

The Employees Social Security Ordinance, 1965

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The Employees Social Security Ordinance, 1965

X of 1965

14th May, 1965

An Ordinance to introduce a scheme of Social Security for providing benefits to certain employees or their dependents in the event of sickness, maternity, employment injury or death and for matters ancillary thereto

Preamble : -- Whereas it is expedient to introduce a scheme; of social security for providing benefits to certain employees or their dependents in the event of sickness, maternity, employment, injury or death, and for matters ancillary thereto ;

And whereas the Provincial Assembly of the Province concerned is not in session and the Governor of that Province is satisfied that circumstances exist which render immediate legislation necessary ;

Now, therefore, in exercise of the powers conferred on him by clause (1) of Article 79 of the Constitution, the Governor of the Province concerned is pleased to make and promulgate the following Ordinance . : -- -

CHAPTER I PRELIMINARY

1 Short title, extent, commencement and application (1) This may be called the [Provincial] Employees Social Security Ordinance, 1965.

(2) It extends to the whole of [Pakistan],

(3) It shall come into force at once but shall apply only to such areas, classes of persons, industries or establishments, from such date or dates, and with regard to the provision of such benefits as Government may, by [notification, specify in this behalf].

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

(1) "appointed day" means in relation to any area, class of persons, industries, establishments or benefits, the day on which this Ordinance is applied to such area or in respect of such class of persons, industries, establishments or benefits ;

(2) "Chairman" means the Chairman of the Governing Body ;

(3) "Commissioner" means the Commissioner of the Institution ;

(4) "Confinement" means labour resulting in the issue of a living child, or labour after twenty-six weeks of pregnancy resulting in the issue of a child, whether alive or dead ;

- (5) "Contribution" means the sum of money payable to the Institution by an employer in respect of an employee, [.....] in accordance with the provisions of this Ordinance ;
- (6) "dependant" means the wife or wives or a needy invalid husband and any unmarried children under the age of sixteen years dependent upon the secured person ;
- (7) "disablement" means a condition caused by an employment injury which, as certified by a medical practitioner authorised for the purpose as provided in the regulations, has permanently reduced or is likely to reduce permanently a secured person's earning capacity, and disablement shall be "minor" where the loss of earning capacity [is less than twenty per centum], "partial" where the loss of earning capacity ranges from twenty one per centum to sixty-six per centum and "total" where the loss of earning capacity is in excess of sixty-six per centum ;
- [(7-a)"domestic servant" means any person working whole-time in connection with the work of any house-hold for any consideration, whether in cash or in kind;]
- (8) "employee" means any person working, normally for at least twenty-four hours per week for wages, in or in connection with the work of any industry, business, undertaking or establishment, under any contract of service or apprenticeship, whether written or oral, express or implied but does not include-
- (a) persons in the service of the State, including members of the Armed Forces, Police and Railway Servants ;
- (b) persons employed in any undertaking under the control any Defence organization or Railway administration ;
- (c) persons in the service of a local council, a municipal committee, a cantonment board or any other local authority ;
- (d) any person in the service of his father, mother, wife, son" daughter, or of her husband ;
- (e) "[Omitted]
- (f) any person employed on wages exceeding [one thousand five hundred] rupees per mensem ;
- (9) "employer" means in the case of works executed or undertakings carried on by any contractor or license on behalf of the State, the contractor or licensee working for the State, and in every other case the owner of the industry, business undertaking or establishment in which an employee works and includes any agent, manager or representative of the owner ;
- (10) "employment injury" means a personal injury to a secured person caused by an accident or by such occupational disease as may be specified in the regulations, arising out of and in the course of his employment ;
- (11) "establishment" means an organization, whether industrial, commercial, agricultural or otherwise ;
- (12) "Fund" means the Employers Social Security Fund set up under Section 3 . : --
- (13) "Governing Body" means the Governing Body of the Institution ;
- (14) "Government" means the [Provincial Government] ;
- (15) "Industry" means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft, industrial occupation or avocation of workmen . : --
- (16) "Institution" means the Employees Social Security Institution established under Section 3 ;
- (17) "Medical Adviser" means the Medical Adviser appointed under Section 15 ;
- (18) "medical board" means a board consisting of two or more medical practitioners, appointed under Section 17 ;
- (19) "medical practitioner" means a person practicing medicine and having such qualifications as may be provided in the regulations ;
- (20) "Member" means a member of the Governing Body ;
- (21) "prescribed" means prescribed by rules ;
- (22) "registered Trade Union" means a Trade Union registered under the Trade Unions Act, 1926 "(XVI of 1926) ;

- (23) "regulations, means regulations made under this Ordinance ;
- (24) "rules means rules made under this Ordinance ;
- (25) "secured person" means a person in respect of whom contributions are or were payable under this Ordinance ;
- (26) "sickness means a condition which requires medical treatment or necessitates abstention from work on medical grounds ;
- (27) "Social Security Area" means an area to which this Ordinance has been applied ;
- (28) "Social Security Court" means a Court Constituted under Section 60 ;
- (29) "strike" and "lock-out" shall have the same meaning as is respectively assigned to them in the industrial Relations Ordinance, 1969 (XXIII of 1969).
- (30) "wages means remuneration for service paid or payable in . cash or in kind to a secured person, not being less than remuneration based on the minimum rates of wages declared under the Minimum Wages Ordinance, 1961 (XXXIX of 1961), without taking account of deductions for any purpose, under a contract of service or apprenticeship, expressed or implied, and shall be deemed to include any dearness allowance or other addition in respect of the cost of living and any payment by the employer to a secured person in respect of any period of authorised leave, illegal lock-out or legal strike ; but does not include-
- (a) any payment for overtime ; or
- (b) any sum paid to the person employed to defray special expenses entailed by the nature of his employment , or
- (c) any gratuity payable on discharge ; or
- (d) any sum paid as bonus by the employer ;
- (31) "week" means a period of seven days commencing at midnight of Friday night.

