

EXTRAORDINARY

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PART I

GOVERNMENT OF SINDH

LAW DEPARTMENT

NOTIFICATION

Karachi, the 16th **JULY**, 2001.

No. S.LEGIS:1(25)/2000:—The following Ordinance made by the Governor of Sindh is hereby publish for general information:—

THE **SINDH PRIVATISATION COMMISSION ORDINANCE, 2001**

Sindh Ordinance No. XX V of 2001

AN ORDINANCE

to provide for the establishment of a Privatization Commission in the Province.

WHEREAS it is expedient to provide for the establishment of a Privatisation Commission for implementing the privatisation policy of Government and to provide for matters connected therewith or incidental thereto;

Preamble

WHEREAS the Government is carrying out a programme of privatisation;

WHEREAS it is expedient to provide for a fair and transparent process of privatisation to secure transactions resulting therefrom;

WHEREAS it is expedient to provide for the utilization of the proceeds of privatization for the retirement of Government debt and for poverty alleviation;

WHEREAS it is expedient to provide for an expeditious mechanism to resolve all disputes relating to privatisation;

WHEREAS the Provincial Assembly stands dissolved in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999;

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

NOW, THEREFORE, in pursuance of the aforesaid Proclamation and the Provisional Constitution Order read with Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of Sindh is pleased to make and promulgate the following Ordinance-

Short title,
extent and

1. (1) This Ordinance may be called "the Sindh Privatisation Commission Ordinance, 2001".

commencement

(2) It extends to the whole of Sindh.

PART II - PRIVATISATION COMMISSION

3 **Establishment of the Commission:-** (1) The Sindh Privatization Commission is hereby established for carrying out the purposes of this Ordinance.

(2) The Commission shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to enter into agreements, contracts, acquire and hold property, both moveable and immovable, and to sue and be sued in its name.

(3) The Sindh Government's Notification No.SOVI(S&GAD)/7(36)/97 dated 24TH June, 1997, No.SOVI(S&GAD)/7(36)/97(Vol.-II) dated 18th June, 1998 and three other related notifications bearing No.SO(C-IV)S&GAD/7-17/98 all dated January 09, 1999 followed by two notifications bearing No.SO(C-IV)S&GAD/7-17/2000 dated 15th November, 2000 issued from time to time establishing and reconstituting the Privatization Committees (hereinafter referred to as the existing Committees are hereby rescinded and the existing Committees shall stand dissolved on the commencement of this Ordinance.

(4) Upon the commencement of this Ordinance, the dissolution of the existing Committees and establishment of the Commission—

(a) all, assets, rights, powers, authorities and privileges, and all property, moveable and immovable, cash and bank balances, reserve funds, investment and all other interests and rights in, or arising out of, such property and all debts, liabilities and obligations of whatever kind of the existing Committees subsisting immediately before the dissolution shall stand transferred to and vest in the Commission.

(b) Notwithstanding anything contained in this Ordinance or any other law for the time being in force or in any agreement, deed, document or other instrument:

- (i) the Chairman of the existing Committees shall continue to be the Chairman of the Commission until a Chairman is appointed under section 6;
- (ii) the Secretary of the existing Committees referred to in sub-section (2) shall continue to be the Secretary of the Commission until a Secretary is appointed under section 6;
- (iii) a member of the existing Committees shall continue to be a member of the Commission until such member is appointed under section 6;
- (iv) all officers, consultants, advisors, auditors and other employees and staff of the existing Committees shall stand transferred and be the officers, consultants, advisors, auditors and employees and staff of the Commission;

(c) The Chairman, Secretary, members and other persons mentioned in clause (b) above shall be deemed to have been appointed or engaged by the Commission in accordance with the same terms and conditions of service as were applicable to them, immediately before such continuance in office or transfer under this Ordinance and no Chairman, Secretary, member, officer, consultant, adviser, auditor or other employee or staff whose services are so continued or transferred shall be entitled to any compensation because of such continuance or transfer.

