

**SENATE OF PAKISTAN  
HOUSE OF THE FEDERATION**

*REPORT NO. 1 OF 2018*



**REPORT OF THE STANDING COMMITTEE ON OVERSEAS  
PAKISTANIS AND HUMAN RESOURCE DEVELOPMENT**

**ON**

**“Companies Profits (Workers’ Participation Amendment) Bill, 2018”**

**ON**

**REFERRED BY THE HOUSE TO THE COMMITTEE IN ITS  
SITTING DATED 5<sup>TH</sup> MARCH, 2018.**

**PRESENTED BY**

**SENATOR HILAL-UR-REHMAN  
CHAIRMAN COMMITTEE**

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## SENATE SECRETARIAT

### REPORT OF THE STANDING COMMITTEE ON OVERSEAS PAKISTANIS AND HUMAN RESOURCE DEVELOPMENT

ON

#### **“Companies Profits (Workers’ Participation Amendment) Bill, 2018”**

1. Senator Hilal-ur-Rehman, Chairman Standing Committee on Overseas Pakistanis And Human Resource Development, have the honour to submit, on behalf of the Committee, this Report on **“Companies Profits (Workers’ Participation Amendment) Bill, 2018”** referred by the House, in its sitting dated 5-5-2018, to the House for further consideration and debate.

2. The composition of the Committee is as under :-

1.	Senator Hilal-ur-Rehman	Chairman
2.	Senator Syed Mohammad Sabir Shah	Member
3.	Senator Mirza Mohammad Afridi	Member
4.	Senator Molvi Faiz Mohammad	Member
5.	Senator Nighat Mirza	Member
6.	Senator Shaheen Khalid Butt	Member
7.	Senator Najma Hameed	Member
8.	Senator Sardar Mohammad Yaqoob Khan Nasar	Member
9.	Senator Sassui Palijo	Member
10.	Senator Syed Mohammad Ali Shah Jamot	Member
11.	Senator Mohammad Ayub	Member
12.	Senator Samina Saeed	Member
13.	Senator Dr. Shahzad Waseem	Member

3. The Committee considered the said Bill and formed a Sub-Committee in its meeting held on 9<sup>th</sup> August 2018 to discuss and made recommendations. The Sub-Committee’s composition is as under :-

1.	Senator Shaheen Khalid Butt	Convener
2.	Senator Sassui Palijo	Member
3.	Senator Syed Mohammad Ali Shah Jamot	Member

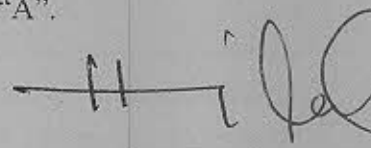
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4. The Sub-Committee in its meeting held on 18<sup>th</sup> September, 2018 discussed the said Bill and made the following recommendations.

- i) The Sub-Committee decided to pend further deliberations on the Companies Profits (Workers' Participations) (Amendment) Bill, 2018 as the matter of devolution of Workers Welfare Fund was on the agenda of the forthcoming meeting of the Council of Common Interests (CCI) to be held on 24<sup>th</sup> September, 2018. The Committee, however, directed that Ministry of OP&HRD and Law Division should also explore some legal options to resolve the matter.
- ii) The Sub-Committee recommended that the matter of devolution of Workers Welfare Fund (WWF) should be considered/decided by the CCI in its meeting to be held on 24<sup>th</sup> September, 2018, as the allied matters were pending since long.
- iii) The Committee directed the Secretary OP&HRD to give detailed presentation on the initiatives being taken for provision of facilities of education, health and housing to the children / families of overseas Pakistanis. A demonstration of database of the Overseas Pakistanis being prepared in coordination with NADRA may also be made, in the next meeting of the Committee.

5. The Committee discussed the Sub-Committee's findings and proposed that "Companies Profits (Workers' Participation Amendment) Bill, 2018" may be referred back to the Upper House for further discussion and debate to accommodate views of all political parties / provinces / stakeholders. The Committee unanimously decided not to seek a 3<sup>rd</sup> time extension from the House regarding the said Bill. The said Bill is under consideration of the CCI's Committee which has not finalized its recommendation as yet. Details of proposed amendments and impact assessment of the Amendments and recommendations of fund secretariat on proposed Amendments are placed at Annex "A".

