or done by the Institution.

(2) In discharging its functions, the Institution shall be guided by such instructions on questions of policy as may be given to it from time to time by Government, which shall be the sole judge as to whether any instructions are on a question of policy or not.

5. (1) The Governing Body shall consist of the following members to be appointed by Government, by notification, namely:—

(a) a person who is or has been a Judge of the High Court or a senior officer in the services of Pakistan not below the rank of a Commissioner of a Division or Secretary to Government, and such person shall be the Chairman of the Governing Body;

(b) four persons to represent Government, one each respectively from _ the Departments of Labour, Industries, Health and Finance;

(c) three persons to represent employers;

(d) three persons to represent secured persons;

(e) the Medical Adviser, ex-officio.

(2) Members to be appointed under clause (c) or clause (d) of sub-section (1) shall respectively be chosen from a list of names submitted in the prescribed manner by the organisations of employers and employees recognised by Government for that purpose:

Provided that pending the making of rules in this behalf, the first members to be so appointed shall be chosen from such persons as Government may deem suitable.

(3) Subject to the other provisions of this Ordinance a member shall hold office for three years from the date on which his appointment is notified under sub-section

(1).

Powers and
functions of the
Governing
Body.

Meetings of the
Governing
Body.

Authentication of
orders, etc.

Supersession of the
Governing
Body.

6. In addition to the powers conferred on, and the functions entrusted to it by the other provisions of this Ordinance or by the rules, the Governing Body shall have powers—

(a) to approve the budget estimates, the audited accounts and the annual report of the Institution for submission to Government in accordance with the provisions of this Ordinance; and

(b) to call for any information, or direct any research to be made for the furtherance of the objects of this Ordinance.

7. (1) The meetings of the Governing Body shall be held at such times and at such places as may be provided by regulations, and until regulations are made in this behalf, such meetings shall be convened by the Chairman.

(2) To constitute a quorum at a meeting of the Governing Body, the number of members present shall be five.

(3) Each member shall have one vote, and, in the event of equality of votes, the Chairman shall have second or casting vote.

(4) The meetings of the Governing Body shall be presided over by the Chairman, and in the absence of the Chairman, by the person elected for the purpose by the members present from amongst themselves.

8. All orders and decisions of the Governing Body shall be authenticated by the signature of the Chairman or of such other member as may have been authorised by the Governing Body in writing for the purpose.

9. (1) If, in the opinion of Government, the Governing Body has persistently failed to perform the duties imposed upon it by or under this Ordinance, or has abused its powers, Government may, by notification, supersede the Governing Body:

Provided that before such supersession, Government shall give the Governing Body a reasonable opportunity to show why it should not be superseded, and shall consider any explanation or objection which it submits.

(2) Upon the publication of a notification under sub-section (1), the person holding office as Chairman and

members shall cease to hold such office.

(3) Immediately upon the supersession of a Governing Body, Government shall constitute another Governing Body by appointing new members in accordance with the provisions of section 5.

Fees and allowances. 10. Members shall receive such fees and allowances as may be prescribed.

Resignation. 11. A member, other than the ex-officio member, may resign his office by notice in writing to Government, and his seat shall fall vacant on the acceptance of the resignation.

Disqualifications. 12. (1) No person shall be or shall continue to be member, if he—

(a) has been convicted of an offence involving moral turpitude; or

(b) is declared to be of unsound mind by a competent Court; or

(c) is an undischarged insolvent; or

(d) is a member of legislature; or

(e) is a member of the staff of the Institution other than the Medical Adviser; or

(f) has any direct or indirect interest in a contract with, or in any work being done for, the Institution, except as a shareholder (not being a Director) of a company; or

(g) owes to the Institution contributions to the extent specified in the regulations; or

(h) has lost the capacity by virtue of which he was appointed as a member; or

(1) has failed to attend more than one-third of the number of meetings of the Governing Body held during any year.

(2) Government may, by order in writing, remove the Chairman or a member, if he—

(a) refuses or fails to discharge or becomes, in the opinion of Government, incapable of discharging his responsibilities under

Filling of casual
vacancies.

Head Office.

Medical Advisor.

Duties of Medical
Advisor.

Medical
practitioners
and Medical
Boards.

Commissioner and

this Ordinance; or

(b) has, in the opinion of Government,
abused his position as a member; or

(c) has absented himself from three
consecutive meetings of the Governing
Body without the leave of Government
in the case of the Chairman, or of the
Chairman in the case of a member:

Provided that before such removal, Government
shall give the Chairman or the member, as the case may be, a
reasonable opportunity of showing cause as to why he should
not be removed, and shall consider any explanation or
objection which he submits.

13. A member appointed to fill a vacancy other than a full-
term vacancy, shall hold office for only so long as the member
in whose place he is appointed would have been entitled to
hold office if the vacancy had not occurred.

14. The Head Office of the Institution shall be at Lahore,
but Government may, by notification, transfer it to such other
place as may be specified in such notification.

15. As soon as may be, Government shall appoint a
Medical Advisor having the prescribed qualifications.

16. The Medical Advisor shall—

(a) advise the Governing Body on matters relating
to the administration of medical care and the
prevention and treatment of diseases among

secured persons;

(b) perform such other duties in connection with medical care as may be specified in the regulations.

17. (1) The Institution shall appoint Medical Practitioners and Medical Boards in such Social Security areas and in such manner as may be provided by regulations.

(2) The powers and functions of Medical Practitioners and Medical Boards, and the fees and allowances to be paid to such practitioners or the members of such boards, shall be such as may be provided by regulations.

18. (1) There shall be a Commissioner and a Vice-

Vice-
Commissioner.

Officers and staff of
the Institution.

Amount and
payment of
contributions.

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Commissioner of the Institution both to be appointed by
Government.

(2) The Commissioner shall—

(a) be the chief executive of the Institution
and shall act as Secretary to the
Governing Body;

(b) — be responsible to the Governing Body in
respect of all matters relating to the
structure, administration and personnel
of the Institution; and

(c) have, such regarding
appointment, promotion,
dismissal and other matters affecting the
staff of the Institution as are provided
for by regulations.

powers
transfer,

(3) The Vice-Commissioner shall perform the
duties of the Commissioner when the latter is absent or
prevented from acting, and the Commissioner may assign to
the Vice-Commissioner the responsibility for the direction of
certain services or delegate to him any of his own powers
under this Ordinance, the rules and the regulations.

