

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
Law, Justice, Parliamentary Affairs and Human Rights Department

“Muzaffarabad”
Dated: 30.03.2017

No. LD/Legis-Act/280-291/2017. The following Act of Assembly received the assent of the President on the 16th day of March 2017, is hereby published for general information.

[Act XX of 2017]

An

Act

to provide a law for old-age Benefits for the persons employed in industrial, commercial and other organizations

Whereas it is expedient to provide a law relating to old-age Benefits for the persons employed in industrial, commercial and other organizations and matters connected therewith.

Therefore, it is hereby enacted as follows:-

CHAPTER-I
PRELIMINARY

1. **Short title, Extent, Commencement and Application.**- (1) This Act may be called the Azad Jammu and Kashmir Employees Old-Age Benefits Act, 2017.
- (2) It shall extend to the whole of Azad Jammu and Kashmir.
- (3) It shall come into force at once and shall be deemed to have taken effect from 30.12.2013.
- (4) It shall apply to every Industry or Establishment,-
- (i) wherein five or more persons are employed by the employer, directly or through any other person, whether on behalf of himself or any other person, or were so employed on any day during the preceding twelve months, and shall continue to apply to every such Industry or Establishment even if the number of persons employed therein is, at any time after this Act becomes applicable to it, reduced to less than five;
- (ii) in case where less than ten persons are employed in any Industry or Establishment, and such Industry or Establishment, as the case may be, voluntarily applies for application of this Act then this Act shall be applicable from the date of submission of an application by such Industry or Establishment, as the case may be; or

(iii) which the Government of Azad Jammu and Kashmir may, by notification in the official Gazette, specify in this behalf.

2. Definitions.- In this Act, unless the reference or the context requires otherwise,-

- (i) **"Benefits"** means old age pension, Invalidity pension, Survivors Pension, old age grant and such other payments as may be determined by the Government from time to time.
- (ii) **"Beneficiary"** means a person who is or has been in beneficial employment as defined under this Act and shall not include a director of a limited company or of a corporation set up under any law irrespective of his wages or emoluments;
- (iii) **"Board"** means the Board of Trustees constituted under Section 7;
- (iv) **"Beneficial Employment"** means employment of a person, whether direct or through any other person, for wages or otherwise, to do any skilled or unskilled, supervisory, clerical, manual or other work in, or in connection with the affairs of, an industry or establishment, under a contract of service or apprenticeship, whether written or oral, express or implied, and includes such person when laid off, in respect of which Contributions are payable under this Act;
- (v) **"Contribution"** means the pension contribution or sum of money payable to the Institution by the Employer or by the Government or by Government of Pakistan in respect of a beneficiary under the provisions of this Act;
- (vi) **"Employer"** in relation to an industry or establishment, means any person who employs, either directly or through any other person, any beneficiary, and includes—
 - (a) in the case of individual, an heir, successor, administrator, or assign;
 - (b) a person who has ultimate control over the affairs of an industry or establishment, or where the affairs of an industry or establishment are entrusted to any other person, whether called a managing agent, managing director, manager, superintendent, secretary, or by any other name, such other person;
- (vii) **"Employment injury"** means a personal injury to a Beneficiary 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;
- (viii) **"Establishment"** means-
 - (a) an establishment to which the West Pakistan Shops and Establishments Ordinance, 1969 (West Pakistan Ordinance No. VIII

of 1969), for the time being applies, and, notwithstanding anything contained in Section 5 thereof, includes clubs, hostels, organizations and messes, not maintained for profit or gain and establishments, including hospitals, for treatment or care of sick, infirm, destitute or mentally unfit persons;

- (b) a construction industry, as defined in the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (West Pakistan Ordinance No. VI of 1968);
- (c) a factory as defined in the Factories Act, 1934 (XXV of 1934);
- (d) a mine as defined in the Mines Act, 1923 (IV of 1923);
- (e) a road transport service as defined in the Pakistan Road Transport Workers Ordinance, 1961 (XXVIII of 1961); and

includes any class of industries or establishments which the Government may, by notification in the official Gazette, declare to be establishments for the purposes of this Act.