Provided that the civil servants appointed to or working in the existing Committee shall upon their transfer to the Commission continue to be governed by the Sindh Civil Servants Act, 1973 and rules made thereunder;

Provided further that such civil servants may subject to their option, be considered for absorption in the Commission in accordance with the regulations, the Sindh Civil Servants Act, 1973 and the rules framed thereunder;

(d) the budget provision for the existing Committees shall stand transferred to the Commission Account upon authorization by Government;

(e) the balance amount of Privatization Fund account of the existing Committees shall stand transferred to the Privatisation Fund;

(f) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the existing Committees before its dissolution shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for the Commission;

(g) all suits and other legal proceedings instituted by or against the existing Committees before its dissolution shall be deemed to be suits and proceedings by or against the Commission and shall be proceeded or otherwise dealt with accordingly; and

(h) a reference to the existing Committees in any statutory instrument or document shall, unless the context otherwise requires, be read and construed as reference to the Commission.

(5) All rules, regulations, notifications, orders or instructions in force immediately before the commencement of this Ordinance, shall, so far as they are not inconsistent with any of the provisions of this Ordinance, continue to be in force until repealed or altered by rules or regulations made under this Ordinance.

4. **Location of Office:-** The principal office of the Commission shall be at Karachi. The Commission may establish regional offices at such other place or places in Sindh as it consider necessary.

5. **Functions and Powers of the Commission:-** The Commission shall -

- (a) recommend privatisation policy guidelines to the Cabinet;
- (b) prepare for the approval of the Cabinet, a comprehensive privatisation programme;
- (c) plan, manage, implement and control the privatisation programme approved by the Cabinet;
- (d) prepare and submit reports to the Cabinet on all aspects of the privatisation programme;
- (e) facilitate or initiate legislation as approved by the Cabinet in connection with the privatisation programme;
- (f) provide overall directions for the implementation of privatisation related activities including restructuring, deregulation and post privatisation matters in sectors designated by the Cabinet;
- (g) take operational decisions on matters pertaining to privatisation restructuring, deregulation, regulatory issues including approval of licensing and tariff rules and other related issues pertaining to the privatisation programme approved by the Cabinet;
- (h) issue directions and instructions to the management of a business undertaking falling within the purview of the privatisation programme approved by the Cabinet on all major important administrative, financial, reporting and policy matters;
- (i) publicize the activities of the privatisation programme;
- (j) propose a regulatory framework, including the establishment and strengthening of regulatory authorities, to the Cabinet for independent and fair regulation of each industry sector falling within the purview of the privatisation programme;
- (k) advise Government that monopolies are not created in the process of privatisation;
- (l) appoint advisors, consultants, valuers, lawyers and such other staff, both local and foreign, on such terms as it may determine to discharge its functions under this Ordinance;

- (m) approve and take decisions and perform all acts to implement pre-privatisation restructuring, labour rehabilitation and severance schemes, and all other related matters as approved by the Cabinet;
- (n) invite applications for the privatisation and ensure widest possible participation;
- (o) evaluate bids received according to criteria determined by the Commission from time to time and formulate recommendations for consideration by the Cabinet;
- (p) recommend to Government such labour and manpower rehabilitation programmes as may be necessary during privatisation and to develop a roster of such employees who may need rehabilitation;
- (q) advise measures to Government for improvement of public sector units till their privatisation;
- (r) assist in the implementation of Government policies on deregulation and privatisation and advise Government on deregulating the economy to the maximum possible extent; and
- (s) perform such other functions that are incidental or ancillary to carry out the privatisation programme approved by the Cabinet.