19. The Governing Body may employ such officers and
staff for the administration of the affairs of the Institution as
the regulations may provide.

CHAPTER — III CONTRIBUTIONS

20. (1) Subject to the other provisions of this Chapter,
the employer shall, in respect of every employee, whether
employed by him directly or through any other person pay to
the Institution a contribution at such times, at such rate and

subject to such conditions as may be prescribed'[:]

[Provided that no contribution shall be payable on so much of an employee's wages as is in excess of *[two hundred rupees per day or five thousand rupees per month]]

Substituted full-stop by Labour Laws (Amendment) Act, 1994 (Act XI of 1994) passed by Majlis-e-Shoora (Parliament) and received the assent of President of Pakistan on 19th June, 1994; published in the Gazette of Pakistan, Extraordinary, Part I, dated 29th June, 1994.

2 Proviso added, *ibid*.

3 Substituted for the words "one hundred and twenty rupees per day or three thousand rupees per month", by Ordinance CIV of 2002 promulgated by President of Pakistan; and published in the Gazette of Pakistan, Extraordinary, dated 29th October, 2002.

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Omitted by Ordinance IX of 1972. S. 2, 1st Schedule. See also footnote under section 2(5).

Self-Assessment
Scheme.

Ny rR

Substituted, ibid.

Added by Federal Ordinance CIV of 2002.

(3) The employer shall not be entitled, to deduct
*[his own share of contribution] from the employee's wages or
otherwise to recover from him any portion of the contribution,
notwithstanding any agreement to the contrary.]

(5) For the purpose of determining the amount of
the contribution payable, daily wages shall be calculated in
such manner as may be provided by regulations.

(6) | Where the mode of payment of remuneration,
whether in cash or in kind, makes it difficult to determine the
amount of wages for computing the contribution, the
Commissioner may, subject to regulations and in consultation
with the representatives of employers and employees,
determine such wages.

(7) Any sum deducted from another employee's
wages by the employer under this Ordinance shall be deemed
to have been entrusted to him for the purpose of paying the
employee's contribution in respect of which it was deducted.

(8) In the case of construction work the owner of
the building shall guarantee the payment of contributions by
the contractors.

(9) In the case of works executed or undertakings
carried on behalf of the State by a contractor or licensee, the
competent public authority shall, before final settlement of the
claims of the contractor or licensee arising out of the contract,
require the production of a certificate from the Institution
showing that the necessary contributions have been paid, and
in default of such certificate it shall deduct from the amount
otherwise payable in settlement of such claim, the appropriate
amount of the contributions payable, and pay such amount
direct to the Institution.

20-A (1) Notwithstanding anything contained in this
Ordinance, an employer who opts for the self-assessment
scheme shall be liable to pay to the Institution a contribution
[of two hundred ten rupees] per month per secured employee.

3 Sub-section (4) omitted by Labour Laws (Amendment) Act, 1994 (Act XI of 1994) passed by Majlis-e-Shoora (Parliament) and
the assent of President of Pakistan on 19" June, 1994; published in the Gazette of Pakistan, Extraordinary, Part I, dated 29" J

Section 21-A inserted by Ordinance LIII of 2001 with effect from 1% July, 2001; Ordinance promulgated by President of Pakistan
published in the Gazette of Pakistan, Extraordinary, Part I, dated 6" October, 2001.

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under Section 20 (1) (p).

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Substituted by Federal Ordinance CIV of 2002, for the words "upto maximum amount of three hundred fifty rupees". See also t

(2) The liability of an employer to pay contribution under the self assessment scheme shall be in respect of those employees who were secured under this Ordinance on the 30% June, 2001.

(3) Every employee secured under this Ordinance in respect of whom the employer pays contribution shall be liable to pay through the employer an amount of twenty rupees per month as his share to the Institution.]

Records and returns 21. Every employer shall keep such records and shall by employees. submit to the Institution such returns, at such times, in such form and containing such particulars relating to persons

employed by him, as may be provided in the regulations.

Officials of 22. (1) Any official of the Institution duly authorised Institutions to by a certificate in a form specified in the regulations, may, for check the purpose of inquiring into the correctness of any of the employer s particulars stated in the records or returns referred to in section

21 or for the purpose of ascertaining whether any of the provisions of this Ordinance have been complied with-

(a) require an employer to furnish to him such information as he may consider necessary; or

(b) at any reasonable time enter any establishment or other premises occupied by such employer and require any person found incharge thereof to produce and allow him to examine such accounts, books and other, documents relating to the employment of persons and payment of wages, or to furnish to him such information, as he may consider necessary; or

(c) examine, with respect to any matter relevant to the purposes aforesaid, the employer, his agent or any person found in such establishment or other premises, or any other person whom the said official has reasonable cause to believe to be or to have been a secured person.

(2) The official referred to in sub-section (1), shall be bound to secrecy as regards all matters with which he becomes acquainted in the performance of his duties and

which do not relate to matters provided for in this Ordinance.

(3) If an employer fails to maintain records or to submit returns as required by regulations, or otherwise fails to comply with the provisions of sub-section (1) and thereby makes it difficult to ascertain the identity of persons required to be secured or the amount of contribution payable, the contribution shall be assessed on the basis of such evidence as the Institution may find satisfactory for this purpose.

(4) No staff member of the Institution shall visit the premises of any establishment, opting for the self-assessment scheme under section 20A, for the purpose of checking of employers' books, record, etc., during the period of two years]]

Increase of unpaid 23. (1) If any employer fails to pay, on the due date, contributions the contributions payable by him under sub-section (1) of

and recovery of section 20, the amount so payable by him shall be increased by contributions,

etc., as arrears of land revenue. Provided that in no case shall such increase

such percentage or amount as may be prescribed:

exceed fifty per centum of the amount due:

Provided further that no part of such increase shall be payable by, or the liability to pay the same be passed on by the employer to his employees.

(2) Without prejudice to any other remedy, the amount of the contributions due, together with the increase provided for under sub-section (1), may be recovered as arrears of land-revenue.

Safeguard of secured 24. In the event of default in payment of contributions by persons rights in the employer in respect of a secured person, such secured

default of person shall, unless he has connived at such default, have and payment of enjoy the same rights under this Ordinance as if no such contributions by

default had occurred.
employer.

