

Provincial Industrial Development Corporation (West Pakistan) (West Pakistanamendment) Ordinance, 1963

3 of 1963

[24 January 1963]

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Provincial Industrial Development Corporation (West Pakistan) (West Pakistanamendment) Ordinance, 1963

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An Ordinance to amend Provincial Industrial Development Corporation (West Pakistan) Ordinance, 1962 Preamble.- WHEREAS it is expedient to amend the Provincial Industrial Development Corporation (West Pakistan) Ordinance, 1962 (Ordinance No.XXXVIII of 1962); AND, WHEREAS, the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan is satisfied that circumstances exist which render immediate legislation necessary; Now, THEREFORE, in pursuance of the powers vesting in him under clause (1) of Article 79 of the Constitution, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:-

1. Short Title And Commencement :-

(1) This Ordinance may be called the Provincial Industrial Development Corporation (West Pakistan) (West Pakistan Amendment) Ordinance, 1963.

(2) It shall come into force at once.

2. Amendment Of Section 2 Of Ordinance No. Xxxviii Of

1962 :-

In section 2 of the Provincial Industrial Development Corporation (West Pakistan) Ordinance, 1962 (Ordinance No.XXXVIII of 1962), hereinafter referred to as the principal Ordinance,-

(i) after clause (a), the following clause (aa) shall be inserted, namely:-

"(aa) borrower means any person or persons or body of persons whether incorporated or not to whom a loan is made by the Corporation or by a scheduled bank on the guarantee of the Corporation under this Ordinance and includes the successors and assignees of such persons",

(ii) after clause (c), the following clause (cc) shall be inserted, namely:-

"(cc) cottage industry means an industry which is carried on wholly or primarily with the help of the members of a family, as a wholetime or part-time occupation;"

(iii) the full stop at the end of clause (i) shall be replaced by a semi-colon and thereafter the following clauses shall be added, namely:-

"(j) scheduled bank means a bank for the time being included in the list of banks maintained under sub-section (I) of section 37 of the State Bank of Pakistan Act, 1956[2];

(k) Small Industrial Estate means an estate established or managed by the Corporation to provide land and other facilities for establishment and development of industries;

(l) small industry means an industry engaged in the handicrafts or the manufacture of consumers and producers goods employing-

(i) manual labour without use of any motive power; or

(ii) employing twenty persons or less using motive power;

(m) State Bank means the State Bank of Pakistan".

3. Insertion Of Section 13-A In Ordinance No. Xxxviii Of 1962 :-

After section 13 of the principal Ordinance, the following section shall be added, namely:-

"13-A. Power of Board to associate other persons.- (1) The Board may associate with itself in such manner and for such period as it may deem fit any person whose assistance or advice it may desire in carrying out any of the provisions of this Ordinance.

(2) A person associated under sub-section (1) for any purpose shall

have a right to take part in the discussion of the Board relating to that purpose, but shall not have a right to vote and shall not be deemed to be a Director for any other purpose.

(3) The Board may constitute such technical and advisory committees as may be necessary for the carrying out of the purposes of this Ordinance."

4. Amendment Of Section 15 Of Ordinance No. Xxxviii Of 1962 :-

In section 15 of the Principal Ordinance-

(1) In sub-section (2), for clause (a), the following shall be substituted, namely:-

"(a) planning, promoting, organising and implementing programmes for-

(i) the establishment of industries listed in the Schedule;

(ii) the establishment of any industries in Small Industrial Estate;

(iii) the exploitation of forests and fisheries."

(2) After sub-section (11), the following sub-section shall be added, namely:-

"(12) (a) In accordance with the provisions of this Ordinance, the Corporation shall take such measures as it thinks fit to render assistance in the establishment and development of industries;

(b) In particular and without prejudice to the generality of the foregoing power, the Corporation may, in order to carry out the development of cottage and small industries and industries established in the Small Industrial Estates-

(i) give loans to borrowers for the purposes of such industries;

(ii) furnish guarantees to the scheduled banks for the re-payment of loans to borrowers for the development of such industries and to share losses on account of bad debts in accordance with the agreements in this regard between the Corporation and those banks:

Provided that the loans given under clause (i) or guaranteed under clause (ii) shall be repayable within a period not exceeding twenty-five years.

Explanation- Loans made by the Corporation may be in kind or in the form of factory buildings, residential house, or machinery and equipment on a hire-purchase basis."

5. Insertion Of Sections 15-A To 15-I In Ordinance No. Xxxviii Of 1962 :-

In the principal Ordinance after section 15, the following section shall be inserted, namely:-

"15-A. Limit for accommodation.- The Corporation shall not grant or guarantee any such subscriptions or loans as are mentioned in sub-section (9) or sub-section (12) of section 15 to an extent which in the aggregate exceeds such limit as may be notified by Government from time to time.

15-B. Security for loans or subscription.- No loans or subscriptions shall be made unless it is adequately secured by pledge, mortgage, hypothecation or assignment of such property, movable or immovable, and of such value in proportion to the loan or subscription as may be notified by Government from time to time: Provided that where the loan or subscription is made to an individual and does not exceed one thousand rupees in the aggregate, it may be secured by a bond with two sureties.

15-C. Limit of Loan or guarantees.- (1) The Corporation shall not make loans or furnish guarantees, in the case of industries and cottage industries located outside the Small Industrial Estates, in excess of the following aggregate limits, namely:-

Rs.

