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PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 23rd November, 1991

The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 22nd November, 1991, and is hereby published for general information:—

ACT NO. XV OF 1991

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) (Third Amendment) Act, 1991.

(2) It shall come into force at once and sections 2, 3, 4, 5, 6 and 7 shall be deemed to have taken effect on the thirtieth day of June, 1990.

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,—

(467)

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(1) after clause (1), the following new clause shall be inserted, namely:—

“(1A) “Board” means Board of Directors constituted under this Act;”
 and

(2) for clause (4) the following shall be substituted, namely:—

“(4) “Executive Committee” means the Executive Committee of a Board constituted under this Act;”.

3. **Insertion of new sections 5A and 5B, Act XIX of 1974.**—In the said Act, after section 5, the following new sections shall be inserted, namely:—

“5A. *Sale of shares.*—(1) Notwithstanding anything contained in this Act or any other law for the time being in force, the Federal Government or a corporation owned or controlled by the Federal Government may, from time to time sell all or any of its shares in the capital of a bank and transfer management and control of a bank other than the State Bank, to such persons, and on such terms and conditions, as the Federal Government may determine; and

(a) where not less than twenty-six per cent of the shares in the capital of a bank are so sold, the application of the provisions of this Act, other than this sub-section, including provisions relating to ownership of shares and management and control of banks, to such bank shall stand suspended for such period, and on such terms, including terms guaranteeing the security of deposits and terms relating to sound management of the bank, as the Federal Government may, by notification in the official Gazette, specify; and

(b) where not less than fifty-one per cent of the shares are so sold, the provisions of this Act shall cease to apply to such bank.

(2) The Federal Government shall have, and be deemed always to have had, the power to determine and lay down the terms and conditions subject to which shares in the capital of a bank are to be sold and its management and control is to be transferred to any person under sub-section (1).

(3) The power referred to in sub-section (1) may be exercised by the Federal Government at any time either before or after a decision is taken by the Federal Government to sell the shares and transfer the management of a bank as aforementioned, and the Federal Government shall be competent to vary, modify, review or annul any or all of the terms and conditions referred to in sub-section (2) at any time it deems fit to do so in the public interest, until the sale of the shares and transfer of management and control are completed, and such variation, modification, review or annulment shall not be called in question in any Court, or before any authority, on any ground whatsoever.

5B: *Section 5A to have effect notwithstanding any other law, etc.*—The provisions of section 5A shall have effect notwithstanding anything contained in this Act or any other law for the time being in force, any agreement of contract, or any judgement of any Court.”

4. Amendment of section 9, Act XIX of 1974.—In the said Act, in section 9,—

(1) in sub-section (2), in clause (iv),—

- (a) after the word “three”, the words “full time” shall be inserted;
- (b) for the colon at the end a full stop shall be substituted; and
- (c) the proviso shall be omitted;

(2) for sub-section (4) the following shall be substituted, namely:—

“(4) The functions of the Council shall be—

- (i) laying down guidelines and performance criteria and formulating performance targets for banks and development financing institutions controlled by the Federal Government, hereinafter referred to as the said institutions;
- (ii) monitoring progress made by banks and the said institutions in achieving performance targets, profitability and efficiency and advising the Boards for taking corrective action;
- (iii) periodic evaluation of the achievements of banks and submission of evaluation to the Board, the State Bank and the Federal Government;
- (iv) requiring banks to formulate annual budgets, expenditure regulations and procedures relating to sanction of fund based and non-fund based facilities with the approval of their Boards;
- (v) monitoring the cost of operations of banks;
- (vi) acting as arbitrator in the settlement of inter-bank disputes and disputes between the said institutions;
- (vii) watching the progress of implementation of the rulings and recommendations and removal of objections made in the State Bank’s Inspection Reports and remedial and corrective measures taken by the banks;
- (viii) assisting the State Bank in establishing a Credit Information Bureau;

