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'THE WORKERS' WELFARE FUND ORDINANCE, 1971

ORDINANCE NO. XXXVI of 1971

[9th December, 1971]

An Ordinance to provide for the establishment of a Workers' Welfare Fund.

WHEREAS it is expedient to provide for the establishment of a Workers' Welfare fund, for providing residential accommodation and other facilities for workers and for matters connected therewith or incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.—(1) This Ordinance may be called the Workers' Welfare Fund Ordinance, 1971.

(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,—

2x * * * * *

(b) “employer” has the same meaning as in section 2 of the Industrial Relations Ordinance, 312002, (XCI of 2002)] .

' validated by the Validation of Laws Act; 1975 (63 of 1975), s. 2 and Sch., This Act has been applied to th which it does not already apply, see Regulation No. I of 1972, s. 2 and Sch.,

2Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s.3 and II Sch. 3subs, by Act III of 2006, s. 12.

(c) "Fund" means the Workers, Welfare Fund constituted under section 3;
(d) "Governing Body" means the Governing Body of the Fund constituted under section 7;
(f) "industrial establishment" means—
(i) any concern owning or managing a factory, workshop or other establishment in which articles are produced, adapted or manufactured with the aid of electrical,

mechanical, thermal nuclear or any other form of energy transmitted mechanically and not generated by human or animal agency;

(ii) any concern working a mine or quarry or natural gas or oilfield;
(iii) any concern running a public transport service";

(iv) any concern engaged in the carriage of men and goods by inland mechanically propelled vessels;

'T*Civa) any establishment, to which the West Pakistan Shops and Establishment Ordinance, 1969 (W. P. Ordinance No. VIII of 1969), for the time being applies;]

(v) any concern engaged in the growing of tea, coffee, rubber or cinchona; and

(vi) any other concern or establishment which the 2Federal Government] may, by notification in the official Gazette, declare to be an industrial establishment for the purposes of this Ordinance,

but does not include any concern or establishment which is owned by Government or by a corporation established by Government or by a corporation the majority of the shares

of which is owned by Government; 3 {or mutual funds and collective investment schemes including National investment (Unit) Trust or REIT Scheme]

Arf) "Ordinance" means the Income Tax Ordinance, °[2001 (XLIX of 2001)]

'Omitted and Subs. by Act III of 2006, s. 12.

?Subs. by the Workers' Welfare Fund (Amdt.) Act, 1974 (15 of 1974) s. 2 for "Central Government".
3subs. by Act V of 2015,8.3.

4Ins. by Ord. 27 of 1981, s. 3 and Sch., II.

Sins. by Act. 1 of 2008, s. 8 (w.e.f 1-7-2008)

(g) “prescribed” means prescribed by rules made under this Ordinance;

(h) “Secretary” means the Secretary of the Fund;

'i(ha) “Taxation Officer” means a person appointed to be a Taxation Officer under the Ordinance and includes a Commissioner as defined in clause (13)A of section 2 of the Ordinance;]

(i) ' Total Income” means:

(i) where Return of Income is required to be filed under this Ordinance, the profit (before taxation or provision for taxation) as per accounts or the declared income as per the return of income, whichever is higher; and

(ii) where return of Income is not required to be filed, the profit (before taxation or provision for taxation) as per accounts or four per cent of the receipt as per the statement filed under section 115 of the Ordinance, whichever is higher.”

Gj) “worker” has the same meaning as in section 2 of the Industrial Relations Ordinance, [2002 (XCI of 2002)]!.

CHAPTER II CONSTITUTION OF WORKERS' WELFARE FUND

3. Constitution of Workers' Welfare Fund.-(1) There shall be constituted for the purposes of this Ordinance a Fund to be called the Workers' Welfare Fund.

Ins. and Subs. by Act III of 2006, s. 12.

(2) The Fund shall consist of—

(a) an initial contribution of ten crores of rupees to be made by the 'Federal Government],

(b) such moneys as may, from time to time, be paid by the industrial establishment under section 4[and section 4A];

3 [(bb) the amount transferred to the fund from time to time, under clause (d) of paragraph 4 of the scheme set out in the schedule to the Companies Profits (Workers' Participation) Act, 1968 (XI of 1968).

(c) volunty contributions in the shape of money or building, land or other property made to it from time to time by any Government or by any person An,

(d) income from the investments made and properties and assets acquired from out of the Fund [; and]>

®[(e) proceeds of loans raised by the Governing Body].

