

THE WORKERS' WELFARE FUND ORDINANCE. 1971

[9th December 1971]

ORDINANCE NO. XX XVI OF 1971 AN ORDINANCE

to provide for the establishment of a Workers' Welfare Fund

WHEREAS, it is expedient to provide for the establishment of a Workers' Welfare Fund, for providing residential accommodation and other facilities for workers and for matters connected therewith or incidental thereto ;

Now, THEREFORE, in pursuance of the Proclamation of the 25th day of March. 1960, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf , the President is pleased to make and promulgate the following Ordinance :--

Preliminary

- 1.—(!) This Ordinance may be called the Workers' Welfare Fund Ordinance, 1971.
 - (2) It extends to the whole of Pakistan.
 - (3) It shall come into force at once.
2. In this Ordinance, unless there is anything repugnant in the subject or context,—
 - (a) "Act" means the Income-tax Act, 1922 (XI. of 1922);
 - (b) "employer" has the same meaning as in section 2 of the Industrial Relations Ordinance, 1969 (XXIII) of 1969) ;
 - (c) "Fund" means the Workers' Welfare Fund constituted under section 3;
 - (d) "Governing Body" means the Governing Body of the Fund constituted under section 7;
 - (e) "Income-tax Officer" means a person appointed to be an Income-tax Officer under the Act;
 - (f) "Industrial establishment" means—
 - (i) any concern owning or managing a factory, workshop or other establishment in which articles are produced, adapted or manufactured with the aid of electrical, mechanical, thermal, nuclear or any other form of energy transmitted mechanically and not generated by human or animal agency ;
 - (ii) any concern working in a mine or quarry or natural gas or oilfield ;
 - (iii) any concern running a train way or meter omnibus service ;
 - (iv) any concern engaged in the carriage of men and goods by inland mechanically propelled vessels ;
 - (v) any concern engaged in the growing of tea, coffee, rubber or cinchona ; and
 - (vi) any other concern or establishment which the Federal Government may, by

notification in the official Gazette, declare to be an industrial establishment for the purposes of this Ordinance,

but does not include any concern or establishment which is owned by Government or by a Corporation established by Government or by a Corporation the majority of the shares of which is owned by Government;

(vii) "prescribed" means prescribed by rules made under this Ordinance ;

(viii) "Secretary" means the Secretary of the Fund ;

(ix) "total income" has the same meaning as in the Act ;

(x) "Worker" has the same meaning as in section 2 of the Industrial relations Ordinance, 1969 (XXIII of 1969).

Constitution of Workers' Welfare Fund

3.—(1) There shall be constituted for the purposes of this Ordinance a Fund to be called the Workers' Welfare Fund.

(2) The Fund shall consist of—

(a) an initial contribution of ten crores of rupees to be made by the Federal Government ;

(b) such moneys as may, from time to time, be paid by the industrial establishments under section 4 2 and section 4-A ;

[(bb) the amount transferred to the Fund from time to time, under clause (d) of paragraph 4 of the scheme set out in the Schedule to the Companies Profits (Workers Participation) Act, 1968 (XII of 1968).]

(c) voluntary contributions in the shape of money or building, land or other property made to it from time to time by any Government or by any person;

(d) income from the investments made and properties and assets acquired from out of the Fund;

(e) proceeds of loans raised by the Governing Body,]

4.—(I) Every industrial establishment, the total income of which in any year of account commencing on or after the date specified by the Federal Government in the official Gazette in this behalf is not less than one lakh of rupees shall pay to the Fund in respect of that year a sum equal to two percent of so much of its total income as is assessable under the Act or would have been so assessable but for the exemption made by section 15-BB thereof.

(2) Every industrial establishment which is liable under sub-section (1) shall pay the amount due from it to the Income-tax Officer having jurisdiction over, the industrial establishment for purposes of this Act;

(3) The industrial establishment shall, on or before the date on which it is required to furnish a return of income under Sub-section (I) of section 22 of the Act, pay the amount due from it under sub-section (1) calculated with reference to the total income reported in the said return.

(4) At the time of making an assessment under section 23 of the Act, or as soon thereafter as may be, the Income-tax Officer shall, by order in writing, determine the amount due from industrial establishment under sub-section (1), if any, on the basis of the income so assessed after taking into account the amount paid by the industrial establishment under sub-section (3) in respect of the year and the industrial establishment shall pay the amount so determined on or before the date specified in the order.

