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PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 27th November, 1991,

The following Acts of Majlis-e-Shoora (Parliament) received the assent of the President 'on the 25th November, 1991, and are hereby published for general information ;—

Act No, XVI of 1991

An Act further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code (Act XLV of 1860), and the Code of Criminal Procedure, 1898 (Act V of 1898) for the purposes hereinafter appearing;

[tis hereby enacted as follows :—

1, Short title and commencement.—(1) This Act may be called the Criminal Law (Second Amendment) Act, 1991, and

(2) It shall come into force at once.

(479)

Price: Rs. 1.10

[3884 Ex. Gaz.]

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2. Amendment of Section 295A, Act XLV of 1860.—In the Pakistan Penal Code (Act XLY of 1860), in section 295A, for the words “two years” the words “ten years” shall be substituted.

3. Amendment of Schedule If, Act V of 1898.—In the Code of Criminal Procedure, [898 (Act V of 1898), in Schedule I, in column I, in the entries relating to section 295A, in colutin 7, for the figure “2” the figure “10” shall be substituted.

Act No. XVII oF 1991

An Act further to amend the Companies Ordinance, 1984

WHEREAS it is expedient further to amend the Companies Ordinance, 1984 (XLVI of 1984), for the purpose hereinafter appearing;

It is heteby enacted as' follows —

I, Short title and commencement,—(1) This Act may be called the Companies (Amendment) Act, 1991,

(2) It shall come into force at once.

2. Amendment of section 2, Ordinance XLVII of 1984.—In the Companies Ordinance, 1984 (XLVII of 1984), in section 2, in sub-section (1), for clause (15A) the following shall be substituted and shall be deemed always to have been so substituted, namely :—

“1SA) “financial institutions” means an institution not less than fifty per cent of the share capital of which is held by the Federal Government ora Provincial Government, whether directly ot through a company or corporation set up or controlled by such Government, and includes such other institutions or companies as the Federal Governmen! may, by notification in the official Gazette, specify for the purpose;”,

Act No. XVIII of 1991

An Act to establish a Pakistan Telecommunication Corporation

WHEREAS it is expedient to establish a Pakistan Telecommunication Corporation and to provide for matters connected therewith or incidental thereto;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Pakistan Telecommunication Corporation Act, 1991.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

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“Auditor-General” means the Auditor-General of Pakistan:

“Board” means the Board of Directors of the Corporation ;

“Chairman” means the Chairman of the Corporation ;

“Corporation” means the Pakistan Telecommunications Corporation established under this Act;

“departmental employees” means employees belonging to the Pakistan Telegraph and Telephone Department and includes employees of the said Department who may, for the time being, be serving in other organisations, but does not include members of the accounts group or secretariat group or other employees of external organisations who may be serving in the said Department; :

“Director” means a Director of the Corporation;

“regulations” means regulations made under this Act;

“telecommunication”TM means transmission, emission or reception of signs, ‘signals, writing, speech, image, sound or intelligence of any nature by wire, radio, optical or other magnetic system ;

“telecommunication installations and plant” includes buildings, land, interests in land, exchanges, machinery, apparatus, equipment, plant, cables, aerials, masts posts, lines, wires, stores,

vehicles and any other appliances or accessories used for, or in connection with. a telecommunication service:

“Telegraph” has the same meaning as in the Telegraph Act, 1885 5).

stablishment of the Corporation.—(1) As from the commence-

ment of this Act, there shall be established for carrying out the purposes of this

Act a corporation to be known as the Pakistan Telecommunication Corporation,

(2) The Corporation shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property and shall by the name specified in sub-section (1) sue and be sued_

4...The Board.—(1) The general direction and administration of the affairs of the Corporation shall vest in the Board, which may exercise all powers and do all acts which may be exercised or done by the Corporation,

(2) The Board shall consist of the following Directors appointed by the Federal Government, namely :—

(i) the Chairman: and .

(ii) not more than eleven other Directors, of whom not less than two shall be professional telecommunication engineers.

“ (3) [and when any shares of the Corporation are to be issued to the private sector, the Federal Government shall determine the number of Directors to be elected to represent the private shareholders and prescribe the procedure for their election:

Provided that the aggregate number of Directors appointed under sub-section (2) and those elected under this sub-section shall not exceed eleven.

(4) The Chairman shall be a whole-time officer and the chief executive of the Corporation and shall normally hold office for a term of three years and be subject to such terms and conditions of service, as the Federal Government may determine,

(5) A Director shall hold office for a term of three years,

(6) Any person ceasing to be Chairman by reason of expiry of the term of his office shall be eligible for re-appointment for another term or for such shorter term as the Federal Government may decide.