Return of 25. [An] employer shall be entitled to the refund of any contributions contribution paid to the Institution under the erroneous belief paid that it was payable [****] under the provisions of this erroneously.

Ordinance, and shall be entitled to the refund of the excess amount of the contribution where such contribution had been

a

Sub-section (4) added with effect from 1st July, 2001, by Ordinance LIII of 2001. See also footnote under S. 21.

Substituted for the words "the self-assessment scheme remains in operation", by Ordinance CIV of 2002. See also footnote under (1) ©).

Substituted by Ordinance IX of 1972, for the words "Every person or his".

N

Ny rR

The words "in respect of such person," deleted, *ibid*.

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Increase of
contributions
where safety
rules not
observed.

Extinguishment of
claims to
contributions.

Employees' Social
Security Fund.

Security reserves.

paid at a higher rate than the rate prescribed:

Provided that where a contribution was paid under the
erroneous belief that a person was a secured person, any sum
paid to such person or his dependents by way of benefits shall,
in so far as possible, be deducted from the amount of such
refund:

Provided further that no contribution or excess amount
of any contribution shall be refunded unless an application for
such refund is made within six months of the date on which the
contribution was paid.

26. If an employer fails to observe rules of safety or
hygiene prescribed by or under any enactment applicable to his
establishment, the Commissioner may, subject to rules, by
order in writing, increase the employer's rate of contribution
provided that such increase shall not exceed twenty per centum
of the contribution otherwise payable.

27. Any claim of the Institution for unpaid contributions
shall be extinguished in the manner provided in the
regulations.

CHAPTER IV FINANCE AND AUDIT

28. (1) All contributions paid under this Ordinance,
and all other moneys received by or on behalf of the Institution
shall be paid into the Fund, which shall be held and
administered by the Institution for the purposes of this
Ordinance.

(2) The Institution may accept grants, donations
and gifts from any Government or from a local authority or

other body for all or any of the purposes of this Ordinance.

(3) All moneys accruing or payable to the Fund shall be paid into such scheduled bank as may be approved by the Governing Body, or to any office of the Institution.

(4) The Institution shall maintain separate accounts for administrative expenses, and for such branches of social security and such other purposes as may be prescribed.

29. The Institution shall establish and maintain reserves in connection with the branches of social security prescribed in accordance with sub-section (4) of section 28 at such times, upto such amounts, and in such manner as may be prescribed.

Investments and
loans.

Budget.

30. (1) Subject to rules, the Institution may, from time to time, invest any moneys which are not immediately required for payments under this Ordinance, and may reinvest or realise such investments.

(2) The Institution may, with the previous sanction of Government and on such terms as it may specify raise loans and take measures for discharging such loans.

31. (1) The Institution shall, before such date and in such manner as may be prescribed, draw up estimates for the ensuing year of—

(a) the administrative expenses of the Institution;

(b) the expenditure to be incurred under each of the branches of social security and other purposes for which separate accounts are prescribed in accordance with sub-section (4) of section 28; and

(c) the income of the Institution from contributions, the special tax payable under section 70, and other sources, if any.

(2) The Institution shall allocate the estimated income from the special tax towards meeting capital expenditure in accordance with sub-section (3) of section 70, and after allocating sufficient of the estimated income from contributions and other sources, if any, to cover the estimated administrative expenses, shall allocate the remainder of such estimated income among the branches of social security and other purposes referred to in clause (b) of sub-section (1).

(3) Such estimates and allocations shall, before such date as may be prescribed be submitted to Government and, when approved by it, shall constitute the budget of the Institution for the ensuing year.

(4) If Government has not approved such estimates and allocations, with or without amendments, within thirty days of their submission or before the commencement of the financial year to which such estimates relate, whichever is the later, its approval shall be deemed to have been given and the

estimates and allocations as submitted shall constitute the budget of the Institution for the financial year to which they

Accounts and Audit.

Annual Reports.

relate.

(5) If it appears that expenditure under any budget head is likely to exceed the budget provision under such head, the Governing Body may increase such budget provision by transferring thereto from any other budget head, any amounts

not required or not expected to be required or not under such head:

Provided that no such transfer shall be made to the budget heads for either administrative expenses or the provision of medical care without the prior approval of Government.

(6) If, notwithstanding the application of the provisions of sub-section (5), it appears that expenditure under any budget head is likely to exceed the corresponding budget provision, or that income under any budget head is likely to fall short of the corresponding budget provision, the expected excess or deficiency, as the case may be, shall be reported to Government, who shall take such action, if any, as may seem appropriate:

Provided that no payment to which a claimant is entitled under this Ordinance shall be withheld pending such action.

32. (1) The Institution shall maintain accounts of its income and expenditure and of its assets and liabilities in such form and manner as may be prescribed.

(2) The Institution shall appoint an internal auditor who shall perform such duties and exercise such powers as may be provided by regulations.

(3) The accounts of the Institution shall be audited by an external auditor appointed by Government, at such times and in such manner as may be prescribed.

(4) The external auditor shall have access to the books, accounts and other documents of the Institution at all reasonable times, and may call for such explanations and information as he may require, or examine any officer of the Institution.

(5) The external auditor shall forward his report to

Government together with an audited copy of the accounts of the Institution.

33. (1) The Institution shall, within six months after the

closing of a financial year, submit to Government an annual report of its work and activities during that financial year, and such report shall cover such matters as may be prescribed.

(2) The annual report, together with the audited accounts of the Institution, shall be published and copies thereof shall be made available for sale to the public.

Valuation of assets 34. The Institution shall, at intervals of not more than five years, have an actuarial valuation made of its assets and liabilities:

Provided that Government may direct a valuation to be made at such other times as it may consider necessary.

CHAPTER V BENEFITS

Sickness benefit. 35. (1) A secured person who is certified, by a medical practitioner authorised by the Institution in the manner provided in the regulations to give such a certificate, to be incapable of attending to his work on account of sickness shall, subject to regulations, be entitled to receive sickness benefit at such rate as may be fixed by Government by notification, in consultation with the Institution, if during the six calendar months immediately preceding the date on which his incapacity or work was so certified, contributions in respect of him were paid or payable for not less than ninety days.