CHAPTER II ORGANIZATION

3. Establishment and incorporation of Employees Social Security Institution. : --

- (1) As soon as may be after the commencement of this Ordinance. Government shall establish by notification an Institution to be called the Employees Social Security Institution.
- (2) The Institution shall be body corporate having perpetual succession and common seal. with power, subject 10 the provisions of this Ordinance, to acquire, ..Hold and dispose of property, both movable and immovable, and shall by the aforesaid name sue and be sued
- (3) The Institution shall have its own fund to be called the [Employees Social Security Fund, and may incur out of the said Fund such expenditure as may be necessary.

4. Management. : -- (1) The genera) direction and superintendence of the affairs of the Institution shall vest in a Governing Body which, with the assistance of a Commissioner, may exercise all powers and do all acts and things which may be exercised or done by the Institution.

- (2) In discharging its functions, the Institution shall be guided by such instructions on questions of policy as maybe given to it from time to time by Government, which shall be the sole judge as to whether any instructions are on a question of policy or not.

5. Governing Body; (1) The Governing Body shall consist of the following members to be appointed by Government by notification namely . : --

- (a) a person who is or has been a Judge of the High Court or a Senior officer in the service of Pakistan not below the rank of a Commissioner of a Division or Secretary to Government, and such person shall be the Chairman of the Governing Body ;

(b) four persons to represent Government, one each respectively from the Department of Labour, Industries, Health and Finance ;

(c) three persons to represent employers ;

{d) three person to represent secured persons ;

(e) the Medical advisor, ex-officio.

(2) Members to be appointed under clause (c) or clause (d) of sub-section (1) shall respectively be chosen from a list of names submitted in the prescribed manner by the organization of employers and employees recognised by Government for that purpose. : -- Provided that, pending the making of rules in this behalf the first Members to be appointed shall be chosen from such persons as Government may deem suitable.

(3) Subject to the other provisions of this Ordinance, a Member shall hold office for three years from the date on which his appointment is notified under sub-section (1).

6. Powers and functions of the Governing Body. : -- In addition to the powers conferred on, and the functions entrusted to it by the other provisions of this Ordinance or by the rules, the Governing Body shall have powers-

(1) to approve the budget estimates, the audited accounts and the annual report of the Institution for submission to Government in accordance with the provisions of this Ordinance ; and

(2) to call for any information, or direct any research to be made for the furtherance of the objects of this Ordinance.

7. Meetings of the Governing Body. (1) The meetings of the Governing Body shall be held at such times and at such place as may be provided by regulations, and until regulations are made in this behalf, such meetings shall be convened by the Chairman.

(2) To constitute a quorum at a meeting of the Governing Body, the number of Members present shall be five.

(3) Each Member shall have one vote, and, in the event of equality of votes, the Chairman shall have a second or casting vote.

(4) The meetings of the Governing Body shall be presided over by the Chairman, and in the absence of the Chairman by the person elected for the purpose by the Members present from among themselves.

8. Authentication of order etc, -- All orders and decisions of the Governing Body shall be authenticated by the signature of the Chairman or of such other Member as may have been authorised by the Governing Body in writing for the purpose.

9. Supersession of the Governing Body. : -- (1) If, in the opinion of Government, the Governing Body has persistently failed to perform the duties imposed upon it by or under this Ordinance or has abused its powers, Government may, by notification, supersede the Governing Body ;

Provided that before such supersession. Government shall give the Governing Body a reasonable opportunity to show cause why it should not be superseded, and shall consider any explanation or objection which it submits.

(2) Upon the publication of notification under sub-section (1), the persons holding office as Chairman, and Members, shall cease to hold such office.

(3) Immediately upon the supersession of a Governing Body, Government shall constitute another Governing Body by appointing new Members in accordance with the provisions of Section 5.

10. Fees and allowances. : -- Members shall receive such fees and allowances as may be prescribed.

11. Resignation; A Member, other than the ex-officio Member, may resign his office by notice in writing to Government, and his seat shall fall vacant on the acceptance of the resignation.

12. Disqualification. : -- (1) No person shall be or shall continue to be a Member, if he-
(a) has been convicted of an offence involving moral turpitude. : -- or
(b) declared to be of unsound mind by a competent Court ; or
(c) is an un-discharged insolvent ; or
(d) [x x x x x]
(e) is a member of the staff of the Institution other than the Medical Adviser ; or
(f) has any direct interest in a contract with, or in any work being done for the Institution, except as a shareholder (not being a Director) of a company . : -- or
(g) owes to the Institution contributions to the extent specified in the regulations ; or
(h) has lost the capacity by virtue of which he was appointed as a Member ; or
(i) has failed to attend more than one- third of the number of meetings of the Governing Body held during any year.
(2) Government may, by order in writing, remove the Chairman or a 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 a Member; or
(c) has absented himself from three consecutive meetings of the Governing Body without the leave of Government in the case of the Chairman, or of the Chairman in the case of a Member. : --

Provided that, before such removal, Government shall give the Chairman or the Member, as the case may be, a reasonable opportunity of showing cause as to why he should not be removed, and shall consider any explanation or objection which he submits.

13. Filling casual vacancies. : -- A Member appointed to fill a vacancy other than a full-term vacancy, shall hold office for only so long as the Member in whose place he is appointed would have been entitled to hold office if the vacancy had not occurred.

14. Head office . : -- The head office of the institution shall be at [the principal seat of the Government,] but Government may, by notification; transfer it to such other place as may be specified in such notification.

15. Medical Adviser . : -- As soon as may be. Government shall appoint a Medical Adviser having the prescribed qualifications.

16. Duties of Medical Adviser . : -- The Medical Adviser shall--
(a) advise the Governing Body on matters relating to the administration of medical care and the prevention and treatment of diseases among secured persons ;
(b) perform such other duties in connection with medical care as may be specified in the regulation.

17. Medical Practitioners and Medical Boards . : -- (1) The Institution shall appoint Medical Practitioners and Medical Boards in such Social Security Areas and in such manner as may be provided by regulations.
(2) The powers and functions of Medical Practitioners and Medical Boards, and the fees and allowances to be paid to such practitioners or the members of such boards, shall be such as may be provided by regulations.