4. Mode of payment by, and _ recovery from, industrial establishments.—(1) Every industrial establishment the total income of which in any year of account commencing on or after the date specified by the '[Federal Government] in the official Gazette in this behalf is not less than Slfive] lakh of rupees shall pay to the Fund in respect of that year a sum equal to two per cent o* * "if its total income

(2) Every industrial establishment which is liable under subsection (1) shall pay the amount due from it to the Income-tax Officer having jurisdiction over the industrial establishment for purposes of the 3 [Ordinan

83) "The industrial establishment shall on or before the date prescribed for filing of returns of income or a statement under the relevant provisoon of the Ordinance, pay the amount due from it under sub-section and furnish the proof of payment to the Taxation Officer or the Commissioner as the case may be""]

(4)8* . *T Taxation Officer] shall, by order in writing, determine the amount due from the industrial

establishment under sub-section (1) if any, o* after taking into account the amount paid by the industrial establishment under sub-section (3) in respect of the year and the industrial establishment shall pay the a so determined on or before the date specified in the order.

(5) Any change by way of enhancement or reduction in the total] income shall be given effect to by adjustment of the amount due under sub-section (1).

(6) Any amount paid by an industrial establishment under sub-section (3) which is found, on the basis of a order in appeal or revision under the !0/Ordinance] to have been paid in excess shall be refunded to it by 8[Taxation Officer].

'Subs. by the Workers' Welfare Fund (Amdt.) Act, 1974 (15 of 1974), s. 2, for "Central Government".

2 Added by the Labour Laws (Amdt) Ordinance. 1972 (9 of 1972). s. 2 and Ist Sch.

3New clause (bb) ins. ibid.,

4The word "and" omitted by Act 15 of 1974, s. 3.

Subs, ibid., s. 2, for firll stop.

New clause (e) added ibid.

Tie. the 1st July, 1972, see S.R.O. 794(1), 72, dated 8th September, 1972, see Gaz. of R, Ext., Ft. II, p. 880.
8 subs. and Omitted by Act III of 2006, s. 12.

9 Omitted and Subs. by Act I of 08, (w.e.f 1-7-2007).

!0Subs, by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981) s.3 and II Sch.

(7) The payment made by an industrial establishment to the fund under sub-section (1) shall be treated as an expenditure for purpose of assessment of income-tax.

(8) Where any industrial establishment fails to pay the amount due from it as required under this section, it shall, without prejudice to any other liability to which it may be subject under this

Ordinance or any other law, be liable to pay an additional amount 3fas per provisions of the Ordinance, relating to the mode and time of recovery of the income tax.]

(9) The provisions of 'Tthe Ordinance] relating to the mode and time of recovery of the income-tax leviable under the Act shall, so far as may be, apply to the recovery of the amount due under sub-section (1).

3[(10) Industrial establishment may file an appeal against any order passed by Taxation Officer or the Commissioner as the case may be under this Ordinance before the Commissioner (Appeal) appointed under the Ordinance.”

21 4A. Payment of further amount.

(1) Every industrial establishment referred to in sub-section (1) of section 4 shall, in addition to the amount payable by it under that sub-section in respect of an year of account, pay such amount as the [Federal Government] may determine on the recommendation of a committee appointed under sub-section (2), hereafter in this section referred to as the committee.

(b) not less than two shall be appointed from amongst the workers' in the Province or, as the case may be, in the area of class of industrial establishments in relation to which the committee is to perform its functions.

(2) For the purpose of sub-section (1), the Provincial Government may appoint one or more committees in the province and, where it appoints more than one committee, shall specify the area or class of industrial establishments in relation to which ech such committee shall perform its functions.

(3) A committee appointed under sub-section (2) shall consist of an officer of the Provincial Government who shall be its Chairman and not more than five other members to be appointed by the Provincial Government of whom.

(a) not less than two shall be appointed from amongst the employees in the Province or, as the case may be, in the area or class of industrial establishments in relation to which the committee is to perform its functions; and

(b) not less than two shall be appointed form amongst the workers' in the Province or, as the case may be, in the area of class of industrial establishments in relation to which the committee is to perform its functions.

(4) The committee shall examine the financial and other circumstances of each of the industrial establishments and make recommendations as to the further amount, if any, to be paid by such establishment in addition to the amount Payable by it under sub-section (1) of section 4.

‘subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981) s. 3 and I Sch.,
2New section 4A added by the Labour Laws (Amdt.) Ordinance, 1972 (9 of 1972), s.2 and It Sch.,
3subs, and Ins, by ActIII of 2006, s. 12.

