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PART-IV

PROVINCIAL ASSEMBLY OF SINDH,
NOTIFICATION
KARACHI, THE 19TH JANUARY, 2015.

NO.PAS/Legis-B-23/2014- The Sindh Employees' Old-Age Benefits Bill, 2014 having been passed by the Provincial Assembly of Sindh on 10th December, 2014 and assented to by the Governor of Sindh on 12th January, 2015 is hereby published as an Act of the Legislature of Sindh.

THE SINDH EMPLOYEES' OLD-AGE BENEFITS ACT, 2014.

SINDH ACT NO. X OF 2015.

AN
ACT

to repeal and re-enact the law relating to old-age benefits for the persons employed in industrial, commercial and other organizations in the Province of Sindh.

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 organizations in the Province of Sindh and to provide for matters connected therewith or ancillary thereto; **Preamble.**

It is hereby enacted as follows:-

**CHAPTER - I
PRELIMINARY**

**Short title, extent,
commencement
and application.**

1. (1) This Act may be called the Sindh Employees' Old-Age Benefits Act, 2014.
- (2) It extends to the whole of the Province of Sindh.
- (3) It shall come into force at once.
- (4) It applied to every industry or establishment –
 - (i) wherein five or more persons are employed by the employer directly or through any other person whether on behalf of himself or 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 five;
 - (ii) wherein less than five persons are employed if such industry or establishment voluntarily applies for application of this Act and this Act shall apply to such industry or establishment from the date of submission of an application by such industry or establishment; or
 - (iii) which the Government may, by notification in the official Gazette, specify in this behalf.

Definitions.

2. In this Act, unless the context otherwise requires -
 - (a) **"benefits"** means old-age pension, invalidity pension, survivor's pension, old age grant and such other payments as may be determined by Government from time to time;
 - (b) **"Board"** means the Board of Trustees constituted under section 7;
 - (c) **"Chairperson"** means the Chairperson of the Institution;
 - (d) **"contribution"** means the sum of money payable to the Institution by the employer or by Government in respect of an insured person under the provisions of this Act;

- (e) **“employee”** means any person employed, whether directly or through any other person for wages or otherwise to do any skilled or unskilled, supervisory, clerical, manual or other work in or in connection with the affairs of an industry or establishment, under a contract of service or apprenticeship, whether written or oral, express or implied, and includes such person when laid off;

Provided further that a director of a limited company or of a corporation set up under any law shall not be treated as an employee under this Act, irrespective of his wages or emoluments;

- (f) **“employer”**, in relation to any industry or establishment, means any person who employs, either directly or through any other person, any employee, and includes -
- (i) in the case of an individual, an heir, successor, administrator or assign;
 - (ii) a person who has ultimate control over the affairs of an industry or establishment or entrusted to any person (whether called a managing agent, managing director, manager, superintendent, secretary or by any other name), such other person;
- (g) **“employment injury”** means a personal injury to an insured person caused by an accident, or by such occupational disease as may be specified in Schedule-III of the Workmen Compensation Act, 1923, arising out of and in the course of his employment;
- (h) **“establishment”** means -
- (i) an establishment to which the West Pakistan Shops and Establishment Ordinance 1969 (West Pakistan Ordinance No. VIII of 1969), for the time being applies, and, notwithstanding anything contained in section 5 thereof, includes clubs, hostels, organizations and messes, not maintained for profit or gain of establishments, including hospitals, for the treatment or care of sick, infirm, destitute or mentally unfit persons;
 - (ii) a construction industry, as defined in the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (West Pakistan Ordinance No. VI of 1968);