PART III - MANAGEMENT AND ADMINISTRATION

6. Chairman, Secretary and Members:-

- (1) The Chairman, Secretary and Members shall be appointed by Government.
- (2) The Chairman shall be responsible for the day to day administration and the affairs of the Commission.
- (3) The Chairman shall be an eminent professional of known integrity and competence with qualifications or experience in privatisation or any related field, including business, management, finance, or law. The Secretary and other members shall be professionals of known integrity and competence with qualifications or experience in privatisation or any related field, including business, management, finance or law.
- (4) The Chairman and Secretary shall be paid such remuneration and allowances and shall be entitled to such privileges and facilities as Government may determine, which shall not be varied to their disadvantage during their term of office. The members shall be entitled to such privileges and facilities as Government may determine.
- (5) The Chairman, Secretary and other members shall, unless they resign or are transferred or removed from office earlier by Government, hold office for such period as may be determined by Government.

- (6) No person shall be appointed or continue as a Chairman, Secretary or member if he-
- has been convicted of an offence involving moral turpitude or has been found guilty of misconduct;
 - has been or is adjudged insolvent;
 - is incapable or discharging his duties by reason of physical or mental unfitness and has been so declared by a Special Medical Board appointed by Government or
 - fails to disclose any conflict of interest at or within the time provided for such disclosure by or under this Ordinance or contravenes any of the provisions of this Ordinance pertaining to unauthorized disclosure of information.

(7) The Chairman, Secretary or a member may at any time resign his office by a written notice addressed to Government. The office of the Chairman, Secretary or a member shall become vacant upon the death or resignation of the Chairman, Secretary or a member. A vacancy caused by resignation or any other reason shall be filled by the appointment of a person qualified to fill such vacancy.

(8) The Chairman shall not, during his term of office, engage himself in any other service, business, vocation or employment in respect of or relating to privatisation activity and before the expiration of two years thereof enter into the employment of, or accept any advisory or consultancy relationship with, any person engaged in any privatisation.

Provided that nothing herein contained shall be construed to limit or abridge the power of Government to deal with the case of any Chairman in such manner as may appear to it to be just and equitable.

(9) The Chairman, Secretary or a member shall not have any direct or indirect financial interest, or have any connection with any person engaged in privatisation for so long as he holds office and for a period of two years thereafter.

(10) The Secretary of the Commission shall exercise all the power of a Secretary to Government.

7. Meeting of the Commission:-

(1) Save as hereinafter provided, the Commission shall regulate the procedure for its meeting.

(2) The meeting of the Commission shall be presided over by the Chairman. In the absence of the Chairman, the members present in the meeting may select a Chairman for that meeting.

(3) At least one third of the members shall constitute a quorum for meetings of the Commission requiring a decision by the Commission.

(4) The meeting of the Commission shall be held at such time and place the Chairman or a majority of members may from time to time determine. Members shall have reasonable notice of the time and place of the meeting and the matters on which a decision by the Commission shall be taken in such meeting.

(5) Decisions of the Commission shall be taken by the majority of its members present, and in case of a tie, the person presiding the meeting shall have a casting vote.

(6) The Commission shall cause minutes to be kept of proceedings of every meeting of the Commission and of every meeting of a committee established by the Commission. Decisions of the Commission shall be recorded in writing and signed by the Chairman.

8. Delegation:-

(1) The Commission may constitute committees of its members to entrust them with such functions and powers as it may deem fit. The Commission or any of its committees may invite any technical expert or other person possessing specialized knowledge of any subject or representative of a Government institution for assistance in the performance of its functions.

(2) The Commission may, subject to such conditions and limitations as it may deem fit to impose, delegate any of its functions or powers to the Chairman, or Secretary or one or more Members of the Commission or any officer of the Commission, except-

- (a) the power to approve the audited accounts; and
- (b) the power to make or repeal regulations made under this Ordinance.

(3) A delegation under this section shall not prevent the concurrent performance or exercise by the Commission of the functions or powers so delegated.

9. Employees of the Commission:-

(1) To carry out the purpose of this Ordinance, the Commission may, from time to time, employ persons to be employees of the Commission, except Chairman. Secretary and members, who shall be paid such remuneration and allowances and shall hold their employment on such terms and conditions as may be determined by the Commission.

