

# THE EMPLOYEES' OLD-AGE BENEFITS ACT 1976

ACT No. XIV OF 1976

AN

[15th April, 1976]

ACT

*to repeal and re-enact the law relating to old-age benefits for the persons employed in industrial, commercial and other organisations*

WHEREAS it is expedient to repeal and re-enact the law relating to old-age benefits for the persons employed in industrial, commercial and other organisations and matters connected therewith ;

It is hereby enacted as follows: —

## PRELIMINARY

1, (1) This Ordinance may be called the Employees' Old-Age Benefits Act, 1976,

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

(4) It applies to every industry or establishment wherein ten or more persons are employed, directly or through any other person, whether on behalf of himself or any other person, or were so employed on any day during the preceding twelve months, and shall continue to apply to every such industry or establishment even if the number of persons employed therein is, at any time after this Act becomes applicable to it, reduced to less than ten.

2. In this Act, unless the context 'otherwise requires

(a) " Board " means the Board of Trustees constituted under section 7;

(b) " contribution " means the sum of money payable to the Institution by the employer in respect of an insured person under the provisions of this Act ;

(c) "employer" means owner or an establishment or industry and includes an agent, manager or representative of the owner and, where any work or undertaking is carried on by or on behalf of the State, the contractor or license, executing or carrying on such work or undertaking;

(d) " employment injury" means a personal injury to an insured person caused by an accident, or by such occupational disease as may be specified in the regulations, arising out of and in the course of his employment ;

(e) " establishment" means an organisation, whether industrial, commercial or otherwise ;

(f) " fund "means the Employees' Old-Age Benefits Fund set up under section 17 ;

(g) " industry" means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft, industrial occupation or a vocation of workmen ;

(h) "Institution " means the Employees' Old-Age Benefits Institution established or nominated under section 4;

(i) " insured person " means a person who is or was in insurable employment ;

(j) " insurable employment " means employment of a person under a contract of service or apprenticeship, whether written or oral, express or implied and in respect of which contributions are payable under this Act ;

(k) " invalidity" means a condition, other than that caused by an employment injury, as a result of which an insured person is permanently incapacitated to such an extent as to be unable to

earn from his usual or other occupation more than one-third of the normal rates of earnings in his usual occupation;

(l)" member " means a member of the Board ;

(m)" prescribed " means prescribed by rules ;

(n)" regulations " means regulations made by the Board;

(o)" rules " means rules made under this Act ;

(p)"wages" means wages as defined in clause (vi) of section 2 of the Payment of Wages Act, 1936 (Act No. IV of 1936); and

(q) "year" with respect to contributions payable means a total of 312 days for which contributions are payable.

### **INSURED PERSONS**

**3.** All persons employed in an industry or establishment under a contract of service or apprenticeship, whether written or oral, express or implied, shall be insured in the manner provided by or under this Act.

**4. (1)** As soon as may be, after the commencement of this Act Federal Government shall establish or nominate by notification an Institution to be called the Employees' Old-Age Benefits Institution.

(2) The Institution shall be a body corporate having perpetual succession and a common seal, with powers, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable and shall by the aforesaid name sue or be sued.

**5. (1)** Notwithstanding anything contained in section 4, the Federal Government may, pending the establishment of an Institution, by notification in the official Gazette, nominate a body corporate to exercise and perform all the powers and functions of the Institution under this Act and appoint the head of such body corporate by whatever name called, to be the head of the Institutions.

(2) The nomination of a body corporate under sub-section (1) shall be subject to such terms and conditions as the Federal Government may, from time to time, determine.

**6. (1)** The general direction and superintendence of the affairs of the Institution shall vest in a Board, which may, with the assistance of the Head of the Institution, exercise all powers and do all acts and things which may be exercised or done by the Institution.

(2) In discharging its functions, the Institution shall be guided by such instructions on questions of policy as may be given to it, from time to time, by the Federal Government, which shall be the sole judge as to whether any instructions are on a question of policy or not.

**7. (1)** The Board of Trustees shall consist of the following members to be appointed by the Federal Government, by notification, namely: --

a) the Secretary or Additional Secretary in the Labour and Local Bodies Division, who shall also be the Chairman of the Board of Trustees;

b) four persons to represent the Federal Government, one each from the Ministries of Finance, Commerce, Industries and Labour ;

c) four persons to represent the Provincial Governments, one to be nominated by each of the Provincial, Governments;

d) four persons to represent employers ;

e) four persons to represent insured persons ; and

f) two persons to represent the Institution.