(a) When made to an individual 50,000

(b) When made to any borrower other than an individual 1,00,000

Provided that the above limits may be relaxed by Government in special cases on the recommendation of the Corporation subject to a maximum of one lakh of rupees in the case of an individual and two lakhs of rupees in other cases.

(2) The Corporation shall not make loans or furnish guarantees in the case of industries located in the Small Industrial Estates, in excess of such aggregate limits as may be notified by Government from time to time.

15-D. Power to impose conditions.- At the time of entering into any transaction under sub-section (12) of section 15, the Corporation may impose such conditions as it may think necessary or expedient for protecting its own interest and for securing that the loan, under writing, subscription or other aid shall be put to the best use.

15-E. Loans in foreign currency.- (1) The Corporation may, with the previous consent of the Government and the Central Government[3] and on such terms and conditions as may be approved by the Government, borrow in foreign currency from the International Bank for Re-construction and Development or other wise moneys required for the development of industries referred to in section 15. In the case of loan secured for the purposes of sub-

section (12) of section 15, the Corporation may pledge, mortgage, hypothecate or assign to the said bank or other lender all or any part of the security taken by the Corporation for the loan granted in foreign currency.

(2) All loans obtained in foreign currency shall be repayable either-

(a) in the currency in which they are obtained; or

(b) in any other currency which is agreed upon by the loan-giving agency and the Government and the Central Government[4]; or

(c) in Pakistan currency at the rate of exchange prevailing on the date of re-payment.

15-F. Power to demand immediate payment of the entire sum.- (1) Notwithstanding anything in any agreement or in any law to the contrary, if-

(a) it is found that the loan was obtained by information supplied by the borrower which was false or misleading in any material particular; or

(b) the borrower is found to have committed a breach of the terms of his agreement with the Corporation relating to the loan; or

(c) the loan or any part of it is found to have been utilized otherwise than for the purpose for which it was made; or

(d) there is a reasonable apprehension that the borrower will be unable to pay his debts or may go into liquidation; or

(e) the property pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan is not kept in a proper condition by the borrower or the property has depreciated in value by more than the prescribed percentage and the borrower is unable to give additional security to the satisfaction of the Corporation; or

(f) without the permission of the Board, the house, land or other property, mortgaged as security for the loan is in any way disposed of or charged by the borrower; or

(g) without the permission of the Board, machinery or other equipment is removed from the premises of the borrowers industrial establishment without being replaced; or

(h) for any other reason, it is necessary in the opinion of the Board to do so in order to protect interest of the Corporation,

any officer of the Board authorized generally or specially in this behalf by the Board, may by notice call upon the borrower to pay up the entire sum then remaining unpaid by the borrower in respect of the loan and the interest payable thereon, or any lesser sum, as the case may be, or require the borrower to surrender the factory building, residential house, machinery and equipment or other materials given to him by way of a loan, or require him to

comply with such directions as the Board may consider necessary to give in order to safeguard its interests.

(2) Such notice shall specify the time within which the borrower is required to make the payment or to surrender the factory building, residential house, machinery and equipment or materials or to carry out the directions given and shall also contain a warning that, if the borrower fails to pay the amount demanded or to surrender the factory building, residential house, machinery and equipment or materials or to carry out the directions given, as the case may be, within the time specified, the Board may issue a certificate certifying the borrower to be a defaulter and certifying the sum due from the borrower to be recoverable as arrears of land-revenue.

15-G. Certification of sums recoverable.- (1) If the borrower fails to make the payment demanded or to carry out the directions given in a notice under section 15-F within the time specified in the notice, the Board may issue a certificate in the prescribed form and manner certifying the borrower to be a defaulter and certifying the aggregate sum, including interest, payable by the borrower to the Corporation on and upto the date of the certificate and the rate at which interest was payable thereafter.

(2) Subject to the provision of sub-section (3), a certificate issued under sub-section (1) shall be conclusive evidence that the sums certified in the certificate together with further interest at the rate certified were recoverable by the Corporation from the borrower.

(3) The borrower may within fifteen days of the issue of the certificate under sub-section (1) appeal to Government or any officer appointed by Government in this behalf, against the certificate and thereupon Government or the officer, as the case may be, may cancel or modify the certificate.

15-H. Recovery of dues from borrower or surety.- Notwithstanding anything in any agreement or in any law to the contrary-

(a) the Corporation shall have the option to recover the amount due from a borrower either from him or from his surety and a certificate issued under sub-section (1) of section 15-G shall also be executable against the surety as if he himself was the borrower;

(b) any transfer of properties pledged, mortgaged, hypothecated or assigned by the borrower as security for the loan so long as the loan or the interest thereon or any part thereof remains unpaid to the Corporation, shall be void as against the Corporation and such properties shall be liable to attachment and sale as if no such transfer has taken place;

(c) where a loan has been advanced in the form of a factory

building, residential house or machinery and equipment on hire-purchase basis and the borrower has committed a breach of the terms and conditions of the agreement or otherwise violated any provision of this Ordinance, or failed to comply with the notice issued under sub-section (1) of section 15-F, the Corporation shall be entitled to take possession of the factory building, residential house or machinery and equipment, as the case may be;

(d) all sums due to the Corporation from a borrower or any other person shall be recoverable as arrears of land revenue.

15-I. Act XVIII of 1891 to apply to the books of the Corporation.- The Corporation shall be deemed to be a bank for the purpose of the Bankers Books Evidence Act, 1891."