  
(FARZANA KHAN)  
Secretary Committee

  
(SENATOR HILAL-UR-REHMAN)  
Chairman

  
19/12/2018



(i) **CONSIDERATION OF "COMPANIES PROFITS (WORKERS' PARTICIPATION AMENDMENT) BILL, 2018" INTRODUCED BY SENATOR, GIACHAND AND SENATOR, SASSUI PALIJO IN THE SENATE SITTING HELD ON 5<sup>TH</sup> MARCH, 2018 ALONGWITH CONSIDERATION ON THE PROGRESS OF THE SUB-COMMITTEE CONSTITUTED ON THE MATTER.**

Proposed Amendment Bill, 2018	Impact of Amendments	Recommendations of Fund Secretariat on Proposed Amendments
<p>Further to amend the Companies Profits (Workers' Participation) Act, 1968 -</p> <p><b>Whereas</b> it is expedient further to amend the Companies Profits (Workers' Participation) Act, 1968, for the purpose hereinafter appearing;</p> <p>It is hereby enacted as follows:-</p>	<p>Since the amendments made in Companies Profits (Workers' Participation) Act, 1968 through Finance Act 2007 were declared unlawful and ultra vires of the Constitution by the Honourable Supreme Court of Pakistan vide judgment dated 10.11.16, therefore, the number of workers eligible to get share out of Workers' Participation Fund reduced drastically.</p> <p>The amendment in Companies Profits (Workers' Participation) Act, 1968 is proposed to cover more workers under the scheme.</p>	<p>Any amendment will be confined to Islamabad Capital Territory (ICT) only. Therefore presently it is not in the interest of fund and workers till its devolution fate is not decided.</p>
<p><b>1. Short title, extent and commencement:</b></p> <p>(1) This Act may be called the Companies Profits (Workers' Participation) (Amendment) Act, 2018</p> <p>(2) It extends to the Islamabad Capital Territory.</p> <p>(3) It shall come into force at once.</p>	<p>The national interest of Pakistan in relation to the achievement of uniformity within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter.</p> <p>The extension of this Act only to Islamabad Capital Territory would result into disparity among the workers in different provinces with regard to their share in the Workers' Participation Fund.</p>	<p>(1) and (2) Disagreed. Presently it extends to the whole of Pakistan. Since the devolution of WWF is yet to be decided by the Council of Common Interests (CCI), therefore amendment in Section 2 of the Companies Profits (Workers' Participation) Act, 1968 is not supported till the final decision of CCI.</p> <p>(3) As above.</p>
<p><b>2. Amendment of Section 2, Act XII OF 1968:-</b> In the Companies Profits (Workers' Participation) Act, 1968, hereinafter referred to as the said Act, in Section 2, for clause (f), the following shall be substituted, namely:-</p>	<p>Since majority of the large-scale companies outsource their manufacturing activities, therefore such workers are deprived of getting benefits from the scheme. However, the proposed amendment covers even those workers who are employed by or through the contractors.</p>	<p>May be pended till the fate of devolution is decided.</p>

<p>(f) "Worker" in relation to a company means an employee of the company, including employed by or through the contractors, who falls within the definition of a worker as defined in clause (xxxiii) of Section 2 of the Industrial Relation <u>Act, 2012</u> (<u>Act X of 2012</u>) and has been working for or in the company for a period of not less than six months.</p>		
<p>3. <b>Amendment of Schedule, Act XII of 1968:-</b> In the said Act, in the Schedule for paragraph 4 the following shall be substituted, namely:-</p> <p>4. <b>Distribution of benefits to workers:-</b> The share of a worker in the annual allocation to the Fund shall be expressed in units or fractions of units (Worked out to two places of decimal) of the face value of Rs.10 determined in the following manner, namely:-</p> <p>(a) The number of available units shall be so divided into three parts for the three categories of workers mentioned below a worker in the first of those categories gets four units for each two units that a worker in the second of those categories gets or for each one unit that a worker in the last of those categories gets:-</p> <p style="text-align: center;"><b>CATEGORIES</b></p> <p>(i) Workers drawing average minimum monthly wages not exceeding the minimum wages fixed by Government under the Minimum Wages Ordinance, 1961 (Ordinance No.XXXIX of 1961) from time to time.</p> <p>(ii) Workers drawing average monthly wages exceeding the minimum wages as fixed by Government from time to time under the Minimum Wages Ordinance, 1961 (Ordinance No.XXXIX of 1961) but not exceeding two and one-half times of such wages.</p> <p>(iii) Workers drawing average monthly wages exceeding two and one-half times of minimum wages.</p>	<p>The categories of workers to determine their share in the annual allocation to the Fund are proposed to be revised in proportion to the minimum wages as fixed by Government from time to time under the Minimum Wages Ordinance, 1961.</p> <p>Through this amendment, maximum number of workers in a company would be eligible to get the share out of Workers' Participation Fund.</p>	<p>May be pended till the fate of devolution is decided.</p>

(F) The average monthly shall be rounded up to the nearest Rs.10.

(c) The number of units available to each category of workers shall be divided equally among all the workers in that category to determine the share of each worker of that category:

4(d) Notwithstanding anything contained in this scheme, no worker shall, in any one year, be entitled out of the annual allocation to unit exceeding the amount of four times of the minimum wages for unskilled worker as fixed by Government under the Minimum Wages Ordinance, 1961 (Ordinance No. XXXIX of 1961) in value in so far as such allocation is relatable to clause (b) of sub-section (1) of section 3. Any amount left out of the annual allocation after the units have been so allocated shall be transferred to the Fund constituted under section 3 of the Workers Welfare Fund Ordinance, 1971 (XXXVI of 1971). No part of such amount shall be deemed to be included in the net asset value of the Fund established under this Act and no individual worker shall have any lien on this amount by virtue of holding any units.