- (iii) a factory as defined in the Factories Act, 1934 (XXV of 1934);
- (iv) a mine as defined in the Mines Act, 1923 (IV of 1923);
- (v) a road transport service as defined in the Road Transport Workers Ordinance, 1961 (XXVIII of 1961); and includes any class of industries or establishments which Government may, by notification in the official Gazette, declare to be establishments for the purpose of this Act;
- (i) **"Fund"** means the Employees Old-Age Benefits Fund set up under section 17;
- (j) **"Government"** means the Government of Sindh;
- (k) **"industry"** means any business, trade, undertaking, manufacturing or calling of employers, and includes any calling service, employment, handicraft, industrial occupation or avocation of workers;
- (l) **"Institution"** means the Sindh Employees' Old-Age Benefits Institution established or nominated under section 4 or section 5;
- (m) **"insured person"** means an employee who is or was in insurable employment;
- (n) **"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 or under the Employees Old-age Benefit Act, 1976;
- (o) **"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 earning in his usual occupation;
- (p) **"member"** means a member of the Board;
- (q) **"prescribed"** means prescribed by rules;

- (r) "regulations" means regulations made by the Board;
- (s) "rules" means rules made under this Act;
- (t) "Schedule" means Schedule to this Act;
- (u) "wages" means the rates of wages as declared under the Minimum Wages for Unskilled Worker Ordinance, 1969 (W.P. Ordinance XX of 1969);
- (v) "year" with respect to insurable employment, means a total of three hundred and sixty-five days for which contributions are payable, or, in the case of insured persons who are not paid for weekly holidays, a minimum of three hundred and twelve days;

CHAPTER – II INSURED PERSONS

3. All employees in an industry or establishment shall be insured in the manner prescribed by or under this Act. **Compulsory Insurance.**
4. (1) As soon as may be, after the commencement of this Act, Government shall establish or nominate by notification an Institution to be called the Sindh Employees' Old-Age Benefits Institution. **Administration.**
- (2) The Institution shall be body corporate having perpetual succession and a common seal, with powers subject to the provisions of this Act, 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, Government may, pending the establishment of an Institution, by notification in the official Gazette, nominate 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 Chairperson. **Nomination of a body corporate pending establishment of an Institution.**
- (2) The nomination of a body corporate under subsection (1) shall be subject to such terms and conditions as 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 Chairperson of the Institution, exercise all powers and do all acts and things, which may be exercised or done by the Institution. **Management.**

(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 Government, which shall be the sole judge as to whether any instructions are on a question of policy or not.

Board of Trustees.

7. (1) The Board of Trustees shall consist of the following members to be appointed by Government by notification in the official gazette, namely:—

- (a) the Secretary to Government of Sindh, Labour Department, who shall also be the President of the Board of Trustees;
- (b) two persons to represent Government, one each from the Departments of Finance and Industries;
- (c) two persons to represent employers;
- (d) two persons to represent insured persons; and
- (e) Chairperson who shall also act as Secretary of the Board.

(2) Members to be appointed under clause (c) and (d) of sub section (1) shall respectively be chosen from a list of names submitted in the prescribed manner by the organizations of employers and employees recognized by 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 Government may deem fit.

Power and functions of the Board of Trustees.

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 Government in accordance with the provision of this Act;
- (b) to call for any information or direct any research to be made for the furtherance of the objects of this Act; and
- (c) to co-opt any other technical person by name as member on the Board for a specific purpose and for such limited period as decided by the Board but such person shall not have right of a vote.

9. (1) The Chairperson shall be appointed by Government for such term and on such terms and conditions as it may determine.

Appointment, powers and functions of Chairperson.

(2) The Chairperson shall exercise such powers and perform such functions as may be prescribed.

CHAPTER – III CONTRIBUTIONS

10. (1) On and from the first day of July, 2014, the contribution 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 percent of his wages in the prescribed manner:

Rates and assessment.

Provided that no contribution shall payable in respect of an insured person who is in receipt of old-age pension under this Act or has attained the age of sixty-years in the case of a woman.

(2) Where any 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 employer's share of contribution.

11. Government may make such contribution to the Institution as it may determine from time to time.

Contribution by Government.

12. The contribution shall be payable every month by an insured person at the rate of one percent of the wages in the prescribed manner.

Contribution by Insured person.

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

Record and returns by employers.

14. (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.

Registration of establishment, etc.

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

(3) On receipt of 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 forms, as may be prescribed.

Cancellation of registration of establishment, etc.

15. The Board may, on the basis of such evidence as it may find satisfactory for the purpose, cancel the registration of any establishment or industry, which has ceased to exist:

Provided that the cancellation of the registration of an establishment or industry shall not affect its liabilities before the date of such cancellation.