(5) The committee shall submit its recommendations to the Provincial Government who shall forward them, together with its own observations, if any, to the 'Federal Government[.]

(6) The committee shall have power to ask any industrial establishment to furnish such information as it may consider necessary for the performance of its functions under sub-section

(4).

(7) If an industrial establishment fails to furnish the required information under sub-section (6), the committee shall make its recommendations under sub-section (4) on the basis of such information as may be available to it.

(8) The provisions of section 4 shall, so far as may be, apply to an amount payable under sub-section (1) as if it were an amount payable under sub-section (1) of that section[.]

5. Liability to be discharged by certain persons. Any liability imposed on an industrial establishment by this Ordinance shall be deemed to be the liability of the person who is liable to pay income-tax in respect of the income relatable to such industrial establishment.

6. Purposes to which moneys in the fund may be applied. Moneys in the Fund shall be applied to—

(a) the financing of projects connected with the establishment of housing estates or construction of houses for the workers;

21(b) the financing of other welfare measures including education training, re-skilling and apprenticeship for the welfare of the workers.]

(c) the meeting of expenditure in respect of the cost of management and administration of the Fund.

(d) the repayment of loans raised by the Governing Body; and

31(e) investment in government, government guarantees, non-government securities and Real Estate”]

ISubs. by the Workers Welfare Fund (Amdt.) Act, 1974 (15 of 1974),s.2, for “Central Governm ent”.

2 Subs. by Ord. 53 of 2001, s. 2 and Sch.

3 Subs. by Act III of 2006, s.12.

CHAPTER III GOVERNING BODY

7. Constitution of the Governing Body.—(1) As soon as may be after the commencement of this Ordinance, the [Federal Government] shall, by notification in the official Gazette, constitute a Governing Body of the Fund to whom shall be entrusted the management and administration of the Fund.

2[(2) The Governing Body shall consist of the Secretary to the Government of Pakistan in the Ministry dealing with matters relating to labour welfare, who shall be its Chairman and not more than eighteen other members to be appointed by the Federal Government of whom—

(a) at least one shall be appointed from each Province upon the recommendation of the Provincial Government concerned;

(b) at least one shall be appointed from each Province from amongst the workers'; and

(c) at least one from each Province shall be appointed from amongst the employers.]

(3) The members of the Governing Body other than the Chairman shall hold office for such period and on such terms and conditions as may be prescribed:

(4) No act or proceeding of the Governing Body shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution, of the Governing Body.

8. Appointment of Secretary and other employees of the Fund—(1) The Governing

Body may, with the previous approval of the 'Federal Government], appoint a Secretary who shall be the executive officer of the Fund.

(2) The Governing Body may appoint such other employees as it may consider necessary for the efficient performance of the functions of the Fund.

(3) The Governing Body shall determine the terms and conditions of service of the Secretary and the employees with the previous approval of the 'Federal Government].

(4) The Secretary and every employee shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

9. Governing Body to lay down procedure, etc. As soon as may be after it has been constituted,

the Governing Body shall, with the previous approval of the 'TFederal Government] lay down the procedure for making applications for grants from the Fund, the information to be furnished in such applications and the principles to be followed by the Governing Body in the distribution of allocation from the Fund, including priorities as between respective applications for grants.

'subs, by the Workers' Welfare Fund (Amdt.) Act, 1974 (15 of 1974), s. 2, for "Central Government".

2Sub. *ibid.*, for the original sub-section (2).

10. Functions of the Governing Body. The functions of the Governing Body shall be—

(a) to allocate funds, in accordance with the principles laid down under section 9, to the Provincial Governments, any agency of the 'Federal Government] and any body corporate for any of the purposes mentioned in clauses (a) and (b) of section 6;

(b) to sanction expenditure in respect of the cost of administration and management of the Fund;

1) investment in government, government guarantees, non-government securities and real estate;]

2[(ca) to dispose of the moveable and immoveable property of Workers Welfare Fund and workers Welfare Boards;]

(d) to raise loans and to take measures for discharging such loans;

(e) to do or cause to be done all acts and things necessary or desirable for the proper administration and management of the Fund; and

(f) to do or cause to be done all things ancillary or incidental to any of the aforesaid functions.

3 [10A. Vesting of money allocated from the fund. Any money allocated under clause (a) of section 10 shall be a grant-in-aid and shall vest in the Government, agency or body corporate, to whom it is allocated under that clause, but it shall not be applied to any purpose other than that for which it is allocated, or permitted, by the Governing Body.]