18. Commissioner and Vice-Commissioner . : -- (1) There shall be a Commissioner and Vice-Commissioner of the Institution, both to be appointed by Government.

(2) The Commissioner shall-

(a) be the chief executive of the Institution and shall act as Secretary to the Governing Body ;

(b) be responsible to the Governing Body in respect of all matters relating to the structure, administration and personnel of the Institution ; and

(c) have such powers regarding appointment, transfer, promotion, dismissal and other matters affecting the staff of the Institution as are provided for by regulations.

(3) The Vice-Commissioner shall perform the duties of the Commissioner when the latter is absent or prevented from acting and the Commissioner may assign to the Vice-Commissioner the responsibility for the direction of certain services or delegate to him any of his own powers under this Ordinance. the rules and the regulations.

19. Officers and staff of the Institution. : -- The Governing Body may employ such officers and staff of the administration of the affairs of the Institution as the regulations may provide.

CHAPTER III CONTRIBUTIONS

20. Amount and payment of contributions. : -- (1) Subject to the other provisions of the Chapter, the employer, shall in respect of every employee, whether employed by him directly or through any other person pay to the institution a contribution at such times, at such rate and subject to such conditions as may be described.

(2) [x x x x x]

(3) The employer shall not be entitled to deduct from the employee's wages or otherwise to recover from him any portion of the contribution, notwithstanding any agreement to the contrary.

(4) Subject to the provisions of sub-section (2) of Section 71 -

(a) no contribution shall be payable on wages which are in excess of rupees [sixty] per day ; and

(b) [*****]

(5) For the purpose of determining the amount of the contribution payable, daily wages shall be calculated in such manner as may be provided by regulations.

(6) Where the mode of payment of remuneration, whether in cash or in kind, makes it difficult to determine the amount of wages for computing the contribution, the Commissioner may, subject to regulations and in consultation with the representative of employees, determine such wages.

(7) [*****]

(8) In the case of construction work the owner of the building shall guarantee the payment of contributions by the contractor.

(9) In the case of works executed or undertakings carried on behalf of the State by a contractor or licensee, the competent public authority shall before final settlement of the claims of the contractor or licensee arising out of the contract, require the production of a certificate from the institution showing that the necessary contributions have been paid, and in default of such certificate it shall deduct from the amount otherwise payable in settlement of such claim, the appropriate amount of the contributions payable, and pay such amount direct to the Institution.

21. Records and returns by employers. : -- Every employer shall keep such records and shall submit to the Institution such returns, at such times in such form and containing such particulars relating to person employed by him as may be provided in the regulations.

22. Officials of Institution to check employer's books. : -- (1) Any official of the

Institution, duly authorised by a certificate in a form specified in the regulations, may, for the purpose of inquiring into the correctness of any of the particulars stated in the records or returns referred to in Section 21 or for the purpose of ascertaining whether any of the provisions of this Ordinance have been complied with-

(a) require an employer to furnish to him such information as he may consider necessary ; or

(b) at any reasonable time enter any establishment or other premises occupied by such employer and require any person found in charge thereof to produce and allow him to examine such account books and other documents relating to the employment of persons and payment of wages, or to furnish to him such information, as he may consider necessary ; or

(c) examine, with respect to any matter relevant to the purposes aforesaid, the employer, his agent or any person found in such establishment or oilier premises, or any other person whom the said official has reasonable cause to believe to be or to have been a secured person.

(2) The official referred to in sub-section (1), shall be bound to secrecy as regards all matters with which he becomes acquainted in the performance of his duties and which do not relate to matters provided for in this Ordinance.

(3) If an employer fails to maintain records or to submit returns as required by regulations, or otherwise fails to comply with the provisions of sub-section (1) and thereby makes it difficult to ascertain the identity of persons required to be secured or the amount of contribution payable, the contribution shall be assessed on the basis of such evidence as the Institution may find satisfactory for this purpose.

23. Increase of unpaid contribution and recovery of contribution etc., as arrears of land revenue. : -- (1) If any employer fails to pay on the due date the contribution payable by him under sub-section (1) of Section 20, the amount so payable by him shall be increased by such percentage or amount as may be prescribed . : --

Provided that in no case shall such increase exceed fifty per centum of the amounts due.

Provided further that no part of such increase shall be payable by, or the liability to pay the same be passed on by the employer, to his employees.

(2) Without prejudice to any other remedy, the amount of the contribution due, together with the increase provided for under sub-section (1), may be recovered as arrears of land revenue.

24. Safeguard of secured person's right in default of payment of contributions of employer; In the event of default in payment of contributions by the employer in respect of a secured person, such secured person shall, unless he has connived at such default, have and enjoy the same rights under this ordinance as if no such default had occurred.

25. Return of contributions paid erroneously . : -- [An] employer shall be entitled to the refund of any contribution paid to the Institution under the erroneous belief that it was payable under the provisions of this Ordinance, and shall be entitled to the refund of excess amount of the contribution where such contribution had been paid at a higher rate than the rate prescribed . : --

Provided that where a contribution was paid under the erroneous belief that a person was a secured person, any sum paid to such person or his dependants by way of benefits shall, in so far as possible, be deducted from the amount of such refund . : --

Provided further that no contribution or excess amount of any contribution shall be refunded unless an application for such refund is made within six months of the date on which the contribution was paid.

26. Increase of contributions where safety rules not observed. If an employer fails to

observe rules of safety or hygiene prescribed by or under any enactment applicable to his establishment the Commissioner may, subject to rules, by order in writing, increase the employer's rate contribution ; provided that such increase shall not exceed twenty per centum of the contribution otherwise payable

27. Extinguishment of claims to contributions . : -- Any claim of the Institution for unpaid contributions shall be extinguished in the manner provided in the regulations.