(2) A secured person shall be entitled to receive sickness benefits throughout the period of sickness:

Provided that during a continuous period of three hundred and sixty-five days such benefit shall not be allowed for a period exceeding—

*I(a) three hundred and sixty five days, in case he has been suffering from Tuberculosis cancer which render an employee in-capable to earn his livelihood.]

(b) one hundred and twenty-one days, in case he has been suffering from any other disease:

Provided further that he shall not be entitled to

* sub-section (2) substituted by Act XV of 1973; passed by National Assembly of Pakistan and assented by President of Pakistan

February, 1973; and published in the Gazette of Pakistan, Extraordinary, Part I, dated 7th February, 1973.

2 Clause (a) substituted by Act XI of 1994. See also footnote under S. 2 (6).

Maternity benefit.

Death grant.

Medical care during

receive such benefit for the first two days of his sickness if such sickness does not, within fifteen days, follow the previous period of sickness for which he received or was entitled to receive such benefit.]

36. A secured woman shall, subject to regulations be entitled to receive maternity benefit at such rate as may be fixed by Government by notification, in consultation with the Institution, if contributions in respect of her were paid or payable for not less than one hundred and eighty days during the twelve calendar months immediately preceding the expected date of her confinement as certified by a medical practitioner authorised by the Institution in the manner provided in the regulations to give such a certificate, and such benefit shall be paid for all days on which she does not work for remuneration during a period of twelve weeks, of which not more than six weeks shall precede the expected date of confinement.

37. '(1)] On the death of a secured person receiving or entitled to receive injury benefit, sickness or medical care at the time of his death, the surviving widows or needy widower, or if there be no surviving widow, widows or needy widower, the person who provided for the funeral, shall, subject to regulations, be entitled to a death grant equal to the daily rate of sickness benefit multiplied by thirty, but in no case less than [one thousand and five hundred rupees.]

3[(2) Where husband of a secured woman dies, she shall, subject to regulations, be entitled to receive iddat benefit equal to the daily rate of her wages during the period of her iddat:

Provided that a secured woman being a seasonal employee shall be entitled to receive iddat benefit in the same manner and to the same extent notwithstanding termination of seasonal employment during the period of iddat:

Provided further that no employer shall refuse leave for the period of iddat and such leave shall not be accounted towards leave provided under any other law for the time being in force.]

38. "[(1) A secured person and his dependents shall be

2 Substituted, *ibid*, for the words "five hundred".

3 Sub-section (2) added, *ibid*.

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sickness and
maternity.

Medical care of

dependents, etc.

Injury benefits.

Disablement
pension.

4

entitled to medical care in the manner and to the extent
provided in the regulations.]

(2) A secured woman shall subject to regulations,
be entitled to pre-natal confinement and post-natal medical
care, if she is entitled to maternity benefit under section 36 or
if, during six calendar months immediately preceding her
claim, contributions in respect of her were paid or payable for
not less than ninety days.

38-A. Where a secured person dies other than due to any
employment injury, his dependents shall, subject to
regulations, be entitled to medical care for one year from the
date of death of the secured person:

Provided that the deceased secured person had been in
continuous employment of an establishment for not less than
twelve months immediately preceding his death:

Provided further that where the deceased secured
person was a seasonal employee, his dependents shall be
entitled to medical care for six months from the date of death
of such secured person:

Provided also that the deceased had been in
employment of an establishment for not less than six months

during two continuous seasons immediately preceding his
death.]

39. A secured person shall, subject to regulations, be
entitled to receive injury benefit at such rate as may be fixed
by Government by notification, in consultation with the
Institution, in respect of any day *[*] including the day on
which, as a result of an employment injury, he is certified by a
medical practitioner authorised by the Institution in the manner
provided in the regulations to give such a certificate to be
incapable of work, but for not more than one hundred and
eighty days.

40. (1) A secured person who sustains total or partial disablement shall, subject to regulations, be entitled, upon the expiration of his entitlement to injury benefit, to receive disablement pension, according to the degree of disablement determined from time to time, at such rates for different degrees of disablement as may be fixed by Government by notification, in consultation with the Institution.

Substituted by West Pakistan Ordinance XLVII of 1969; made by Governor of West Pakistan on 2nd December, 1969; and published in

the Gazette of West Pakistan, Extraordinary, dated 2nd December, 1969.

1 Section (38-A) inserted by Federal Act XI of 1994. See also footnote under section 2(6).

2 Words "other than first three days" omitted *ibid*.

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Disablement
gratuity.

Survivor's Pension.

(2) Disablement pension shall terminate with the death of the recipient or when disablement ceases, or ceases to be total or partial disablement:

Provided that if a disablement pension has been paid for five years it shall be payable for life.

41. (1) A secured person who sustains minor disablement shall, subject to regulations, be entitled to a disablement gratuity at such rates for different degrees of disablement as maybe fixed by Government by notification, in consultation with the Institution.

(2) Where a person receiving disablement pension ceases to suffer from total or partial disablement but continues to suffer from minor disablement he shall, on the termination of his disablement pension, be entitled to disablement gratuity under this section.

42. (1) Where a secured person dies as a result of an employment injury, a survivor's pension shall, subject to regulations, be payable to each of his dependents as follows, that is to say—

(a) to the widow, widows, or needy widower, during life, at a rate equal to three-fifths of the rate of total disablement pension to which the secured person was, or would have been entitled, and where there are two or more widows, the pension shall be divided equally between them;

(b) to each dependent child, at a rate equal to one-fifth of the rate of such total disablement pension:

Provided that if the child is a full orphan, the rate shall be two-fifths of the rate of the total disablement pension:

Provided further that if and so long as the total of the survivor's pensions would otherwise exceed the rate of such total disablement pension, the pension of each of the survivors shall be reduced proportionately so that the total pensions payable to them does not exceed the rate of the said

total disablement pension.

(2) In case the deceased person does not leave a

Death grant in case
of death while
in receipt of
injury benefit or
total
disablement
pension.

Medical care in the
case of
employment

injury.

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widow, or needy widower, a survivor's pension shall be payable for life to a dependent father, if he be alive, and if he be not alive, to a dependent mother, if she be alive, at a rate equal to one-fifth of the rate of the total disablement pension to which the secured person was or would have been entitled.

