

EXTRAORDINARY
HORITY -

MARCH 11, 1974

ISLAMABAD, MONDAY, —

— PART 1

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 11th March, 1974

The following Acts of Parliament received the assent of the President on the 7th March, 1974, and are hereby published for general information :—

ACT No. XVII oF 1974

An Act to regulate the operation and future development of ihe maritime shipping

WHEREAS it is expedient to provide for regulating the management, operation and future development of maritime shipping, so as to maintain services essential to the life of the community and to promote foreign trade, and to provide for matters connected therewith or incidental thereto;

It is hereby enacted as follows :—

1. Short title, extent, application and commencement.—(1) This Act may be called the Pakistan Maritime Shipping (Regulation and Control) Act, 1974.

(2) It extends to the whole of Pakistan and applies to all ships and vessels registered in Pakistan or owned exclusively by persons domiciled, or bodies corporate registered, in Pakistan.

(3) It shall come into force at once.

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

(a) "bank rate" means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of

1956) ;

(b) "Board" means a Board of Management set up under section 7;

(c) "company " includes a corporation set up by or under any law;

(d) "corporation" means a corporation to which an establishment is transferred under section 13 ;

(e) "creditor " means any person to whom a managed establishment owes any amount of money; :

(97)

Price : Ps, 37
[319 Ex. Gaz]

xe)

(9)

(h)

(i)

(i)

(!)

(m)

(n)

"debtor" means a person who owes any amount of money to a managed establishment ;

"establishment " means any company, firm, concern institution or enterprise the whole or any part of the undertaking of which pertains to the industry and includes any related office, shop, factory, godown, yard, stocks and stores, wherever they may be; :

"industry "" means the maritime shipping industry ;

"Managing Director" in relation to an establishment means the Managing Director appointed under section 6 in respect of such establishment ;

"managed establishment" means an establishment in respect of which a Managing Director has been appointed ;

"previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before the appointment of a Managing Director in respect thereof ;

"shareholder " means a shareholder in the share capital of an establishment, and includes a stockholder ;

"person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority ;

words and expressions used but not defined in this Act shall have the same meaning as in the Companies Act, 1913 (VII of 1913).

3. Declaration.—It is hereby declared that the industry shall be carried on and owned by the Federal Government or by a corporation controlled by it, to the exclusion of all other persons, except a foreign investor.

4. Act to override other laws.—The provisions of this Act shall have effect notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), or the Companies (Managing Agency and Election of Directors) Order, 1972, (P.O. No. 2 of 1972), or any other law for the time being in force or in any agreement, contract, memorandum or articles of association of a company.

5. Power to take over management or acquire shares or business of an establishment.—(1) The Federal Government may, if it considers necessary in the public interest so to do, by an order in writing,—

(@)

(b)

take over the management of any establishment and, as from the date of such order, the previous management shall stand divested of such management ;

in the case of an establishment which is a company or an establishment owned by a company,—

(i) acquire the whole or a portion of the shares from all or any of. - the shareholders of such company and, as from the date of such

order, the shares so acquired shall vest in the Federal Government ; or

(ii) acquire the whole or a portion of the proprietary interests of such company in such establishment and, as from the date of

Sea

such order, the interests so acquired shall vest in the Federal Government ; and

{c) in the case of an establishment owned by a person, acquire the whole or a portion of the proprietary interests of such person, and as from the date of the order the interests so acquired shall vest in the Federal Government :

ay

~ Provided that no order shall be made under this section for the acquisition ° of the shares held in an establishment by an institution owned or controlled by the Federal Government, including the National Investment Trust and the Investment Corporation of Pakistan, or the shares held by a foreign investor :

Provided further that in the case of an establishment which is a company or an establishment owned by a company, the Federal Government may, by notification in the official Gazette, exempt from acquisition shareholdings of any shareholder up to such maximum amount as may be specified in the notification.

(2) Where the Federal Government makes an order under sub-section (1) in respect of an establishment which is a company or is owned or controlled by a company, no dealings or business relating to the shares of such company shall be transacted on any stock exchange and no transfer of such shares shall be registered in the share register of the company for a period of ninety days from the date of such order or such shorter period as may be notified

2. by Government.

6. Appointment of Managing Directors.—(1) Where the Federal Government has made an order under section 6 in respect of an establishment, it may appoint a Managing Director in respect of such establishment.

(2) Upon the appointment of a Managing Director in respect of an establishment, the administration and management of the affairs of the establishment shall vest in the Managing Director, and any company or person or authority exercising or having the right to exercise, immediately before such appointment, any power or function in relation to the establishment shall cease to exercise or to have the right to exercise such power or function.

(3) The Managing Director shall—

(a) hold office during the pleasure of the Federal Government ;

(b) in the discharge of his functions, be subject to such orders and directions as the Federal Government or the Board may from time to time give in writing; and

. (c) receive such remuneration and be subject to such other terms and

conditions of appointment and service as the Federal Government may determine.

: (4) The Managing Director appointed in respect of an establishment shall exercise and perform—

(a) if such establishment is a company or is owned or controlled by a company, all the powers and functions of the Board of Directors ; and

(b) if such establishment is owned or controlled by a person, all the' powers and functions of that person.

7 a

7. Board of Management.—(1) The Federal Government may, by notification in the official Gazette, set up a Board of Management to control, manage and direct the affairs of establishments in respect of which Managing Directors have been appointed and, where it sets up more than one Board, shall specify in the notification the establishment or class of establishments in respect of which each Board shall exercise its powers and perform its functions under this Act.

(2) A Board shall consist of a Chairman and such number of members, not exceeding nine, as the Federal Government may appoint.

(3) A Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, and shall by the name assigned to it by the notification issued under sub-section (1) sue and be sued.

(4) The Chairman and members of a Board shall hold office during the pleasure of the Federal Government on such terms and conditions as it may

r

determine. ee

8. Functions of Board.—(1) The functions of the Board shall be to ensure that the establishments in respect of which it is to exercise and perform its powers and functions under this Act are managed efficiently and in accordance with sound business principles and, in respect of any such establishment, the Board may, from time to time,—

(a) exercise such of the powers of the Managing Director and issue such directions to him as it may consider necessary ;

(b) require the Managing Director to furnish it with such information relating to the affairs of the establishment in respect of which he is the Managing Director as the Board may require in connection with the performance of its functions ; and

(c) remove from office its auditor and appoint another person, who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), to hold that office for such period and on such remuneration payable by the establishment as the Board may determine.

(2) The exercise by the Board under sub-section (1) of the powers of a Managing Director shall have effect as if it were the exercise of those powers by the Managing Director himself.

