

135

REGISTERED No. **M-302**
L-7646

The Gazette  **of Pakistan**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

ISLAMABAD, TUESDAY, JUNE 10, 1997

PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 10th June, 1997

No. F. 9(14)/97-Legis.—The following Acts of Majlis-e-Shoora (Parliament) received the assent of the President on the 7th June, 1997, are hereby published for general information :—

ACT No. XVIII OF 1997

An Act further to amend the Banks (Nationalization) Act, 1974

WHEREAS it is expedient further to amend the Banks (Nationalization) Act, 1974 (XIX of 1974), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Banks (Nationalization) (Amendment) Act, 1997.

(2) It shall come into force at once.

2. **Amendment of section 3, Act XIX of 1974.**—In the Banks (Nationalization) Act, 1974 (XIX of 1974), hereinafter referred to as the said Act, in section 3, sub-sections (3) and (4) shall be omitted.

3. **Omission of section 4, Act XIX of 1974.**—In the said Act, section 4 shall be omitted.

4. **Amendment of section 8, Act XIX of 1974.**—In the said Act, in section 8, sub-section (5) shall be omitted.

5. **Substitution of section 9, Act XIX of 1974.**—In the said Act, for section 9 the following shall be substituted, namely :—

“9. *Dissolution of the Pakistan Banking Council.*—(1) The Pakistan Banking Council (hereinafter referred to as the Council) shall stand dissolved forthwith.

(2) All assets, properties and rights of the Council shall stand transferred to and vest in, and all liabilities and other encumbrances of the Council shall stand transferred to and become the liabilities and encumbrances of, the State Bank.

(3) Employees of the Council, including its members,—

(a) who are on deputation or secondment from any public sector financial institution shall revert to, and continue to be employed by, their parent institutions on terms and conditions governing their employment in their parent institutions ; and

(b) who do not fall in clause (a) shall become employees of the State Bank on terms and conditions governing their employment with the Council.

(4) Every contract or instrument to which the Council is a party shall continue to be in force and effective as if the State Bank had been a party thereto instead of the Council.

(5) Any legal proceedings or, as the case may be, any application pending before any authority by or against the Council may be continued by or against the State Bank.

(6) Where under any statute or statutory instrument, the Chairman or a member of the Council is nominated for a specified assignment or task, the vacancy caused by operation of this section shall be filled by a person nominated by the State Bank.”

6. **Substitution of section 10, Act XIX of 1974.**—In the said Act, for section 10 the following shall be substituted, namely :—

“10. *Transfer and using of funds.*—All sums standing to the credit of the Council in the fund constituted heretofore shall stand transferred to, and vest in, the State Bank.”

7. **Substitution of section 11, Act XIX of 1974.**—In the said Act, for section 11 the following shall be substituted, namely :—

“11. *General provisions pertaining to management of banks.*—(1) Subject to Sub-section (2), a bank shall have a Board consisting of—

(a) a President, who shall be its Chief Executive ; and

(b) not less than five and not more than seven other members.

(2) The Federal Government may, if it deems necessary, appoint a Chairman of the Board in respect of a bank.

(3) The Chairman, the President, and other members of the Board—

(a) shall be appointed by the Federal Government, in consultation with the State Bank, for a term of three years, on such terms and conditions as may be fixed by the General Meeting of the bank; provided that the Chairman and the President shall be appointed from amongst professional bankers whose names are included in a panel of bankers qualified to be the Chairman or the President, which panel shall be determined, maintained and varied, from time to time, by the State Bank ;

(b) may be removed for misconduct or physical and mental incapacity before the expiry of the three years term by the Federal Government in consultation with the State Bank;

(c) shall stand removed if he becomes ineligible on any of the grounds specified in sub-section (12) ; and

(d) may be re-appointed by the Federal Government, in consultation with the State Bank of Pakistan, for a further period of three years.

(4) The general direction and superintendence of the affairs and business of a bank, and overall policy making in respect of its operations, shall vest in its Board.

(5) The Board shall determine—

(i) the credit policies of the banks ;

(ii) evaluation criteria for the performance of the employees of the bank other than the President ;

(iii) personnel policies of the bank, including appointment and removal of officers and employees ;

(iv) guidelines for entering into any compromise with borrowers and other customers of the bank ; and

(v) any other policy matter.

