

Punjab Milk Boards Ordinance, 1963

38 of 1963

[20 November 1963]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :- ESTABLISHMENT OF MILK BOARD

3. Establishment And Incorporation Of The Board
4. Constitution Of The Board
5. Appointment Of Chairman
6. Appointment Of Project Director
7. Qualification And Removal Of Chairman
8. Appointment Of Officers, Etc
9. Fees And T.A. For Non-Official Members
10. Recruitment, Conditions Of Service And Disciplinary Powers
11. Meetings Of The Board
12. Forwarding Of Agenda, Etc., To Government
13. Delegation Of Powers

CHAPTER 3 :- FUNCTIONS AND POWERS OF THE BOARD

14. Functions Of The Board And Scheme
15. Power To Make Order

CHAPTER 4 :- PLANS, PROJECTS AND SCHEMES

16. Preparation Of Plans
17. Development Schemes And Projects
18. Subsidiary Organisation
19. Commercial Transactions

CHAPTER 5 :- FINANCE

20. Milk Board Fund
21. Power Of The Board To Borrow Money
22. Custody And Investment Of Funds
23. The Budget

CHAPTER 6 :- RULES AND REGULATIONS

- 24. Power To Make Rules
- 25. Power To Make Regulations

CHAPTER 7 :- SUPPLEMENTAL PROVISIONS

- 26. Chairman, Etc., Deemed Public Servants
- 27. Contribution By The Board Towards Leave, Allowances And Pension Of Government Servants
- 28. Penalties
- 29. Authority For Prosecution
- 30. Recovery Of Dues
- 31. The Powers Of The Chairman As To Institution, Etc., Of Legal Proceedings And Obtaining Legal Advice
- 32. Indemnity To The Board, Etc
- 33. Notice Of Suit Against The Board
- 34. Mode Of Proof Of The Boards Records
- 35. Restriction In The Summoning Of The Board Servants To Produce Documents
- 36. Validation Of Acts And Proceedings
- 37. General Powers Of The Board To Pay Compensation

CHAPTER 8 :- AUDIT AND ACCOUNTS

- 38. Accounts And Audit
- 39. Annual Report

CHAPTER 9 :- DISSOLUTION

- 40. Dissolution Of The Board

Punjab Milk Boards Ordinance, 1963

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[20 November 1963]

An Ordinance to regulate the production and marketing of milk and milk products in [3][the Punjab] Preamble.- WHEREAS it is expedient to regulate the production and marketing of milk and milk products in certain areas of [4][the Punjab]; 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 conferred on him under clause (1) of Article 79 of the Constitution, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:-

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(1) This Ordinance may be called the [5][Punjab] Milk Boards Ordinance, 1963.

(2) It extends to the whole of the province of [6][the Punjab].

(3) This section shall come into force at once and the remaining provisions shall come into force in such area or areas and on such date or dates as Government may, by notification in the official Gazette, specify in this behalf.

2. Definitions :-

In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) "Board" means a Milk Board established under this Ordinance;

(b) "Chairman" means the Chairman of the Board;

(c) "depot" means premises where milk or milk products are processed, manufactured or sold by the Board;

(d) "Government" means the [7][Provincial Government of the Punjab];

(e) "local area" means the area to which the provisions of this Ordinance have been applied;

(f) "member" means a member of the Board;

(g) "milch animals" mean cows, buffaloes, sheep and goats;

(h) "milk" means normal mammary secretion obtained from one or more milkings of milch animals without any addition thereto or extraction therefrom and includes milk treated to conform to such standard as may be prescribed;

(i) "milk products" means the products exclusively derived from milk;

(j) "owner" means owner of milch animals producing milk used exclusively for his own household consumption;

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

(l) "producer" means a producer of milk, other than the owner, who sells all or a part of milk produced by him;

(m) "Project Director" means the Project Director appointed under section 6;

(n) "Scheme" means a scheme prepared under this Ordinance.

CHAPTER 2

ESTABLISHMENT OF MILK BOARD

3. Establishment And Incorporation Of The Board :-

(1) As soon as may be after the commencement of this Ordinance in any local area, there shall be established a milk Board to carry out the purposes of this Ordinance in that area.

(2) The Board shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

4. Constitution Of The Board :-

(1) The Board shall consist of such members as may be appointed by Government.

(2) A member shall, unless sooner removed by Government, hold office for a term of three years and may be re-appointed for such period or periods as Government may, from time to time, specify.

(3) A casual vacancy shall be filled by Government and a member appointed to such vacancy shall hold office for the unexpired term of his predecessor.