(5) Any change by way of enhancement or reduction in the assessed income subsequent to the assessment made under section 23 of the Act shall be given effect to by adjustment of the amount due under sub-section (1).

(6) Any amount paid by the industrial establishment under sub-section (3) which is found, on the basis of an order in appeal or revision under the Act, to have been paid in excess shall be refunded to it by the Income-tax Officer.

(7) The payment made by an industrial establishment to the Fund under sub-section (1) shall be treated as expenditure for purposes of assessment of income tax.

(8) Where any industrial establishment fails to pay the amount, due from it as required under this section, it shall, without prejudice to any other liability to which it may be subject under tills Ordinance or any other law, be liable to pay an additional amount equal to eight per cent per annum of the amount due from it from the dale on which it was originally payable to the date on which it is paid.

(9) The provisions of sections 46 and 46-A of the Act relating to the mode and time of recovery of the income-tax leviabale under the Act shall, so far as may be, apply to the recovery of the amount due under sub-section (I) .

4-A. —(1) Every industrial establishment referred to in subsection (1) of section 4 shall, in addition to the amount payable by it under that sub-section in respect of an year of account, pay such amount as the Federal Government may determine on the recommendation of a committee appointed under sub-section (2), hereafter in this section referred to as the committee;

(2) For the purpose of sub-section (1), the Provincial Government may appoint one or more committees in the Province and, where it appoints more than one committee, shall specify the area or class of industrial establishments in relation to which each such committee shall perform its functions.

(3) A committee appointed under sub-section (2) shall consist of an officer of the Provincial Government who shall be its Chairman and not more than five other members to be appointed by the Provincial Government of whom—

(a) not less than two shall be appointed from amongst the employers' in the Province or, as the case may be, in the area or class of industrial establishments in relation to which the committee is to perform its functions ; and

(b) not less than two shall be appointed from amongst the workers in the Province or, as the case may be, in the area or class of industrial establishment in relation to which the committee is to perform its functions.

(4) The committee shall examine the Financial and other circumstances of each of the industrial establishments and make recommendations as to the further amount, if any, to be paid by such establishment in addition to the amount payable by it under sub-section

(1) of section 4.

(5) The committee shall submit its recommendations to the Provincial Government who shall forward them, together with its own observations, if any, to the Federal Government.

(6) The committee shall have power to ask any industrial establishment to furnish such information, as it may consider necessary for the performance of its functions under sub-section (4).

(7) If an industrial establishment fails to furnish the required information under sub-section (6), the committee shall make its recommendations under sub-section (4) on the basis of such information as may be available to it.

(8) The provisions of section 4 shall, so far as may be, apply to an amount payable under sub-section (1) as it were an amount payable an amount payable under sub-section (1) of that section.

5. Any liability imposed on an industrial establishment by this Ordinance shall be deemed to be the liability of the person who is liable to pay income-tax in respect of the income relatable to such industrial establishment.

6. Moneys in the Fund shall be applied to—

(a) the financing or projects connected with the establishment of housing estates or construction of houses for the workers ;

(b) the financing of other measures for the welfare of workers ;

(c) the meeting or expenditure in respect of the cost of management and administration of the Fund ;

(d) the repayment of loans raised by the Governing Body; and

(e) investment in securities approved for the purpose by the Federal Government.

7. —(1) As soon as may be after the commencement of this Ordinance, the Federal Government shall, by notification in the official Gazette: constitute a Governing Body of the Fund to whom shall be entrusted the management and administration of the Fund.

(2) The Governing Body shall consist of the Secretary to the Government of Pakistan in the Ministry dealing with matters relating to labour welfare, who shall be its Chairman and not more than eighteen other members to be appointed by the Federal Government of whom—

(a) at least one shall be appointed from each Province upon the recommendation of the Provincial Government concerned ;

(b) at least one shall be appointed from each Province from amongst the workers; and

(c) at least one from each Province shall be appointed from amongst the employers

(3) The members of the Governing Body other than the Chairman shall hold office for such period and on such terms and conditions as may be prescribed.

(4) No act or proceedings of the Governing Body shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Governing Body.

8. —(1) The Governing Body may, with the previous approval of the Federal

Government appoint a Secretary who shall be the executive officer of the Fund.

(2) The Governing Body may appoint such other employees as it may consider necessary for the efficient performance of the Fund.

(3) The Governing Body shall determine the terms and conditions of service of the Secretary and the employees with the previous approval of the Federal Government.