(3) Survivors pension shall be payable upon the death of the secured person and shall terminate—

(a) upon the death of the survivor; or

(b) where the survivor is a widow, upon her rematriage; or

(c) where the survivor is a dependent child, upon his attaining the age of '[twenty one] years and in any such case the pensions of the remaining survivors shall, if necessary, be adjusted within the maximum laid down in the second proviso to sub-section (1) 7[:]

3[Provided that such age limit shall not apply to dependent un-married daughters. |

43. | Where a secured person dies while he is in receipt of injury benefit or of a total disablement pension the widow, widows or needy widowers, or, if there is no widow or needy widower, the person who provided for the funeral, shall, subject to regulations, be entitled to a death grant equal to the daily rate of the injury benefit or of the total disablement pension, as the case may be, multiplied by thirty, but in no case less than '[one thousand and five hundred] rupees.

44. (1) When medical care is required as a result of an employment injury—

(a) no conditions as regards payment of contributions shall apply; *[and]

(b) it shall include dental care in addition to the services referred to in section 45°[.]

Substituted by Federal Act XI of 1994, for the word “sixteen”. See also footnote under section 2(6).

Semi colon substituted, *ibid.*

Proviso added, *ibid.*

Substituted by Federal Act XI of 1994, for the word “fifty”. See also footnote under section 2(6).

Added by Ordinance IX of 1972. See also footnote under section 2(5).

Substituted for the semi-colon and the word “and”, *ibid.*

Extent of medical care.

(2) A person in receipt of injury _ benefit, disablement pension for loss of earning capacity not less than fifty per centum of a survivor's pension shall be entitled to medical care for so long as the injury benefit, disablement pension or survivor's pension, as the case may be, continues, and, in the case of a disablement pension being received by the secured person, for six months after the termination of the pension.

45. (1) Medical care shall include—

- (a) general practitioner care, including domiciliar visiting;
- (b) specialist care in hospitals for in-patients

and out-patients and such specialist care as may be available outside hospitals;

(c) essential pharmaceutical supplies as prescribed by a medical practitioner;

(d) hospitalisation where necessary, including cases of pregnancy and confinement;

(e) pre-natal confinement and _ post-natal

care, either by medical practitioners or by qualified midwives.

Manner of providing 46. (1) Regulations shall specify the manner in which medical care.

7 Clause (c) omitted, *ibid*.

1 Sub-section (2) omitted by Ordinance IX of 1972. See also footnote under section 2(5).

medical care shall be provided.

(2) The Institution may, with the approval of Government, establish and maintain such hospitals, dispensaries and other facilities as it finds necessary for providing medical care in pursuance of the provisions of this Ordinance.

(3) The Institution may buy or import and dispense pharmaceutical supplies direct to the beneficiaries.

(4) The Institution may enter into agreements with

Government, any local authority, private body or individual in regard to the provision of medical care to persons entitled to it under this Ordinance.

(5) The Institution may enter into an agreement

Institution's power to promote measures for health, welfare etc. of secured persons.

Manner of claiming benefit.

Benefit not assignable or attachable.

Exemption from stamp duty.

Non-duplication of benefits.

with an employer who maintains a hospital or dispensary or any other medical facility for the benefit of his employees for the utilisation of such hospital, dispensary or facility for the purposes of the Institution and such agreement may, among other things, specify the persons to whom medical care shall be provided, the type of benefit to be made available, the minimum level of such benefit, the conditions under which such benefit shall be provided, the extent of supervision which the Institution may exercise over the hospital, dispensary or other medical facility, the submission of reports to the Institution by the employer, and the extent and manner of reimbursement to the employer.

47. The Institution may, in addition to the benefits specified in this Ordinance, undertake other measures for improving the health and welfare of secured persons and for the rehabilitation and settlement of such secured persons as may have been disabled or injured, and may for that purpose incur expenditure from the Fund.

48. (1) All claims for benefits under this Ordinance shall be made within such times as may be prescribed, and in such form and manner, and shall be accompanied by such documents, information and evidence as to entitlement as may be provided in the regulations.

(2) Payment in respect of benefits shall be made in such manner, and at such times and places as may be provided in the regulations.

49. (1) The right to receive any payment in respect of

any benefit under this Ordinance shall not be transferable or assignable.

(2) No benefit payable under this Ordinance shall be liable to attachment or sale in execution of any decree or order of any Court.

50. | Notwithstanding anything to the contrary contained in the Stamp Act, 1899 (Act II of 1899), stamp duty shall not be chargeable upon any draft or order or receipt in respect of any benefit payable under this Ordinance.

51. (1) A secured person shall not be paid, for the same period, more than one of the benefits referred to in sections 35, 36 and 39, namely, sickness benefit, maternity benefit and injury benefit, and where any person is entitled to more than

Repayment of
benefit
improperly
received.

Institution's right to
recover
damages from
employer in
certain cases.

Institution's right to
be indemnified

in certain cases.

'Extent of benefits,
etc.

one of these benefits shall be given the higher or highest of
such benefits.

(2) No person shall be entitled to sickness benefit
or maternity benefit or injury benefit for any day for which he
receives wages.

52. (1) When a person has received any benefit or
payment under this Ordinance to which he is not lawfully
entitled, he shall be liable to repay to the Institution the value
of the benefit or the amount of such payment, and, in the case
of his death, his legal heirs shall be liable to repay the same
from the assets of the deceased:

Provided that the Institution may waive
repayment where there was no misrepresentation on the part of
the beneficiary and the repayment would cause undue hardship
to him, or as the case may be, to his survivors.

(2) For the purposes of this section, the value of
any benefit received otherwise than in cash shall be determined
in accordance with the regulations.

53. Where, according to the finding of a Court, an
employment injury was sustained by a secured person by
reason of a wrongful act or omission of the employer or his
agent, the employer or his agent shall reimburse to the
Institution the actuarial present value of any periodical
payment or the amount of any lump sum payment which the
Institution is liable to make under this Ordinance and such
actuarial value shall be determined in accordance with the
regulations.

54. | Where a secured person is entitled to receive or to

recover, but has not received or recovered, from any person, compensation or damages in respect of any sickness or employment injury caused under circumstances creating a liability in some person other than, in case of employment injury, the employer or his agent, the Institution shall be entitled to be indemnified by the person so liable.