CHAPTER IV FINANCE AND AUDIT

28. Employees Social Security Fund. : -- (1) All contributions paid under this Ordinance and all other moneys received by or on behalf of the Institution shall be paid into the Fund, which shall be held and administered by the Institution for the purposes of this Ordinance. (2) The Institution may accept grants, donations and gifts from any Government or from a local authority or other body for all or any of the , purposes of this Ordinance. (3) All moneys accruing or payable to the Fund shall be paid into such scheduled bank as may be approved by the Governing Body, or to any office of the Institution. (4) The Institution shall maintain separate accounts for administrative expenses, and for such branches of social security and such other purposes as may be prescribed,

29. Security reserves; The Institution shall establish and maintain reserves in connection with the branches of social security prescribed in accordance with sub-section (4) of Section 28 at such times, up to such amounts, and in such manner as may be prescribed.

30. Investment and loans. : -- (1) Subject to rules, the Institution may from time to time invest any moneys which are not immediately required for payments under this Ordinance, and may reinvest or realize such investments. (2) The Institution may, with the previous sanction of Government and on such terms as it may specify, raise loans and take measures discharging such loans,

31. Budget : -- (1) The Institution shall, before such date and in such manner as may be prescribed, draw up estimates for the ensuing year of--
(a) the administrative expenses of the Institution ;
(b) the expenditure to be incurred under each of the branches of social security and other purposes for which separate accounts are prescribed in accordance with sub-section (4) of Section 28 ; and
(c) the income of the Institution from contributions, the special tax payable under Section 70, and other sources, if any.
(2) The Institution shall allocate the estimate income from the special tax towards meeting capital expenditure in accordance with sub-section (3) of section 70, and after allocating sufficiently of the estimated income from contributions and other sources, if any, to cover the estimated administrative expenses, shall allocate the remainder of such estimated income among the branches of social security and other purposes referred to in clause (b) of sub-section (1).
(3) Such estimates and allocations shall, before such date as may be prescribed, be submitted to Government and, when approved by it, shall constitute the budget of the Institution for the ensuing year
(4) If Government has not approved such estimates and allocations, with or without

amendment, within thirty days of the submission or before the commencement of the financial year to which such estimates relate, whichever is the later, its approval shall be deemed to have been given and the estimates and allocations as submitted shall constitute the budget of the Institution for the financial year to which they relate.

(5) If it appears that expenditure under any budget head is likely to exceed the budget provision under such head, the Governing Body may increase such budget provision by transferring thereto from any other budget head, any amount not required or not expected to be required under such head . : --

Provided that no such transfer shall be made to (he budget heads for either administrative expenses or the provision of medical care without the prior approval of Government.

(6) If, notwithstanding the application of the provisions of sub-section (5), it appears that expenditure under any budget head is likely to exceed the corresponding budget provision or that income under any budget head is likely to tall short of the corresponding budget provision, the expected excess of deficiency, as the case may be, shall be reported to Government, who shall take such action, if any, as may seem appropriate . : --

Provided that no payment to which a claimant is entitled under this Ordinance shall be withheld pending such action.

32. Accounts and Audit. : -- (1) The Institution shall maintain accounts of its income and expenditure and of its assets and liabilities in such form and manner as may be prescribed.

(2) The Institution shall appoint an internal auditor who shall perform such duties and exercise such powers as may be provided by regulations.

(3) The account of the Institution shall be audited by an external auditor appointed by Government, at such time and in such manner as may be prescribed.

(4) The external auditor shall have excess to the books, accounts and other documents of the Institution at all reasonable times, and may call for such explanation and information as he may require or examine any officer of the institution.

(5) The external auditor shall forward his report to Government together with an audited copy of the accounts of the Institution.

33. Annual Reports. : -- (1) The Institution shall, within six months after the closing of a financial year , submit to Government an annual report of its work and activities during that financial year, and such report shall cover such matters as may be prescribed.

(2) The annual report, together with the audited accounts of the Institution, shall be published and copies thereof shall be made available for lie to the public.

34. Valuation of assets and liabilities. : -- The institution shall, at intervals of not more than five years, have an actuarial valuation made of its assets and liabilities . : --

Provided that Government may direct a valuation to be made at such other times as it may consider necessary,

CHAPTER V BENEFITS

35. Sickness benefit. : -- (1) A secured person who is certified, by a medical practitioner authorised by the Institution in the manner provided in the regulations to give such a certificate, to be incapable of attending to his work on account of sickness shall, subject to regulations, be entitled to receive sickness benefits of such rate as may be fixed by Government by notification, in consultation with the Institution, if during the six calendar

months immediately preceding the date on which his incapacity of work was so certified, contributions in respect of him were paid or payable for not less than ninety days.

[(2) A secured person shall be entitled to receive sickness benefit throughout the period of sickness . : --

Provided that during a continuous period of three hundred and sixty-five days such benefit shall not be allowed for a period exceeding- >

(a) one hundred and eighty days, in case he has been suffering from tuberculosis ; and

(6) one hundred and twenty-one days, in case he has been suffering from any other disease

. : --

Provided further that he shall, not be entitled to receive such benefit for the first two days of his sickness if such sickness does not, within fifteen days, follow the previous period of sickness for which he received or was entitled to receive such benefit.]

36. Maternity benefit. : -- A secured woman shall, subject to regulations, be entitled to receive maternity benefit at [such rate as may be fixed by Government by notification, in consultation with the institution, if contributions in respect of her were paid or payable for not less than one hundred and eighty days during the twelve calendar months immediately preceding the expected date of her confinement as certified by a medical practitioner authorised by the Institution in the manner provided in the regulations to give such a certificate, and such benefit shall be paid for all days on which she does not work for remuneration during period of twelve weeks, of which not more than six weeks shall precede the expected date of confinement.

37. Death grant. : -- On the death of a secured person receiving or entitled to receive injury benefit, sickness benefit or medical care at the time of his death, the surviving widow, widows, or needy widower, or if there be no surviving widow, widows or needy widower the person who provided for the funeral, shall, subject to regulations be entitled to a death grant equal to the daily rate of sickness benefit multiplied by thirty, but in no case less than [five hundred] rupees.

38. Medical care during sickness and maternity. : -- [(1) A secured person and his dependants shall be entitled to medical care in the manner and to the extent provided in the regulations.]