- (ix) **"Fund"** means the Azad Jammu and Kashmir Employees Old-Age Benefits Fund set up under Section 17;
- (x) **"Government"** means Azad Government of the State of Jammu and Kashmir;
- (xi) **"Industry"** means any business, trade, undertaking, manufacture or calling of Employers, and includes any calling, service, employment, handicraft, industrial occupation or avocation of workmen;
- (xii) **"Institution"** means the Azad Jammu and Kashmir Employees Old-Age Benefit Institution established or authorized under Section 4 or Section 5;
- (xiii) **"Invalidity"** means a condition, other than that caused by an employment injury, as a result of which a Beneficiary is permanently incapacitated to such an extent as to be unable to earn from his usual or other occupation more than one-third of the normal rates of earnings in his usual occupation;
- (xiv) **"Member"** means a Member of the Board;
- (xv) **"Act"** means the Azad Jammu and Kashmir Employee's Old-age Benefits Act 2017;
- (xvi) **"Prescribed"** means Prescribed by Rules made under this Act;
- (xvii) **"Regulations"** means Regulations made by the Board consistent with the Rules made under this Act;
- (xviii) **"Rules"** means Rules made under this Act;

- (xix) **“Survivor”** means spouse of Beneficiary including wife /husband, children and parents;
- (xx) **“Schedule”** means the Schedule annexed with this Act;
- (xxi) **“Wages”** means the rates of wages as declared under the law relating to minimum wages for unskilled workers as enforce in Azad Jammu and Kashmir Jammu and Kashmir; and
- (xxii) **“Year”** with respect to beneficial employment, means a total of three hundred and sixty five days for which contributions are payable, or, in the case of beneficiary who are paid for weekly holidays, a minimum of three hundred and twelve days.

CHAPTER-II REGISTRATION OF BENEFICIARIES

3. **Compulsory registration and pension Contribution.**- All persons employed in an Industry or Establishment under a contract of service or apprenticeship, whether written or oral, express or implied, shall be registered for the purpose of pension contribution in the manner as prescribed by or under this Act.
4. **Establishment of Institution.**- (1) As soon as may be, after the commencement of this Act, Government shall establish or authorize by notification, an Institution to be called the Azad Jammu and Kashmir Employees Old-Age Benefits Institution.
- (2) The Institution shall be a body corporate having perpetual succession and a common seal, with powers, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the aforesaid name sue or be sued.
5. **Authorization of a body or department.**- (1) Notwithstanding anything contained in Section 4, the Government may, till the Establishment of an Institution, by notification in the official Gazette, authorize a body corporate or a statutory body or a department of Government to exercise and perform all the powers and functions of the Institution under this Act and appoint the head of such body corporate, statutory body or the department, as the case may be, by whatever name called, to be head of the Institution.
- (2) The authorization under sub-section (1) shall be subject to such terms and conditions as the Government may, from time to time, determine.
6. **Management of the Institution.**- (1) The general direction and superintendence of the affairs of the Institution shall vest in the Board, which may, through the head of the Institution, exercise all powers and do all acts and things which may be exercised or done by the Institution under this Act.

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

7. **Composition of Board.**- (1) The Board shall consist of the Chairman and the following Members to be appointed by the Government, by notification, namely:-

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|-----|---|------------------|
| (a) | The Chief Secretary | Chairman |
| (b) | Secretary, Finance Department; | Member |
| (c) | Secretary, Industries & Labour Department; | Member |
| (d) | Secretary, Law Department; | Member |
| (e) | President AJK Chamber of Commerce and Industries; | Member |
| (f) | All Divisional Commissioners; | Members |
| (g) | Director Labour Department; | Member/Secretary |
| (h) | Two persons to represent Employers; and | Members |
| (i) | Two persons to represent Beneficiaries; | Members |

(2) Members to be appointed under clauses (h) and (i) of sub-section (1) shall respectively be chosen from a list of names submitted in the Prescribed manner by the organizations of Employers and employees recognized by the Government for that purpose:

Provided that, till the making of Rules in this behalf the first Members to be so appointed shall be chosen from amongst such persons as the Government may deem fit.