(2) The employees of the Commission shall hold office during the pleasure of the Commission and shall be liable to disciplinary action in accordance with the regulations made by the Commission.

Provided that the civil servants appointed to the Commission by Government, shall be governed by the Sindh Civil Servants Act, 1973 and the rules made thereunder unless absorbed in the Commission.

10. Employment of agents, advisers and consultants:-

(1) Subject to sub-section (2) the Commission may, employ any technical, professional and other agents, advisers, and consultants including, bankers, engineers, valuers, accountants, lawyers and other persons to transact any business or to do any act required to be transacted or done in the exercise of its powers, the performance of its functions or for the better implementation of the purposes of this Ordinance.

(2) The decision to employ and the terms of employment of agents, advisers, auditors, and consultant shall be made by the Commission in accordance with such policy guidelines as the Commission may lay down from time to time.

11. **Public Servants:-** The Chairman, Secretary, members, officers, employees and other persons authorized to perform or exercise any function or power under this Ordinance or rendering services to the Commission as agents, advisers or consultants shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

12. **Disclosure of interest:-**

(1) Where a person is present at a meeting of the Commission or committee of the Commission and that person or his family or his professional or business partner or associate has direct or indirect interest in the subject of consideration in that meeting, that person shall-

- (a) forthwith disclose such an interest; and
- (b) not take part in any consideration on that matter unless the Commission or the committee thereof otherwise directs.

(2) Where a member of the Commission, staff or other employee of the Commission, including an advisor, consultant or his family has a direct or indirect interest in any matter relating to privatization such person shall forthwith disclose that interest to the Commission and the Commission shall have the right to take such action as it considers appropriate.

PART IV - FINANCIAL PROVISIONS

13. **Funds of the Commission:-**

(1) There is hereby established, for the purposes of this Ordinance, a Commission Account to be administered and controlled by the Commission. The operations of the Commission shall be funded from the Commission Account. The funds of the Commission shall consist of -

- (a) grant from Government;
- (b) supplementary contribution from the Privatisation Fund;
- (c) income from investments;
- (d) fees and charges;
- (e) grants of money and sums borrowed or raised by the Commission for the purposes of meeting any of its obligations or discharging any of its duties; and
- (f) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to the exercise of its functions and powers.

(2) The Commission shall in respect of each financial year prepare its budget and submit it to Government for approval, in the form and manner as may be prescribed.

(3) It shall be the duty of the Commission to conserve the Commission Account and the Privatisation Fund while performing its functions and exercising its powers under this Ordinance.

14. **Expenditure to be charged on the Commission Account:-** The Commission account shall be expended for the purpose of -

- (a) paying any expenditure lawfully incurred by the Commission, including the remuneration and allowances of the Chairman, members, staff, employees, advisor, consultants, lawyer, valuers and other experts appointed and employed by the Commission, including provident fund contributions, superannuation allowances of gratuities and legal fees and costs and other fees and costs, if any;
- (b) paying for expenditure incurred on:-
 - (i) public offering and placement of shares;
 - (ii) marketing and publicity;
 - (iii) seminars and conferences;
 - (iv) labour rehabilitation and severance schemes; and
 - (v) restructuring.
- (c) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other work and undertakings in the performance of its functions or the exercise of its powers under this Ordinance.
- (d) repaying any financial accommodation received or moneys borrowed under this Ordinance and the profit, mark-up or return due thereon; and
- (e) paying any other expenses, costs or expenditure properly incurred or accepted by the Commission in the performance of its functions or the exercise of its powers under this Ordinance.

15 **Privatisation Fund:-**

(1) The Commission shall establish and maintain a distinct and separate Privatization Fund in which all Privatization proceeds shall be deposited. The Commission shall, out of the moneys so deposited, withdraw and contribute to the Commission's Account such amount or amounts as may be needed by it from time to time but only to supplement the other resources therein if and to the extent necessary. The remaining privatization proceeds shall be kept in trust for and distributed to Government or the enterprise owned or controlled by Government entitled to such proceeds.