(2) Members to be appointed under clauses (d) and (e) of sub-section (1) shall respectively be chosen from a list of names submitted in the prescribed manner by the organisations of employers and employees recognised by the Federal Government for that purpose:

Provided that, pending the making of rules in this behalf the first members to be so appointed shall be chosen from such persons as the Federal Government may deem fit.

**8.** In addition to the powers conferred on, and the functions entrusted to it, by the other provisions of this Act, or by the rules, the Board shall have powers—

(a) to approve the budget estimates, the audited accounts and the annual report of the Institution for submission to the Federal Government in accordance with the provisions of this Act; and

(b) to call for any information or direct any research to be made for the furtherance of the objects of the Act.

### **CONTRIBUTIONS**

**9.** (1) On and from the first day of July 1976, contributions shall be payable every month by the employer to the Institution in respect of every person in his insurable employment, at the rate of five per cent of his wages in the prescribed manner.

(2) Where an insured person does not receive any wages from the employer for any period, the Institution shall, subject to regulations, determine the amount of wages with reference to which the contributions shall be computed.

(3) Notwithstanding any agreement to the contrary, the employer shall not deduct from the wages of an insured person or otherwise recover from him any portion of the contribution,

(4) Where the mode of payment of remuneration, whether in cash or in kind, makes it difficult to determine the amount of wages for computing the contribution, the Institution may, subject to regulations, determine such wages.

**10.** Every employer shall keep such records and shall submit to the Institution such returns, at such times, in such form and containing such particulars relating to persons employed by him, as may be provided in regulations.

**11.** (1) Every employer shall, before the expiration of thirty days from the day on which this Act becomes applicable to the industry or establishment in respect of which he is the employer, communicate to the Institution the name and other prescribed particulars of the industry or establishment and of every insured person employed in the industry or establishment.

(2) Every insured person may also communicate his name and other prescribed particulars to the Institution.

(3) On receipt of a communication under sub-section (1) or sub-section (2), the Institution shall register the name of the industry or establishment or the insured person in such manner, and issue to the insured person a registration card in such form, as may be prescribed.

**12.** —(1) Any official of the institution, duly authorised by a certificate in a form specified in the regulations, may, for the purpose of inquiring into the correctness of any of the particulars stated in the records or returns referred to in section 10 or for the purpose of ascertaining whether any of the provisions of this Act have; been complied with—

(a) require an employer to furnish to him such information as he may consider necessary ;  
or

(b) at any reasonable time, enter any establishment or other premises occupied by such employer and require any person found in charge thereof to produce and allow him to

examine such accounts books and other documents relating to the employment of persons and payment of wages, or to furnish to him such information, as he may consider necessary ; or

(c) examine, with respect to any matter relevant to the purposes aforesaid, the employer, his agent or any person found in such establishment or other premises, or any other person whom the said official has reasonable cause to believe to be or to have been an insured person.

(2) The official referred to in sub-section (1) shall be bound to secrecy as regards all matters with which he becomes acquainted in the performance of his duties and which do not relate to matters provided for in this Ordinance.

(3) If an employer fails to maintain records or to submit returns as required by the regulations, or otherwise fails to comply with the provisions of sub-section (1) and thereby makes it difficult to ascertain the identity of persons required to be insured or the amount of contribution payable, the contribution shall be assessed on the basis of such evidence as the Institution may find satisfactory for this purpose.

13.—(1) If any employer fails to pay, on the due date the contribution payable by him under sub-section (1) of section 9, the amount so payable by him shall be increased by such percentage or amount as may be prescribed:

Provided that in no case shall such increase exceed fifty percent of the amount due.

(2) Without prejudice to any other remedy, the amount of the contribution due, together with the increase provided for under sub-section (1), may be recovered as an arrear of land revenue.

14. —In the event of default in payment of contributions by the employer in respect of an insured person, such insured person shall, have and enjoy the same rights under this Act as if no such default had occurred.

15. An employer shall be entitled to the refund of any contribution paid to the Institution under erroneous belief that it was payable under the provisions of this Act, and shall be entitled to the refund of excess amount of the contribution where such contribution had been paid at a higher rate than the rate prescribed:

Provided that no contribution or excess amount of any contribution shall be refunded unless an application for such refund is made within six months of the date on which the contribution was paid.

16. —Any claims of the Institution for unpaid contributions shall be extinguished in the manner provided in the regulations.

## **FINANCE AND AUDIT**

17. —(1) The Institution shall have its own fund, to be called the Employees' Old-Age Benefits Fund and may incur out of the Fund such expenditure as may be necessary for the purposes of this Act.

(2) All contributions paid under this Act and all other moneys received by or on behalf of the Institution shall be paid into the Fund.