(3) It shall be the duty of a Managing Director to comply with all directions issued to him by the Board under sub-section (1) and to furnish the Board with the information required by it.

9. Funds of the Board—(1) There shall be constituted for a Board a fund to which shall be credited all sums received by the Board under sub-section (2) and out of which shall be defrayed all expenditure incurred by the Board,

including expenditure on the emoluments of the Chairman, members and officers, servants, experts and consultants of the Board.

(2) The Managing Director in respect of every managed establishment shall make to the Board each year such payment to enable it to defray its expenses as the Board may, with the prior approval of the Federal Government in writing, demand of him : i 7

yyh 19Ty
added Uy pet Xi 414

Provided that the aggregate amount of -payments. so " demanded of the Managing Directors in any year shall not exceed by more than ten per cent the amount of the estimated expenditure of the Board in that year.

10. Officers, etc., of the Board.—(1) A Board may from time to time appoint such officers, servants, experts and consultants as it may deem fit.

(2) A Board may appoint one or more committees of the Board with such composition and functions as it may determine.

11. Adoption of balance sheet.—In the case of a managed establishment owned or controlled by a company, the general meeting of the company before which a balance sheet is laid shall not, if the Federal Government by order in writing so directs, have the authority to refuse to adopt the balance sheet, but nothing in this section shall be construed to prevent any share-holder from expressing his views on the financial affairs of the establishment and a record of the proceedings of such meeting shall be forwarded to the Federal Government not later than fifteen days of the meeting.

12. Regulations.—(1) A Board may, with the prior approval in writing of the Federal Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner of payment and collection of the payments required to be made by the Managing Directors under sub-section (2) of section 9.

13. Delegation of powers, etc.—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, in such circumstances and subject to such conditions, if any, as may be specified in the notification, be exercisable also by a Board or its Chairman.

(2) A Board may, with the previous approval in writing of the Federal Government, direct that all or any of its powers under this Act shall, in such circumstances and subject to such conditions, if any, as may be specified by the Board, be exercisable also by the Chairman or a member of the Board or a committee of the Board.

(3) Where the Federal Government has taken over the management of an establishment under section 5, it may transfer the management of the establishment to a corporation wholly owned or controlled by Government or a corporation set up for the purpose, on such terms and conditions as the Federal Government may specify.

(4) Where the Federal Government has acquired the shares or proprietary interests of an establishment under section 6, it may transfer the shares or proprietary interests to a corporation wholly owned or controlled by the Government or a corporation set up for the purpose, on such terms and conditions as the Federal Government may specify.

(5) The Federal Government may, from time to time, issue such directions

to, and call for such information or report from, a Board as it may deem necessary. :

14. Acquisition of shares—Where, under section 5, the Federal Government orders acquisition of the whole or a portion of the shares of the share-holders of any company or of the proprietary interests of a company or other person in an establishment it shall acquire the shares or interests within a period of ninety days on payment of such compensation as may be determined by the Federal Government on the basis of the principles set out in the Schedule.

15. Reorganisation of establishment.—(1) Where, in respect of any managed establishment which is a company or is owned or controlled by a company, the Federal Government holds or has acquired the whole or a majority portion of the shares in the company carrying the controlling voting rights, or where the Federal Government has acquired the whole or a controlling portion of the proprietary interests in an establishment, the Board may prepare a plan for the reorganisation of such establishment with a view to increasing its efficiency and rationalising its operation, hereafter in this section referred to as the reorganisation plan.

(2) The reorganisation plan may include provision for amalgamation of managed establishments and, in the case of establishments which are companies or are owned or controlled by companies, may provide for a scheme for the reconstruction of any such company or companies, or amalgamation of any such two or more companies and such a scheme may provide for all or any of the matters contained in section 153 or section 153B of the Companies Act, 1913 (VII of 1913), or for alteration of share capital or loan structure and alteration of existing, or adoption of fresh memorandum or articles of association of such companies.

(3) The reorganisation plan shall be submitted to the Federal Government for approval and shall be simultaneously published in the official Gazette accompanied by a certified statement showing the value of the holdings of the shares or proprietary interests of the Federal Government in the establishment covered by the plan, on the date of the submission of the plan, and, from the date of such publication dealings in shares of companies covered by the plan in any stock exchange shall remain suspended until the Federal Government has approved the reorganisation plan.

(4) The reorganisation plan shall be implemented and take effect in such manner and at such time and with such modification as may be approved by the Federal Government.

Explanation.—For the purposes of this section and section 2¢, the Federal Government shall be deemed to have a majority portion of the shares in a company carrying controlling voting rights or the controlling proprietary interests in an establishment if the aggregate face value of the shares or proprietary interests in such establishment owned by the Federal Government and by an institution owned or controlled by the Federal Government exceeds fifty per cent of the total voting rights in the issued and paid up share capital of the company or fifty per cent of the proprietary interests of that establishment.

16. Continuation in service.—In the case of a managed establishment, all persons employed in, by or for the purpose of the business of the establishment, by whomsoever appointed or engaged, shall continue in their respective employments on the same remuneration and other conditions of service as were

applicable to them immediately before the appointment of the Managing Director in respect of that establishment, unless the Managing Director directs otherwise in a particular case or their terms and conditions of service are altered in accordance with the law or any rules applicable to such establishment.

17. Prohibition to obstruct—No person, other than a Board, shall, except under the authority of the Federal Government, give any instructions to a Managing Director, nor shall any person in any manner obstruct him in the discharge of his functions.

18. Debtor.—(1) The Federal Government may, by notice in writing, call upon a debtor to pay to the Federal Government, or to the managed establishment specified in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt of such notice by the debtor.

(2) Where a debtor fails to pay the amount due within the time specified in the notice, the Managing Director of the managed establishment to which such amount is due shall have the same powers of effecting recovery of such amount 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), in respect of sums due to the said Bank.

19. Creditor—(1) A creditor of a managed establishment may apply to the Federal Government for payment to him of the amount due to him from the establishment.

(2) The Federal Government may, on receipt of an application under sub-section (1) and after such enquiry as it may deem fit, direct the managed establishment—

(a) to repay the amount due to the creditor in such instalments and within such period as may be specified in the direction; or

(b) if such managed establishment be a company, to convert the amount due to the creditor into share capital of the establishment.

(3) If a managed establishment fails to comply with a direction issued to it under sub-section (2), the Federal Government may order that the amount specified in the direction be recovered from it as an arrear of land revenue and paid to the creditor.