(2) The privatisation proceeds distributed to Government pursuant to sub-section (1), shall be utilized by Government as follows;

- (a) thirty percent shall be used for poverty alleviation programmes; and
- (b) the remaining seventy percent for retirement of Government debt.

16 Power to obtain finance and receive grants:-

- (1) The Commission may, from time to time and with the approval of Government, obtain finance in respect of any sums required by the Commission for meeting any of its obligations of performing any of its functions.
- (2) The Commission may, with the approval of Government, also accept grants from entities both domestic and international, including multilateral agencies.

17 Investment:- The Commission may, in so far as its moneys are not required to be expended under this Ordinance, invest in such manner as set out in section 20 of the Trusts Act, 1882 (11 of 1882).

18. Bank accounts:- The Commission may open and maintain its accounts at such scheduled banks as it may from time to time determine.

19 Accounts:- (1) The Commission shall maintain proper accounts and other records relating to its financial affairs to be kept in such form and manner as Government may determine in consultation with the Accountant General, Sindh and shall as soon as practicable after the end of each financial year cause to be prepared for that financial year statements of account of the Commission which shall include a balance sheet and an account of income and expenditure

(2) The financial year of the Commission shall be the period of twelve months ending 30th June, in each year.

20. Audit:- (1) The account of the Commission shall be audited annually by the Accountant General, Sindh.

(2) The Commission shall, in addition to the audit by the Accountant General, Sindh cause its accounts to be audited by internal or other external auditors.

(3) Within six months of the close of the financial year, the Commission shall submit to Government an audited report, statements of account of the Commission including a balance sheet and an account of income and expenditure in respect of the preceding financial year.

PART V - PRIVATISATION

21. Privatisation programme:- Subject to the provisions hereinafter provided, the Commission shall, after approval by the Cabinet, carry out the Privatization programme in the prescribed manner.

22. Advertisement of Privatisation:- The Commission shall, in consultation with Government and any concerned enterprise owned or controlled wholly or partially, directly or indirectly by Government, give notice of its intent to privatise. The Commission shall for each proposed privatisation publish, in at least two daily English, Urdu and Sindhi newspapers with a national circulation on at least two occasions not less than fifteen days apart, notice of the availability of the subject-matter of the privatisation and of the salient terms and conditions

thereof. Advertisements for privatisation, where necessary, will also be placed in newspapers with in international circulation.

23. Valuation of property:- The valuation of the property shall be performed, in the prescribed manner, by independent valuers who shall submit a valuation report to the Commission for consideration and orders-

24. Modes of privatization:- The Commission shall carry out privatization, in accordance with the prescribed procedure, through any of the following modes -

- (a) sale of assets and business
- (b) sale of share through public auction or tender;
- (c) public offering of shares through a stock exchange;
- (d) management or employee buyouts by management or employees of a state owned enterprise;
- (e) lease, management rights or concession contracts; or
- (f) any other method as may be prescribed.

25. Publication of privatisation transaction:-

The Commission shall, within thirty days of the completion of each privatisation transaction, publish by notice in the official Gazette:-

- (a) summary description of the transaction including name and address of the contracting party;
- (b) the consultants advising the Commission on the transaction; and
- (c) any other matter relating to the transaction considered appropriate by the Commission.

26. Investigations:- (1) Government or any its agencies authorized by it, may of its own or on a complaint oversee, scrutinize or investigate any privatisation transaction within one year of the completion of the privatisation.

(2) After the expiry of the period referred to in sub-section (1), Government or any of its agencies shall not be empowered to carry out any such scrutiny or investigation.