8. **Powers and functions of the Board.**- In addition to the powers conferred on, and functions entrusted to it, by or under other provisions of this Act or the Rules, the Board shall have powers to,-

- (a) approve budget estimates, audited accounts and annual report of the Institution for submission to the Government in accordance with the provisions of the Act;
- (b) call for any information or direct any research to be made for furtherance of objects of the Act; and
- (c) co-opt any other technical person by name as Member of the Board for a specific purpose and for such limited period as may be decided by the Board.

CHAPTER-III CONTRIBUTIONS

9. **Rates and Payment of Contributions.**- (1) On and from the first day of July 2013, Contributions shall be payable every month by the Employer to the Institution in respect

of every person in its Beneficial Employment, at the rate of five percent of his Wages in the Prescribed manner.

(2) Where a Beneficiary does not receive any Wages from the Employer for any period, the Institution shall, subject to Regulations, determine the amount of Wages with reference to which the Contributions shall be computed.

(3) Notwithstanding any agreement to the contrary, the Employer shall not deduct from the Wages of a Beneficiary or otherwise recover from him, contribution or any of its portion, to be paid by him to the extent of five percent.

(4) 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 Institution may, subject to Regulations, determine such Wages.

(5) The Government may make such Contribution to the Institution as it may fix from time to time.

(6) On and from 1st day of July of every Year the Contribution shall be payable every month by a Beneficiary at the rate of one percent of the Wages in the Prescribed manner.

10. **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 persons employed by him, as may be required in the Regulations.

11. **Registration and cancellation of Establishment etc.**- (1) Every Employer shall, before expiry of thirty days from the day on which this Act becomes applicable to the Industry or Establishment in respect of which he is the Employer, communicate to the Institution the name and other Prescribed particulars of the Industry or Establishment and of every person employed in such Industry or Establishment.

(2) Every Beneficiary may also communicate his name and other prescribed particulars to the Institution.

(3) On receipt of a communication under sub-section (1) or sub-section (2), the Institution shall register the name of the Industry or Establishment or the person in such manner, and issue to the Beneficiary a registration card in such form, as may be Prescribed.

(4) Employer and Beneficiary together of any establishment or industry may apply voluntarily for retrospective registration after depositing Contribution regarding the period before commencement of this Act.

(5) The Board may, on the basis of such evidences as the Board may find satisfactory for the purpose, cancel the registration of any Industry or Establishment which has ceased to exist:

Provided that the cancellation of the registration of an Establishment or Industry shall not affect its liabilities incurred before the date of such cancellation.

12. Officials of Institution to check Employer's books.- (1) Any official of the Institution, duly authorized 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 10 or for the purpose of ascertaining whether any of the provisions of this Act 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, being in charge thereof, to produce and allow him to examine such accounts, 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 other premises, or any other person to whom said official has reasonable cause to believe to be or to have been a Beneficiary.

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

(3) If an Employer fails to maintain records or to submit returns as required by the 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 registered 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.

13. Recovery of defaulted Contribution 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 9, the amount so payable by him shall be increased by such percentage or amount as may be prescribed:

Provided that in no case such increase shall exceed fifty percent of the total amount due.

(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 an arrear of land revenue.

14. **Safeguard of Beneficiaries rights in default of payment of Contribution by Employers.-** Notwithstanding anything contained in this Act, if a beneficial employee has communicated his name and other prescribed particulars to the Institution under sub-section (2) of Section 11 and has been issued by the Institution a registration card under sub-section (3) thereof and, in case of changing employment from one Industry or Establishment to another, has also informed the Institution about such change of employment, then in the event of default in payment of Contributions by the Employer in respect of a Beneficiary, such Beneficiary shall, have and enjoy the same rights under this Act as if no such default had occurred.
15. **Refund of Contribution paid erroneously.-** An Employer shall be entitled to the refund of any Contribution paid to the Institution under erroneous belief that it was payable under the provisions of this Act, 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 no Contribution or excess amount of any Contribution shall be refunded unless an application for such refund is made within six months from the date on which the Contribution was paid.