20. Power to revoke contract, etc.—If any contract or agreement entered into or any obligation undertaken, by any previous management of a managed establishment is declared by the Federal Government, after such inquiry as it may deem fit and giving an opportunity to the person or persons with whom such contract or agreement was entered into or to whom such obligation was undertaken to show cause why such declaration shall not be made, to be against the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation :

Provided that this section shall not be construed as preventing any party to a contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

21. Right of shareholders.—Any person having a share or a proprietary interest in a managed establishment shall be entitled to complain to a Board or the Federal Government in respect of any action taken by the Managing Director in relation to the affairs of the establishment.

22. Continuance in service of employees on transfer to a corporation.—(1)

Where the management of a managed establishment is transferred to a corporation under section 13, every whole-time employee of the establishment who was employed by the establishment immediately before the date of such transfer shall, on and from the date of such transfer, become an employee of the corporation and shall hold his office therein on the same terms and conditions, including remuneration, tenure of office, rights and privileges as to pension and gratuity and other matters, as were applicable to him immediately before the date of transfer, until his employment in the corporation is terminated or his terms and conditions of service are altered in accordance with law or any rules applicable to such corporation.

(2) Where any employees of a managed establishment have, under the provisions of sub-section (1), become the employees of a corporation, the corporation may, for the purpose of rationalising the pay scales of such employees or for any other good and adequate reason, alter the terms and conditions of service of the employees as to their remuneration in such manner as it thinks fit and, if the alteration is not acceptable to any employee, the corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months or, if his contract of service provides for a shorter notice for termination of employment, for the period so provided.

Explanation—The compensation payable to an employee under this sub-section shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) If any question arises as to whether any person was a whole-time employee of an establishment immediately before its management was transferred to a corporation under section 13, the question shall be referred to the Federal Government whose decision shall be final.

(4) The transfer of the services of any employee of an establishment to a corporation shall not, except as provided in this section, entitle any such employee to any compensation and no such claim shall be entertained by any court, tribunal or other authority.

23. General effect of vesting of establishment.—(1) Where the management of a managed establishment has been transferred to a corporation under section 13, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of transfer, to which such establishment was a party or which were in favour of such establishment shall, subject to the provisions of section 20, have full force and effect against or in favour of the corporation, and may be enforced or acted upon as fully and effectively, as if, instead of the establishment the corporation had been a party thereto or as if they had been entered into or issued in favour of the corporation.

(2) If, on the date of transfer of the management of a managed establishment to a corporation any suit, appeal or other legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, be discontinued or be in any way prejudicially affected by reason of such transfer or anything done under this Act, but the suit, appeal or other proceeding may

be continued, prosecuted and enforced by or against the corporation.

24. Duty to deliver possession of property and documents relating thereto.—(1) Where the management of a managed establishment has been transferred to a corporation under section 13,—

(a) every person in whose possession, custody, or control there is any property of such establishment shall forthwith deliver the property to the corporation ; and

(b) any person who, on the date of transfer of the establishment to the corporation, has in his possession, custody or control any books, documents or other papers relating to such establishment shall be liable to account for the said books, documents and papers to the corporation, and shall deliver them to such person as the corporation may direct.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the corporation to take all necessary steps for acquiring possession of all properties which have been transferred to and vested in it under this Act.

25. Provident, superannuation and other like funds.—(1) Where an establishment the management of which has been transferred to a corporation under section 13 has established a provident or superannuation fund or any other like fund for the benefit of its employees and has constituted a trust in respect thereof, hereafter in this section referred to as an existing trust, the moneys standing to the credit of any such fund on the date of such transfer, together with any other assets belonging to such fund, shall, subject to the provisions of sub-section (2), stand transferred to and vest in the corporation on the date the management of the establishment is transferred to it, free from any such trust.

(2) Where all the employees of any such establishment do not become employees of the corporation under section 22, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the corporation in such manner as may be prescribed by rules and, in the case of any dispute regarding such apportionment.. the decision of the Federal Government shall be final.

(3) A corporation shall, as soon as may be after the management of an establishment is transferred to it under section 1%, constitute in respect of the moneys and other assets which are transferred to and vested in it under this section one or more trusts having objects as similar to the objects of the existing trust as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are transferred to and vested in a corporation under this section, the persons responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except as respects things done or omitted to be done before the date of transfer of the management of the establishment.

26. Minimum return.—(1) Where the Federal Government takes over the management of an establishment but does not hold majority portion of shares in a company carrying voting rights, or controlling proprietary interests, there-

in, it shall, on behalf of such establishment, guarantee to the shareholders or proprietors of such establishment, a minimum annual rate of return equivalent to one per cent above the bank rate.

THE GAZETTE OF PAKISTAN, EXTRA., MARCH 11, 1974

(2) The minimum rate of return referred to in sub-section (1) shall be worked out, in the case of an establishment which is a company or is owned by a company, on the paid up capital of such company, and, in the case of an establishment owned by a person other than a company, on the Net Worth Value of investment as defined in the Schedule on the basis of the figure appearing in the latest annual balance sheet of such establishment.

27. Bar of jurisdiction.—(1) No court shall call in question or permit to be called in question any provision of this Act 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 Act.

28. Indemnity.—No suit, prosecution or other legal proceeding shall lie against the Federal Government, a Board, a Managing Director or any other person for anything in good faith done under this Act or any rule or order made thereunder.

29. Penalties.—Whoever contravenes any of the provisions of section 17 or section 24 shall be punishable with imprisonment for a term, which may extend to two years, or with fine, or with both.

30. Composite enterprises and organisations.—(1) Where a managed establishment which is a company or is owned by a company is engaged in a business not directly related to the industry, the Managing Director shall prepare, as soon as possible, a plan for separation of business relating to industry from other business. The plan shall include provision for separation of physical assets and apportionment of assets and liabilities including the paid up capital on a pro rata basis between the respective business. The Managing Director in preparing the plan shall follow the provisions of the Companies Act, 1913 (VIT of 1913), to the extent it is not inconsistent with provisions of this Act.

(2) The Managing Director shall submit the plan for approval to the Federal Government which shall publish the plan in the official Gazette to ascertain the views of the shareholders of the company within a specified period.

(3) The Federal Government shall, after considering the views of the shareholders, either retain the business not directly related to the industry and the assets and liabilities of such business or dispose of the business, along with the assets and liabilities apportioned as relating thereto, in such manner as Government may deem fit.

31. Saving.—Nothing contained in this Act shall affect any agreement entered into between the Federal Government and a foreign investor or creditor or any agreement between a foreign investor or creditor and any citizen of Pakistan which has been expressly approved by the Federal Government.