PART VI - JURISDICTION

27. Jurisdiction of High Courts:- Notwithstanding anything contained in any other law for the time being in force, the High Courts shall exercise exclusive civil and criminal jurisdiction-

- (a) to adjudicate and settle all matters related to, arising from or under or in connection with this Ordinance.
- (b) to adjudicate and settle all matters transferred pursuant to section 30; and
- (c) to try offences punishable under this Ordinance.

28. Procedure and Power of High Court in civil matters :- In exercise of its civil jurisdiction under this Ordinance, the High Court shall-

- (a) follow the procedure as nearly as possible, as provided in the Code of Civil Procedure, 1908 (Act V of 1908).

Provided that the High Court may, in its discretion, having regard to the facts of the case, follow the summary procedure as nearly as possible, provided for in Order XXXVII in the First Schedule to the said Code; and

- (b) have all the powers vested in the Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908).

29. Procedure and power of High Court in criminal matters: - In exercise of its criminal jurisdiction under this Ordinance, the High Court shall, in trial of all offences before it, follow the procedure provided for in Chapter XXIIA of the Code of Criminal Procedure, 1898 (Act V of 1898).

30. Transfer of cases:- (1) All legal proceedings whatsoever and matters related to or under or in connection with or arising from privatisation, the privatisation process or privatisation programme pending on the commencement of this Ordinance before any forum, tribunal or court shall stand transferred to the High Court having jurisdiction provided that nothing contained herein shall affect any proceedings pending before the Supreme Court of Pakistan.

(2). In respect of matters transferred to a High Court under sub-section (i) the High Court shall proceed from the stage at which the proceedings had reached immediately prior to the transfer and shall not be bound to recall and rehear any witness and may act on the evidence already recorded or produced before the forum tribunal or court from which the proceedings were transferred.

31. Offences:- (1) Whoever dishonestly commits a breach of the terms of any agreement, contract, guarantee or such other instrument or document executed by him in relation to privatisation shall, without prejudice to any other action which may be taken against him under this Ordinance or any other law for the time being in force, be punishable with imprisonment of either description for a term which may extend to one year and shall also be liable to fine, and the High Court trying the offence may order the delivery on payment, or refund, to the Commission, within a time to be fixed by it any property or the amount in respect of which any agreement, contract, guarantee, instrument or document was executed.

(2) Whoever knowingly makes a statement or a declaration which is false in material respect at the time of privatisation and obtains the subject matter of the privatisation from the Commission on the basis thereof, shall be guilty of offence punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(3) Whoever resists or obstructs, either by himself or on behalf of the judgment debtor, through the use of force or otherwise the execution of a decree, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

(4) Where the person guilty of an offence under this Ordinance is a company or other body corporate, the Chief Executive by whatever name called, and any director or officer of the Company involved shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that the High Court may, in its discretion, having regard to the facts of the case, follow the summary procedure as nearly as possible, provided for in Order XXXVII in the First Schedule to the said Code; and

- (b) have all the powers vested in the Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908).

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(2). In respect of matters transferred to a High Court under sub-section (i) the High Court shall proceed from the stage at which the proceedings had reached immediately prior to the transfer and shall not be bound to recall and rehear any witness and may act on the evidence already recorded or produced before the forum tribunal or court from which the proceedings were transferred.

31. **Offences:-** (1) Whoever dishonestly commits a breach of the terms of any agreement, contract, guarantee or such other instrument or document executed by him in relation to privatisation shall, without prejudice to any other action which may be taken against him under this Ordinance or any other law for the time being in force, be punishable with imprisonment of either description for a term which may extend to one year and shall also be liable to fine, and the High Court trying the offence may order the delivery on payment, or refund, to the Commission, within a time to be fixed by it any property or the amount in respect of which any agreement, contract, guarantee, instrument or document was executed.

(2) Whoever knowingly makes a statement or a declaration which is false in material respect at the time of privatisation and obtains the subject matter of the privatisation from the Commission on the basis thereof, shall be guilty of offence punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(3) Whoever resists or obstructs, either by himself or on behalf of the judgment debtor, through the use of force or otherwise the execution of a decree, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

(4) Where the person guilty of an offence under this Ordinance is a company or other body corporate, the Chief Executive by whatever name called, and any director or officer of the Company involved shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(5) All offences under this Ordinance shall be non-cognizable and compoundable by or under the authority of the Commission.