**Explanation:-** In this paragraph, "average monthly wages" means total wages drawn during the year of account divided by 12, or by the number of months a worker actually worked during a year in respect which he is entitled to the benefit under the scheme, as the case may be, and "wages" has the same meaning as in clause (vi) of section 2 of the Payment of Wages Act, 1936 (IV of 1936); but does not include any overtime allowance or bonus.

May be pended till the fate of devolution is decided.

**STATEMENT OF OBJECT AND REASONS**

The \*Blue-Chip companies are backbone of the economy of the country. They are paying huge taxes and profits to the Government of Pakistan, but the workers of said companies are not getting due dividends of progress these organizations are making day by day. The workers of the companies, as per law, are entitled of

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5% of the profit which said companies earn from time to time. In this regard, a limit of Rs.10000/- of a worker's pay is fixed to make him eligible for the share from the said profit of 5% which limit, in 2007, was enhanced upto Rs.15000/- through Finance Bill of 2007. However, the Supreme Court of Pakistan held that amendments in the law including such enhancement through Finance Bill is illegal though the Act of enhancement itself is not objectionable.

2. It is important to note that due to above limit of Rs. 10000/- about 98% of the workers are kept deprived from receiving share out of profits. Resultantly, huge amounts from the profits are transferred to Workers Welfare Fund which is not too beneficial for the workers hence it causes desperation among workers.

2. Agreed to the extent that due to limit of Rs. 10000/- many workers get deprived from receiving share out of profits. As far as, transfer of huge amounts from the profits to WWF is concerned, the same is utilized for enhancing the welfare and living standards of industrial workers and their families by providing them residential accommodation in shape of flats/houses, free quality education upto Ph.D level to workers children and death/marriage grants. Workers Welfare Fund has constructed 65,728 housing units, disbursed 146,338 marriage grants amounting to Rs. 7,437 million and 18,405 death grants amounting to Rs. 5,581 million. Apart from this, Workers Welfare Fund provided free education to 194,354 workers' children costing Rs. 8,367 million. It is important to note that educating children of a worker is much more beneficial than giving him/her share out of profits in the shape of money. Education is an investment to ensure future well-being of workers in the country, as it reduces poverty, boosts economic growth and increases income. Investing in quality education brings the highest

<p>3. By keeping the workers on priority, there is need to spend 80% of the above said 5% of the profits on workers who by their sweat and blood are making the companies profitable and the remaining amount must be deposited in the Workers Welfare Fund.</p>	<p>This amendment would lead to less receipts of Workers Welfare Fund. As a result, WWF would be unable to protect rights of workers belonging to industrial establishments which are either going in loss or earning less profits.</p>	<p>returns from individuals, society and country.</p> <p>3. Disagreed. In order to bring uniformity in socio-economic conditions of workers across the country, the Workers Welfare Fund extends benefits to all workers in a similar manner irrespective of the contribution made by their employer.</p>
<p>4. This Bill is designed to achieve objective.</p>	<p>----</p>	<p>----</p>

\* Blue chips are generally self-highquality widely accepted products and services. Blue Chips Companies are known to weather downturns and operate profitably in the face to adverse economic conditions, which helps to contribute to their long record of stable and reliable growth. Some of the Blue Chips following within the ambit of Federal Workers Welfare Fund Ordinance, 1971 / WPPF Act, 1968 are OGDCL, Hub Power Co., Pakistan Oil Fields, Engro Group of Companies, Attock Petroleum etc.

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*further to amend the Companies Profits (Workers' Participation) Act, 1968*

**WHEREAS** it is expedient further to amend the Companies Profits (Workers' Participation) Act, 1968, for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title, extent and commencement.**- (1) This Act may be called the Companies Profits (Workers' Participation) (Amendment) Act, 2018.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

**2. Amendment of section 2, Act XII of 1968.**- In the Companies Profits (Workers' Participation) Act, 1968, hereinafter referred to as the said Act, in section 2, for clause (f), the following shall be substituted, namely:-

"(f) "Worker" in relation to a company means an employee of the company, including employed by or through the contractors, who falls within the definition of a worker as defined in clause (xxxiii) of section 2 of the Industrial Relation Act, 2012 (Act X of 2012) and has been working for or in the company for a period of not less than six months.

**3. Amendment of Schedule, Act XII of 1968.**- In the said Act, in the Schedule for paragraph 4 the following shall be substituted, namely:-

**"4. Distribution of benefits to workers.**- The share of a work in the annual allocation to the Fund shall be expressed in units or fractions of units (worked out to two places of decimal) of the face value of Rs. 10 determined in the following manner, namely:-

(a) The number of available units shall be so divided into three parts for the three categories of workers mentioned below a worker in the first of those categories gets four units for each two units that a worker in the second of those categories gets or for each one unit that a worker in the last of those categories gets:-