(7) The Chairman may at any time resign his office, but his resignation shall not take effect until it has been accepted by the Federal Government.

(8) The meetings of the Board shall be held at such times and places as may be provided for by regulations. or, until regulations are made in this behalf. as and when convened by the Chairman.

(9) to constitute a quorum at a meeting of the Board, the Chairman or, in his absence, a Director elected by the Board for the purpose and five other Directors shall be present.

(10) The Chairman or, in his absence a Director elected by the Board for the purpose shall preside at the meetings of the Board,

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

5. Delegation of powers.—The Board may from time to time, delegate any of its powers to the Chairman, any Committee constituted by it, or any officer of the Corporation, subject to such conditions as the Board may determine.

6. Purposes and functions of Corporation—(1) The purposes and functions of the Corporation shall be—

(i) to establish, maintain and operate telecommunications;

(ii) to plan, promote, organise and implement programs for the provision of telecommunication services in all parts of Pakistan, including cities, towns and villages, and the territorial waters of Pakistan, and on board ships, aircrafts and space-crafts :

(iii) to promote, establish, acquire, own, run, Manage or participate in running or management of any undertaking to manufacture of telecommunication plant and equipment in Pakistan, to engage in Research and Development in Telecommunication and to promote the transfer of technology to Pakistan;

(iv) to make such provisions as appears to it to be appropriate for advancing the skills of its employees by education, training and otherwise, and to promote, within reasonable limits, the welfare of its employees;

(v) to conduct and assist research, experiments or trials for the improvement of methods of telecommunication;

(vi) to advise Government on matters relating to telecommunication services and on matters pertaining to the Corporation generally, and to provide consultancy services in the field of telecommunications;

(vii) to maintain liaison with foreign telecommunication administrations, and international organisations pertaining to telecommunications ;

{vili) to acquire, hold or dispose of any property, whether moveable or immovable or any telecommunication undertaking;

(ix) to open operate and maintain bank accounts:

(x) to borrow domestic or foreign funds on such terms and conditions as may be approved by the Board;

(xi) to seek contracts and provide telecommunication services and
* goods abroad; and

(xii) to perform any other function which is supplemental, incidental of consequential to any of the purposes and functions aforesaid.

(2) Subject to such conditions as the Federal Government may impose from time to time the Corporation shall be deemed to have been granted a licence by the Federal Government to establish, maintain and operate telegraphs throughout Pakistan and between Pakistan and other countries, within the meaning of section 4 of the Telegraph Act, 1885 (XII of 1885).

(2A) Without prejudice to any provision of this Act, any power, privilege or concession granted to the Pakistan Telegraph and Telephone Department shall, mutatis mutandis, be deemed to have been granted to the Corporation.

(3) In performing its functions, the Corporation shall have regard—

(i) to the desirability of improving and developing its operating systems: :

(ii) to technological developments in the field of telecommunication ;

(iii) to efficiency and economy: and

(iv) to commercial viability and social benefits.

(4) In performing its functions, the Corporation shall be guided on questions of policy by the instructions of the Federal Government in the light of the letter and spirit of this Act and any other Act passed by the Parliament.

(5) The Corporation may take such measures and exercise such powers as it considers necessary or expedient for carrying out the purposes of this Act and these may include establishing subsidiary companies for operating and developing telecommunication facilities in a region or for a specific field of activity.

(6) Nothing in the preceding sections shall be taken to preclude the Corporation for justifiable reasons from interrupting, suspending or restricting services provided by it, or be construed as imposing upon the Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court.

7. Plans and schemes.—(1) The Corporation shall from time to time prepare for the approval of the Federal Government five-year plan and, if necessary, perspective plans, for the development of telecommunications and for the furtherance of its purposes and functions under this Act, and matters incidental thereto. ¥

(2) The Corporation may frame a scheme or schemes for all or any of the following matters, namely:—

(i) expansion and development of the Corporation's telecommunications system in urban and rural areas:

(ii) introduction of new telecommunication services in Pakistan;

(iii) research and development in the field of telecommunication;

(iv) replacement of assets;

(v) improvements in the quality and grade of telecommunication services;

(vi) training of the Corporation's employees:

(vii) promotion or establishment of facilities in Pakistan for the manufacture of telecommunication equipment;

(viii) development and maintenance of software for telecommunications;

(ix) welfare of the Corporation's employees; and

(x) any other matter pertaining to the purposes and functions of the Corporation or incidental thereto.