32. Power to make rules.—(1) The Federal Government may, by notification in

the official Gazette, make rules for carrying out the purposes of this Act.

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

(a) ensuring the safety of the properties of a managed establishment ;

(b)
(c}

(dy

(e)

ita)

(g)

(hb)

@

(i)

{k)

ensuring the due performance of their duties by the persons connected with a managed establishment ;

prohibiting anything likely to interfere with the proper functioning of a managed establishment :

the administration, management and disposal by way of transfer or otherwise of any property belonging to or held or managed by or on behalf of a managed establishment ;

prohibiting, save with the leave of the Managing Director or any other person authorised in this behalf by the Federal Government or the Board, the departure from any area of any person connected with the administration, control or functioning of a managed establishment ;

the taking over or control of any business trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of a managed establishment ;

the requisitioning of any property, movable or immovable, belonging to a managed establishment ;

the requisitioning of any property, movable or immovable, the requisition of which is, in the opinion of the Federal Government, required for the proper functioning of a managed establishment ;

preventing the entry of any person into any place, yard, factory, mill, shop or office used for the purposes of a managed establishment or of any of its subsidiaries ;

the taking of any steps for collecting, controlling and disposing of

the assets, movable and immovable, of any managed establishment ;
and

in relation to any managed establishment to which the provisions
of section 30 apply,—

(i) the determination of the question whether any property pertains
to the business of such establishment relating to the industry
or whether any assets, rights, debts, liabilities or obligations,
were acquired or incurred, or any contract, agreement or other
instrument was made, in respect of or for the purposes of such
business or whether any documents relate to those purposes;

(ii) the allocation of the paid up capital, or assets representing paid
up capital, as the case may be, between such business and any
other business ;

(iii) the substitution of any agreement entered into partly for the
purposes of such business and partly for other purposes by a
separate agreement relating solely to such business and for any
apportionment of rights, obligations and indemnities conse-
quent thereon :

(iv) the severance of a lease comprising property of which part only
is used for purposes of such business and for apportionment of
right and liabilities consequent on such severance ;

(v) the apportionment and the making of financial adjustment with
respect to any debts, liabilities or obligations incurred by the

establishment partly for the purposes of such business and partly for other purposes and for any necessary variation of mortgages and encumbrances relating to such debts, liabilities or obligations; and

(vi) for the apportionment of the moneys and other assets belonging to any provident or superannuation funds, or any other like fund to which the provisions of section 25 do not apply, between persons employed in connection with such business and other persons.

3%. Removal of difficulties.—If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

34. Repeal.—The Pakistan Maritime Shipping (Regulation and Control) Ordinance, 1974 (III of 1974), is hereby repealed.

THE SCHEDULE

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. Where the whole or a portion of the shares of such an establishment is acquired by the Federal Government. the value of the compensation for the shares so acquired shall be the break up value.
2. Where the whole or a portion of the proprietary interests in such an establishment is acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the net worth value.
3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of 15 years carrying a rate of interest one per cent above the bank rate notified by the State Bank of Pakistan from time to time. The Bonds shall be negotiable and shall also be eligible as security for advances.

4. Definitions—In this Schedule,—

(a) "Break Up Value" shall mean the value of the shares of a company as determined by the auditors of such company on the basis of its latest audited annual Balance Sheet, in accordance with clause (c) of rule 8 of the Wealth-tax Rules; and

(b) "Net Worth Value" shall mean the value of the proprietary interests of a company or other person in an establishment, which is acquired under the Order, as determined by the auditors appointed

ted by the Federal Government on the basis of the latest annual audited Balance Sheet or, where no audited Balance Sheet is available, on the basis of the latest annual Balance Sheet of such establishment to be verified by the auditors appointed by the Federal

a,

Pant 1] THE GAZEITE OF PAKISTAN, EXTRA. MARCH 11, 1974

Government for the purpose. The Net Worth Value shall be determined by valuing the fixed Tangible Assets appearing in the Balance Sheet at their written down values, and valuing the Current Assets, e.g.. Stocks, inventory, work in progress, advances and prepayments, cash and bank balances, at their cost or market value, whichever is lower. From the sum total of the fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

Hy

ACT No. XIX oF 1 -

. . ; 974 Pa 23SEN QP

An Act to provide for the nationalization of banking business in Pakistan ON ct
o

ty
r -

WHEREAS it is expedient in the public interest to provide for the nationalization of banking business in Pakistan ; = rT

y

It is hereby enacted as follows : \ * ,

" .

1. Short title, extent and commencement.--(i) This Act may be called the Banks (Nationalization) Act, 1974. "ke

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the first day of January, 1974.

2. Act to override other Laws.—This Act shall have effect notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, award, memorandum or articles of association or other instrument.

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

(4) "bank" means—

(aj a company registered under the Companies Act, 1913 (VI of 1913), and transacting, in or outside Pakistan, the business of banking as defined in clause (b) of section § of the Banking Companies Ordinance, 1962 (LVII of 1962), in respect of which

no proceedings under Part HI or Part IV of the said Ordinance have been taken or are pending immediately before the commencing day; and

(b) a banking company incorporated by or under any law within

the legislative competence of Parliament, including the State

~ Bank, the National Bank of Pakistan, the Industrial Develop-

ment Bank of Pakistan and the Agricultural Development Bank of Pakistan, but does not include—

Gi) a bank which is an enemy firm within the meaning of the Defence of Pakistan Rules, or

Pakistan and

(i) a banking company incorporated outside Pakistan transacting banking business in Pakistan, or

é

f

Ho THE GAZEVIE OF PAKISTAN, EXTRA., MARCH 11, 1974 [Part 1

(iii) a cooperative bank registered under the Cooperative Societies Act, 1925 (VII of 1925), or any other law for the time being in force relating to cooperative societies, not being a cooperative bank which is a scheduled bank, or

(iv) a Government Sayings Bank to which the Government Savings Bank Act, 1873 (V of 1873), applies, or

(vy) a corporation or company owned or controlled by a Province and carrying on banking business only within that Province ;

(2) "commencing day means the 1st day of January, 1974 ;

(3) "Council" means the Pakistan Banking Council constituted under this Act ;

(4) 'Executive Board" means an Executive Board constituted under this Act;

(5) 'prescribed' means prescribed by rules made under this Act;

(6) 'State Bank" means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1956); and

(7) other words and expressions used but not defined in this Act shall have the same meaning as in the Banking Companies Ordinance, 1962 (LVII of 1962).