(6) The High Court of Sindh shall take cognizance of any offence under this Ordinance on a complaint filed by the Commission or a person authorized by it in writing.

32. Appeal: - (1) Any person, Commission and Government aggrieved by a final order, judgment, decree or sentence, passed by a single Judge of a High Court may, within thirty days of such order, judgment, decree or sentence prefer an appeal which shall be heard by a larger Bench of a High Court, within whose jurisdiction the order, judgment, decree or sentence is passed.

(2) Any person, Commission and Government aggrieved by a final order, judgment, decree or sentence, passed by a larger Bench of a High Court may, within thirty days of such order, judgment, decree or sentence prefer an appeal to the Supreme Court of Pakistan.

(3) No appeal, review or revision shall lie from any interlocutory order of the High Court.

PART VII - REGULATORY AND OTHER PROVISIONS

33. Extent of Transfer of Property:- Notwithstanding anything contained in this Ordinance, Government shall not privatise any property except to the extent of its title, right, interest or share in such property.

34. Directions by Commission:- (1) Any enterprise or management which is approved by the Cabinet as eligible for privatisation, shall -

- (a) carry out any directions issued by the Commission in writing;
- (b) keep up-to-date business records and books of account;
- (c) not perform any action that would result in the assets of the company or business undertaking or property being lost or wasted;
- (d) not incur any liability other than in the ordinary course of business without the prior written approval of the Commission.
- (e) not give any person information other than in the ordinary course of business which might confer any advantage on that person or a potential buyer; and
- (f) refrain from taking any action which may cause industrial unrest.

(2) The Commission shall after approval under sub-section (1) take all steps, including as to change of management necessary for initiating and completing the privatisation in accordance with sound commercial principles and practices conducive to efficiency and economy.

35. Information:- (1) The Commission may call for any information required by it for carrying out the purposes of this Ordinance from any person involved, directly or indirectly, in privatisation activities or any matter incidental or consequential thereto. Any such person shall be

liable to provide the required information called by the Commission, failing which he shall be liable to a fine or other penalty as prescribed from time to time.

(2) The Commission shall submit to Government at such time and in such intervals as Government may specify:

- (a) such periodical reports and summaries as may be required by Government;
- (b) such periodical returns, accounts, statements and statistics as may be required by Government;
- (c) information and comments asked for by Government on any specific point; and
- (d) copies of the documents or original documents required by Government for examination or any other purpose.

36. Annual Report.- (1) As soon as practicable but not later than six months after the end of each financial year, the Commission shall prepare and publish an annual report concerning its activities during the financial year and send a copy of the said report to the Cabinet.

(2) The report referred to in sub-section (1) shall include-

- (a) activities of the Commission during the financial year;
- (b) an outline of the privatization programme for the year ahead;
- (c) a short financial statement of the preceding year;
- (d) an audited balance sheet;
- (e) an audited statement of income and expenditure; and
- (f) any other matter which the Cabinet may direct or the Commission may consider appropriate.

37. Information to public:- (1) The Commission shall publicize its reports and shall keep them open for information of the public during reasonable business hours.

(2) Subject to regulations regarding confidentiality, the Commission's reports shall include all relevant documents to be maintained and indexed, as the Commission deems fit.

38. Immunity of the Commission and its employees.- (1) The Chairman, Secretary, members, consultants, officers, or other employees of the Commission shall make such declaration of fidelity and secrecy as may be prescribed.

(2) No suit, prosecution or other legal proceedings shall lie against the Commission, the Chairman, Secretary, Members, consultants, officers or other employees of the Commission in respect of anything done or intended to be done in good faith under this Ordinance.