(4) The Board in discharging its functions shall be guided by such directions as Government may, from time to time, give.

(5) If the Board fails to obey any direction under sub-section (4), Government may remove the members and reconstitute the Board [8][:]

[9][Provided that no order of removal shall be passed without giving the Board an opportunity of being heard, and showing cause against the removal].

5. Appointment Of Chairman :-

(1) Government shall appoint one of the members to be the Chairman.

(2) The Chairman shall be the Chief Executive of the Board.

6. Appointment Of Project Director :-

(1) For each local area there shall be appointed by Government a Project Director on such terms and conditions as may be determined by Government.

(2) The Project Director shall be responsible for the execution of the schemes and the implementation of the decisions of the Board.

(3) The Project Director shall be the Secretary of the Board.

7. Qualification And Removal Of Chairman :-

- (1) No person shall be or shall continue to be a member who-
- (a) is or has at any time been convicted of an offence involving moral turpitude; or
 - (b) is or has at any time been adjudicated insolvent; or
 - (c) is or has at any time been disqualified for employment in, or dismissed from the service of the State; or
 - (d) is a minor; or
 - (e) is found to be a lunatic or of unsound mind; or
 - (f) has direct financial interest in the matters falling within the purview of the Board; or
 - (g) has a bad reputation.
- (2) [10][Government may, after giving the Chairman or a member an opportunity of being heard and showing cause against the proposed action, by order in writing, remove the Chairman or the member, if he-]
- (a) refuses or fails to discharge or becomes, in the opinion of Government, incapable of discharging his responsibilities under this Ordinance; or
 - (b) has, in the opinion of Government, abused his position as Chairman or member; or
 - (c) has knowingly acquired or continued to hold without the permission in writing of Government directly or indirectly, or through a partner, any share or interest in any contract or employment with or by or on behalf of the Board or in any land or property which, in his knowledge, is likely to benefit or has benefitted as a result of the operations of the Board;
 - (d) has absented himself from three consecutive meetings of the Board without the leave of Government in the case of Chairman, or of the Chairman in the case of a member.

8. Appointment Of Officers, Etc :-

- (1) The Board may appoint such officers, advisors and servants as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit in accordance with the scheme approved by Government.
- (2) The Chairman may, in cases of urgency, appoint such officers, advisors or servants and on such terms and conditions as he thinks fit:
- Provided that every such appointment shall be reported to the

Board without unreasonable delay and shall not continue beyond six months unless approved by the Board.

9. Fees And T.A. For Non-Official Members :-

A member, not being a Government servant, shall be paid such fees and travelling allowance for attending meetings of the Board as may be prescribed.

10. Recruitment, Conditions Of Service And Disciplinary Powers :-

(1) Procedure for the appointment of officers and servants of the Board and the terms and conditions of their service shall be such as may be provided by regulations.

(2) Subject to rules and regulations, the Board shall be competent to take disciplinary action against its officers and servants.

11. Meetings Of The Board :-

(1) The meetings of the Board shall be held at such times and at such places and as often as may be necessary, so however that the Board meets at least once in three months.

(2) The quorum at a meeting of the Board shall be one half of the total number of members, a fraction counting as one.

(3) The meetings of the Board shall be presided over by the Chairman, and in the absence of the Chairman by the member authorized by him in writing in that behalf, or in default of such authorization, by the person elected for the purpose, by the members present from amongst themselves.

(4) All questions which come up before the Board at a meeting shall be decided by a majority of votes. Each member including the Chairman, shall have one vote, but in the event of equality of votes, the Chairman shall have a second or casting vote.

(5) The minutes of every meeting of the Board, stating among other things the names of the members present, shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting and such book shall be open to inspection by the members.

12. Forwarding Of Agenda, Etc., To Government :-

(1) The Chairman shall forward to Government a copy each of the agenda, working paper and the minutes of every meeting of the

Board within fifteen days of the date on which the meeting is held.

(2) Government may require the Board to furnish-

- (a) any returns, statements, estimates, statistics or other information regarding any matter under the control of the Board; or
- (b) a report on any such matter;

and the Board shall comply with any such requisition without undue delay.

13. Delegation Of Powers :-

(1) The Board may delegate to the Chairman or any member, Project Director or officer, any of its powers under this Ordinance or the rules or regulations.

(2) The Chairman may likewise delegate to any member, Project Director or officer any of his powers, under this ordinance or the rules or regulations, not being a power delegated to him by the Board under sub-section (1).