Official of Institution to check employer's book.

16. (1) Any official of the Institution duly authorized 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 13 or for the purpose of ascertaining whether any of the provision 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 into any establishment or other premises occupied by such employer and require any person found incharge thereof to produce and allow him to examine such account books and other documents relating to the employment of person 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 not demand production of account books and other documents referred to in clause (b) of sub-section (1) for a period of two years from the date of registration of the establishment or the 1st day of July, 2014, whichever is later, if the employer does not reduce the number of insured persons in respect of whom contribution are paid under section 10:

Provided that on expiry of two years period, if the employer enhance the number of insured persons by at least ten percent, it shall be accepted without any question otherwise checking of record shall be done as provided in sub-section (1), by an officer not below the rank of Assistant Director of the Institution, duly authorized in this behalf and no question shall be asked about the previous two years.

(3) If an employer fails to maintain records or submit returns as required by 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 in the prescribed manners.

17. (1) If an employer fails to pay on the due date contribution payable by him under sub-section (1) of section 10, the amount so payable by him shall be increased by such percentage or amount as may be prescribed.

Increase of unpaid contribution and recovery of contribution etc., as arrears of land revenue.

Provided that in no case such increase shall 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 arrears of land revenue.

18. Notwithstanding anything contained in this Act, if an insured person has communicated his name and other prescribed particulars to the Institution under sub-section (2) of section 14 has been issued by the Institution a registration card under sub-section (3) thereof and, in case of changing employment from one industry of establishment to another industry or establishment, has also informed institution about such change of employment, then in the event of default in payment of contributions by the employers in respect of such insured person, such insured person shall have and enjoy the same rights under this Act as if no such default has occurred.

Safeguard of insured person's right in default of payment of contributions by employers.

19. An employer shall be entitled to the refund of any contribution paid to the Institution under erroneous belief that it was payable under the provision 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.

Refund of contributions paid erroneously.

Extinguishment of claims to contributions.

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.

20. Any claim of the Institution for unpaid contributions shall be extinguished in the manner provided in the regulations.

Employees' Old-Age Benefits Fund.

CHAPTER-IV FINANCE AND AUDIT

21. (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) contribution 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 bequest for the purposes of this Act.

(4) The assets of the Institution shall be deposited in scheduled banks as may be approved by the Board for the purpose.

Investment and loans.

22. (1) Subject to rules, the Institution may, from time to time, invest moneys, which are not immediately required for expenses under this Act, and may reinvest or realize such investment in the Government securities and in such other securities as may be approved by Government.

(2) The Institution may, with the previous sanction of Government and on such terms and conditions as it may specify, raise loans and take measures for discharging such loans.

Budget, accounts and audit.

23. (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 the approval of 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 Government at such time and in such manner as may be prescribed.

(4) The auditors shall at all reasonable time 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 principle or other office of the Institution.

(5) The auditors shall forward to the Government their report together with an audited copy of the accounts of the Institution.

24. The Institution shall submit to Government an annual report of its work and activities. **Annual Report.**

25. The Institution shall, at intervals of not more than three years, have an actuarial valuation made in the prescribed manner of its assets and liabilities and no change in rate of contribution or benefit under this Act shall be made without proper actuarial valuation. **Valuation of assets and liabilities.**

CHAPTER-V BENEFITS

26. (1) An insured person shall be entitled to monthly old-age pension at the rate specified in the Schedule: **Old- Age pension.**

Provided that -

- (a) he is over sixty years of age, or fifty-five years in the case of a woman, and
- (b) contribution in respect of him were paid for not less than fifteen years:

Provided further that the age specified in clause (a) will be reduced by five years in the case of an insured person employed in the occupation of mining for at least ten years immediately preceding retirement.

Provided also that where the employee was insured under the provisions of this Act or the Employees Old-age Benefit Institution Act, 1976 (Act No. XIV of 1976) on or before 30th June, 2014, and contributions payable under this Act by the employers prior to 30th June, 2014, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted:

Provided further that where the contribution under section 12 is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement to the benefit shall not be affected by default in payment of employer's share of contribution under section 10.