(4) The Secretary and every employee shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

9. As soon as may be after it has been constituted, the Governing Body shall, with the previous approval of the Federal Government, lay down the procedure for making applications for grants from the Fund, the information to be furnished in such applications and the principles to be followed by the Governing Body in the distribution of allocation from the Fund, including priorities as between respective applications for grants.

10. The functions of the Governing Body shall be—

(a) to allocate funds, in accordance with the principles laid down under section 9, to the Provincial Governments, ;any agency of the Federal Government and any body corporate for any of the purposes mentioned in clauses (a) and (b) of section 6 ;

(b) to sanction expenditure in respect of the administration and management of the Fund ;

(c) to invest moneys held in the Fund in securities approved for the purpose by the Federal Government ;

(d) to raise loans and to take measures for discharging such loans ;

(e) to do or cause to be done all acts and things necessary or desirable for the proper administration of the Fund ;and

(f) to do or cause to be done all thing ancillary or incidental to any of the aforesaid function.

[10A.Any money allocated under clause(a) of section 10 shall be a grant-in-aid and shall vest in the Government ,agency or body corporate , to whom it is allocated under that clause, but it shall not be applied to any purpose other than that for which it is allocated , or permitted , by the Governing body.]

11. The Governing Body shall-

(a) cause to be maintained such books of account as may be prescribed;

(b) cause to be prepared in the prescribed manner an annual statement of account;

(c) cause the accounts of the Fund to be audited annually by the Auditor General of Pakistan or an auditor who is a chartered accountant within the meaning of the Chartered Accountants Ordinance,1961(X of 1961); and

(d) submit to the Federal Government the statement referred to in the clause (b) together with the reports of the auditor thereon.

Workers' Welfare Boards

11A.—(1) Where an allocation is made from the Fund to a Provincial Government, any agency of the Federal Government, hereafter in this Chapter referred to as the agency, or a body corporate under clause (a) of section 10, such Provincial Government agency or, as the case may be, body corporate may, by notification in the official Gazette,

constitute a Board to be known as Workers' Welfare Board, hereafter in this Chapter referred to as the Board, for the efficient management and administration of the allocated money and the projects or other measures financed by such money.

(2) A Board shall consist of—

(a) a Chairman who shall be, in the case of a Board appointed—

(i) by a Provincial Government, secretary to that Government in the department dealing with matters relating to labour welfare ; or

(ii) by an agency or a body corporate, such officer as the Federal Government may appoint ; and

(b) not more than nine other members to be appointed by the Provincial Government, agency or, as the case may be, body corporate of whom—

(i) at least two shall be appointed from amongst the employers ; and

(ii) at least two shall be appointed from amongst the workers.

(3) The member of a Board other than the Chairman shall hold office for such period and on such terms and conditions as may be determined by the Provincial Government, agency or, as the case may be body corporate.

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

11B. -(1) The Board shall be a body corporate by the name notified by the Government, agency or, as the case may be body corporate constituting it, having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to contract, acquire hold and dispose of property, both movable and immovable, and shall by the said name sue or be sued.

(2) The head office of the Board shall be at such place as the Provincial Government, agency or, as the case may be, body corporate constituting the Board may, by notification in the official Gazette, specify.

(3) The Chairman of the Board shall be its chief executive and may appoint a Secretary and such other staff on such terms and conditions as the Board may sanction.

(4) Subject to sub-section (3), all decisions of the Board shall be expressed in terms of the opinion of the majority of the members of the Board present in a meeting and, in the event of an equality of votes, the Chairman shall have a second or casting votes.

(5) The Provincial Government, agency or, as the case may be, body corporate may issue directions to the Board constituted by it regarding matters of policy including matters relating to scheme made under clause (a) of section 11 C:

Provided that if a difference arises as to whether a direction relates to a matter of policy, the decision of the Federal Government shall be final.

(6) A casual vacancy in the office of a member shall be filled as soon as may be, by the nomination of another person and the person nominated to fill such vacancy shall hold office for the unexpired term of his predecessor.