4. Exclusive right to establish bank.—The Federal Government or a

corporation wholly owned or controlled by the Federal Government shall have the exclusive right to establish a bank.

5. Transfer and vesting of ownership, etc., of banks.—(1) The ownership, management and control of all banks shall stand transferred to, and vest in, the Federal Government on the commencing day.

(2) All shares in the capital of a bank held by persons other than the Federal Government, a Provincial Government, a corporation owned or controlled by the Federal Government or the State Bank shall stand transferred to, and vest in, the Federal Government on the commencing day, free of all trusts, liabilities and encumbrances.

(3) The vesting of any shares in the Federal Government under sub-section (2) shall not affect the rights inter se of a shareholder and any other person who may have an interest in such shares and such other person shall be entitled to enforce his interest against the compensation awarded to the shareholder under section 6.

a) (4) The safety of all deposits in banks shall stand guaranteed by the Federal
Shy Government.

5 Y (5) The provisions of this Act and the vesting of the shares of the banks
in the Federal Government thereunder shall not in any way affect the status
of the banks as bodies corporate under the Companies Act, 191% (VII of 1913).

s

6. Compensation for transfer of ownership of shares in a bank.—(1) Every
person who stands registered as the holder of any share of a bank the owner-
ship, management and control of which stands transferred to the Federal

SOs yy Act Lyall \$F as

Government by virtue of section § shall be entitled to receive from the Federal Government by way of compensation per share an amount determined in accordance with the provisions of section 7 in the form of bonds of the Federal Government, repayable at par at any time within a period of fifteen years in accordance with a redemption programme formulated by the Federal Government and bearing interest at the rate of one per cent above the bank rate notified by the State Bank from time to time :

Provided that, in formulating the redemption programme, the Federal Government may make provision for preferential redemption of the bonds of such class of persons who are of meagre means such as orphans, widows and pensioners, and the amount of compensation payable to whom does not exceed such maximum amount, as the Federal Government may deem fit :

Provided further that, where the amount so determined is not an exact multiple of one hundred rupees, the amount in excess of the nearest lower multiple of one hundred rupces shall be paid in cash.

(2) The bonds shall be negotiable and eligible as security for advances.

7. Assessment of compensation.—The amount of the compensation shall be the amount equal to the break-up value of the share as determined by an auditor appointed by the Federal Government from the balance sheet of the bank as on the 1st December, 1973, according to the principles laid down in rule 8 of the Wealth Tax Rules, 1963 :

Provided that in case of a share of the State Bank the amount of the compensation shall be the average of the closing quotations during six working days immediately preceding the commencing day on the Karachi Stock Exchange :

Provided further that, in respect of any share obtained at par from the Federal Government by any directors of the Central Board of Directors of the State Bank or a member of the Local Board of that Bank under the provisions of sub-section (3) of section 13 of the State Bank of Pakistan Act, 1956 (XXXII of 1956), the amount of compensation shall be calculated at the rate of one hundred rupees per share.

8. Removal of previous management.—(1) Every person holding office in any bank as chairman, director or chief executive by whatever name called, other than a person who holds such office by virtue of his appointment or nomination by the Federal Government or the State Bank, shall stand removed from his office on the commencing day and this removal shall not entitle him to any compensation and no such claim shall be entertained by any court, tribunal or other authority.

(2) The vacation of his office by a chairman, director or chief executive under sub-section (1) or otherwise shall not in any way absolve him of his liability, if any, under any law, contract or otherwise howsoever subsisting immediately before the commencing day or the day on which he ceases to hold such office.

(3) A chairman, director or chief executive by whatever name called ceasing to hold office under any of the aforesaid provisions shall entrust or cause to be entrusted to the person succeeding him in that office, in tact and in as good

order as they existed on the day immediately preceding the commencing day all properties, all books. of accounts and other records and documents belonging to or in the custody or control or pertaining to the affairs, of the bank.

Oa.

THE GAZETTE OF PAKISTAN, EXTRA., MARCH **<1**, 1974 [Part I]

(4) Central Boards of the banks mentioned in the Schedule, and all local bodies, area boards, managing committees, executive committees and similar other bodies for the management of any bank shall stand dissolved, and all members of such bodies shall stand removed from office, on the commencing day.

(5) For banks other than those mentioned in the Schedule, vacancies occurring under sub-section (1) and vacancies existing before the commencing day or ~

occurring

thereafter shall be filled by the Federal Government by appointing

such persons as it deems fit.

9. Pakistan Banking Council.—(1) This section and section 11 shall apply to the banks mentioned in the Schedule and any new bank which may be constituted after the commencing day, whether by merger or reorganisation of the said banks or under the Companies Act, 1913 (VII of 1923).

(2) The Federal Government shall, by notification in the official Gazette,

constitute
of :—

(i)

(ii)

(iii)

(iv)

a Council to be called the Pakistan Banking Council and consisting

a Chairman :

a Deputy Governor of the State Bank ;

an official of the Ministry of Finance, Government of Pakistan; and
not more than five and not less than three members :

Provided that not less than three members shall be full-time

members one of whom shall be appointed by the Federal Government to be the Secretary of the Council. a

(3) The Council shall be a body corporate having perpetual succession and common seal, with power to acquire and hold property, and shall by the name given to it by sub-section (2) sue and be sued.

(4) The functions of the Council shall be—

i)
(ii)

(iii)
(iv)
(v)
(vi)
(vii)

(viii)

(ix)
(x)

making policy recommendations to the Federal Government for directing banking activities towards national socio-economic objectives : formulating policy guidelines for the banks;

laying down performance criteria for banks, and taking steps for ensuring their observance ;

evaluating the performance of the banks in the context of national socio-economic objectives and policy guidelines issued to the banks ;

determining the areas of co-ordination of the banks ;
formulating schemes under section 15;

making recommendations to the Federal Government for the appointment of the President and members of an Executive Board ;

analysing and appraising financial statements, including Balance Sheets and Profit and Loss Accounts, of the banks and appointment of auditors of the banks; -2

conducting such surveys, inquiries and appraisals as may be necessary for the purposes of this Act; and

exercising and performing such powers and functions of the Federal Government under this Act. and such other functions, as the Federal Government may assign to it.

is) For the proper exercise of its functions, the Council may require information, returns or periodical and special reports from banks.

(6) The Council may appoint such officers, employees, experts and consultants as it may deem fit.

10. Funds of Council—(t) There shall be constituted for the Council a fund to which shall be credited all sums received by the Council under sub-section (2) and out of which shall be defrayed all expenditure incurred by the Council, including expenditure on the emoluments of the Chairman, members and officers, servants, experts and consultants of the Council.