16. **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

17. **Employees' Old-Age Benefits Fund.-** (1) The Institution shall have its own Fund, to be called the Azad Jammu and Kashmir Employees' Old-Age Benefits Fund and may incur out of the Fund such expenditure as may be necessary for the purposes of this Act.
- (2) All Contributions made, or other money received by or on the behalf of the Institution shall be credited into the Fund.
- (3) The Institution shall derive its revenues from the following sources,-
- (a) Contributions payable under this Act and the Rules;
 - (b) all other payments under this Act or Regulations made by the Employers;

(c) incomes from investment of the money of the Institution; and

(d) donations and bequests for the purposes of this Act.

(4) Assets of the Institution shall be utilized solely for the purposes of this Act.

(5) Money of the Institution shall be deposited in such banks as may be unanimously approved by the Board for the purpose.

18. Investment and loans.- (1) Subject to Rules, the Institution may, from time to time, invest any money, which are not immediately required for expenses under this Act, and may reinvest or realize such investment.

(2) The Institution may, with the previous sanction of the Board / Government and on such terms as it may specify, raise loans and take measures for repayment of such loans.

19. Budget, accounts and audit.- (1) The Institution shall draw up annually a budget showing anticipated receipts and expenditures during the following Year and shall submit to the Board for obtaining approval of the Government.

(2) The Institution shall maintain accounts of its income and expenditure in such form and manner as may be Prescribed.

(3) The books of accounts of the Institution shall be balanced on thirtieth day of June every Year and its accounts shall be audited, by such auditors as may be approved by the Board / Government, at such time and in such manner as may be Prescribed.

(4) The auditors, at all reasonable times, shall have access to the books of accounts and other documents of the Institution and may, for purposes of the audit, call for such explanation and information as they may require and may examine any principal or other officer of the Institution.

(5) The auditors shall forward to the Government their report together with an audited copy of the accounts of the Institution within a period of one month from completion of the audit.

20. Annual Report.- The Institution shall prepare and submit to the Government annual report containing details of its work and activities.

21. Valuation of assets and liabilities.- The Institution shall, at intervals of not more than five Years, have an actuarial valuation made in the Prescribed manner of its assets and liabilities:

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

CHAPTER-V BENEFITS

22. **Old-age Pension.-** (1) A Beneficiary shall be entitled to a monthly old-age pension at the rate specified in the Schedule: Provided that,-

- (a) he is over sixty years of age, or fifty five years in the case of a woman;
- (b) he has retired from beneficial employment; and
- (c) Contributions in respect of him were payable for not less than fifteen years:

Provided further that the age specified in clause (a) will be reduced by five years in the case of a person employed in the occupation of mining or tunneling for at least ten years immediately preceding retirement:

Provided also that where the contribution under sub-section (6) Section 9 is paid regularly by the Beneficiary himself in accordance with the prescribed procedure, his entitlement to the Benefit shall not be affected by default in payment of Employer's share of contribution.

(2) If, a Beneficiary was on the 1st day of July, 2013, or on any day thereafter on which this Act becomes applicable to an Industry or Establishment,-

- (i) over forty years of age, or thirty-five years in the case of a woman, provisions contained in clause (c) of sub-section (1) shall have effect as if for the word "fifteen" therein, the word "seven" was substituted; or
- (ii) Over forty five years of age, or forty years in the case of a woman, clause (c) of sub-section (1) shall have effect as if for the word "fifteen" therein, the word "five" was substituted:

Provided that nothing in this sub section shall apply to a beneficiary registered under this Act on or after 1st day of July, 2020.

(3) Notwithstanding anything contained in sub-section (1), a beneficiary –

- (a) who may be registered under the provisions of this Act after 1st July, 2013, and before 30th June, 2014 and attains age of fifty-five years, and in case of a woman fifty years, on or before the 30th June, 2020; and
- (b) in respect of whom contributions were payable to the Institution for the period required under the provisions of this Act;

shall be entitled to old-age pension at the age of fifty-five years and fifty years in the case of a woman.

(4) A beneficiary already in receipt of an old-age or invalidity pension, or entitled to an old-age pension under the provisions of sub-section (3), shall be entitled to a minimum pension at the rate specified in the Schedule.