(2) A secured woman shall, subject to regulations, be entitled to prenatal confinement and post-natal medical care, if she is entitled to maternity benefit under Section 36 or if, during the six calendar months immediately preceding her claim, contributions in respect of her were paid or payable for not less than ninety days.

39. Injury benefit. : -- A secured person shall, subject to regulations, be entitled to receive injury benefit at such rate as may be fixed by Government by notification, in consultation with the Institution, in respect of any day, 2 other than the first three days, including the day on which, as a result of an employment injury, he is certified, by a Medical practitioner authorised by the Institution in the manner provided in the regulations to give such a certificate, to be incapable of work, but for not more than one hundred and eighty days.

40. Disablement pension. : -- (1) A secured person who sustains total or partial disablement shall, subject to regulations, be entitled, upon the expiration of his entitlement to injury benefit, to receive disablement pension, according to the degree of disablement determined from time to time, at such rates for different degrees of disablement as may be fixed by Government by notification, in consultation with the institution.

(2) Disablement pension shall terminate with the death of the recipient or when disablement ceases, or ceases to be total or partial disablement. : --

Provided that if a disablement pension has been paid for five years it shall be payable for life.

41. Disablement gratuity. : -- (I) A secured person who sustains minor disablement shall, subject to regulations, be entitled to a disablement gratuity at such rates for different degrees of disablement as may be fixed by Government by notification, in consultation with the Institution.

(2) Where a person receiving disablement pension ceases to suffer from total or partial disablement but continues to suffer from minor disablement he shall, on the termination of his disablement pension, be entitled to disablement gratuity under this section.

42. Survivor's pension. : -- (1) Where a secured person dies as a result of an employment injury, a survivor's pension shall, subject to regulations, be payable to each of his dependants as follows, that is to say-

(a) to the widow, widows, or needy widower, during life, at a rate equal to three-fifths of the rate total disablement pension to which the secured person was, or would have been entitled, and where there are two or more widows, the pension shall be divided equally between them. : --

(b) to each dependant child, at a rate equal to one-fifth of the rate of such total disablement pension . : --

Provided that if the child is a full orphan, the rate shall be two-fifths of the rate of the total disablement pension . : --

Provided further that if and so long as the total of the survivor's pension would otherwise exceed the rate of such total disablement pension, the pension of each of the survivors shall be reduced proportionately so that the total of pensions payable to them does not exceed the rate of the said total disablement pension.

(2) In case the deceased person does not leave a widow, or needy widower, a survivor's pension shall be payable for life to dependant father, if he be alive, and if he be not alive, to a dependant mother, if she be alive, at a rate equal to one-fifth of the rate of the total disablement pension to which the secured person was or would have been entitled.

[2-A) In case the deceased person does not leave a dependant, a survivor's pension shall be payable for life to a dependant father, if he be alive, and if he be not alive, to a dependant mother, if she be alive and if she be not alive, to dependant brothers and sisters in equal shares, at a rate equal to one-half of the rate of total disablement pension to which the secured person was or would have been entitled.

(3) Survivor's pensions shall be payable upon the death of the secured person and shall terminate-

(a) upon the death of the survivor ; or

(b) where the survivor is a widow, upon her marriage ; or

(c) where the survivor is a dependant child, upon his attaining the age of sixteen years ; and in any such case the pensions of the remaining survivors shall, if necessary, be adjusted with the maximum laid down in the second proviso to sub-section (1).

43. Death grant in case of death while in receipt of injury benefit or total disablement pension. : -- Where a secured person dies while he is in receipt of injury benefit or of a total disablement pension the widow, widows or needy widower, or, if there is no widow or needy widower, the person who provided for the funeral, shall, subject to regulations, be entitled to a death grant equal to the daily rate of the injury benefit or of the total disablement pension, as the case may be, multiplied by thirty, but in no case less than fifty rupees.

44. Medical care in the case of employment injury . : -- (1) When medical care is

required as a result of an employment injury-

(a) no conditions as regard payment of contributions shall apply, [and]

(b) it shall include dental care in addition to the services referred, to in Section 45.

(c) [*****]

(2) A person in receipt of injury benefit, disablement pension for loss of earning capacity not less than fifty per centum or a survivor's pension shall be entitled to medical care for so long as the injury benefit, disablement pension or survivor's pension, as the case may be, continues and, in the case of a disablement pension being received by the secured person, for six months after the termination of pension.

45. Contents of medical care . : -- (1) Medical care shall include-

(a) general practitioner care, including domiciliary visiting . : --

(b) specialist care in hospitals for in-patients and out-patients and such specialist care as may be available outside hospital ;

(c) essential pharmaceutical supplies as prescribed by a medical practitioner ;

(d) hospitalization where necessary, including cases of pregnancy and confinement ;

(e) pre-natal confinement and post-natal care, either by medical practitioners or by qualified midwives.

(2) [*****]

46. Manner of providing medical care . : -- (1) Regulations shall specify the manner in which medical care shall be provided.

(2) The Institution may, with the approval of Government, establish and maintain such hospitals, dispensaries and other facilities as it finds necessary for providing medical care in pursuance of the provisions of this Ordinance.

(3) The Institution may buy or import and dispense pharmaceutical supplies direct to be beneficiaries.

(4) The Institution may enter into agreement with Government, any local authority, private body or individual in regard to the provision of medical care to persons entitled to it under this Ordinance.

(5) The Institution may enter into an agreement with an employer who maintains a hospital or dispensary or any other medical facility for the benefit of his employees for the utilization of such hospital, dispensary or facility for the purposes of the Institution and such agreement may, among other things specify the persons to "whom medical care shall be provided, the type of benefit to be made available, the minimum level of such benefit, the conditions under which such benefit shall be provided, the extent of supervision which the Institution may exercise over the hospital, dispensary or other medical facility, the submission of reports to the Institution by the employer, and the extent and manner of reimbursement to the employer.

47. Institution's power to promote measures for health, welfare, etc. of secured persons . : -- The Institution may, in addition to the benefits specified in this Ordinance, undertake other measures for improving the health and welfare of secured persons and for the rehabilitation and settlement of such secured persons as may have been disabled or injured, and may for that purpose incur expenditure from the Fund.