(2) If an insured person was on the 1st day of July, 1976, or is on any day thereafter on which this Act becomes applicable to an industry or establishment -

- (i) over forty years of age, or thirty five years in the case of a woman, clause (b) of sub-section (1) shall have effect as if for the word "fifteen" therein the word "seven" were substituted; or
- (ii) over forty-five years of age, or forty years in the case of a woman, clause (b) of sub-section (1) shall have effect as if for the word "fifteen" therein the word "five" were substituted.

Old age grant.

27. If an insured person, not otherwise entitled to old age pension, retires from insurable employment after attaining the age of sixty years, or fifty-five years in the case of a woman and a mine worker, and contributions in respect of him were paid for less than fifteen years, but not less than two years, he shall be entitled to an old-age grant paid in a lump sum equal to his one month's average monthly wages for every completed year of insurable employment or part thereof in excess of six months.

Provided that where the employee was insured under this Act on or before 30th June, 2002, and contributions payable under the Act by the employer prior to 30th June, 2002, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted.

Provided further that where the contribution under section 12 is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement to the benefit shall not be affected by default in payment of employers' share of contribution under section 10.

28. (1) In the case of death of an insured person while in insurable employment but after he had completed not less than thirty-six months, insurable employment, the surviving spouse, if any, shall be entitled to life pension at the rate specified in the Schedule.

Survivors' pension.

(2) In case of the death of an insured person, while not in insurable employment but after he had completed five years insurable employment, the surviving spouse, if any shall be entitled to a life pension at the rate specific in the Schedule.

(3) In the case of the death of an insured person who had become entitled to old-age pension or invalidity pension before his death, the surviving spouse shall, if the spouse had married the deceased person before he had attained the minimum age prescribed for old-age pension, receive a life pension equal to the pension of such person.

(4) In the case of the death of the surviving spouse in receipt of survivor's pension, the minor children of the deceased insured person, if any, shall be entitled to the survivor's pension in the following equal shares, namely:-

- (i) in case of a male child, until he attains eighteen years of age; and
- (ii) in case of female child, until she attains eighteen years of age or until marriage, whichever is earlier;

(5) In case of cessation of survivor's pension of any of the children of the deceased person on his attaining the age of eighteen years or marriage in case of a female, or death as the case may be the share of survivor's pension received by such child shall be distributed equally among the rest of the minors children of the deceased insured person.

(6) In the case of death of surviving spouse in receipt of a survivor's pension within five years after the death of an insured person and not survived by any minor child of the deceased insured person, the survivors' pension shall be paid to the surviving parent of the deceased insured person, if any, for a period of five years from the death of the said spouse.

(7) In the case of death of an insured person who is not survived by a spouse, the survivor's pension shall be paid to the minor children of the deceased insured person referred to in sub-section (4) and sub-section (5), and in the case if the insured person not surviving any minor child, the survivor's pension shall be the surviving parents, if any, for a period of five years from the death of the insured person.

Invalidity pension.

29. (1) An insured person who sustains invalidity shall be entitled to an invalidity pension at the rate to be calculated according to the formula set out in the Schedule:

Provided that -

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

Provided further that where the employee was insured under the provision of this Act on or before 30th June, 2002, and the contribution payable under the Act by the employer prior to 30th June, 2002, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted in clause (a) and (b):

Provided further that where the contribution under section 12 is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement to the benefit shall not be affected by default in payment of employer's share of contribution under section 10.

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

Provided that the invalidity pension shall not be paid retrospectively for more than six months preceding the month in which an application for the invalidity pension is submitted.

(3) The invalidity pension shall be paid so long as invalidity continues:

Provided that an insured person who has been in receipt of the invalidity pension for not less than five continuous years or attains the age specified in clause (a) of sub-section (1) of section 26 shall be entitled to the invalidity pension for life.