CHAPTER 3

FUNCTIONS AND POWERS OF THE BOARD

14. Functions Of The Board And Scheme :-

(1) The functions of the Board shall be to ensure that an adequate supply of milk and milk products of good quality is available to the consumers of milk and milk products in the local area and for that purpose to prepare and execute schemes for regulating production, marketing and distribution of milk and milk products.

(2) Without prejudice to the generality of the foregoing provisions, any such scheme may provide for all or any of the following, namely:-

- (a) purchase and collection of milk from the producers;
- (b) establishment of centres for the collection and testing of milk;
- (c) haulage of collected milk to the factory and its processing;
- (d) marketing, distribution and sale of milk and milk products and establishment of depots therefor;
- (e) purchase, sale and distribution of concentrates and fodder;
- (f) organizing the producers of milk on co-operative basis;
- (g) sale or letting for hire to the producers of milk and milk products, any plant, machinery, vehicle or other equipment necessary for the production of milk and milk products;
- (h) establishment of producers colonies where the producers of milk can be removed and provided housing and other facilities for themselves and their livestock;

- (i) acquisition and maintenance of lands, buildings, plants, machinery, vehicles or other equipment required for any scheme or for any other purpose of this Ordinance;
- (j) stimulating dairy development or milk consumption.
- (3) A scheme prepared by the Board shall be submitted to Government for approval and shall not be implemented or executed wholly or partly before such approval has been obtained.
- (4) Government may sanction or may refuse to sanction, or may return for reconsideration any scheme submitted to it or may call for such further details or information about the scheme or may direct such further examination of the scheme as it may consider necessary.
- (5) when a scheme has been approved by Government, the Board shall, before proceeding to implement any part thereof, publish for general information the scheme or its salient features in such manner as may be prescribed.

15. Power To Make Order :-

- (1) The Board may, with the previous approval of Government, by Order published in the official Gazette and in such local newspapers as the Chairman may think fit,-
 - (a) fix the prices above which various grades or qualities of milk or milk products shall not be sold;
 - (b) prohibit production, marketing or sale of milk and milk products, which are below such standard of quality as may be specified;
 - (c) fix the prices above which various grades or qualities of raw milk shall not be purchased;
 - (d) require the registration of cattle with such authority, in such manner and on payment of such fees, as may be specified;
 - (e) prohibit the keeping of cattle except under such conditions as may be specified;
 - (f) require the registration of the producers of milk with such authority, in such manner and on payment of such fees, as may be specified;
 - (g) prohibit distribution or sale, or collection for distribution or sale of milk and milk products by any person except under and in accordance with a licence issued in this behalf by such authority, in such manner and on payment of such fees, as may be specified;
 - (h) direct that all milk brought for sale from outside shall be sold only to the Board in such manner or on payment of such fees and

at such places as may be specified;

(i) provide for-

(i) the prescription of methods to be followed in the preparation, treatment, carriage, deposit, storage and sale of milk and milk products;

(ii) the inspection of premises, production plants, stores, and anything used for any purpose specified in sub-clause (i);

(iii) keeping of books and records by various categories of persons engaged in any functions under this Ordinance;

(iv) the labelling of milk and milk products;

(v) the prescription of containers to be used for milk and milk products.

CHAPTER 4

PLANS, PROJECTS AND SCHEMES

16. Preparation Of Plans :-

Subject to the provisions of this Ordinance and the rules and regulations, the Board shall, with the previous approval in writing of Government, prepare outlines of a plan for the execution of its objectives.

17. Development Schemes And Projects :-

The Board shall prepare schemes and projects on pro forma prescribed by Government for development schemes and submit them for the approval of Government in such manner as may be prescribed.

18. Subsidiary Organisation :-

The Board may set up special subsidiary organizations with the prior approval of Government as may be necessary for execution of schemes or projects or delegate or entrust to any such organization such of its powers and functions as it thinks fit.

19. Commercial Transactions :-

The Board may enter into commercial transactions with any person or organization.

CHAPTER 5

FINANCE

20. Milk Board Fund :-

(1) There shall be a fund to be known as the "Milk Board Fund" vested in the Board which shall be utilized by the Board to meet charges in connection with its functions under this Ordinance, including the payment of salaries and other remunerations to the Project Director, officers, advisers and servants of the Board.

(2) The Milk Board Fund shall consist of-

- (a) grants made by Government;
- (b) loans obtained from Government;
- (c) grants made by local bodies as required by Government;
- (d) loans obtained by the Board with the special or general sanction of Government;
- (e) foreign aid and loans obtained with the previous sanction of the [11][Federal Government];
- (f) all fees, including the licence fees, received by the Board; and
- (g) all other sums received by the Board.