(5) A beneficiary who retires from beneficial employment before attaining the age of sixty years or in the case of a woman fifty-five years but after attaining the age of fifty-five years or in the case of a woman fifty years shall be entitled to a reduced old-age pension on fulfilling the following conditions, namely :-

- (a) the Institution is satisfied through documentary evidence that the beneficiary has a definitely established retirement age of less than sixty years and in the case of a woman fifty-five years;
- (b) the employer certifies that the beneficiary has been retired by him on attaining the age of superannuation; and
- (c) the contributions in respect of him were paid for the period required under the provisions of this Act.

(6) The old-age pension shall be reduced by one-half percent of the old-age pension specified in the Schedule for each completed month by which the age falls short of sixty years and in the case of a woman fifty-five years; and the minimum old-age pension shall also be reduced in the aforesaid manner in the case of retirement from beneficial employment before attaining the age of sixty years and in the case of a woman fifty-five years.

(7) The reduction in old-age pension specified in sub-section (6) shall be for life and shall not be restored on the beneficiary's attaining the normal pension age.

(8) Subject to Regulations, the old-age pension shall commence as from the month following that in which the beneficiary satisfies the condition for entitlement thereto:

Provided that no allowance shall be payable retroactively for more than six months preceding the month in which an application for old-age pension is submitted.

(9) Beneficial employment of a person for the purposes of this Act shall commence on the date from which the first contribution in respect of him becomes payable.

(10) The old-age pension payable to a Beneficiary shall be terminated at the end of the month in which the death of such person occurs save as provided in Section 24.

(11) The old-age Benefit may, at the request of a Beneficiary, be commuted on such grounds and in such manner as may be specified in the Regulations.

23. Old age grant.- If a Beneficiary, not otherwise entitled to old age pension, retires from beneficial employment after attaining the age of sixty years, or in the case of a woman fifty five years and a mining or tunneling worker, and contributions in respect of him were paid for less than fifteen years, but not less than two years, he shall be entitled to an old

age grant paid in a lump sum equal to his one month's average monthly wages for every completed year of beneficial employment or part thereof in excess of six months:

Provided that where the contribution under sub-section (6) of Section 9 is paid regularly by the Beneficiary himself in accordance with prescribed procedure, his entitlement to the Benefit shall not be affected by default in payment of Employer's share of contribution under section 9.

- 24. Survivor's pension.**- (1) In case of death of a Beneficiary while in beneficial employment but after he had completed not less than thirty-six months of beneficial employment, the surviving spouse, if any, shall be entitled to a life pension equal to the minimum pension.
- (2) In case of death of a Beneficiary, while not being in beneficial employment but after he had completed five years of the employment, the surviving spouse, if any, shall be entitled to a life pension equal to the minimum pension.
- (3) In case of death of a Beneficiary who had become entitled to old-age pension or Invalidity pension, before his death, the surviving spouse shall, if the spouse had married the deceased beneficiary before he had attained the minimum age prescribed for old-age pension, receive a life pension equal to the pension of such Beneficiary.
- (4) In case of death of the surviving spouse in receipt of Survivor's pension, the minor children of the deceased beneficiary, if any, shall be entitled to the Survivor's pension in the following equal shares, namely:-
- (a) In case of a male child, until he attains eighteen years of age; and.
 - (b) In case of a female child, until she attains eighteen years of age or until marriage, whichever is earlier.
- (5) In the case of cessation of survivor's pension of any of the children of the deceased beneficiary on his attaining the age of eighteen years or in case of a female on solemnization of her marriage, or death, as the case may be, the share of survivor's pension received by such minor shall be distributed equally among the rest of the minor children of the deceased beneficiary.
- (6) In case of death of the surviving spouse in receipt of a survivor's pension within five years after the death of the beneficiary and not survived by any minor child of the deceased beneficiary, the survivor's pension shall be paid to the surviving parents of the deceased, if any, for a period of five years from death of the said spouse.
- (7) In case of death of a Beneficiary who is not survived by a spouse, the survivors' pension shall be paid to the minor children of the deceased beneficiary referred to in sub-section (4) and sub-section (5), and in the case of beneficiary not surviving by any minor

child, the survivors pension shall be paid to the surviving parents of the deceased beneficiary, if any, for a period of five years from the death of the deceased beneficiary.