(2) Every bank to which the provisions of sections 9 and 11 apply shall make to the Council each year such payment to enable it to defray its expenses as the Council may, with the approval of the Federal Government, demand of the bank.

11. General provisions pertaining to management of banks.—(1) A bank shall have an Executive Board consisting of a President and not less than two and not more than four other members to be appointed by the Federal Government.

(2) The general direction and superintendence of the affairs and business of a bank shall vest in its Executive Board which may exercise all such powers and do all such acts, deeds and things as the bank was competent, immediately before the commencing day, to exercise or do in a meeting of the Board of Directors.

(3) The President shall be the chief executive of a bank and shall preside at the meetings of the Executive Board and direct, manage and control the affairs of the bank.

4) In the exercise of their powers the Executive Board and the President of a bank incorporated by or under any special law shall not be subject to restrictions which do not apply to the Executive Board or the President of a bank registered under the Companies Act, 1943 (VIL of 1943).

(5) The banks shall—

(i) operate within the policy guidelines laid down by the Council and make every effort for observance of the performance criteria V-27

“(5A) Where the Council is satisfied that—

) (a) in the public interest ; or

“ *, s.

ducted in a manner

to prevent the affairs of any bank being con! .

) detrimental to the interests of the depositors or in a manner

mer prejudicial to the interests of the bank ; or

te (c) to secure the proper management of any bank generally,

ca

It is necessary to issue directions to banks generally, or to any bank in particular, it may, from time to time, issue such directions as it thinks fit, and the banks, or the bank, as the case may be, shall

issue directions. . — to no one
comply with such directions unless the service of the Federal Government or a

Provincial Government or of a statutory body or corporation or board owned or controlled by any such Government or in the service

of a bank and was dismissed ; or

1. Say Cnr AK LOMA 97S.

(v) he is a person against whom any action has been taken or any proceedings are pending under section 235 of the Companies Act, 1963 (VIL of 1913), or section 8% of the Banking Companies Ordinance, 1962 (LVII of 1962) :

Provided that the Federal Government shall, before appointing any person satisfy itself that the person will have no such financial or other interest as is likely to affect prejudicially the performance by him of the functions of the office to which he is being appointed.

(7) The Chairman and members of the Council and the President and members of an Executive Board shall be appointed by the Federal Government and shall hold office during the pleasure of the Federal Government on such terms and conditions as may be determined by it.

(8) The Chairman and members of the Council and the President and members of an Executive Board shall, in the discharge of their functions act on sound business principles and be guided by such directives in matters of policy involving the public interest as may be given to the Council by the Federal Government, which shall be the sole judge as to whether or not any matter is a matter of policy involving the public interest.

(9) No directive by the Federal Government or policy guidelines or decisions by the Council or the Executive Board of a bank or the President of the Board shall be in contravention of the provisions of the State Bank of Pakistan Act, 1966 (XXXII of 1956), or the Banking Companies Ordinance, 1962 (LVII of 1962).

(10) The Federal Government may constitute such consultative bodies at the Provincial and other levels, as may, in its opinion, be necessary for gathering information from the public to identify areas of improvement in service, facilities to customers and the public including measures for meeting regional credit requirements.

12. Fidelity and secrecy.—(1) The Chairman and members of the Council, every bank, members of its board of management and chief executive, by whatever name called, shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, shall not divulge any information relating to the affairs of its constituents except in circumstances in which it is, in accordance with law or practice and usages customary among bankers, necessary or appropriate for a bank to divulge such information.

(2) The Chairman and members of the Council, members of the board of management of every bank, every administrator, auditor, adviser, officer or other employee of the Council or a bank shall, before entering upon his office, make a declaration of fidelity and secrecy in such form as may be prescribed.

Explanation.—in the case of any such person employed in connection with the affairs of a bank as is not required by any provision of this Act to vacate any office held by him, the requirements of this sub-section shall be deemed to be satisfied if such person has already filed with the bank a declaration more or less to the effect of the prescribed form.

13, Provisions regarding staff.--(1) Save as otherwise provided in this Act,
all officers and other employees of a bank shall continue in their respective

offices and employments on the same terms and conditions, including remuneration and rights as to pension and gratuity, as were applicable to them immediately before the commencing day.

(2) Notwithstanding any law or any provision contained in a contract, agreement, letter of appointment rules or regulations of a bank, every officer and employee of a bank shall be liable to transfer to any of its branches in or outside Pakistan or to any other bank :

Provided that his status and =moluments shall not be adversely affected.

14. Certain claims for compensation barred.-No person including a chairman, director, chief executive by whatever name called, a shareholder, a constituent or an officer or employee of a bank shall have any right, whether in contract or otherwise, to any compensation other than that expressly provided for by this Act, for any loss or damage directly or indirectly incurred by reason of the operation of any of the provisions of this Act or any rule or order made or direction issued thereunder.

15. Schemes for reorganisation of banks, etc.--(1) The Council may, in consultation with the State Bank and with due regard to the interest of the depositors, prepare a scheme for improving the management and operation of a bank or group of banks to serve the needs of development of the economy.

(2) A scheme prepared under sub-section (1) m.:° inter alia provide for all or any of the following matters, namely :—

(i) the reconstitution of a bank or a group of banks into a new bank registered under the Companies Act, 5913 (VII of 1913), or a Corporation incorporated under a Federal law, the amalgamation of two or more banks or the merger of one or more banks in another bank ;

(ii) formulation or reformulation of memorandum or articles of association of a bank or reconstituted or amalgamated bank ;

(iii) modification of the capital structure of a bank or reconstituted or amalgamated bank ;

(iv) additions to or deletions from the kind of business in which a bank may engage and the place or places where it may carry on its business ; and

(v) changing the name of an existing bank or naming a reconstituted or amalgamated bank.

(3) A scheme prepared under sub-section (1) shall be submitted to the Federal Government for approval and shall, after it has been approved by the Federal Government, with or without modification, be published in the official Gazette and shall take effect on such date as may be specified. therein. :

16. Removal of doubts—For the removal of doubts, it is hereby declared that—

(a) all assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, reserve funds, investments and all other rights and interests arising out of such property as were immediately before the commencing day in the ownership, possession, power or control of a bank, whether within or outside Pakistan, shall, unless other provisions are made for their redisposition

in THE GAZELTE OF PARIST.

in accordance with a scheme prepared under — sub-section (1) of section 15, contin: to vest in that bank, and all borrowings, liabilities. including contingent liabilities, and obligations of a bank of whatever kind subsisting immediately before the commencing day shall, unless other provisions as aforesaid are made for their discharge or performance, continue to be the borrowings, liabilities and obligations of that bank ;

EXTRA. MARCH x1, 1974 [Part 1

(b) all contracts, deeds. bonds, agreements, powers of attorney, ether than those in favour of a person vacating his office under this Act. grant of legal representation and other instruments of whatever kind subsisting or having effect inmediately before the commencing day to which a bank's a party or which are in favour of a bank shall be of as full force and effect against or in favour of a bank as they were immediately before the commencing day; and

{c) if, on the commencing day, any suit, appeal or other legal proceeding of whatever nature which is by or against the bank cr to which the bank is a party is pending in any court or before a tribunal! or other authority, the same shall not abate, be discontinued or be, in any way, prejudicially affected by any provision of this Act.

