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THE TRANSFER OF POPULATION WELFARE PROGRAMME
(FIELD ACTIVITIES) ORDINANCE, 1983.

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THE TRANSFER OF POPULATION WELFARE PROGRAMME (FIELD ACTIVITIES) ORDINANCE, 1983.

ORDINANCE No. XIX OF 1983
[2nd August, 1983]

An Ordinance to provide for the transfer of field activities of the Population Welfare Programme to the Provincial Governments.

WHEREAS it is expedient to provide for the transfer of field activities of the Population Welfare Programme under the Population Welfare Division to the Provincial Governments for their speedy implementation and exercising effective supervision and control and for matters connected therewith or ancillary thereto;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 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 and commencement.— (1) This Ordinance may be called the Transfer of Population Welfare Programme (Field Activities) Ordinance, 1983.

(2) It shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint.

2. Ordinance to override other laws. This Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

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

(a) “Board” and “Council” shall have the same meaning as in the Population Welfare Planning Programme (Appointment and Termination of Service) Ordinance, 1981 (XIV of 1981) ;

(b) “employee” means a person whose services have been regularized under the Population Welfare Planning Programme (Appointment and Termination of Service) Ordinance, 1981 (XIV of 1981) or who has been recruited in or under the Population Welfare Division after the promulgation of the said Ordinance ;

(o) “field activities” means—

(i) provision of Population Welfare Motivational Services by establishing contacts with the clients at all levels ;

(ii) provision of Family Health Service, Clinical and Non-clinical contraception through Family Welfare Centres and those Reproductive

Health Service Establishments located in the Provincial Government hospitals, and, particularly, provision of services for rural areas ;

(iii) provision of Population Welfare motivation and services through line departments of the Provincial Governments;

(iv) supply of contraceptives and medicines to the desirous clients in urban and rural areas of the districts through the network of community distribution points, and other agencies involved in the programme;

(vy) implementation of publicity and communication strategy;

(vi) promotion of community involvement and active participation in Population Welfare Programme activities;

(vii) coordination of Population Welfare Programme activities with other nation-building departments at district and local levels;

(viii) setting up of Advisory Management Committees at Family Welfare Centre level and Population Welfare Councils at district and provincial levels as provided in the Population Welfare Plan, 1981-84 ; and

(ix) any other activity of the Population Welfare Programme that the Federal Government may specify;

(da) "Population Welfare Programme" means any such programme in operation at the commencement of this Ordinance or as may be formulated by the Federal Government from time to time.

4. Transfer of field activities to the Provincial Governments.— (1) The field activities of the Population Welfare Programme shall stand transferred to the Provincial Governments.

(2) The Federal Government shall determine as to whether a particular activity is a field activity within the meaning of this Ordinance.

5. Powers, functions and responsibilities of the Provincial Governments.— (1) Upon the transfer of field activities of the Population Welfare Programme to the Provincial Government, all powers and functions of the Federal Government in respect of field activities shall, subject to the other provisions of this Ordinance, vest in the Provincial Governments.

(2) The Provincial Government shall supply to the Federal Government such returns, statistics and information as may be required for monitoring, evaluation and research.

(3) The Provincial Government shall closely collaborate with the Federal Government in respect of the functions of the Federal Government referred to in sub-section (1) of section 6 and activities which are identified by the Federal Government as Federal functions.

6. Functions of the Federal Government, etc—— (1) The Federal Government shall continue to perform all functions pertaining to National Policy, Planning and Coordination, Information, Training, Supplies, Statistics, Monitoring and Evaluation, Research and Foreign Assistance.

Explanation. In this sub-section, "Information" includes "Education" and "Communication" components of the Population Welfare Programme.

(2) In the performance of their functions relating to field activities, the Provincial Government shall be guided by such guidelines and instructions on questions of policy as may be laid down and given from time to time by the Federal Government, which shall be the sole judge as to whether a question is a question of policy.

7. Transfer of other activities to the Provinces. The working of the field activities of the Population Welfare Programme shall be reviewed by the Federal Government from time to time and the Federal Government may transfer to the Provincial Governments '[or withdraw from such Government any activities of the Population Welfare Programme as it may deem necessary to improve the execution of the Population Welfare Programme].

8. Transfer, etc. of employees (1) Notwithstanding anything contained in any contract or agreement or in the conditions of service, an employee shall be retained in the Population Welfare Division or transferred to the Provinces as follows :—

(a) an employee who was recruited or appointed by the Council shall be retained in, or, as the case may be, stand transferred to, the Population Welfare Division ;

(b) an employee who was recruited by the Board shall be retained in, or, as the case may be, stand transferred to the Province in which he was originally recruited ;

(c) an employee who was originally recruited by the Board but subsequently appointed by the Council shall be retained in, or, as the case may be, stand transferred to the Population Welfare Division.