(3) The Institution shall derive its revenues from the following sources—

- (a) contributions payable under this Act and the rules ;
  - (b) all other payments made by the employers under this Act and the regulations ;
  - (c) income from investment of the moneys of the Institution ; and
  - (d) donations and bequests for the purposes of this Act.
- (4) The assets of the Institution shall be utilised solely for the purposes of this Act.
- (5) The moneys of the Institution shall be deposited in such banks as may be approved by the Board for the purpose.
- 18.** —(1) Subject to rules, the Institution may, from time to time, invest any moneys, which are not immediately required for expenses under this Act, and may reinvest or realise such investment.
- (2) The Institution may, with; the previous sanction of the Federal Government and on such terms as it may specify, raise loans and take measures for discharging such loans.
- 19.** —(1) The Institution shall draw up annually a budget showing the anticipated receipts and expenditure during the following year and shall submit it to the Board for approval of the Federal Government.
- (2) The Institution shall maintain accounts of its income and expenditure in such form and manner as may be prescribed.
- (3) The books of account of the Institution shall be balanced on the thirtieth of June each year and its accounts shall be audited by auditors approved by the Federal Government at such time and in such manner as may be prescribed
- (4) The auditors shall, at all reasonable times, have access to the books of accounts and other documents of the Institution and may, for the purposes of the audit call for such explanation and information as they may require and may examine any principal or other officer of the Institution.
- (5) The auditors shall forward to the Federal Government their report together with an audited copy of the accounts of the Institution.
- 20.** —The Institution shall submit to the Federal Government an annual report of its work and activities.
- 21.** —The Institution shall, at intervals of not more than five years, have an actuarial valuation made in the prescribed manner of its assets and liabilities:

Provided that the Federal Government may direct a valuation; to be made at such other times as it may consider necessary.

### **BENEFITS**

- 22.** —(I) An insured person shall be entitled to old-age allowance at the rate of seventy-five rupees per month provided that—
- (a) he is over fifty-five years of age or, in the case of a woman, fifty years;
  - (b) he has retired from insurable employment ; and
  - (c) contributions in respect of him were payable for not less than fifteen years :

Provided that the old-age allowance shall be increased by five rupees per month for every additional year of insurable employment beyond the age specified in clause (a).

(2) If, on the 1st day of July, 1976, or on any day thereafter on which this Act becomes applicable to an industry or establishment, an insured person is over forty years of age, or over thirty-five in case of a woman, clause (c) of subsection (1) shall have effect as if for the word "fifteen " therein, the word " seven " were substituted.

(3) Subject to regulations, the old-age allowance shall commence as from the month following that in which the injured person satisfies the condition for entitlement thereto, provided that no allowance shall be payable retroactively for more than six months preceding the month in which an application for old-age allowance is submitted.

(4) Insurable employment of a person for the purposes of this Act shall commence on the date from which the first contribution in respect of him becomes payable.

(5) The old-age allowance payable to an insured person shall be terminated at the end of the month in which the death of such person occurs.

(6) The old-age allowance may, at the request of an insured person, be commuted on such grounds and in such manner as may be specified in the regulations.

**23.** —(I) An insured person who sustains invalidity shall be entitled to an invalidity allowance at the rate of seventy-five rupees per month, provided that—

- a) contributions in respect of him were payable for not less than fifteen years ; or
- b) contributions in respect of him were payable for not less than five years since his entry into insurable employment and for not less than three years preceding the month in which he sustains invalidity; and
- c) in either case, he is under fifty-five years of age, or fifty years in the case of a woman.

(2) Subject to regulations, the invalidity allowance shall be payable from the month following that in which the insured person satisfies the conditions for entitlement thereto:

Provided that the invalidity allowance shall not be payable retroactively for more than six months preceding the month in which an application for the invalidity allowance is submitted.

(3) The invalidity allowance shall be payable so long as invalidity continues:

Provided that an insured person who has been in receipt of the invalidity allowance for not less than five continuous years or attains the age specified in clause (a) of sub-section (1) of section 22 shall be entitled to the invalidity allowance for life.

### **PROVISIONS COMMON TO ALL BENEFITS**

**24.** In calculating the contribution periods for entitlement to a benefit under this Act, periods in respect of which invalidity allowance has been paid to an insured person prior to his reaching the age of fifty-five years, or fifty years in the case of a woman, or periods in respect of which maternity benefit, or sickness benefit or injury benefit or total disablement pension have been paid under the West Pakistan Employees' Social Security Ordinance, 1965 (W.P, Ordinance No. X of 1965), to an insured person shall be deemed to be contribution periods to such extent as may be provided by regulations.