17. Disposal of pro®'—Subject io the provisions of the law by or under which a bank hes been established and ihe provisions of the State Bank Act, 1946 (XXXII of £956), and the Banking Companies Ordinance, 1962 (LVI of 1962), a bank shall not declare any dividend on its share capital unless— ~

ia) it has drawn up its annual balance sheet and profit and loss account and has its accounts audited by an auditor qualified to act as such under the Banking Companies Ordinance, 1962 (LVI of 1962);

(b) ic has made adequate provision for bad and doubtful debts, depreciation in assets. contributions to staff and superannuation funds and all other contingencies for which provision is necessary under any law or which are usually provided for by bankers; and

(c) a copy of the balance sheet and profit and loss account zlong with the audit report has been supplied to the Staic Bank and the Federal Govermuent and the latter has approved the declaration of such dividend :

Provided that, before according such approval. the Federal Government may, of its own motion or on the recommendation of the State Bank, order a second audit of the accounts of the bank and appoint such auditor for the purpose as it thinks fit.

18. Indemnity.-No suit, prosecution. or other legal proceedings shall lie against the Federal Government, the State Bank, the Chairman or members of the Council, thé President or members of the Executive Board or any officer of the Federal Government or the State Bank or a bank for any thing in good faith done or purporting to be dene under this Act or any rule or order made ar direction issued thereunder or for any damage caused or likely to be

caused by anything done or purporting to be done as aforesaid: °

19. Bar of jurisdiction—No provision of this Act or of any rule or order made or direction issued thereunder shall be called in question by or before any court or other authority.

20. Power to make rules—The Federal Government may, by notification in the official Gazette, make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

21. Adaptation of laws.—Any court, tribunal or authority required or empowered to enforce the Companies Act, 1913 (VII of 1913), or the memorandum or articles of association of a bank registered thereunder, or any other law for the time being in force shall construe the said Act, memorandum or articles of association or such other law with such adaptations as are necessary to bring the same into accord with the provisions of this Act.

22. Penalty.—(1) Whoever contravenes any of the provisions of this Act or the rules made thereunder shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) No person shall be prosecuted under this Act except with the sanction of the Federal Government or an officer authorised by it in this behalf.

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

24. Repeal of Ordinance I of 1974.—The Banks (Nationalisation) Ordinance, 1974 (1 of 1974), is hereby repealed.

THE SCHEDULE

{See sections 8 and 9}

(1) Australasia Bank Limited.

(2) Bank of Bahawalpur Limited.

(3) Commerce Bank Limited.

(4) Habib Bank Limited.

(5) Sahsve Commercial Bank Limited.

(6) TMM

(7) National Bank of Pakistan.

(8) Punjab Provincial Co-operative Bank Limited.

slita Commercial Bank Limited,

(9) Standard Bank Limited.

(10) United Bank Limited.

(11) Sarhad Bank Limited.

(12) Premier Bank Limited.

(13) Pak Bank Limited.

(14) Habib Bank (Overseas) Limited.

ACT No. XX OF 1974

An Act to regulate departure from and entry into Pakistan and visit to foreign countries of the citizen of Pakistan

WHEREAS it is expedient to regulate departure from and entry into Pakistan and visit to foreign countries of citizens of Pakistan and to provide for matters ancillary thereto ;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Passports Act, 1974.

(2) It extends to the whole of Pakistan and also applies to all citizens of Pakistan, wherever they may be.

(3) It shall come into force at once.

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

(a) "passport" means a passport which is for the time being valid, and includes any such permit, or other travel document authorising the holder thereof to travel from Pakistan to any other country, issued by or under the authority of the Federal Government ;

(b) "prescrib. 4" means prescribed by rules made under this Act.

3. Prohibition of departure from Pakistan without passport, etc.—No citizen of Pakistan shall—

(a) depart from Pakistan by any means whatever unless he is in possession of a passport, nor otherwise than from such port or place, by such route and in accordance with such conditions, as may be prescribed ; or :

(b) visit a foreign country unless his passport is valid for such country.

4. Punishment for contravention of section 3, etc.—(1) A citizen of Pakistan who is of the age of twelve years or more shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, if he—

(a) contravenes or attempts to contravene or abets the contravention of any of the provisions of section 3: or

(b) enters or attempts to enter Pakistan by any means whatever without being in possession of a Passport or otherwise than at such port or place, or by such route. as may be prescribed.

(2) A person departing from or entering i i
, , g. Or attempting to depart from or

enter, Pakistan in whose custody or charge a person who has not attained the age of twelve years departs from or enters, or attempts to depart from or enter, Pakistan in contravention of section 3 or clause (b) of subsection (1) shall, in any penalty to which he may be otherwise liable, suffer the penalty provided for in that sub-section. Preamble to the

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under sub-section (1) or sub-section (2) shall be non-bailable.

5. Certain acts to be deemed contravention of section 3.—(1) Whoever gives any person who has contravened the provisions of section 3, any assistance with intent thereby to prevent, hinder or otherwise interfere with his arrest, trial or punishment for such contravention, shall be deemed to have abetted the offence of contravention of the provisions of that section.

(2) The owner, master or person in charge of any means of transport who causes or knowingly allows any person to depart from Pakistan in contravention of the provisions of section 3 by such means of transport shall be deemed to have contravened the provisions of that section and the means of transport shall, if the court convicting the owner, master or person in charge so directs, be forfeited to the Federal Government.