CHAPTER- VI PROVISION COMMON TO ALL BENEFITS

30. In calculating the contribution period for entitlement to a benefit under this Act, periods in respect of which invalidity pension has been paid to an insured person prior to his attaining the age of sixty years, or fifty five years in the case of a woman, or periods in respect of which maternity benefit or sickness benefit or injury or total disablement pension have been paid under the Provincial Employees' Social Security Ordinance, 1965 (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.

**Calculation of
qualifying
contribution
periods.**

31. (1) All claims for a benefit 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.

**Benefit claims and
payments.**

(2) The payment of benefit shall be made in such manner, and as such time and place, as may be provided by regulations.

32. A right to any benefit shall stand extinguished where a claim thereof is not made within twelve months of the date on which the benefit becomes payable:

**Extinguishment of
benefits.**

Provided that the Institution may condone the delay and admit the claim if it is satisfied that the delay was caused for reasons beyond the control of the insured person or the survivor.

33. Subject to regulations, the payment of old-age pension and survivor's pension shall be suspended when and so long as the insured person or the survivor entitled to it is absent from Pakistan, except where the regulations provide otherwise.

**Suspension of old-
age pension and
survivor's pension.**

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

**Non-duplication of
benefit.**

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

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

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

Benefit not attachable, chargeable or assignable.

35. A benefit payable under the Act shall not be liable to attachment in the execution of a decree, nor shall it be rechargeable or assignable and any agreement to charge or assign, a benefit shall be void and on the bankruptcy of an insured person, the benefit payable to him shall not pass to any trustee or person acting on behalf of his creditors.

Repayment of benefit improperly received.

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

Provided that the Institution may waive repayment of a benefit where payment thereof was not due to misrepresentation on the part of the insured person receiving it and the payment 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 a benefit payable under this Act.

Institution's right to be indemnified in certain cases.

37. Where the contingency for which a benefit 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.

Recovery of amounts due.

38. Any amount recoverable under this Chapter may be recovered arrear of land revenue.

CHAPTER-VII
DETERMINATION OF QUESTION AND CLAIMS

39. If any complaint is received or any question or dispute arises as to - **Decision on complaints, questions and disputes.**

- (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 any benefit under this Act or as to the amount and duration thereof; or
- (f) registration of industry or establishment; or
- (g) any other matter in respect of any contributions or any benefit to in clause (e) or dues payable or recoverable under this Act relating to contribution or the aforesaid benefits,

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.

40. The institution may, subject to regulations, on new facts being brought to its notice, review a decision given by it under section 39: **Review of decisions.**

Provided that no decision shall be 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.

41. Subject to rules, a person aggrieved by a decision of the Institution under section 39 or on a review under section 40, may appeal to the Board. **Appeal to Board.**

42. The Institution shall appoint Medical Boards which shall assess the degree of invalidity sustained by an insured person in such manner as may be provided by regulations. **Assessment of invalidity.**

CHAPTER-VIII
OFFENCES AND PENALTIES

Offences.

43. If any person -
- (a) for the purpose of obtaining a benefit or denial of any payment or benefit 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 knowingly allows to be produced or furnished, any documents 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 employer's share of contribution; or
 - (d) fails to or refuses to submit any return required by this Act or regulations or makes a false return; or
 - (e) obstruct any official of the Institution in the discharge of his duties; or
 - (f) is guilty of any contravention of this Act or rules or non-compliance with any of the provisions of this Act, 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 twenty five thousand rupees or with both.

Prosecution.

44. (1) No prosecution under this Act shall be instituted except with the previous sanction of Government or any authority authorized 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 Government or an officer or authority referred to in sub-section (1).

CHAPTER-IX MISCELLANEOUS

45. 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. **Contributions, etc.**

46. The stamp duty shall not be chargeable upon any documents used in connection with allowances payable under this Act. **Exemption from stamp duty.**

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

48. The member 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). **Members and servants of the Institution to be public servants.**

49. The Board may delegate all or any of its powers and functions, in relation to such matters and subject to such conditions, if any, as may be specified by order, to any officer or authority subordinate to the Institution. **Delegation of power.**

50. (1) Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purpose of this Act. **Power to make rules.**

(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 President and other terms and conditions of appointment of the members of Board and the manner in which the Board shall conduct its business, including the number of members required to form a quorum at the meeting thereof;

- (ii) the manner in which names of persons from whom members of the Board may be appointed shall be submitted by organizations of employers and employees recognized by Government for that purpose;
- (iii) powers and functions of the Board;
- (iv) fees and benefits of the members of the 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, realization of investment and reinvestment of proceeds;
- (viii) times at which and the manner in which the budget of the Institution shall be prepared and submitted to the Government;
- (ix) the form and manner in which the Institution shall keep accounts of its income and expenditure and 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 the Institution shall cover;
- (xii) the times in which claims for a benefit 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.