54-A Notwithstanding anything contained in this Chapter, so much of wages of a secured person's as are in excess of 7[two hundred rupees per day or five thousand rupees per month] shall not be account for the purpose of determining the rate of benefits provided under sections 35, 36, 37, 39, 40, 41, 42 and

* Section 54-A inserted by Federal Act XI of 1994. See also footnote under Section 2 (6).

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Substituted by Federal Ordinance CIV of 2002, for the words "one hundred and twenty rupees per day or three thousand rupees per month". See also footnote under Section 20 (1) (p).

Recovery of
amounts due.

Medical Treatment
of Domestic
Servants.

Assessment of
disablement.

Decisions on
complaints,
questions and
disputes.

Review on account

43.]

55. Any amount recoverable by the Institution under this
Chapter may be recovered as arrears of land-revenue.

[CHAPTER V-A MEDICAL TREATMENT OF DOMESTIC SERVANTS

55-A. Every employer of a domestic servant shall be liable to
provide at his own cost to the domestic servant medical care to
the extent mentioned in section 45.]

CHAPTER VI DETERMINATION OF QUESTIONS AND CLAIMS

56. All questions as to the assessment of the degree of
disablement shall be determined by a medical board or medical
practitioner appointed under section 17.

57. If any complaint is received or any question or dispute
arises as to—

(a) whether any person is a secured person within
the meaning of this Ordinance ?[* * * * *]; or

(b) the rate of wages or average daily wages of a
secured person for the purposes of this
Ordinance; or

(c) the rate of contribution payable by an employer
in respect of an employee; or

(d) the person who is or was the employer in
respect of a secured person; or

(e) any benefit and the amount and duration

thereof; or

(f) any other matter in respect of any contribution or benefit or other dues payable or recoverable under this Ordinance;

the matter shall be decided by the Institution, in such manner, and within such time as the regulations may provide, and the Institution shall notify its decision to the person or persons concerned, in writing, stating therein the reason or reasons for its decisions.

58. The Institution may, subject to regulations, on new

1 Inserted by Federal Ordinance IX of 1972. See also footnote under Section 2 (5)

2 The words "or whether he is liable to pay the secured person's contribution" omitted *ibid.*

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of new facts.

Appeal to Social
Security Court.

Constitution of
Social Security
Court.

Jurisdiction of
Social Security
Courts.

Powers of Social
Security Court,

facts being brought to its notice, review a decision given by it
under section 57:

Provided that no decision shall be so reviewed without
giving the person or persons concerned an opportunity of
being heard and adducing evidence in support of or against the
decision, as the case may be.

59. Any person aggrieved by a decision of the Institution
under section 57 or on a review under section 58 may appeal to
the appropriate Social Security Court.

60. (1) Government may for purposes of this
Ordinance constitute, by notification, a Social Security Court
for any Social Security area or areas specified in the
notification.

(2) A Social Security Court shall be presided over
by a Judge who shall be appointed by Government.

(3) — A person shall not be appointed as a Judge of a
Social Security Court unless he has—

(a) for a period of not less than three years
held a judicial office; or

(b) for a period, or for periods aggregating,
not less than seven years, been an
advocate or pleader of the High Court.

61. (1) Subject to the provisions of sub-section (2), a
Social Security Court shall have exclusive jurisdiction to hear
and decide appeals from decisions of the Institution under
section 57 or review under section 58 in respect of all claims,
questions and disputes arising in the appropriate Social

Security Area.

(2) Government may, by order in writing, transfer an appeal from one Social Security Court to another, whenever it appears to it that such transfer will promote the ends of justice or tend to the general convenience of the parties and witnesses.

(3) The Social Security Court to which an appeal has been transferred under the provisions of sub-section (2) shall deal with the same as if it had been originally instituted in, or presented to, such Court.

62. (1) A Social Security Court shall have all the powers of a Civil Court for the purposes of summoning and

etc.

Appearance by legal practitioners.

enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence, and such a Court shall be deemed to be a Civil Court within the meaning of section 195 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) Notwithstanding anything contained in any other law, a Social Security Court may, for the purpose of deciding any appeal, examine such witnesses and take such evidence as it considers necessary.

(3) A Social Security Court may make such order with regard to costs incidental to any appeal as it thinks fit.

(4) An order of a Social Security Court shall be enforceable as if it were a decree of a Civil Court.

(5) A person shall be guilty of contempt of a Social Security Court if he, without lawful excuse—

(a) offers any insult to the Social Security Court or any member thereof while the Court is functioning as such; or

(b) causes any interruption in the work of the Social Security Court; or

(c) fails to produce or deliver a document when ordered by the Social Security Court to do so; or

(d) refuses to answer any question of the Social Security Court which he is bound to answer; or

(e) refuses to take oath to state the truth or to sign any statement made by him when required by the Social Security Court to do so;

and the Social Security Court may, without any complaint having been made to it, forthwith try such person for such contempt and sentence him to a fine not exceeding fifty rupees.

63. Any application, appearance or act required to be made or done by any person to or before a Social Security Court (other than the appearance of a person required for the purposes of his examination as a witness) may be made or performed by a legal practitioner or by an officer of a

Appeal.

Stay of payment
pending
appeals.

Offences.

registered trade union authorised in writing by such person, or,
with the permission of the Court, by any other person so
authorised.

64. (1) Save as expressly provided in this section, no
appeal shall lie from an order of a Social Security Court.

(2) An appeal shall lie to the High Court from an
order of a Social Security Court if it involves a substantial
question of law.

(3) The period of limitation for an appeal under this
section shall be thirty days.

(4) The provisions of sections 5 and 12 of the
Limitation Act, 1908 (IX of 1908) shall, apply to appeals
under this section.

65. | Where the Institution has appealed against an order of a
Social Security Court that Court may, and, if so directed by the
High Court shall, pending the decision of the appeal, direct
that the payment of any sum required to be paid by the order
appealed against shall be withheld.

CHAPTER VII OFFENCES AND PENALTIES

66. (1) If any person—

(a) for the purpose of obtaining the
allowance or denial of any payment or
benefit under this Ordinance, whether
for himself or some other person, or for
the purpose of avoiding any payment to
be made by himself or any other person
under this Ordinance—

(i) knowingly makes or causes to be
made any false statement or false
representation; or

(ii) produces or furnishes, or causes
or knowingly allows to be

produced or furnished, any
document or information which
he knows to be false in a material
particular; or

(b) fails to pay any contribution which
under this Ordinance he is liable to pay;

Prosecution.