25. Invalidity pension.- (1) A Beneficiary who sustains Invalidity shall be entitled to an Invalidity pension at the rate to be calculated according to the formula set out in the Schedule, subject to the following conditions,-

- (a) contributions in respect of him were payable for not less than fifteen years; or
- (b) contributions in respect of him were payable for not less than five years since his entry into Beneficial Employment and for not less than three years preceding the month in which he sustains Invalidity; and
- (c) In either case, he is under sixty years of age, or in the case of woman fifty-five years:

Provided further that where the Contribution under sanction (6) of Section 9 is paid regularly by the beneficiary himself in accordance with prescribed procedure, his entitlement to the Benefit shall not be affected by default in payment of Employer's share of contribution under Section 9.

(2) Subject to Regulations, the Invalidity pension shall be paid from the month following that in which the Beneficiary satisfies the conditions for entitlement thereto:

Provided that the Invalidity pension shall not be paid retrospectively for more than six months preceding the month in which an application for the Invalidity pension is submitted.

(3) The Invalidity pension shall be paid so long as Invalidity continues:

Provided that a Beneficiary who has been in receipt of Invalidity pension for not less than five continuous years or attains the age specified in clause (a) of sub-section (1) of Section 22 shall be entitled to the Invalidity pension for life.

CHAPTER-VI PROVISIONS COMMON TO ALL BENEFITS

26. Calculation of qualifying Contribution periods.- In computing the contribution periods for entitlement to a Benefit under this Act, periods in respect of which Invalidity pension has been paid to a Beneficiary prior to his reaching the age of sixty years, or in the case of a woman fifty five years, or periods in respect of which maternity Benefit, or sickness Benefit or injury Benefit or total disablement pension have been paid to a Beneficiary shall be deemed to be Contribution periods to such extent as may be provided by the Regulations.

27. **Benefit claims and payments.-** (1) All claims for a benefit under this Act shall be made in writing and shall be accompanied by such documents, information and evidence as to entitlement as may be provided by the Regulations.
- (2) Payment of a Benefit shall be made in such manner and at such times and places as, may be provided by the Regulations.
28. **Extinguishment of Benefits.-** A right to any benefit shall stand extinguished where, a claim thereof is not made within twelve months of the date on which the benefit becomes payable:
- Provided that the Institution may condone the delay and admit the claim if it is satisfied that the delay was caused for reasons beyond control of the beneficiary or the survivor.
29. **Suspension of old-age pension and survivor's pension.-** Subject to the Regulations, payment of old-age pension and survivor's pension shall be suspended when and so long as the beneficiary or the survivor entitled to it is absent from Azad Jammu and Kashmir and Pakistan, except where the Regulations provide otherwise.
30. **Non-duplication of Benefits.-** (1) A beneficiary shall not be paid for the same period more than one of the benefits provided for in this Act.
- (2) Where a beneficiary is entitled to more than one benefit under this Act, he shall be given the higher of such benefits.
- (3) Where a beneficiary is entitled to benefit under this Act and to a disablement pension under any other law, he shall be given the higher of the two.
- (4) The Invalidity pension shall not be payable to a beneficiary so long as he receives the sickness benefit under any other law.
31. **Benefits not attachable, chargeable or assignable.-** A benefit payable under this Act, shall not be liable to attachment in the execution of a decree, nor shall it be chargeable or assignable; and any agreement to charge or assign a benefit shall be void, and on the bankruptcy of a beneficiary, the benefit payable to him shall not pass to any trustee or person acting on behalf of his creditors.
32. **Repayment of benefit improperly received.-** (1) When a person has received any benefit under this Act to which he is not lawfully entitled, he shall be liable to repay to the Institution, the amount of the benefit in such manner as may be provided by the Regulations:

Provided that the Institution may waive repayment of a benefit where payment thereof was not due to misrepresentation on the part of the beneficiary receiving it and the repayment would cause undue hardship to him.

(2) Sums due to the Institution by virtue of the foregoing sub-section may be recovered by deduction from any benefit payable under this Act.

33. **Institution's right to be indemnified in certain cases.**- Where the contingency for which a benefit is payable under this Act, was caused under circumstances creating a legal liability in some person, the Institution shall be entitled to substitute itself for the beneficiary in bringing a suit for damages against that person.