48. Manner of claiming benefit. : -- (1) All claims for benefits under this Ordinance shall be made within such times as may be prescribed, and in such form and manner, and shall be accompanied by such documents,, information and evidence as 10 entitlement, as may be provided in the regulations.

(2) Payment in respect of benefits shall be made in such manner, and at such times and places as may be provided in the regulations.

49. Benefit not assignable or attachable. : -- (1) The right to receive any payment in

respect of any benefit under this Ordinance shall not be transferable as assignable.
(2) No benefit payable under this Ordinance shall be liable to attachment or sale in execution of any decree or order of any Court.

50. Exemption from stamp duty ; Notwithstanding anything to the contrary contained in the Stamp Act, 1899 (Act It of 1899), stamp duty shall not be chargeable upon any draft or order in respect of any benefit payable under this Ordinance.

51. Non-duplication of benefits . : -- (1) A secured person shall not be paid, for the same period, more than one of the benefits referred to in Sections 35, 36 and 39, namely, sickness benefit, maternity benefit and injury benefit, and where any person is entitled to more than one of these benefits he shall be given the higher of such benefit.

(2) No person shall be entitled to sickness benefit or maternity benefit or injury benefit for any day for which he receives wages.

52. Repayment of benefit improperly received . : -- (1) When a person has received any benefit or payment under this Ordinance to which he is not lawfully entitled, he shall be liable to repay to the Institution the value of the benefit or the amount of such payment, and, in case of his death, his legal heirs shall be liable to repay the same from the assets of the deceased . : --

Provided that the Institution may waive repayment where there was no misrepresentation on the part of the beneficiary and the repayment would cause undue hardship to him, or, as the case may be, to his survivors.

(2) For the purposes of this section the value of any benefit received otherwise than in cash shall be determined in accordance with the regulations.

53. Institution's right to recover damages from employer in certain cases. : --

Where, according to the finding of a Court, an employment injury was sustained by a secured person by reason of a wrongful act or omission of the employer or his agent, the employer or his agent shall reimburse to the Institution the actuarial present value of any periodical payment or the amount of any lump sum payment which the Institution is liable to make under this Ordinance and such actuarial value shall be determined in accordance with the regulations.

54. Institution's right to be indemnified in certain cases . : -- Where a secured person is entitled to receive or to recover, but has not received or recovered, from any person, compensation or damages in respect of any sickness or employment injury caused under circumstances creating a liability in some person other than, in case of employment injury, the employer or his agent, the Institution shall be entitled to be indemnified by the person so liable.

55. Recovery of amounts due . : -- Any amount recoverable by tin Institution under the Chapter may be recovered as arrears of land revenue.

CHAPTER V-A MEDICAL TREATMENT OF DOMESTIC SERVANTS

55. A. Medical treatment of domestic servants . : -- Every employer of a domestic servant shall be liable to provide at his own cost to the domestic servant medical care to the

extent mentioned in Sec. 45.

CHAPTER VI DETERMINATION OF QUESTIONS AND CLAIMS

56. Assessment of disablement . : -- All questions as to the assessment of the degree of disablement shall be determined by a medical board or medical practitioner appointed under Section 17.

57. Decisions on complaints, questions and disputes . : -- If any complaint as received or any question or dispute arises as to-

- (a) whether any person is a secured person within the meaning of this Ordinance ... or
- (b) the rate of wages or average daily wages of a secured person for the purposes of this Ordinance ; or
- (c) the rate of contribution payable by an employer in respect of an employee ; or
- (d) the person who is or was the employer in respect of a secured person ; or
- (e) any benefit and the amount and duration thereof ; or
- (f) any other matter in respect of any contribution or other dues payable or recoverable under this Ordinance ; the matter shall be decided by the Institution, in such manner, and within such time as the regulations may provide, and the Institution shall notify its decision to the person or persons concerned, in writing, stating therein the reason or reasons for its decision.

58. Review on account of new facts. : -- The Institution may, subject to regulations, on facts being brought to its notice, review a decision given by it under Section 57. : -- Provided that no decision shall be reviewed without giving the person or persons concerned an opportunity of being heard and adducing evidence in support of or against the decision, as the case may be.

59. Appeal to Social Security Court. : -- Any person aggrieved by a decision of the Institution under Section 57 or on a review under Section 58 may appeal to the appropriate Social Security Court.

60. Constitution of Social Security Court. : -- (1) Government may, for purposes of this Ordinance, constitute, by notification, a Social security Court for any Social Security Area or Areas specified in the notification.

(2) A Social Security Court shall be prescribed over by a Judge who shall be appointed by Government.

(3) A person shall not be appointed as a Judge of Social Security Court unless he has-

- (a) for a period of not less than three years held a judicial office ; or
- (b) for a period, or for periods aggregating, not less than seven years been an advocate or pleader of the High Court.

61. Jurisdiction of Social Security Court. : -- (1) Subject to the provisions of sub-section (2), a Social Security Court shall have exclusive jurisdiction to hear and decide appeal from decisions of the Institution under Section 57 or reviews under Section 58 in respect of all claims, questions and disputes arising in the appropriate Social Security Area.

(2) Government may, by order in writing, transfer an appeal from one Social Security Court to another, whenever it appears to it that such transfer will promote the ends of justice or

tend to the general convenience of the parties and witnesses.

(3) The Social Security Court to which an appeal has been transferred under the provisions of sub-section (2) shall deal with the same as if it had been originally instituted in, or presented to, such Court.

62. Powers of Social Security Court etc, : -- (1) A Social Security Court shall have all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, administering oath and recording evidence, and such a Court should be deemed to be a Civil Court . within the meaning of Section 195 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(2) Notwithstanding anything contained in any other law a Social Security Court may, for the purposes of deciding any appeal, examine such witnesses and take such evidence as it considers necessary.

(3) A Social Security Court may make such order with regard to costs incidental to any appeal as it thinks fit.

(4) An order of Social Security Court shall be enforceable as if it were a decree of a Civil Court.