(da) an employee shall, if he was recruited for the Population Welfare Division, be retained in that Division and, if he was recruited against a post in a Province, stand transferred to the Province of his domicile; and

(e) a female employee who is married or a widow may be allowed the option to be transferred to the Province of the husband's or late husband's domicile:

Provided that the Provincial Government of the Province in which an employee who is to be so transferred to the Population Welfare Division or to another Province is serving immediately before the commencement of this Ordinance may retain the services of such employee for such period as may be agreed upon between the Provincial Government and the Population Welfare Division or, as the case may be, the Government of the other Province to which he is to be transferred:

Provided further, that the services of an employee, who immediately before the commencement of this Ordinance was working in relation to any of the functions of the Federal Government under the Ordinance, shall be retained by the Federal Government in consultation and with the agreement of the Provincial Government concerned.

'Subs. and shall be deemed always to have been so subs. by ordinance No. 32 of 2001, s. 2.

(2) Every employee referred to in sub-section (1) shall be entitled to the same terms and conditions of service with respect to grade, remuneration, leave and pension to which he was entitled immediately before the commencement of this Ordinance '[and shall, notwithstanding anything contained in any other law for the time being in force or any judgment of any Court or tribunal, including a High Court and the Supreme Court, be deemed to have become the civil servants of the respective Provincial Government on such commencement and shall be governed by the rules and regulations made under the Provincial laws relating to civil servants].

(3) Unless otherwise directed by the Provincial Government, all authorities and officers and ministerial staff exercising powers and functions immediately before the date of transfer shall, as from that day, continue to exercise their respective powers and functions.

(4) No employee referred to in sub-section (1) shall be entitled to any compensation because of his transfer by virtue of, or under, the provisions of this Ordinance.

°[(5) Notwithstanding any judgment of any Court or tribunal, including a High Court, the Supreme Court, any law, contract, agreement or in the conditions of service, all actions taken, powers, including financial and administrative, exercised, orders or instructions issued, by the Federal Government and Provincial Governments in respect of terms and conditions of employees referred to in sub-section (1) after their retention in the Federal Government or transfer to the Provincial Governments, shall be deemed always to have been validly taken, exercised or issued by the Federal Government and Provincial Governments.]

9. Assets and liabilities, etc. On the commencement of this Ordinance,—

(a) all rights and privileges, assets and liabilities, debts and obligations of the Federal Government relating to field activities of the Population Welfare Programme subsisting immediately before such commencement shall, as from such commencement, be the rights, privileges, assets, liabilities, debts and obligations of the Provincial Government within whose territorial jurisdiction they exist ;

(b) any contract made on behalf of the Federation for matters relating to field activities of the Population Welfare Programme before such commencement shall, as from such commencement, if the contract is for purposes which are exclusively purposes of the Provincial Government, be deemed to have been made on behalf of the Province concerned ;

(c) all rights and liabilities relating to field activities of the Population Welfare Programme which have accrued or may accrue under any such contract shall, to the extent to which they would have been rights or liabilities of the Federation, be the rights or liabilities of the Province concerned ; and

(d) all suits and other legal proceedings relating to field activities of the Population Welfare Programme instituted by or against the Federation before such transfer shall, as from such commencement, be deemed to be suits and proceedings by or against the Province concerned.

‘Added and shall be deemed always to have been so added by ordinance 32 of 2001, s. 3.

*Added *ibid*.

10. Financing of the Population Welfare Programme.— (1) The financial liability of the Federal Government in respect of field activities shall be limited to the extent of the approved projects and financial grants shall be provided to the Provincial Governments through the Development Budget of the Population Welfare Division.

(2) The grants provided to the Provincial Governments for specific approved projects shall not be transferred by them to other projects or for any other purpose.

(3) The Provincial Government shall maintain complete and accurate account and other record in respect of the Population Welfare Programme in such manner and form as may be specified by the Federal Government in consultation with the Auditor General of Pakistan, provided that separate accounts shall be maintained for the Head Office and for each organization, unit or project.

(4) The accounts shall be audited by the Auditor General of Pakistan.

11. Removal of difficulties. The Federal Government may, for the purpose of removing any difficulty that may arise in bringing into operation, or giving effect to, any provision of this

Ordinance, make such orders as it may consider necessary.

12. Power to make rules.— (1) The Federal Government may, by notification in the official Gazette, make rules for the purpose of giving effect to all or any of the provisions of this Ordinance.

(2) The Provincial Governments may, for the purpose of carrying out the field activities of the Population Welfare Programme, make rules with the prior approval of the Federal Government.