34. **Recovery of amounts due.**- Any amount recoverable under this chapter may be recovered as arrears of land revenue and provisions of the West Pakistan Land Revenue Act, 1967 (Act No. XVII of 1967) shall mutatis mutandis apply.

CHAPTER-VII DETERMINATION OF QUESTIONS AND CLAIMS

35. **Decisions on complaints, questions and disputes.**- If any complaint is received or any question or dispute arises as to,-

- (a) Whether a person is a Beneficiary within the meaning of this Act;
- (b) the amount of wages of a beneficiary for the purposes of this Act;
- (c) the amount of contribution payable by an employer in respect of a beneficiary;
- (d) the person who is the employer in respect of a beneficiary;
- (e) entitlement to any benefit under this Act or as to the amount and duration thereof;
- (f) registration of an Industry or Establishment; or
- (g) any other matter in respect of any contribution or any benefit referred to in clause (e), or due payable or recoverable under this Act relating to contributions or the aforesaid benefits;

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 concerned in writing, stating therein the reason for its decision.

36. **Review of decision.**- The Institution may, subject to Regulations, on new facts being brought to its notice, review a decision given by it under Section 35:

Provided that no decision shall be so reviewed without giving the person concerned an opportunity of being heard and adducing evidence in support of, or against the decision, as the case may be.

37. **Appeal to the Board.**- Subject to Rules, a person aggrieved by a decision of the Institution under Section 35 or on a review under Section 36, may appeal to the Board.
38. **Assessment of Invalidity.**- The Institution shall appoint medical boards which shall, in such manner as may be provided by Regulations, assess the degree of Invalidity sustained by a beneficiary.

CHAPTER-VIII OFFENCES AND PENALTIES

39. **Offences and Penalties.**- If any person-
- (a) For the purpose of obtaining a benefit, or denial of any payment or benefit under this Act, 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 Act-
 - (i) Knowingly makes or causes to be made 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 any material particular; or
 - (b) fails to pay any Contribution which under this Act he is liable to pay; or
 - (c) recovers or attempts to recover from a beneficiary, or deducts or attempts to deduct from his wages, the whole or any part of the employer's share of contribution; or
 - (d) fails or refuses to submit any return required by this Act, or Regulations or makes a false return; or
 - (e) obstructs any official of the Institution in discharge of his duties; or
 - (f) is guilty of any contravention of, or non-compliance with any of the provisions of this Act or the Rules or the Regulations:
- he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to one hundred thousand rupees, or with both.
40. **Prosecution.**- (1) No prosecution under this Act shall be instituted except with the previous sanction of the Board or any officer or authority specially authorized in this behalf by it.
- (2) No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

(3) No court shall take cognizance of any offence under this Act except on a complaint made in writing within six months of the date on which the offence comes to the knowledge of the Board or an officer or authority referred to in sub-section (1).

CHAPTER-IX MISCELLANEOUS

41. **Charge of outstanding Contribution to debt list.**- In any proceedings of insolvency against a person or proceedings for winding up of a company, any contribution or other amount payable under this Act by such person or company shall be deemed to be included among debts to be paid in priority to all other debts.
42. **Exemption from stamp duty.**- Stamp duty shall not be chargeable upon any documents used in connection with benefits payable under this Act.
43. **Exemption from taxation.**- Notwithstanding anything contained in any other law, the Government may, by order in writing, exempt the Institution from any tax, duty, or rate leviable by the Government or by a local authority under the control of the Government.
44. **Members and servants of the Institution to be Public Servant.**- The Members and employees of the Board and all officers and servants of the Institution shall be deemed to be public servants within the meaning of Section 21 of the Azad Kashmir Penal Code (Act XLV of 1860).
45. **Delegation of powers.**- The Board 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 any, officer or authority subordinate to the Institution.
46. **Power to make Rules.**- (1) The Government may, in consultation with the Board and by notification in the official Gazette, make Rules to carry out purposes of this Act.
(2) In particular, and without prejudice to the generality of the foregoing powers, such Rules may provide for all or any of the following matters, namely,-
- (i) the tenure of office of the Members, other than the Chairman, and other terms and conditions of appointment of the Members and the manner in which the Board shall conduct its business, including the number of Members required to form a quorum at the meetings thereof;
 - (ii) the manner in which names of persons from whom Members of the Board may be appointed shall be submitted by organizations of employers and employees recognized by the Government for that purpose;
 - (iii) powers and functions of the Board;
 - (iv) fees and benefits of Members of the Board;