Power to make regulations.

51. (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:-

- (xiv) the manner in which the services of the Institution shall be organized; and
- (xv) any other matter not provided for in this Act or the rules and necessary to give effect to the provisions of this Act.

52. 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.

Power to exempt.

53. Nothing in this Act shall apply to:-

Act not to apply to certain persons

- (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 the services or installations connected with or incidental to the Armed Forces of Pakistan including an ordinance factory maintained by the Federal Government and Railway Administration;
- (d) persons in the service of Water and Power Development Authority;
- (e) persons in the service of statutory bodies other than those employed or in connection with the affairs of factory as defined in section 2(i) of the Factories Act, 1934, (XXV of 1934), or a mine as defined in 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 purpose of this clause;

- (f) members of the employer's family that is to say, the husband or wife and dependent children of the employer, living in his house, in respect of their work for him.

54. There shall no discrimination on the basis of sex, religion, race, creed, color, caste, ethnic background or domicile in employment, professional development and the wages for work of equal value.

Protection against discrimination.

- (i) the time and places at which the meetings of the Board shall be held;
- (ii) the manners 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 returns and the manners and form for registration of employers 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) the form and manner in which claims for a benefit shall be preferred, and the documents, information and evidence which shall accompany such claims;
- (viii) the manner in which and the time and places at which payment in respect of a benefit shall be made;
- (ix) the manner in which and the time within which complaints, questions and disputes shall be decided;
- (x) the circumstances and the manners in which, on new facts coming to light, the Institution may review decisions;
- (xi) the method of payment of contributions and liability thereof;
- (xii) the manner in which invalidity shall be assessed and the procedure thereof;
- (xiii) the manner in which proof of age shall be furnished for the purposes of this Act;

55. (1) The provisions of the Employees Old-age Benefit Act, 1976 (Act No.XIV of 1976), to the extent of its application to the Province of Sindh, hereinafter referred to as the repealed Act, are hereby repealed. **Repeal and savings.**

(2) Notwithstanding the repeal of the provisions of the repealed Act -

(a) anything done, rules or regulations made, notification or order issued, officer appointed, Court constituted, notice given, proceedings commenced or other action taken under the repealed Act or purportedly to have been taken under the repealed Act till the coming into force of this Act, shall be deemed to have been validly done, made, issued, appointed, constituted, given, commenced or taken, under this Act; and

(b) every reference to the repealed Act shall be construed as reference to the Act.

**BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH**

**G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH**

SCHEDULE

(See Section 2(t), 26, 28 and 29)

- (1) The monthly rate of old-age pension or invalidity pension payable to an insured person and survivors' pension payable to surviving spouses shall be calculated in accordance with the following formula namely:-

Monthly wages X Number of years of insurable employment

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A period of six months or more of insurable employment shall be treated as one full year. No account shall be taken any period of insurable employment completed by the insured person after becoming entitled to old-age pension.

- (2) The average monthly wages of an insured person, referred to in paragraph (1), shall be calculated on the basis of wages on which contributions were paid in respect of the twelve calendar months immediately preceding the date on which the insured person fulfils the conditions for entitlement to any benefits under this Act:

Provided that the old-age pension or invalidity pension payable to an insured person and survivor's pension payable to a survivor of the deceased insured person shall not be less than four thousand rupees per month for pension commencing on or after the first day of July, 2008.

- (3) The monthly rate of old-age pension, invalidity pension and survivors pension being paid on or before first day of July, 2008, under paragraph (1) above shall be increased by fifteen per cent.