(5) A person shall be guilty of contempt of a Social Security Court if he, without lawful excuse-

(a) offers any insult to the Social Security Court or any member thereof while the Court is functioning as such ; or

(b) causes any interruption in the work of the Social Security Court; or

(c) fails to produce or deliver a document when ordered by the Social Security Court to do so ; or

(d) refuses to answer any question of the Social Security Court which he is bound to answer ; or

(e) refuses to take oath to state the truth or to sign any statement made by him when required by the Social Security Court to do so; and the Social Security Court may without any complaint having been made to it, forthwith try such person for such contempt and sentence him to a fine not exceeding fifty rupees.

63. Appearance by legal practitioners. : -- Any application, appearance or act required to be made or done by any person to or before a Social Security Court (other than the appearance of a person required for the purposes of his examination as a witness) may be made or performed by a legal practitioner or by an officer of a registered trade union authorised in writing by such person, or with the permission of the Court by any person so authorised.

64. Appeal. : -- (1) Save as expressly provided in this section, no appeal shall lie from an order of a Social Security Court.

(2) An appeal shall lie to the High Court from an order of a Social Security Court if it involves a substantial question of law.

(3) The period of limitation for an appeal under this section shall be thirty days.

(4) The provisions of Sections 5 and 12 of the Limitation Act, 1908 (IX of 1938), shall apply to appeals under this section.

65, Stay of payment pending appeals. : -- Where the Institution has appealed against an order of a Social Security Court that Court may, and, if so directed by the High Court shall, pending the decision of the appeal, direct that the payment of any sum required to be paid by the order appealed against shall be with-held.

CHAPTER VII OFFENCES AND PENALTIES

66. Offences. : -- If any person-

(a) for the purpose of obtaining the allowance or denial of any payment or benefit under this Ordinance, whether for himself or some other person, or for the purpose of avoiding any payment to be made by himself or any other person under this Ordinance-

(i) knowingly makes or causes to be made any false statement or false representation ; or

(ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular ; or

(b) fails to pay any contribution which under this Ordinance he is liable to pay ; or

(c) recovers or attempts to recover from a secured person, or deducts or attempts to deduct from his wages, the whole or any part of the contribution ;

(d) fails or refuses to submit any return required by regulations or makes a false return ; or

(e) obstructs any official of the Institution in the discharge of his duties ; or

(f) is guilty of any contravention of, or non-compliance with, any of the requirements of this Ordinance or the rules or the regulations ; he shall, without prejudice to any action to which he may be liable under Section 23 or Section 70 or any other provision of this Ordinance, be punished with imprisonment which may extend to three months, or with fine not exceeding one thousand rupees, or with both.

67. Prosecution. : -- (1) No prosecution under this Ordinance shall be instituted except which the previous sanction of the Commissioner or of an officer authorised by him in writing in this behalf.

(2) No Court inferior to that of a Magistrate of the First Class shall try any offence under this Ordinance.

(3) No Court shall take cognizance of any offence under this Ordinance except on a complaint made in writing within six months of the date on which the offence was discovered.

CHAPTER VIII MISCELLANEOUS

68. Contributions, etc. to have priority over other debts. : -- In any proceedings of insolvency against a person or proceedings for the winding up of a company, any contribution or other amount payable under this Ordinance by such person or company shall be deemed to be included among debts to be paid in priority to all other debts.

69. Exemption from taxes. : -- Notwithstanding anything contained in any other law. Government may, by order in writing, exempt the Institution. from any tax, rate or duty leviable by Government or by a local authority under the control of Government.

70. Levy of special tax. : -- (1) Where, in respect of any group of undertakings producing a particular type of product or performing a particular type of service, this Ordinance is, in accordance with the provisions of sub-sections (3) of Section 1, applied to some areas or establishments, but not to other areas or establishments, Government may, after consultation with the Institution, by a notification, levy on the employers in the areas or establishments to which the Ordinance is not applied, notwithstanding anything contained in this Ordinance, a special tax to be paid to the Institution, at such rate, not exceeding five per centum of the total wages paid by the employer, at such times and subject to such conditions, as may be prescribed.

(2) For the purpose of sub-section (1), the total wages paid by the employer shall mean the total wages which have accrued to all his employees drawing wages not exceeding rupees

twenty per day.

71. Review and modification of wage limits, contributions and benefits : -- (1) In January of each year, the Governing Body shall review the wage limits specified in sub-section (4) of Section 20 and the rates of contribution and benefits provided under this Ordinance in the light of any changes in wage levels or living costs and shall submit a report thereon together with its recommendations to Government.

(2) Government may, after considering the said report and recommendations, by notification, enhance or reduce the wage limits specified in sub-section (4) of Section 20 or the rates of benefits payable under this Ordinance.

72. Employers not to dismiss or punish employee during the period of sickness, etc.: -- (1) No employer shall discharge or reduce or otherwise punish an employee during the period in which the employee is in receipt of sickness benefit, maternity benefit, injury benefit or medical care,

(2) Notice of dismissal or discharge or reduction given to an employee during the period specified in sub-section (1) shall be valid or operative.

73. Bar on benefits under other laws. : -- When a person is entitled to any of the benefits provided by this Ordinance, he shall not be entitled to any similar benefit under any other law.

74. Suit for damages in a Civil Court. : -- No suit for damages shall be instituted by a secured person against his employer in any Civil Court in respect of employment injury covered by this Ordinance.

75. Members and servants of the Institution to be public servants. : -- The Members of the Governing Body and all officers and servants of the Institution shall be deemed to be public servants within the meaning of the Pakistan Penal Code (Act XLV of 1860).

76. Removal of difficulties. : -- (1) If any difficulty arises in giving effect to the provisions of Chapters III and V, Government may, by order notified in the official Gazette, make such provision or give such direction as appears to it to be necessary for the removal of the difficulty.

(2) Any order made under sub-section (1) shall have effect notwithstanding anything inconsistent therewith in any rules or regulations.

77. Delegation of powers. : -- The Governing Body may direct that all or any of its powers and functions may in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by the Commissioner or any other officer or authority subordinate to the Institution.