(3) The Board may finally approve any scheme prepared under subsection (2), provided the scheme is covered by an overall plan approved by the Federal Government.

8. Officers and servants.—(1) The Corporation may from time to time employ such officers and servants and appoint such experts or consultants, as it may consider necessary for the performance of its functions, on such terms and conditions as it may deem fit.

appointment of its officers, servants, experts and consultants, and the terms and conditions of their service.

(3) Notwithstanding anything contained in sub sections (1) and (2), any rules of regulations made, or orders or instructions issued, by the Corporation, or in the terms and conditions of service of any person employed by or serving under the Corporation, the Corporation may at any time take disciplinary action under the Rules to be prescribed :

Provided that disciplinary action or removal from service of the Corporation shall be taken or affected after giving the person affected an opportunity of being heard,

9. Transfer of departmental employees to the Corporation.—(1) Notwithstanding anything contained in any law, contract or agreement, or in the conditions of service, all departmental employees shall, on the establishment of the Corporation, stand transferred to, and become employees of the Corporation, on the same terms and conditions to which they were entitled immediately before such transfer, provided that the Corporation shall be competent to take disciplinary action against any such employee.

(2) The terms and conditions of service of any such person as is referred to in sub-section (1) shall not be varied by the Corporation to his disadvantage.

(3) Notwithstanding anything contained in any law for the time being in force, no person who stands transferred to the Corporation by virtue of sub-section (1) shall be entitled to any compensation because of such transfer.

10. Chairman, etc., to be public servants.—(1) The Chairman, Directors, officers and servants of the Corporation shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(2) No suit, prosecution or legal proceedings shall lie against the Corporation; the Chairman, the Directors or officers and servants of the Corporation, in respect of anything done or intended to be done in good faith under this Act,

II. Reports and return.—(1) The Corporation shall submit to the Federal Government, as soon as possible after the end of every financial year,

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but before the last day of December next falling, a report on the conduct of its affairs for that year,

(2) The Federal Government shall cause to be laid before the National Assembly and the Senate # copy of the report Mentioned in sub-section (1), together with a copy of the audit report referred to in section 18.

(3) The Corporation shall brief the Committees of the Senate and the National Assembly about its activities and future plans as and when so required by the said Committees.

(4) The Federal Government may require the Corporation to furnish it

with—

(i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Corporation; or

(ii) a report on any such matter; or

(ii) a copy_of any document in the charge of the Corporation;

and the Corporation shall comply with every such requisition.

12. Transfer of assets and liabilities of Telegraph and Telephone Department.—(1) As from the commencement of this Act, all assets including telecommunication installations and plant. vested in the Pakistan Telegraph and Telephone Department shall vest in the Corporation, and all liabilities of the said Department in respect of the said assets shall be the liability of the Corporation,

(2) All contracts made and all liabilities incurred by the Pakistan Telegraph and Telephone Department before the commencement of this Act shall be deemed to be made or incurred by the Corporation and shall be enforceable accordingly.

13. Share capital.—(1) the authorised share capital of the Corporation shall, in the first instance, be thirty billion Rupees divided into three billion shares of ten Rupees each, but it may be increased by the Federal Government from time to time,

(2) 'The subscribed and paid up capital of the Corporation shall, in the first instance, be ten billion Rupees divided into one billion shares of ten Rupees each. ; ;

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(3) The initial allotment of shares be made to the Federal Government out of the net worth of the Pakistan Telegraph and Telephone Department determined by the Auditor-General, being the excess of historic cost less depreciation of the fixed assets plus other assets over the liabilities vested in the Corporation under section 12 in such sum as the Federal Government may desire.

(4) The Federal Government may at any time authorise the Corporation to increase the subscribed and paid up capital to be allotted to the Federal Government or the general public.

45)-The Dividend on the share capital by the Federal Government shall not exceed seven per cent per annum

14. PT&T Government Investment Fund Accounts.—The balance of the aforesaid 'networth' after initial allotment of shares will be transferred to a loan account to be named "PT&T Federal Government Investment Fund Account" which will bear a mark up of seven per cent per annum payable to the Federal Government.