**25.** (1) All claims for an allowance under this Act shall be made in writing and shall be accompanied by such documents, information and evidence as to entitlement as may be provided by regulations.

(2) Payment of an allowance shall be made in such manner, and at such times and places as, may be provided by regulations.

**26.** A right to the invalidity, allowance or old-age allowance shall stand extinguished where, a claim therefore is not made within twelve months of the date on which the allowance becomes payable.

**27.** Subject to regulations, payment of old-age allowance shall be suspended when and so long as the insured person entitled to it—

(a) has taken up insurable employment in which he earns more than the old-age allowance (b) is absent from Pakistan, except where the regulations provide otherwise.

**28.** (1) An insured person shall not be paid for the same period more than one of the allowances provided for in this Act.

(2) Where an insured person is entitled to more than one allowance under this Act, he shall be given the higher of such allowances.

(3) Where an insured person is entitled to an allowance under this Act and to a disablement pension under the West Pakistan Employees' Social Security Ordinance, 1965 (W.P. Ordinance No. X of 1965) he shall be given the higher of the two.

(4) The invalidity allowance shall not be payable to an insured person so long as he receives the sickness benefit under the West Pakistan Employees' Social Security Ordinance, 1965 (W. P. Ordinance No. X of 1965).

**29.** An allowance payable under this Act, shall not be liable to attachment in the execution of a decree, nor shall it be chargeable or assignable; and any agreement to charge or assign an allowance shall be void, and on the bankruptcy of an insured person, the allowance payable to him shall not pass to any trustee or person acting on behalf of his creditors.

**30.** (1) When a person has received any allowance under this Act to which he is not lawfully entitled, he shall be liable to repay to the Institution the amount of the allowance in such manner as may be provided by regulations:

Provided that the Institution may waive repayment of an allowance where payment thereof was not due to misrepresentation on the part of the insured person receiving it and the repayment would cause undue hardship to him.

(2) Sums due to the Institution by virtue of the foregoing sub-section may be recovered by deduction from an allowance payable under this Ordinance.

**31.** Where the contingency for which an allowance is payable under this Act, was caused under circumstances creating a legal liability in some person, the Institution shall be entitled to substitute itself for the insured person in bringing a , suit for damages against that person.

**32.** Any amount recoverable under this Chapter may be recovered as an arrear of land revenue.

## **DETERMINATION OF QUESTIONS AND CLAIMS**

**33.** If any complaint is received or any question or dispute arises as to—

(a) whether a person is an insured person within the meaning of this Act ;

(b) the amount of wages of an insured person for the purposes of this Act ;

(c) the amount of contribution payable by an employer in respect of an insured person ;

(d) the person who is the employer in respect of an insured person ;

(e) entitlement to old-age or invalidity allowance or as to , the amount and duration thereof ;  
or

(f) any other matter in respect of any contribution or any allowance referred to in clause (e), or due payable or recoverable under this Act relating to contributions or the aforesaid

allowances;

the matter shall be decided by the Institution, in such manner, and within such time, as the regulations may provide and the Institution shall notify its decision to the person concerned in writing, stating therein the reason for its decision.

**34.** The Institution may, subject to regulations, on new facts being brought to its notice, review a decision given by it under section 33:

Provided that no decision shall be so reviewed without giving the person concerned an opportunity of being heard and adducing evidence in support of, or against the decision, as the case may be.

**35.** Subject to rules, a person aggrieved by a decision of the Institution under section 33 or on a review under section 34, may appeal to the Board.

**36.** The Institution shall appoint medical boards which shall, in such manner as may be provided by regulations, assess the degree of invalidity sustained by an insured person.

### **OFFENCES AND PENALTIES**

**37.** If any person—

- (a) for the purpose of obtaining an allowance, or denial of any payment or allowance, under this Act, whether for himself or some other person, or for the purpose of avoiding any payment to be made by himself or any other person under this Act —
  - (i) knowingly makes or causes to be made false statement or false representation; or
  - (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any material particular; or
- (b) fails to pay any contribution which under this Act he is liable to pay; or
- (c) recovers or attempts to recover from an insured person, or deducts or attempts to deduct from his wages, the whole or any part of the contribution; or
- (d) fails or refuses to submit any return required by this Act, or regulations or makes a false return; or
- (e) obstructs any official of the Institution in the discharge of his duties; or
- (f) is guilty of any contravention of, or non-compliance with any of the provisions of this Act or the rules or the regulations;

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

**38.** (1) No prosecution under this Act shall be instituted except with the previous sanction of the Federal Government or any officer or authority authorised in this behalf by it.