(3) The proceeds of the special tax shall be paid into the Fund and shall be utilized for capital expenditure towards building up and improving the medical facilities available for the provision of medical care under this Ordinance.

(4) All provisions of this Ordinance and rules or regulations relating to contributions, with the exception of Section 26 and the rules made thereunder, shall apply to the special tax as if it were a contribution payable under Section 20.

78. Protection of Proceedings of the Governing Body. : -- No act or proceeding of the Governing Body shall be invalid or questioned merely on the ground of existence of any vacancy therein or any defect in the constitution thereof or in the appointment or qualification of any Member.

79. Power to make rules. : -- (1) Government may, subject to the condition of previous publication, by notification, make rules to carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters. namely. : -- -

(i) the manner in which names of persons from whom Members of the Governing Body may be appointed shall be submitted by organizations of employers and employees recognised by Government for that purpose ;

(ii) powers and functions of the Governing Body ;

(iii) fees and allowances of the Members of Governing Body ;

(iv) qualifications to be possessed by the Medical Adviser ;

(v) times and rates at which and conditions subject to which contributions and the special tax shall be payable, [ooo]

(vi) percentage or amount by which contributions and special tax in arrears may be increased under Section 23 ;

(vii) increase of contribution under Section 26 where employer fails to observe rules of safety or hygiene ;

{viii) branches of social security and other purposes for which separate accounts shall be maintained by the Institution ;

(ix) times at which, amounts upto which, and the manner in which security reserves shall be established and maintained ;

(x) investment of surplus moneys, realization of investments and reinvestment of the proceeds ;

(xi) times at which and the manner in which the budget shall be prepared and submitted to Government;

(xii) form at the manner in which the Institution shall keep accounts of its income and expenditure and of its assets and liabilities;

(xiii) times at which and the manner in which the accounts of the Institution shall be audited by the external auditor ; ,

(xiv) matters which the annual report of the Institution shall cover. : --

(xv) times within which claims for benefit shall be made ;

(xvi) remuneration and conditions of service of officers to be appointed by Government under this Ordinance ;

(xvii) any other matter which is required or allowed by this Ordinance to be prescribed.

80. Power to make regulations. : -- (1) The Governing Body may, subject to the condition of previous publication, by notification, make regulations not inconsistent with the provisions of this Ordinance or the rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely. : -- -

(i) the matter in which medical practitioners shall be authorised to give certificates required under any of the provisions of this Ordinance, the form of such certificates and the duties of medical practitioners in that regard ;

(ii) occupational diseases which may cause employment injury ;

(iii) qualifications which a person practising medicine shall possess for appointment as a medical practitioner under Section 17 or to be authorised to give certificates under Sections 35, 36 and 39 or for recognition for any other purpose under this Ordinance ;

(iv) times and places at which meetings of the Governing Body shall be held ;

(v) amount of contributions owed to the Institution which (shall) qualify a person from being or continuing to be a Member of the Governing Body ;

(vi) duties of Medical Adviser in connection with medical care ;

(vii) powers, functions, fees and allowances of medical practitioner and medical boards and the areas for which and the manner in which they shall be appointed ;

{viii) powers of the Governing Body to employ officers and staff for administration of the

affairs of the institution . : --

(ix) [*****]

(x) powers of the Commissioner with regard to appointment, transfer, promotion, dismissal and other matters affecting the staff of the Institution ;

(xi) the manner in which deduction in respect of employee's contribution shall be made where whole or part of the wages is not payable by the employer ;

(xii) the manner in which daily wages shall be calculated for the purpose of determining the contribution payable ;

(xiii) determination of wages for computation of contributions where the mode of payment of remuneration, in cash or kind, makes such computation difficult ;

(xiv) records to be kept and returns to be submitted by employers, times at which and the form in which such returns are to be submitted, and the particulars relating to employees to be stated in such returns ;

(xv) form of certificate authorizing an official of the Institution to exercise the powers of inspection under Section 22 ;

(xvi) the manner in which any claim of the Institution for unpaid contributions may be extinguished ;

(xvii) powers and duties of internal auditor ;

(xviii) conditions of entitlement to receive sickness, maternity and injury benefit, disablement pension, disablement gratuity, death grant, survivor's pension and medical care ;

(xix) the items of medical care in respect of specified diseases to which a secured person shall be entitled ;

(xx) the manner in which medical care shall be provided ;

(xxi) arrangements under which beneficiaries shall share the costs of certain kinds of medical care and the manner in which such costs shall be determined;

(xxii) the form and manner in which claims for benefits shall be preferred, and documents, information and evidence which shall accompany such claims ;

(xxiii) the manner in which and the times and places at which payment in respect of benefits shall be made ;

{xxiv) determination, for the purpose of repayment to the institution, of the value of any benefit received otherwise than in cash ;

(xxv) determination of the actuarial present value of any periodical payment for which the Institution becomes liable by reason of a wrongful act or omission of the employer or his agent ;

(xxvi) the manner in which and the time within which complaints, question and disputes shall be decided ;

(xxvii) the circumstances and manner in which, on new facts coming to light, the Institution may reopen cases and review decisions ;

(xxviii) the manner which applies for the use of the Institution shall be obtained and immovable property hired or acquired, and in which such supplies or property shall be sold or otherwise disposed of. : -- and

(xxix) any other matter not provided for in this Ordinance or rules and necessary to give effect to the provisions of this Ordinance.

81. Supersession of certain laws, etc. : -- Workmen's compensation and maternity benefit payable under the Workmen's Compensation Act, 1923 VIII of 1923), the Employers Liability Act, 1938 (XXIV of 1938), the Mines Maternity Benefit Act, 1941 (XIX of 1941), the West Pakistan Maternity Benefit Ordinance, 1958 (W.P. Ord. XXXII of 1958), or under any other law shall not be payable in respect of any employment on or after the appointed day in respect of such employment and the enactments and laws aforesaid shall, in so far as they are in consistent with the provisions of this Ordinance, cease to have effect.

82. Repeal. : -- The Employees Social Insurance Ordinance, 1962 (XXII of 1962), in its application to the Province of West Pakistan, is hereby repealed