15. Liability of Federal Government to be limited.—The liability of the Federal Government to the creditors of the Corporation shall be limited to the extent of grants made by the Federal Government and the loans raised by the Corporation with the sanction of the Federal Government. ,

16. Tariffs for provision of telecommunication services.—(1) The tariffs at which the Corporation may provide telecommunication services to user in Pakistan shall be determined by the Board with the prior approval of the Federal Government:

Provided that the Corporation may reduce any of the said tariffs with the prior approval of the Board:

Provided further that the tariffs being charged by the Pakistan Telegraph and Telephone Department immediately before the commencement of this Act shall be deemed to have been approved by the Federal government.

(2) In fixing the tariffs as aforesaid, the Board shall take into account the cost of providing services and the need to mobilize funds for the development of telecommunications and to earn a reasonable return on the investment.

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(3) The Board may, from time to time, settle with foreign telecommunication administrations rates at which accounts are to be settled with the said administrations in respect of telecommunication traffic between Pakistan and other countries: ,

Provided that, where revision of such rates results in an increase in collection charges from users in Pakistan, the approval of the Federal Government to such revision shall be obtained.

(4) In the case of any conflict between tariffs determined under sub-section (1), from time to time, and the rules framed under the Telegraph Act, 1885 (XIII of 1885), the said rules shall, on and from the date of determination of the said tariffs, stand amended to the extent necessary to remove such conflict.

17. Exemption, from. taxes.—(1) Notwithstanding anything contained in the Income Tax Ordinance 1979 (XXXI of 1979). the Wealth-tax Act: 1963 (XV of 1963), or any other law for the time being in force relating to income-tax, super-tax, or wealth-tax, the Corporation shall not be liable to pay any such tax on its income. profits or gains for a period of five years.

(2) All goods imported by. or on behalf of, the Corporation shall be exempt from customs duty and sales tax for a period of five years.

18. Audit and accounts.—(1) The Corporation shall maintain proper accounts and other records to reflect true and fair view of its state of affairs and prepare annual statements of accounts, including the profit and loss account and balance sheet,

(2) The accounts of the Corporation shall be audited by. an auditor or auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (XII of 1961), to be appointed by the Board, with the prior approval of the Federal Government.

(3) Notwithstanding the audit provided for in the sub-section (2), the Auditor-General shall have the power to audit or cause to be audited the accounts of the Corporation,

(4) The Corporation shall produce such accounts and books and connected documents, and furnish such explanations and information: as-the Auditor-General. or any officer authorised by him in his behalf. may require for the purpose of the audit.

(5) Copies of the audit report shall be sent to the Corporation and to the Federal Government. and shall also be available for public inspection.

(6) The Corporation shall comply with any directive issued by the Federal Government or the Public Accounts Committee of the National Assembly for the rectification of an audit objection,

~ 19, 'Internal audit.—The Corporation shall, in addition to the audit under section 18, cause to be carried out internal 'audit of its accounts and the internal audit reports shall be submitted to the Board through the Chairman,

20. Power to make regulations—For the purpose of carrying into effect the provisions of this Act, the Board may, with the approval of the Federal Government, frame such regulations as it may consider necessary or expedient.

21. Sale of assets and services.—The Corporation may enter into joint ventures for operation or expansion of its services or functions and may sell assets and services,

22. Acquisition of land.—The acquisition of any land, or any interest in land, for the Corporation, for any scheme under this Act, for the establishment, maintenance and working of telecommunication, or for matters directly connected therewith, shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894 (I of 1894), and the provisions of the said Act shall have effect accordingly.

a, Recovery of sums due to the Corporation—Any sum payable to the Corporation in respect of any telecommunication service rendered by the Corporation shall, in addition to any other mode prescribed by law, be recoverable as an arrear of land revenue.

24. Winding up of Corporation.—No provision of law relating to winding up of companies shall apply to the Corporation and the Corporation shall not be wound up save by order of the Federal Government and in such manner as the Federal Government may direct,

25. Removal of difficulties.—If any difficulty arises in giving effect to any of the provisions 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:

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

Act No, XIX of 1991

An Act to repeal the Pakistan Maritime Shipping
(Regulation and Control) Act, 1974

WHEREAS it is expedient to repeal the Pakistan Maritime Shipping (Regulation and Control) Act, 1974;

It is hereby enacted as follows :—

1, Short title and commencement.—(1) This Act may be called the Pakistan Maritime Shipping (Regulation and Control) (Repeal) Act, 1991,

(2) It shall come into force at once.

2. Repeal of Act XVIII of 1974—The Pakistan Maritime Shipping (Regulation and Control) Act, 1974 (XVIII of 1974), is hereby repealed,

AZIZ AHMED QURESHI,
Secretary.

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