(2) No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(3) No court shall take cognizance of any offence under this Act except on a complaint made in writing within six months of the date on which the offence comes to the knowledge of the Federal Government or an officer or authority referred to in sub-section (1).



## MISCELLANEOUS

39. In any proceedings of insolvency against a person or proceedings for winding up of a company, any contribution or other amount payable under this Act by such person or company shall be deemed to be included among debts to be paid in priority to all other debts.

40. Stamp duty shall not be chargeable upon any documents used in connection with allowances payable under this Act.

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

42. The members and employees of the Board and all officers and servants of the Institution shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

43. The Board may direct that all or any of its powers and functions may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by any officer or authority subordinate to the institution.

44. (1) The Federal Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of the 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: —

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

(ii) the manner in which names of persons from whom members of the Board may be appointed shall be submitted by organisations of employers and employees recognised by the Federal Government for that purpose ;

(iii) powers and functions of the Board ;

(iv) fees and allowances of the members of Board ;

(v) times and rates at which, and conditions subject to which, contributions shall be payable

(vi) percentage or amount by which contributions in arrears may be increased under section 13 ;

(vii) investment of surplus moneys, realisation of investments and reinvestment of proceeds ;

(viii) terms at which and the manner in which the budget of the Institution shall be prepared and submitted to the Federal Government ;

(ix) the forms and manner in which the Institution shall keep accounts of its income and expenditure and of its assets and liabilities ;

(x) the times at which, and the manner in which, the accounts of the Institution shall be audited :

(xi) the matters which the annual report of Institution shall cover ;

(xii) the times in which claims for an allowance shall be made ;

(xiii) the manner and procedure for disposal of appeals by the Board ; and

(xiv) any other matter which is required to be or may be prescribed.

45. (1) The Board may subject to the condition of previous publication, by notification in the official Gazette, make regulations not inconsistent with the provisions of this Act or the rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely: —

- (i) the time and places at which Meetings of the Board shall be held ;
- (ii) the manner in which daily wages shall be calculated for the purpose of determining the contribution payable ;
- (iii) determination of wages for computation of contributions where the mode of payment of remuneration, in cash or kind , makes such computation difficult ;
- (iv) records to be kept and returns to be submitted by employers, time at which and the form in which such returns are to be submitted, and particulars relating to the insured persons to be stated in such return and the manner and form for registration of employer and insured persons ;
- (v) the manner in which any claim of the Institution for unpaid contributions may be extinguished ;
- (vi) powers and duties of internal auditors ;
- (vii) procedure and method of calculations and terms and conditions for the commutation of old-age allowance;
- (viii) the form and manner in which claims for an allowance shall be preferred, and the documents, information and evidence which shall accompany such claims ;
- (ix) the manner in which and the time and places at which payment in respect of an allowance shall be made ;
- (x) the manner in which and the time within which complaints, questions and disputes shall be decided ;
- (xi) the circumstances and the manner in which, on new facts coming to light, the Institution may review decisions ;
- (xii) the method of payment of contribution and liability thereof;
- (xiii) the manner in which invalidity shall be assessed and the procedure thereof ;
- (xiv) the manner in which proof of age shall be furnished for the purposes of this Act ;
- (xv) the manner in which the services of the Institution shall be organised ; and
- (xvi) any other matter not provided for in this Act or the rules and necessary to give effect to the provisions of this Act.

46. The Federal Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any establishment or industry from all or any of the provisions of this Act.

47. Nothing in this Act shall apply to—

- a) persons in the service of the State, including members of the armed forces, police force and Railway servants .
- b) persons in the service of a local council ,a municipal committee, a cantonment board or any other local authority ;
- c) persons who are employed ,in services or installations connected with or incidental to the Armed Forces of Pakistan including an ordnance factory maintained by the Federal Government or Railway administration ;

- d) persons in the service of Water and Power Development Authority ;
- e) persons in the service of bank or a banking company ;
- f) persons in the service of statutory bodies other than those employed in or in connection with the affairs of a factory registered under section 2(i) of the Factories Act, 1934 (XXV of 1934), or the Mines Act, 1923 (IV of 1923) :

Provided that workshops maintained exclusively for the purpose of repair or maintenance of equipment or vehicles used in such statutory bodies shall not be treated as factories for the purposes of this clause;

- g) members of the employer's family living in his house, in respect of their work for him;  
and

- h) any person employed on wages exceeding one thousand rupees per mensem.

**48.** The Employees' Old-Age Pension Ordinance, 1972 (IX of 1972) and the Employees' Old-Age Benefits Ordinance, 1975 (XXVII of 1975), are hereby repealed.