21. Power Of The Board To Borrow Money :-

The Board shall be deemed to be a local authority under the Local Authorities Loans Act, 1914 (IX of 1914), for the purpose of borrowing money under that Act; and the making and execution of any scheme or project under this Ordinance shall be deemed to be a work which such authority is legally authorised to carry out; provided that no foreign loan shall be obtained without the previous sanction of Provincial Government and the [12][Federal Government].

22. Custody And Investment Of Funds :-

(1) The Board may keep money in any treasury, sub-treasury or a bank approved by Government.

(2) Nothing in sub-section (1) shall be deemed to preclude the Board from investing any such moneys as are not required for immediate expenditure in any of the securities described in section 20 of the Trusts Act, 1882 (Act II of 1882), or placing them in fixed deposit with a bank approved by Government.

23. The Budget :-

The Board shall prepare its annual budget estimates and submit the same to Government by the prescribed date and Government may modify the said estimates to such extent as it may consider

necessary.

CHAPTER 6

RULES AND REGULATIONS

24. Power To Make Rules :-

(1) Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the carrying out of continuous evaluation by Government of the work of the Board;

(b) the re-appropriation of funds within the sanctioned budget;

(c) the maintenance of liaison between the Board and other bodies and authorities concerned with administration and development, including the local councils constituted under the Basic Democracies Order, 1959 (P.O. 18 of 1959);

(d) the powers, duties and functions of the Project Director; and

(e) any other matter required by the provisions of this Ordinance to be prescribed.

25. Power To Make Regulations :-

(1) Subject to the provisions of this Ordinance and the rules, the Board may, by notification in the official Gazette, and with the previous approval in writing of Government, make regulations for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-

(a) the appointment of committees to consider particular matter or matters;

(b) the investment of money by the Board;

(c) the meetings of the Board;

(d) methods of ensuring continuous evaluation by the Board of its schemes and projects;

(e) the determination of the terms and conditions of service of the officers and servants of the Board;

(f) the mode of operation and expenditure of the funds of the Board; and

(g) any other matters required by the provisions of this Ordinance to be provided by regulations.

26. Chairman, Etc., Deemed Public Servants :-

The Chairman, every member, the Project Director and every officer, adviser and servant of the Board shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

27. Contribution By The Board Towards Leave, Allowances And Pension Of Government Servants :-

The Board shall be liable to pay such contributions for the leave, allowances and pension of any person in the services of Government or the [13][Federal Government] and employed as Project Director, adviser, officer or servant of the Board as may be required by the conditions of his service under such Government, to be paid to him or on his behalf.

28. Penalties :-

Whoever contravenes or fails to comply with any order made under section 15 shall be punished with imprisonment for a term not exceeding six months or with fine not exceeding one thousand rupees or with both.

29. Authority For Prosecution :-

No Court shall take cognizance of any offence punishable under this Ordinance, except on the complaint of the Chairman or some person authorised by the Board or by the Chairman by general or special order in this behalf.

30. Recovery Of Dues :-

The Chairman or any person generally or specially authorized by him may apply to the competent authority for the recovery of any sum due under this Ordinance or by agreement made under this Ordinance and the said authority shall thereupon proceed to recover the sum as if it were an arrear of land revenue.

31. The Powers Of The Chairman As To Institution, Etc., Of Legal Proceedings And Obtaining Legal Advice :-

The Chairman may, subject to the control of the Board-

- (i) institute, defend or withdraw from legal proceedings under this Ordinance;
- (ii) compound any offence against this Ordinance;
- (iii) admit, compromise or withdraw any claim made under this Ordinance; and
- (iv) obtain such legal advice and assistance as he may, from time to time, deem it necessary or expedient to obtain or as he may be desired by the Board to obtain, for any of the purposes referred to in the foregoing clauses of this section, or for securing the lawful exercise or discharge of any power or duty vested in or imposed upon the Board or any officer or servant of the Board.

32. Indemnity To The Board, Etc :-

No suit shall be maintainable against the Board, the Chairman, Project Director or any officer, adviser or servant of the Board, or any person acting under the direction of the Board, or of the Chairman, Project Director or any officer or servant of the Board in respect of anything done lawfully and in good faith and with due care and attention under this Ordinance.