Contributions, etc.,
to have priority
over other
debts.

or

(c) recovers or attempts to recover from a secured person, or deducts or attempts to deduct from his wages the whole or any part of the '[***] contribution; or

(d) fails or refuses to submit any return required by regulations or makes a false return; or

(e) obstructs any official of the Institution in the discharge of his duties; or

(f) is guilty of any contravention of, or non-compliance with, any of the requirements of this Ordinance or the rules or the regulations,

he shall, without prejudice to any action to which he may be liable under section 23 or section 70 or any other provision of this Ordinance, be punished with imprisonment which may extend to three months, or with fine not exceeding one thousand rupees, or with both.

67. (1) No prosecution under this Ordinance shall be instituted except with the previous sanction of the Commissioner or of an officer authorised by him in writing in this behalf.

(2) No Court inferior to that of a magistrate of the first class shall try any offence under this Ordinance.

(3) | No Court shall take cognizance of any offence under this Ordinance except on a complaint made in writing within six months of the date on which the offence was discovered.

CHAPTER VIII MISCELLANEOUS

68. In any proceedings of insolvency against a person or proceedings for the winding up of a company, any contribution or other amount payable under this Ordinance by such person or company shall be deemed to be included among debts to be paid in priority to all other debts.

1 The word “employers” omitted by Federal Ordinance IX of 1972. See also footnote under Section 2(5).

2 New sub-section (4) added by Ordinance IX of 1972 and omitted by Act XV of 1973. See also footnotes under section 2(5) a

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Exemption from
taxes.

Levy of special tax.

Review and
modification of
wage limits,
contribution and
benefits.

69. Notwithstanding anything contained in any other law, Government may, by order in writing, exempt the Institution from any tax, rate or duty leviable by Government or by a local authority under the control of Government.

70. (1) ~~ Where, in respect of any group of undertakings producing a particular type of product or performing a particular type of service, this Ordinance is, in accordance with the provisions of sub-section (3) of section 1, applied to some areas or establishments, but not to other areas or establishments, Government may, after consultation with the Institution by a notification levy. on the employers in the areas or establishments to which the Ordinance is not applied, notwithstanding anything contained in this Ordinance, a special tax, to be paid to the Institution, at such rate, not exceeding five per centum of the total wages paid by the employer, at such times and subject to such conditions, as may be prescribed.

(2) For the purposes of sub-section (1), the total wages paid by the employers shall mean the total wages which have accrued to all his employees not taking into account so much of an employee's wages as are in excess of one hundred and twenty rupees per day or three thousand rupees per month. |

(3) The proceeds of the special tax shall be paid into the Fund and shall be utilized for capital expenditure towards building up and improving the medical facilities available for the provision of medical care under this Ordinance.

(4) All provisions of this Ordinance and rules or regulations relating to contributions, with the exception of section 26 and the rules made thereunder, shall apply to the special tax as if it were a contribution payable under section 20.

71. (1) In January of each year, the Governing Body shall review the wage limits specified in *[clause (f) of sub-section (8) of section 2] and the rates of contribution and benefits provided under this Ordinance in the light of any

changes in wage levels or living costs and shall submit a report thereon together with its recommendations to Government.

1 Sub-section (2) substituted by Federal Act XI of 1994. See also footnote under section 2(6).

2 Substituted, *ibid*, for the words, bracket and figures “sub-section (4) of section 20”.

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(2) Government may, after considering the said report and recommendations, by notification, enhance or reduce the wage limits specified in '[clause (f) of sub-section (8) of section 2] or the rates of benefits payable under this

Ordinance.

Employers not to 72. (1) | No employer shall dismiss, discharge or reduce dismiss or or otherwise punish an employee during the period in which punish the employee is in receipt of sickness benefit, maternity employee benefit, injury benefit or medical care.

during the

period of (2) No notice of dismissal or discharge or reduction sickness, etc. given to an employee during the period specified in sub-

section (1) shall be valid or operative.

Bar on benefits 73. When a person is entitled to any of the benefits

under other law. provided by this Ordinance, he shall not be entitled to any similar benefit under any other law.

Suit for damages in 74. No suit for damages shall be instituted by secured a Civil Court. person against the employer in any Civil Court in respect of employment injury covered by this Ordinance.

Members and 75. The members of the Governing Body and all officers servants of the and servants of the Institution shall be deemed to be public

Institution to be servants within the meaning of the Pakistan Penal Code (Act public servants.

XLV of 1860).

Removal of 76. (1) If any difficulty arises in giving effect to the difficulties. provisions of Chapters HI and V, Government may, by order

notified in the official Gazette, make such provision or give such direction as appears to it to be necessary for the removal of the difficulty.

(2) Any order made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith in any rules or regulations.

Delegation of 77. The Governing Body may direct that all or any of its powers. powers and functions may, in relation to such matter, and subject to such conditions, if any, as may be specified, be also exercisable by the Commissioner or any other officer or

authority subordinate to the Institution.

Protection of 78. No act or proceeding of the Governing Body shall be

proceedings of invalid or questioned merely on the ground of existence of any
the Governing

* Substituted by Federal Act XI of 1994, for the words, bracket and figures “sub-section (4) of section 20”. See also footnote un
2(6).

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Body.

Power to make rules.

1

vacancy therein or of any defect in the constitution thereof or in the appointment or qualification of any member.

79. = (1) Government may, subject to the condition of previous publication, by notification, make rules! to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely: —

(1) the manner in which names of persons from whom members of the Governing Body may be appointed shall be submitted by organisations of employers and employees recognised by Government for that purpose;

(i1) powers and functions of the Governing Body;

(iii) fees and allowances of the members of the Governing Body;

(iv) qualifications to be possessed by the Medical Advisor;

(v) times and rates at which and conditions subject to which contributions and the special tax shall be payable 7[* * * * *];

(vi) percentage or amount by which contributions and special tax in arrears may be increased under section 23;

(vii) increase of [* * *] contribution under section 26 where employer fails to observe rules of safety or hygiene;

(viii) branches of social security and other purposes for which separate accounts

See Gazette West Pakistan 1966, Part 1, page 1289. For "Provincial Employees! Social Security (Contributions) Rules, 1993" and Manpower Department Notification No. 2807-3006, dated 25-7-1993.