11. Maintenance of books of account, etc. The Governing Body shall—

(a) cause to be maintained such books of accounts as may be prescribed;

(b) cause to be prepared in the prescribed manner an annual statement of account;

(c) cause the accounts of the Fund to be audited annually by 4[the Auditor General of Pakistan or] an auditor who is a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961.); and

(d) submit to the 5 [Federal Government] the statement referred to in clause (b) together with the report of the auditor thereon.

6(CHAPTER IITA WORKERS' WELFARE BOARDS

11A. Constitution of Workers' Welfare Boards.—(1) Where an allocation is made from the Fund to a Provincial Government, any agency of the Federal Government, hereafter in this Chapter referred to as the agency, or a body corporate under clause (a) of section 10, such Provincial Government, agency or, as the case may be, body corporate may, by notification in the official Gazette, constitute a Board to be known as Workers' Welfare Board, hereafter in this Chapter referred to as the Board, for the efficient management and administration of the allocated money and the projects or other measures financed by such money.

'Subs. by the Workers' Welfare Fund (Amdt.) Act, 1974 (15 of 1974) s'. 2, for "Central Government".
2 Subs. and added by ActIII of 2006, s. 12.

3 Section 10A ins. by the Workers' Welfare Fund (Amdt. Act, 1974 (15 of 1974), s. 5.

4 Ins. *ibid*, s. 6.

5 Subs, *ibid.*, s. 2, for “Central Government”.

6 Chapter IIIA added *ibid.*, s. 7.

(2) A Board shall consist of—

(a) a Chairman who shall be, in the case of a Board appointed—

(i) by a Provincial Government, secretary to that Government in the department dealing with matters relating to labour welfare; or

(ii) by an agency or a body corporate, such officer as the Federal Government may appoint; and

(b) not more than nine other members to be appointed by the Provincial Government, agency or, as the case may be, body corporate of whom—

(i) at least two shall be appointed from amongst the employers; and

(ii) at least two shall be appointed from amongst the workers.

(3) The members of a Board other than the Chairman shall hold office for such period and on such terms and conditions as may be determined by the Provincial Government, agency or, as the case may be, body corporate.

(4) No act or proceedings of a Board shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Board.

11B. Board to be a body corporate, etc —(1) The Board shall be a body corporate by the name notified by the Government, agency or, as the case may be, body corporate constituting it, having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to contract, acquire hold and dispose of property, both movable and immovable, and shall by the said name sue or be sued.

(2) The head office of the Board shall be at such place as the Provincial Government, agency or, as the case may be, body corporate constituting the Board may by notification in the official Gazette, specify.

(3) The Chairman of the Board shall be its chief executive and may appoint a Secretary and such other staff on such terms and conditions as the Board may sanction [With the previous approval of the Government Body.]

(4) Subject to sub-section (3), all decisions of the Board shall be expressed in terms of the opinion of the majority of the members of the Board present in a meeting and, in the event of an equality of votes, the Chairman shall have a second or casting vote.

(5) The Provincial Government, agency or, as the case may be, body corporate may issue directions to the Board constituted by it regarding matters of policy [including matters relating to scheme made under clause of section 11C]:

Provided that if a difference arises as to whether a direction relates to a matter of policy, the decision of the Federal Government shall be final.

(6) A casual vacancy in the office of a member shall be filled, as soon as may be, by the nomination of another person and the person nominated to fill such vacancy shall hold office for the unexpired term of his predecessor.

| Added by Act of 08, s. 8, (wee. 1-7-08).

11C. Powers, etc., of the Board. Subject to the provisions of this Ordinance, a Board, for the discharge of its functions under this Ordinance, shall—

(a) as soon as may be after its constitution, make and carry into effect a scheme regulating or providing for the regulation of—

(i) matters connected with allotment, cancellation of allotment and fixation of rent of the houses financed by the money allocated from the Fund, and their maintenance and repairs;

(ii) any other measures for the welfare of workers financed by the money allocated from the Fund; and

(iii) the expenditure in respect of the cost of management and administration of such scheme;

(b) have the power to recover the rent and arrears of rent of such houses in the manner laid down in section 11D;

(c) have the power to evict any person from such a house in the manner laid down in section 11E;

(d) have the power to do any other thing necessary for, connected with, or incidental to, the discharge of its functions under this Ordinance or the rules or scheme made thereunder;

(e) get its accounts annually audited in the prescribed manner; and

(f) by notification in the official Gazette make regulations to regulate its procedure.