33. Notice Of Suit Against The Board :-

(1) No suit shall be instituted against the Board, the Chairman, Project Director, any person associated with the Board, or any officer, adviser or servant of the Board, or any person acting under the direction of the Board or for the Chairman, Project Director or any officer or servant of the Board in respect of an act purporting to be done under this Ordinance, until the expiration of two months next after notice in writing has been, in the case of the Board left at its office, and in any other case delivered to or left at the office or place of abode of person to be sued, explicitly stating the cause of action, the nature of the relief sought, the amount of compensation claimed, and the name and place of abode of the intending plaintiff; and in case the suit is filed, the plaint shall contain a statement that such notice has been so delivered or left:

[14][Provided that where any such suit is instituted without delivering or leaving such notice as aforesaid or before the expiration of the said period of two months or where the plaint does not contain a statement that such notice has been so delivered or left, the plaintiff shall not be entitled to any costs].

(2) If the Board or other person referred to in sub-section (1) shall,

before the action is commenced, have tendered, in the opinion of the Court, sufficient amends to the plaintiff, the plaintiff shall not recover any sum in excess of the amount so tendered and shall also pay all costs incurred by the defendant after such tender.

(3) No action such as is described in sub-section (1), shall, unless it is an action for the recovery of immovable property or for a declaration of the title thereto be commenced otherwise than within six months next after the accrual of the cause of action:

Provided that nothing in sub-section (1) shall be construed to apply to a suit wherein the only relief claimed is an injunction of which the object would be defeated by the giving of the notice or the postponement of the commencement of the suit or proceedings.

34. Mode Of Proof Of The Boards Records :-

A copy of any receipt, application, plan, notice, order, entry in a register or other documents in the possession of the Board shall, if duly certified by the legal keeper thereof, or other person authorized by the Board in this behalf, be received as prima facie evidence of the existence of the entry or document and shall be admitted as evidence of the matter and transaction therein recorded in every case where and to the same extent, as the original entry or document would, if produced, have been admissible to prove such matters.

35. Restriction In The Summoning Of The Board Servants To Produce Documents :-

Neither the Chairman nor the Project Director, any adviser, officer, or servant of the Board shall in any legal proceedings to which the Board is not a party be required to produce any register or documents the contents of which can be proved under the preceding section by a certified copy, or to appear as a witness to prove the matters and transactions, recorded therein unless by order of the Court made for special cause.

36. Validation Of Acts And Proceedings :-

(1) No act done or proceedings taken under this Ordinance shall be questioned on the ground merely of-

(a) the existence of any vacancy in, or any defect in the constitution of the Board; or

(b) any person having ceased to be a member has continued to act

as such; or

(c) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Board, the minutes of the proceedings of which have been duly signed as prescribed in clause (5) of section 11 shall be taken to have been duly convened and to be free from all defects and irregularities.

37. General Powers Of The Board To Pay Compensation :-

In any case not otherwise expressly provided for in this Ordinance, the Board may with the prior approval of Government pay reasonable compensation to any person who sustains damage by reason of the exercise of any of the powers vested under this Ordinance in the Board or the Chairman, Project Director or any officer or servant of the Board.

CHAPTER 8

AUDIT AND ACCOUNTS

38. Accounts And Audit :-

(1) The Board shall maintain proper accounts and other relevant records and prepare annual statement of accounts including the profit and loss account and balance-sheet in accordance with such general directions as may be issued, and in such form as may be specified by Government in consultation with the Accountant-General, West Pakistan or the Comptroller and Auditor-General, hereinafter in this section referred to as the Auditor-General.

(2) The accounts of the Board shall be audited by an auditor who shall be chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), and appointed for the purpose by the Board with the previous approval in writing of Government.

(3) Notwithstanding, the audit provided for in sub-section (2), the Auditor-General shall audit or cause to be audited the accounts of the Board.

(4) The Board shall produce all accounts books and connected documents and furnish such explanation and information as the Auditor-General may require at the time of audit.

(5) A statement of its accounts audited by the chartered accountant referred to in sub-section (2) shall be forwarded to Government by the Board as soon as possible after the end of every financial year.

39. Annual Report :-

The Board shall, as soon as possible after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year.

CHAPTER 9 **DISSOLUTION**

40. Dissolution Of The Board :-

(1) Government may, by notification in the official Gazette declare that a Board shall be dissolved from such date as may be specified in the notification and thereupon the Board shall stand dissolved on that date.

(2) From the said date-

(a) all properties, funds and dues which immediately before the said date were vested in or were realizable by the Board shall vest in and be realizable by Government;

(b) all liabilities which immediately before the said date were enforceable against the Board shall be assumed by, and be enforceable against Government; and

(c) for the purpose of completing the execution of any scheme or project sanctioned under this Ordinance which has not been fully executed by the Board and of realizing properties, funds and dues referred to in clause (a) the functions of the Board shall be discharged by Government.