

THE FLOUR MILLING CONTROL AND DEVELOPMENT
(REPEAL) ORDINANCE, 1977.

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THE FLOUR MILLING CONTROL AND DEVELOPMENT (REPEAL)
ORDINANCE, 1977.

ORDINANCE No. XXIX OF 1977

[5th September, 1977]

An Ordinance to repeal the Flour Milling Control and Development Act, 1976 (LVI of 1976)

WHEREAS it is expedient to repeal the Flour Milling Control and Development Act, 1976 and to provide for matters connected therewith or incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No.1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Flour Milling Control and Development (Repeal) Ordinance, 1977.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) "Present Value" means the Net Worth Value out of which shall be deducted the value of any Fixed Tangible Assets and Current Assets as shown in the Balance Sheet which are not handed over and to which shall be added

(i) the value of the Fixed Tangible Assets and Current Assets which do not appear in the Balance Sheet but the possession of which is handed over at cost and

(ii) the decrease in the outstanding, liabilities as shown in the Balance Sheet, out of which shall be deducted the value of any new liabilities handed over;

(b) "repealed Act" means the Flour Milling Control and Development Act, 1976 (LVII of 1976); and

(c) other words and expressions shall have the same meaning as in the repealed Act.

3. Return of establishments.—(1) Within one month of the commencement of this Ordinance, or such longer period not exceeding six months as the Federal Government may be notification in the official Gazette specify in this behalf, the Corporation shall deliver possession of an establishment the ownership and management of which has been acquired under section 5 of the repealed Act to the previous management thereof:

Provided that, in any case in which any amount is recoverable by the Corporation from the previous owner of the establishment under sub-section (3) or sub-section (4) of section 5, the Corporation may not so deliver possession of the establishment until such amount has been recovered.

(2) On the delivery of the possession of an establishment in pursuance of sub-section (1)—

(a) the Corporation shall stand divested of the ownership and management of the establishment; and

(b) the ownership and management of the establishment, alongwith its assets and liabilities as on the day on which its possession is delivered, shall stand transferred to the persons in whom these vested immediately before the making of an order under section 5 of the repealed Act in respect of the establishment.

(3) No claim, suit, prosecution or other legal proceedings arising out of the acquisition or return of an establishment shall lie against the Government, the Corporation or any officer or employee of the Government or the Corporation.

(4) Where the Federal Government is satisfied that the previous management of an establishment has refused or willfully failed to receive possession of the establishment, it may pass such order in respect of the establishment as it may deem fit.

(5) In the case of an establishment, for the purpose of computing the period of limitation prescribed in the Limitation Act, 1908 (IX of 1908) for the institution of a suit for the recovery of money, the period commencing on the day on which an order under section 5 of the repealed Act was made in respect of the establishment and ending on the day on which possession thereof is delivered to its previous management shall be excluded.

(6) In the case of any dispute between the previous management of an establishment and the Corporation regarding the assets or liabilities of the establishment, the matter shall be referred to the Federal Government whose decision shall be final.

4. Continuance in service of the employees. Every wholetime employee of an establishment on the date of making of an order under section 5 of the repealed Act, in respect of the establishment, and every whole-time employees who has worked continuously in an establishment since before the first day of July, 1977, shall continue in his office on the same terms and conditions as are applicable to his appointment:

Provided that this section shall not apply to employees who had resigned or been removed by the Corporation from its service.

5. Compensation.—(1) The Corporation shall pay compensation in respect of an establishment at the rate of 11 per cent per annum of the amount determined as payable in accordance with paragraphs 1 and 2 of the Schedule to the repealed Act for the period the ownership and management of the establishment remained with the Corporation.

(2) In a case in which the Networth Value is higher than the Present Value, the Corporation shall pay the difference between the Networth Value and the Present Value of the assets and

liabilities transferred to the previous owners, both such difference and the Present Value to be determined by the Corporation.

(3) Where the Present Value is higher than the Networth Value, the Corporation may recover from the previous owner, in accordance with the provisions of section 7 or in any other manner it may deem fit, the amount representing the difference between the Networth Value and the Present Value.

(4) Where a previous owner has received payment of compensation assessed in accordance with paragraphs 1 and 2 of the Schedule to the repealed Act, such compensation shall be recovered from him in the same manner as is provided in sub-section (3):

Provided that any interest which has accrued on any compensation bonds given to such previous owner shall not be withheld or, as the case may be, recovered and shall be deemed to be the compensation payable under sub-section (1).

6. Corporation to continue until wound up. Notwithstanding the repeal of the repealed Act under section 14, the Corporation shall continue in existence until it is wound up by an order of the Provincial Government.

7. Debtor.—(1) The Corporation may, by notice in writing, call upon a debtor to pay to the Corporation the amount of money due from him to the Corporation within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where the debtor fails to pay the amount due from him within the period specified in the notice under sub-section (1), the Corporation shall have the same power of effecting recovery as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

8. General effect of return of establishment.—(1) Where the management of an establishment has been transferred to the previous management under section 3, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of transfer, to which such establishment, was party or which were in respect of such establishment, shall be of as full force and effect against or in favour of previous management, and may be enforced or acted upon as fully and effectively as if, instead of the Corporation, the previous management had been a party thereto, or as if they had been entered into, or issued in respect of, the previous management.

(2) If on the date of transfer of an establishment to the previous management any suit, appeal or legal proceeding of whatever nature is pending by or against the Corporation in respect of such establishment, it shall not abate or be in any way prejudicially affected by reason of such transfer or anything done under this Ordinance or the repealed Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the previous management.

9. Ordinance to override other laws. The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force or any agreement, contract, memorandum or articles of association of a company.

10. Bar of jurisdiction—(1) No Court shall call into question or permit to be called in question any provision of this Ordinance or of any rule or order made or, anything done or any action taken thereunder.

(2) No Court shall grant any injunction, or make any order, nor shall any Court entertain any proceedings, in relation to anything done or intended to be done under this Ordinance.

11. Penalties. Whoever obstructs or resists or hinders any person in the discharge of his duties under this Ordinance shall be punishable with rigorous imprisonment for a term which may extend to three years, or with fine, or with both:

Provided that no Court shall take cognizance of an offence under this Ordinance unless a complaint in this behalf is made by the Government or the Corporation or a person authorised by the Government or the Corporation for the purpose.

12. Power to make rules. The Federal Government may make rules for carrying out the purposes of this Ordinance.

13. Removal of difficulties. If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary, for the purpose of removing the difficulty.

14. Repeal. The Flour Milling Control and Development Act, 1976 (LVII of 1976), is repealed.