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- (ix) conducting such surveys, inquiries and appraisals as may be necessary for the purpose of this Act or as may be required by the Federal Government;
 - (x) making recommendations to the Federal Government for framing policy for recruitment of officers for banks and the Council on competitive basis;
 - (xi) establishing a Central Training Institute for advanced specialized training of officers at management level;
 - (xii) formulating schemes under section 15;
 - (xiii) carrying out inspection of the banks including their subsidiaries as may be necessary:

Provided that inspection of branches or subsidiaries of a bank located in a foreign country shall be carried out in keeping with the laws of that country;

- (xiv) advising banks and the said institutions on the following matters without in any way interfering in their management by their respective Boards, namely:—
 - (a) area of co-ordination between banks and the said institutions and planning their operations;
 - (b) appointment of lead banks and the apportionment of share of advances amongst the banks in respect of consortium loans, keeping in view the resource availability of each bank or as may be directed by the Federal Government;
 - (c) removal of imbalances in banking facilities provided to customers both with regard to commodities as well as regions;
 - (d) development of management information systems and schemes for modernization of banks including installation of computers, telefax and other modern technology;
 - (e) establishment of a research department;
 - (f) devising policy for pre-service and in-service training of the personnel of banks; and
 - (g) devising policy for promotion, incentives and salary structure for officers; and
- (xv) exercising and performing such powers and functions of the Federal Government under this Act, and such other functions, as the Federal Government may, from time to time, assign to the Council.”

- (3) after sub-section (4), substituted as aforesaid, the following new sub-section shall be inserted, namely:—

“(4A) When the Council advises a bank or one of the said institutions on any matter, the President of the bank or, as the case may be, the head of the institution shall promptly place such advice before the Board or Executive Committee for consideration.”; and

- (4) after sub-section (5) the following new sub-section shall be inserted, namely:—

“(5A) In the discharge of its functions, the Council shall act on sound business principles and be guided by such directives in matters of policy involving the public interest as may be given to it by the Federal Government, which shall be the sole judge as to whether or not any matter is a matter of policy involving the public interest.”.

5. **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) A bank shall have a Board of Directors consisting of the President and six other members to be nominated by the Federal Government.

- (2) 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 which may exercise all such powers and do all such acts, deeds and things as the bank was competent, immediately before the commencing day, to exercise or do in a meeting of the Board of Directors.

- (3) A bank shall have an Executive Committee consisting of the President and four other members being executives of the bank to be nominated by the Board, and the Executive Committee shall conduct the day-to-day affairs and business of the Bank under the guidance and supervision of the Board.

- (4) A bank shall have an Evaluation Committee consisting of the President and such members as may be appointed by the Board from amongst such of its members as are not executives of the bank; and the Evaluation Committee shall—

(a) recommend to the Board the criteria that should be laid down for different categories of employees for carrying out a fair assessment of the merit of the executives and other employees; and

(b) monitor and assess the performance of the employees of the bank, other than the President, and report its findings to the Board.

- (5) The President shall be the Chief Executive of a bank and shall preside at the meetings of the Board, the Executive Committee and the Evaluation Committee and direct, manage and control the affairs of the bank.
- (6) The Chairman and members of the Council, and the President and members of the Boards, shall be appointed by the Federal Government and shall hold office during the pleasure of the Federal Government on such terms and conditions as may be approved by it.
- (7) No person shall be eligible for appointment as the Chairman or a member of the Council, or the President or a member of the Board or the Executive Committee, if—
- (i) he is or has at any time been adjudged an insolvent, or has suspended payment or has compounded with his creditors; or
 - (ii) he is a minor or is found lunatic or of unsound mind; or
 - (iii) he is not a citizen of Pakistan; or
 - (iv) he was at any time in the service of the Federal Government or a corporation or Board owned or controlled by any such Government or in the service of a bank and was dismissed; or
 - (v) 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
 - (vi) he is or has been convicted of any offence of tax evasion under any law for the time being in force:
- Provided that the Federal Government shall, before appointing any person, satisfy itself that the person will have no such financial or other interest as is likely to affect prejudicially the performance by him of the functions of the office to which he is being appointed.
- (8) The Chairman and a member of the Council and the President and a member of the Board and the Executive Committee shall be liable to such disciplinary action and penalties, to be awarded in such manner and by such authorities, as may be prescribed.
- (9) In the discharge of their functions, the President and members of the Board and the members of the Executive Committee shall act on sound business principles and be guided by such directives in matters of policy involving the public interest as may be given to the bank by the Federal Government, which shall be the sole judge as to whether or not any matter is a matter of policy involving the public interest.