(6) The Chief Executive and other officers of the bank shall act in accordance with the policies, criteria and guidelines determined by the Board.

(7) The Board shall appoint committees from amongst the executives of the bank, and determine the powers, functions and duties of such committees.

(8) Where the Federal Government has appointed a Chairman, he shall preside over the meetings of the Board, and in case a Chairman has not been appointed, then the President shall preside over the meetings of Board. In the absence of the Chairman or the President, as the case may be, the directors may elect one of the member to preside over the meetings.

(9) The President, subject to the control and directions of the Board, shall exercise powers of management of the affairs of the bank..

(10) All selections, promotions and transfer of employee of banks except the President and decisions as to their remuneration and benefits shall be made by the President in accordance with the evaluation criteria and personnel policies determined by the Board.

(11) The Board, the President and other officers shall exercise their powers and discharge their duties in accordance with sound banking principles and prudent banking practices and shall ensure compliance with regulations and directions that may be issued by the State Bank from time to time.

(12) No person shall be eligible for appointment as the Chairman, the President, or a member of the Board if—

- (a) he is or has at any time been adjudged insolvent or has suspended payment or has compounded with his creditors ; or
- (b) he is a minor or is found a lunatic or of unsound mind ; or
- (c) he is not citizen of Pakistan ; or
- (d) he was at any time in the service of the Federal Government or a corporation controlled by any such Government or in the service of a bank and was dismissed ; or
- (e) he is a person against whom any action has been taken or any proceedings are pending under section 412 of the Companies Ordinance, 1984, (XLVII of 1984), or section 83 of the Banking Companies Ordinance, 1962 (LVII of 1962); or
- (f) he is, or has been, convicted for tax evasion under any law for the time being in force ; or
- (g) he is a member of the Senate, National Assembly, any Provincial Assembly or an elected Member of a local council constituted under any law relating to local councils ; or
- (h) he is holding an office in a political party."

8. **Insertion of new section 11A, Act XIX of 1974.**—In the said Act, after

section 11, the following new section shall be inserted, namely :—

“11A. *Provisions pertaining to management of banks to apply to certain financial institutions.*—Notwithstanding anything to the contrary contained in any other law for the time being in force, or in any agreement, contract, award, memorandum and article of associations or any other instruments, the provision of section 11 shall apply to—

- (i) National Development Finance Corporation.
- (ii) Investment Corporation of Pakistan.
- (iii) National Investment Unit Trust.
- (iv) House Building Finance Corporation.
- (v) Small Business Finance Corporation.
- (vi) Regional Development Finance Corporation.
- (vii) First Women Bank Limited, and

such other financial institutions, as the Federal Government may, by notification in the official gazette, specify.

9. **Omission of section 15, Act XIX of 1974.**—In the said Act, section 15 shall be omitted.

10. **Amendment of section 16, Act XIX of 1974.**—In the said Act, in section 16, in clause (a) the commas, words, brackets and figures “, unless other provisions are made for their redistribution in accordance with a scheme prepared under sub-section (1) of section 15,” shall be omitted.

11. **Substitution of section 18, Act XIX of 1974.**—In the said Act, for section 18 the following shall be substituted, namely :—

“18. *Indemnity.*—No suit, prosecution, or other legal proceedings shall lie against the Federal Government, the State Bank, the President or directors of the Board, of a bank or any officer of the Federal Government or the State Bank or a bank for anything in good faith done or purporting to be done under this Act or any rule or order made or direction issued thereunder or for any damage caused or likely to be caused by anything done or purporting to be done as aforesaid.”

12. **Repeal.**—(1) The Banks (Nationalization) (Amendment) Ordinance, 1997 (VIII of 1997), is hereby repealed.

(2) Notwithstanding any thing contained in the General Clauses Act 1897 (X of 1897), or in any appointment order or contract, no person shall have any vested right in respect of his appointment as a Chairman, a President or a member of a Board or any terms and conditions of his appointment made under the Ordinance repealed under sub-

section (1) and the Federal Government may, within thirty days of the commencement of the Banks (Nationalization) (Amendment) Act, 1997 appoint a Chairman (if deemed necessary), a President or any member of the Board of any bank or financial institution.