6, Penalties for certain offences relating to passport—1) A person shall be punishable with imprisonment which may extend to three years, or with fine, or with both, if he—

(a) makes or makes use of any statement which he knows 'or believes to be false in any document for obtaining passport; or

(b) attests or verifies a statement which he knows or has reason to believe to be false in any document used for obtaining a passport ; or

(c) wilfully conceals any fact which under the circumstances he ought to disclose for the purpose of obtaining a passport for himself or another person; or

(da) forges, alters or tampers with any passport or any document which he uses for obtaining a passport; or

(e) uses a passport which has been forged, altered, or tampered with ; or

(f) uses for obtaining a passport a document which has been forged, altered or tampered with; or

(g) is in wrongful possession of a passport not lawfully issued to him or allows his passport to be used by another person ; or

(h) traffics in passports or any documents required for obtaining a passport ; or

(i) wilfully fails or neglects to return a passport issued to him, if he is required to do so or if an order cancelling, impounding or confiscating it is made :

Provided that a person guilty of an offence punishable under clause (h) shall be punished with rigorous imprisonment for a term which shall not be less than six months and with fine which shall not be less than one thousand

rupees.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under clause (b) of subsection (1) shall be a bailable offence.

7. Power of arrest, seizure, etc.—(1) Any police officer not below the rank of Sub-Inspector, and any officer of Customs empowered by a general or special order of the Federal Government in this behalf, may arrest without warrant any person who has contravened, or against whom a reasonable suspicion exists that he has contravened any provision of this Act.

(2) Any police officer or other person authorised in this behalf by the federal Government may seize in any place any means of transport which he knows or has reason to believe to be the means of transport by which a person has departed from Pakistan in contravention of the provisions of section 3.

(3) Any means of transport seized under sub-section (2) shall be disposed of in accordance with the decision of the court before which the owner, master or person in charge thereof is prosecuted under sub-section (2) of section 5 for a contravention of section 3.

(4) Every officer making an arrest under this section shall, within a period of twenty-four hours of such arrest exclusive of the time necessary for the journey from the place of arrest to the court of the nearest Magistrate, take or send the person arrested before a Magistrate having jurisdiction in the case or before the officer in charge of the nearest police station ; and thereupon the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), applicable in respect of a person who, having been arrested without warrant, has been taken or sent before a Magistrate or an officer in charge of a police station shall apply to him.

8. Power to cancel, impound or confiscate passport.—(1) A passport issued by or on behalf of the Federal Government shall be the property of the Federal Government and may, by an order under the hand of a Secretary to the Government of Pakistan, be required to be returned and shall also be liable to be cancelled, impounded or confiscated by a like order.

(2) Subject to sub-section (3), before making an order under sub-section (1) in respect of the passport issued to any person, the Federal Government shall give such person notice in writing calling upon him to show cause why the order should not be made :

: Provided that no such notice need be given in the case of an order impounding a passport for a period not exceeding four months and such order which shall take effect as soon as it is made.

(3) If the Federal Government has reason to believe that the person in respect of whose passport it is proposed to make an order under sub-section (1) is, or has been, engaged in subversive activities or in activities which are prejudicial to the interest of Pakistan or to Pakistan's relations with any foreign power, it shall not be necessary to give to such person the notice provided for in sub-section (2) or to afford him an opportunity of being heard. —

(4) Any person in respect of whose passport an order under sub-section (1) has been made in the circumstances referred to in sub-section (3) may, within thirty days of the date of the order, apply to the Federal Government for a review of the order; and the decision of the Federal Government in review shall be

9. Burden of proof.—The burden of proving that a statement made in any document used for obtaining a passport is true shall lie on the person making the statement and the burden of proving that the owner, master or person in

charge of any means of transport by which any person departs from Pakistan in contravention of the provisions of section 3 did not knowingly allow such person to so depart shall lie on such owner, master or person in charge.

10. **Indemnity**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder.

11. **Delegation of power**.—The Federal Government may, by notification in the official Gazette, direct that any of its powers or functions under this Act shall, in such circumstances and subject to such conditions, if any, as may be specified in the notification, be exercised or performed also—

(a) by any officer or authority subordinate to the Federal Government ;
or

(b) by any Provincial Government or by any officer or authority subordinate to such Government.

12. **Power to exempt**.—The Federal Government may, by notification in the official Gazette, exempt any person or class of persons from all or any of the provisions of this Act or the rules made thereunder.

13. **Power to make rules**—(i) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(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 :—

(a) the conditions to which a passport issued by or on behalf of the Federal Government shall be subject, including conditions as to the ports or places in Pakistan at or from which alone a person holding a passport shall depart from or enter Pakistan ;

(b) the persons, other than the applicants for the issue of passports, by whom, and the manner in which, applications for the issue of passports may be submitted ;

(c) the licensing by the Federal Government of persons who may submit, on behalf of other persons, applications for the issue of passports and the qualifications of such persons ;

(d) the manner and form in which applications for the issue of the licences referred to in clause (c) shall be submitted, the period for which such licences shall be valid, the cancellation and renewal of such licences and the conditions to which they shall be subject, including the location of the offices at which the business of the holders of the licences is conducted ; and

(e) the fees payable in respect of the issue and renewal of the licences referred to in clause (c).

(3) Rules made under sub-section (1) may provide that a contravention thereof shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

14. Act not to derogate from other laws.—The provisions of this Act shall be in addition to, and not in derogation of, the provisions of the Emigration Act, 1922 (VII of 1922), the Foreign Exchange Regulation Act, 1947 (VII of 1947), the Pakistan (Control of Entry) Act, 1952 (LV of 1942), and any other law relating to foreign exchange or entry into Pakistan.

15. Repeal.—The Passport Act, 1920 (XXXIV of 1920), the Passport (Offences) Act, 1952 (LVI of 1952), and the Punjab Frontier Crossing Regulation, 1873 (Regulation No. VII of 1873), the hereby repealed.

ASLAM ABDULLAH KHAN,
Secretary.

Islamabad, the 9th March, 1574
CORRIGENDA

[to the Gazette of Pakistan, Extraordinary (Part I), dated the 8th March, 1974 containing Acts Nos. X and XVI (Pages 6§ to 77).]

i

Page 72 : Clause 4, in the second line, for the word 'followng' read! ' follow-

Page 73: in the ninth line from bottom, for '11 B' read '11 B'.

"

in the sixth line from bottom, for the words 'acquire hold' read
'acquire, hold'. :

Page 74 : Clause 7, sub-clause 11 D—in the third line, for the words 'made section' read 'made under section'.

Page 76 : Act XVI, in the long title. for the word 'Comission' read 'Com-mission'.

{No. F. rx (1)/74-Ptg.]

INAYAT ALL
Assistant Secretary.

PRINTED BY THE MANAGER, PRINTING CORPORATION OF PAKISTAN PRESS, ISLAMABAD
PUBLISHED BY THE MANAGER OF PUBLICATIONS, KARACHI