- (10) In the exercise of their powers, the Board of Directors, the Executive Committee and the President of a bank incorporated by or under any special law shall not be subject to any restrictions which do not apply to the Board of Directors, the Executive Committee or the President of a bank registered under the Companies Ordinance, 1984 (XLVII of 1984).
- (11) The banks shall furnish to the Council such information, returns or reports as may be required of them.
- (12) Except as provided in sub-section (3) of section 12, the Federal Government, the Council, the President, the Board or the Executive Committee shall not issue any directive or take any decision in contravention of the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), or the Banking Companies Ordinance, 1962 (LVII of 1962).
- (13) The Federal Government may constitute such consultative bodies at the Provincial and other levels as may, in its opinion, be necessary for gathering information from the public to identify areas of improvement in service and facilities to customers and the public, including measures for meeting regional credit requirements."

6. Amendment of section 12, Act XIX of 1974.—In the said Act, in section 12,

- (i) in sub-section (1), for the words "members of its board of management" the words and commas "the President, members of the Board, and members of the Executive Committee" shall be substituted;
- (ii) in sub-section (2), for the words "members of the board of management" the words and commas "the President, members of the Board and members of the Executive Committee" shall be substituted; and
- (iii) after sub-section (2), amended as aforesaid, the following new sub-section shall be added, namely:—

"(3) Notwithstanding anything contained in sub-sections (1) and (2), every balance sheet and profit and loss account prepared by a bank under any law for the time being in force shall include a statement in the form and manner specified by the State Bank of written off loans or any other financial relief of five hundred thousand rupees or above allowed to a person.

"(4) Notwithstanding anything contained in sub-sections (1) and (2), the State Bank shall prepare, and submit to the Federal Government, a special report every year on cases of write off of loans, mark-up and other dues, or financial relief through rescheduling and restructuring of loans and subsidized loans provided by the nationalized commercial banks, in which established banking practices or authorized procedures have been departed from with a view to causing wrongful loss to the bank or conferring wrongful

gain on any constituent or such departure has caused wrongful loss to the bank or conferred wrongful gain on any constituent. If the matters raised in the report relate to public interest, the Federal Government may submit the report, or such part of it as relates to public interest, to the Parliament or to the Standing Committee or a House of Parliament dealing with Finance.”.

7. **Amendment of section 18, Act XIX of 1974.**—In the said Act, in section 18, for the words “members of the Executive Board” the words and commas “or members of the Board, or members of the Executive Committee, of a bank” shall be substituted.

8. **Repeal.**—Section 14 of the Finance Act, 1990 (VII of 1990), is hereby repealed and shall be deemed to have been so repealed on the thirtieth day of June, 1990.

9. **Validation.**—Any action taken, contract executed, agreement entered into, offer made and accepted or instrument issued, any invitation or offer published or notified or order made, by the Federal Government on or after the thirtieth day of June, 1990, in respect of the sale of any shares in the capital of a bank, or transfer of management and control of any bank, to any person, and all other acts incidental thereto or dealing with matters ensuing as a consequence of such sale of shares and transfer of management and control, are, notwithstanding anything contained in the said Act, or any other law or instrument having the force of law for the time being in force or any decision of any court, hereby declared to have been, and shall be deemed always to have been, validly taken, executed, entered into, made and accepted, issued, published, sold, transferred or made and shall not be called in question in any Court on any ground whatsoever.

AZIZ AHMED QURESHI,
Secretary.