39. Rules.- The Commission may, with the approval of Government, by notification in the official gazette, make rules, not inconsistent with the provisions of this Ordinance, for exercising its powers and carrying out of its functions under the Ordinance.

(3) It shall come into force at once.

Definitions

2

In this Ordinance, unless there is anything repugnant in the subject or context-

- (a) "Cabinet" means the Cabinet of the Government, and where authorized, includes the Cabinet Committee on Privatisation as constituted by the Cabinet from time to time;
- (b) "Chairman" means Chairman of the Commission;
- (c) "Commission" means the Sindh Privatisation Commission established under Section 3;
- (d) "Commission Account" means the Commission Account established under Section 13;
- (e) "Government" means the Government of Sindh;
- (f) "member" means a member of the Commission;
- (g) "person" includes an individual, partnership, trust, company or association or a body corporate or body of individuals, whether or not having separate legal personality, other than the Government or any enterprise owned or controlled by Government;
- (h) "prescribed" means prescribed by rules made under this Ordinance;
- (i) "privatisation" includes a transaction by virtue of which any property, right, interest, concession, or management thereof is transferred to any person from Government or an enterprise owned or controlled, wholly or partially, directly or indirectly, by Government;
- (j) "Privatisation Fund" means the Privatization Fund established under section 15;
- (k) "Privatisation proceeds" means the proceeds of privatisation received by the Commission;
- (l) "property" includes any right, title or interest in property, moveable or immovable and whole or in part, and any means and instruments of production owned or controlled directly or indirectly by Government or any enterprise owned or controlled by the Government;
- (m) "regulations" means the regulations made under section 40;
- (n) "rules" means the rules made under section 39;
- (o) "Secretary" means the Secretary of the Commission; and
- (p) "staff" means the staff of the Commission and includes a deputationist, advisor, consultant, auditor and contract employee.

40. **Regulations:-** (1) The Commission may, by notification in the official gazette, make regulations, not inconsistent with the provisions of this Ordinance or the rules, for exercising its powers and carrying out of its functions under this Ordinance.

(2). Without prejudice to the foregoing power, such regulations may provide for appointment of its officers, members of staff and such other persons and the terms and conditions of their service.

41. **Ordinance to override other laws:-** The provisions of this Ordinance shall have effect notwithstanding anything inconsistent in any other law for the time being in force and any such law, rule or regulation shall, to the extent of any inconsistency, cease to have effect from the date this Ordinance comes into force.

42. **Common Seal:-** The Commission shall have a common seal and such seal shall be kept in the custody of the Chairman or such other person as may be authorized by the regulations made by the Commission. Documents required or permitted to be executed under seal shall be specified in and authenticated in such manner as shall be authorized by regulations made by the Commission.

43. **Exemption from taxes:-** Notwithstanding anything contained in any other Provincial law for the time being in force, the Commission shall not be liable to pay, and shall be exempt from the payment of any taxes, duties, levies, charges and fees payable under or in pursuance to any Provincial law, in respect of any of its business, assets, income or wealth.

44. **Liability of Government to be limited:-** The liability of Government under this Ordinance shall be limited to the extent of its assets in the Commission.

45. **Support of Government:-** The Government and all its agencies, particularly the concerned enterprises owned and controlled wholly or partially, directly or indirectly by Government, shall render support to the Commission to fulfill its objective and functions in pursuance of this Ordinance.

46. **Dissolution:-** No provision of law relating to the winding up of the bodies corporate shall apply to the Commission, and the Commission shall not be wound up except by order of Government, and in such manner as Government may direct.

47. **Removal of difficulties:-** If any difficulty arises in giving effect to any provision of this Ordinance, Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purposes of removing the difficulty.

Karachi.

Dated: 12th July, 2001.

MOHAMMEDMIAN SOOMRO

GOVERNOR, SINDH

SAYED GHULAM NABI SHAH
SECRETARY TO GOVERNMENT OF SINDH
LAW DEPARTMENT

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