11C. Subject to the provisions of this Ordinance, a Board, for the discharge of its functions under this Ordinance, shall

(a) as soon as may be after its constitution, make and carry into effect a scheme regulating or providing for the regulation of

(i) matters connected with allotment, cancellation of allotment and fixation of rent of the the houses financed by the money allocated from the fund, and their maintenance and repairs ;

(ii) any other measures for the welfare of workers financed by the money allocated from the Fund ;and

(iii) the expenditure in .respect of the cost of management and administration of such scheme ;

(b) have the power to recover the rent and arrears of rent of such houses in the manner laid down in section 11 D ;

(c) have the power to evict any person from such a house in the manner laid down in section 11 E ;

(d) have the power to do any other thing necessary for, connected with, or incidental to, the discharge of its functions under this Ordinance or the rules or schemes made thereunder ;

(e) get its accounts annually audited in the prescribed manner; and

(f) by notification in the official Gazette make regulations to regulate its procedure.

11D. (1) Notwithstanding anything contained in the Payment of Wages Act, 1936 (IV of 1936), where any rent or arrears of rent are due from any person under this scheme made section 11C, they may be recovered--

(a) by deduction by his employer from his wages, if the Board or any person authorised by it in this behalf directs the employer so to do ; or

(b) as arrears of land revenue or as a public demand if, upon the application of the Board or any person authorised by it in this behalf, a Magistrate so directs.

Explanation. In this section and section II E, 'Magistrate' means a Magistrate of the first class having jurisdiction in the area where the house for which the rent or arrears of rent are due or from which eviction is to be effected is located.

(2) An employer making any deduction under sub-section (I) shall, within seven days from the date on which he makes the deduction, pay the entire amount so deducted to the Board entitled to receive it, and the payment so made, to the extent of the amount so paid, shall constitute a valid discharge of the liability of the employer to the person from whose wages the amount is deducted.

(3) If an employer, upon being directed by a Board or a person authorised by it to make a deduction from wages under this section, fails without lawful excuse to comply with the direction within the time specified therein, he shall personally be liable to pay the amount so required to be deducted, without prejudice to the liability of the person from whom that money is due.

11 E.- (1) Notwithstanding anything contained in any other law for the time being in force, including the West Pakistan Urban Rent Restriction Ordinance, 1959 (West Pakistan Ordinance No. VI of 1959), and the Karachi Rent Restriction Act, 1953 (VIII

of 1953), a worker occupying a house constructed with the money allocated from the Fund, who is directed by a Board or an officer authorised by it in this behalf, by an order in writing to ; vacate the house, shall vacate such house within a period of two months from the date of service of the order on him.

(2) If such a worker fails to vacate such house within such period, the Board or the officer authorised by it in this behalf may lodge a complaint with a Magistrate.

(3) The Magistrate on hearing the parties may, notwithstanding anything contained in any other law for the time being in force, summarily decide the case and may pass an order of eviction giving the worker a reasonable time to vacate his house.

(4) When a Magistrate passes an order for the eviction of a worker, he may, in such order, also direct a police officer to evict such worker and any other person occupying through such worker the house in respect of which the order of eviction is made, if the worker or such other person fails to vacate the house within the time allowed under subsection (3).

(5) A police officer acting under an order of the Magistrate under clause (4) shall notify the occupants of the premises in question the contents of the Magistrate's order and his intention to enter such house, allow at least time to the occupants thereof to vacate it and give all reasonable facilities to the children and female occupants, if any, to withdraw therefrom before applying any force for taking over the possession of such house.

(6) Where a worker occupying such a house dies, the procedure prescribed in this section shall *mutatis mutandis* and, so far as applicable, apply for evicting any person who was occupying the house through, such worker and continues to remain in occupation thereof after his death;

Provided that, where such person is the widow of the deceased worker, she shall not be evicted before the expiry of nine months following the death of the worker.

11F. —An order passed by a Magistrate under section 11 D or section 11 E shall be final and no court or authority shall entertain any plea as to the jurisdiction of the Magistrate or as to the legality or propriety of the order or allow such an order to be called in question in any manner whatsoever.

Miscellaneous

12. The Governing Body may direct in writing that all or any of its powers and functions under clauses(c) and (f) of section 10 may, subject to such limitations, restrictions or conditions, if any, as may be imposed by it from time to time, be also exercised or performed by the Secretary.

13. The Federal Government may, by notification in the official Gazette , remit or reduce the amount due from any industrial establishment or class or industrial establishments under or the provisions of section 4.

14.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done under this Ordinance.

15. (1) The Federal Government may, by notification in the official Gazette , make rules for carrying out the purposes of this Ordinance.

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

(ii) the books of account to be maintained by the Fund and the form of its statement of account