11D. Recovery of rent.—(1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (IV of 1936), where any rent or arrears of rent are due from any person under the scheme made section 11C, they may be recovered—

(a) by deduction by his employer from his wages, if the Board or any person authorised by it in this behalf directs the employer so to do; or

(b) as arrears of land revenue or as a public demand if, upon the application of the Board or any person authorised by it in this behalf, a Magistrate so directs.

Explanation.—In this section and section 11E, 'Magistrate' means a Magistrate of the first class having jurisdiction in the area where the house for which the rent or arrears of rent are due or from which eviction is to be effected is located.

(2) An employer making any deduction under sub-section (1) shall, within seven days from the date on which he makes the deduction, pay the entire amount so deducted to the Board entitled to receive it, and the payment so made, to the extent of the amount so paid, shall constitute a valid discharge of the liability of the employer to the person from whose wages the amount is deducted.

(3) If an employer, upon being directed by a Board or a person authorised by it to make a deduction from wages under this section, fails without lawful excuse to comply with the direction within the time specified therein, he shall personally be liable to pay the amount so required to be deducted, without prejudice to the liability of the person from whom that money is due.

11E. Eviction. —(1) Notwithstanding anything contained in any other law for the time being in force, including the West Pakistan Urban Rent Restriction Ordinance, 1959 (West Pakistan Ordinance No. VI of 1959), and the Karachi Rent Restriction Act, 1953 (VIII of 1953), a worker occupying a house constructed with the money allocated from the Fund, who is directed by a Board or an officer authorised by it in this behalf, by an order in writing to vacate the house, shall vacate such house within a period of two months from the date of service of the order on him.

(2) If such a worker fails to vacate such house within such period, the Board or the officer authorised by it in this behalf may lodge a complaint with a Magistrate.

(3) The Magistrate on hearing the parties may, notwithstanding anything contained in any other law for the time being in force, summarily decide the case and may pass an order of eviction giving the worker a reasonable time to vacate the house.

(4) When a Magistrate passes an order for the eviction of a worker, he may, in such order, also direct a police officer to evict such worker and any other person occupying through such worker the house in respect of which the order of eviction is made, if the worker or such other person fails to vacate the house within the time allowed under sub-section (3).

(5) A police officer acting under an order of the Magistrate under clause (4) shall notify the occupants of the premises in question the contents of the Magistrate's order and his intention to enter such house, allow at least two hours time to the occupants thereof to vacate it and give all reasonable facilities to the children and female occupants, if any, to withdraw therefrom before applying any force for taking over the possession of such house.

(6) Where a worker occupying such a house dies, the procedure prescribed in this section shall mutatis mutandis and, so far as applicable, apply for evicting any person who was occupying the house through such worker and continues to remain in occupation thereof after his death :

Provided that, where such person is the widow of the deceased worker, she shall not be evicted before the expiry of nine months following the death of the worker.

11F. Finality of order. An order passed by a Magistrate under section 11D or section 1 IE shall be final and no court or authority shall entertain any plea as to the jurisdiction of the Magistrate or as to the legality or propriety of the order or allow such an order to be called in question in any manner whatsoever.]

CHAPTER IV MISCELLANEOUS

12. Delegation of powers. The Governing Body may direct in writing that all or any of its powers and functions under clauses (e) and (f) of section 10 may, subject to such limitations, restrictions or conditions, if any, as may be imposed by it from time to time, be also exercised or performed by the Secretary.

13. Power to remit or reduce amount due. The 'Federal Government] may, by notification in the official Gazette, remit or reduce the amount due from any industrial establishment or class of industrial establishments under the provisions of section 4.

14. Protection of persons acting under this Ordinance. No suit, prosecution or other legal proceedings shall lie against any person for any thing which is in good faith done or intended to be done under this Ordinance.

15. Power to make rules. —(1) The 'Federal Government] may, by notification in the official Gazette, make rules” for carrying 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 :—

(i) the tenure of office of the members of the Governing Body other than the Chairman and the other terms and conditions of appointment of the members of the Governing Body and the manner in which the Governing Body shall conduct its business, including the number of members required to form a quorum at meetings thereof; and

(ii) the books of account to be maintained by the Fund and the form of its statements of account.

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

| Subs. by the Workers' Welfare Fund (Amdt.) Act, 1974 (15 of 1974), s. 2, for “Central Government”.

2 For the Workers' Welfare Fund Rules, 1976, see \$.R.O., No. 1011 (1)/ 76, dated 14-10-76, Gaz. of, 197

3 Added by Act III of 2006, s. 12.

THE PAKISTAN CODE

THE PAKISTAN CODE