2406, dated 25-7-1993.

No. 2607-2806, dated 25-7-1993.

25-7-1993.

No. 16/E, dated 25-7-1993.

also footnote under section 2(5).

3 The word "employer's" omitted, *ibid*.

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For the "Provincial Employees' Social Security (Time Limits for Claiming Benefits) Rules, 1993" see Notification No. 2207-

For the "Provincial Employees' Social Security (appointment of Members of the Governing Body) Rules, 1993" see Notification

For the "Provincial Employees' Social Security (Financial and Accounting) Rules, 1993" see Notification No. 3007-3206, dated

For the "Provincial Employees' Social Security (Medical Advisor's Qualification) Rules, 1993" see Baln. Gazette (Extraordinary

The comma and words "and the ratio of the employer's contribution to the employees contribution" omitted by Ordinance IX of

Power to make
regulations.

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(x)

(xi)

(xii)

(xiii)

(xiv)

(xv)

(xvi)

(xvii)

shall be maintained by the Institution;

times at which, amounts up to which and
the manner in which security reserves
shall be established and maintained;

investment of surplus moneys,
realisation of — investments and
reinvestment of the proceeds;

times at which and the manner in which
the budget shall be prepared and
submitted to Government;

form and the manner in which the
Institution shall keep accounts of its
income and expenditure and of its assets
and liabilities;

times at which and the manner in which
the accounts of the Institution shall be
audited by the external auditor;

matters which the annual report of the
Institution shall cover;

times within which claims for benefit
shall be made;

remuneration and conditions of service
of officers to be appointed by
Government under this Ordinance;

any other matter which is required or
allowed by this Ordinance to be
prescribed.

80. (1) The Governing Body may, subject to the
condition of previous publication, by notification, make
regulations! not inconsistent with the provisions of this
Ordinance or the rules.

(2) In particular, and without prejudice to the
generality of the foregoing power, such regulations may
provide for all or any of the following matters, namely: —

(i)

the manner in which medical
practitioners shall be authorised to give
certificates required under any of the

13 Regulations issued by the Governing Body under Balochistan Gazette (Extraordinary) No. 116, dated 23-11-1994.
These 13 Regulations were repealed and new 13 Regulations were issued under Balochistan Gazette (Extraordinary) No. 125

dated 11-12-1995, in lieu thereof.

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1 Omitted by Ordinance IX of 1972. See also footnote under Section 2(5).

provisions of this Ordinance, the form of such certificates and the duties of medical practitioners in that regard;

occupational diseases which may cause employment injury;

qualifications which a person practising medicine shall possess for appointment as a medical practitioner under section 17 or to be authorised to give certificates under sections 35, 36 and 39 or for recognition for any other purpose under this Ordinance;

times and places at which meetings of the Governing Body shall be held;

amount of contributions owed to the institution which shall disqualify a person from being or continuing to be a member of the Governing Body;

duties of Medical Advisor in connection with medical care;

powers, functions, fees and allowances of medical practitioners and medical

board and the areas for which and the manner in which they shall be appointed;

powers of the Governing Body to employ officers and staff for administration of the affairs of the Institution;

method of recruitment, pay and allowances, superannuation benefits and other conditions of service of officers and servants of the Institution;

powers of the Commissioner with regard to appointment, transfer, promotion, dismissal and other matters affecting the staff of the Institution;

the manner in which daily wages shall

(xiii)

(xiv)

(xv)

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(xvii)

(xviii)

(xix)

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(xxi)

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(xxili)

be calculated for the purpose of
determining the contribution payable;

determination of wages for computation
of contributions where the mode of
payment of remuneration, in cash or
kind, makes such computation difficult;

records to be kept and returns to be
submitted by employers, times at which
and the form in which such returns are
to be submitted, and the particulars
relating to employees to be stated in
such returns;

form of certificate authorising an official
of the Institution to exercise the powers
of inspection under section 22;

the manner in which any claim of the
Institution for unpaid contributions may
be extinguished;

powers and duties of internal auditor;

conditions of entitlement to receive
sickness, maternity and injury benefit,
disablement pension, disablement
gratuity, death grant, survivor's pension

and medical care;

the items of medical care in respect of specified disease to which a secured person shall be entitled;

the manner in which medical care shall be provided;

arrangements under which beneficiaries shall share the costs of certain kinds of medical care and the manner in which such costs shall be determined;

the form and manner in which claims for benefits shall be preferred, and the documents, information and evidence which shall accompany such claims;

the manner in which and the times and places at which payment in respect of benefits shall be made;

Supersession of
certain laws,
etc.

Repeal.

(xxiv) determination, for the purpose of
repayment to the Institution, of the value
of any benefit received otherwise than in
cash;

(xxv) determination of the actuarial present
value of any periodical payment for
which the Institution becomes liable by
reason of a wrongful act or omission of
the employer or his agent;

(xxvi) the manner in which and the time within
which complaints, questions and
disputes shall be decided;

(xxvii) the circumstances and manner in which,
on new facts coming to light, the
Institution may reopen cases and review
decisions;

(xxviii) the manner in which supplies for the use
of the Institution shall be obtained and
immovable property hired or acquired,
and in which such supplies or property
shall be sold or otherwise disposed of;
and

(xxix) any other matter not provided for in this
Ordinance or rules and necessary to give
effect to the provisions of this
Ordinance.

81. | Workmen's compensation and maternity benefit payable under the Workmen's Compensation Act, 1923 (VIII of 1923), the Employers' Liability Act, 1938 (XXIV of 1938), the Mines Maternity Benefit Act, 1941 (XIX of 1941), the West Pakistan Maternity Benefit Ordinance, 1958 (W. P. Ord. XXXII of 1958), or under any other law shall not be payable in respect of any employment on or after the appointed day in respect of such employment and the enactments and laws aforesaid shall, in so far as they are inconsistent with the provisions of this Ordinance, cease to have effect.

82. The Employees' Social Insurance Ordinance, 1962 (XXII of 1962), in its application to the Province of West

Pakistan, is hereby repealed.

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