- (v) times and rates at which, and conditions subject to which, contributions shall be payable;
- (vi) percentage or amount by which contributions in arrears may be increased under Section 13;
- (vii) investment of surplus money, realization of investments and reinvestment of proceeds;
- (viii) terms at which and manner in which budget of the Institution shall be prepared and submitted to the Government for consideration and approval;
- (ix) the forms and manner in which the Institution shall keep accounts of its income and expenditure and of its assets and liabilities;
- (x) the times at which, and the manner in which, the accounts of the Institution shall be audited:
- (xi) the matters which the annual report of Institution shall cover;
- (xii) the times in which claims for an allowance or the benefit, as the case may be, shall be made;
- (xiii) the manner and procedure for disposal of appeals by the Board; and
- (xiv) Any other matter which is required to be dealt or may be prescribed.

47. Power to make Regulations.- (1) The Board may subject to the condition of previous publication, by notification in the official Gazette, make Regulations not inconsistent with the provisions of this Act or the Rules.

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

- (i) the time and places at which meetings of the Board shall be held;
- (ii) the manner in which daily wages shall be calculated for the purpose of determining the contribution payable;
- (iii) determination of wages for computation of contributions where the mode of payment of remuneration, in cash or kind, makes such computation difficult;
- (iv) records to be kept and returns to be submitted by Employers, time at which and the form in which such returns are to be submitted, and particulars relating to the beneficiaries to be stated in such return and the manner and form for registration of Employer and beneficiaries;
- (v) the manner in which any claim of the Institution for unpaid contributions may be extinguished;
- (vi) powers and duties of internal auditors;

- (vii) procedure and method of calculations and terms and conditions for the commutation of old-age Benefit;
- (viii) the form and manner in which claims for a benefit shall be preferred, and the documents, information and evidence which shall accompany such claims;
- (ix) the manner in which and the time and places at which payment in respect of a benefit shall be made;
- (x) the manner in which and the time within which complaints, questions and disputes shall be decided;
- (xi) the circumstances and the manner in which, on new facts coming to light, the Institution may review decisions;
- (xii) the method of payment of contribution and liability thereof;
- (xiii) the manner in which Invalidity shall be assessed and the procedure thereof;
- (xiv) the manner in which proof of age shall be furnished for the purposes of this Act;
- (xv) the manner in which the services of the Institution shall be organized; and
- (xvi) any other matter not provided for in this Act or the Rules and deemed to be necessary to give effect to the provisions of this Act.

48. Power to exempt.- The Government, in consultation with members of the Cabinet, may subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any Establishment or Industry from all or any of the provisions of this Act.

49. Act not to apply to certain persons.- Nothing in this Act shall apply to,-

- (a) Persons in the service of the State, including members of the Armed Forces, Police Force and Railway servants.
- (b) Persons in the service of a Local Council, a Municipal Committee, a Cantonment Board or any other local authority;
- (c) Persons who are employed in services or installations connected with or incidental to the Armed Forces including an Ordnance factory maintained by the Government or Railway administration;
- (d) Persons in the service or statutory bodies other than those employed in or in connection with the affairs of a factory as defined under Clause (J) of Section 2 of the Factories Act, 1934 (XXV of 1934), or a Mine as defined in the Mines Act, 1923 (IV of 1923):

Provided that workshops maintained exclusively for the purposes of repair or maintenance of equipment or vehicles used in such statutory bodies shall not be treated as factories for the purposes of this clause; and

- (e) Members of the Employer's family, that is to say, the husband or wife and dependent children of the employer living in his house, in respect of their work for him.

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(Mehr-un-Nisa Qadri)
Section Officer (Legislation)

SCHEDULE
(SEE SECTIONS 22, 24 & 25)

1. The monthly rate of old age pension or Invalidity pension payable to a beneficiary and survivor's pension payable to surviving spouse shall be calculated in accordance with the following formula, namely:-

Monthly wages (X) number of years of employment (\div) 50 years

A period of six months or more of beneficial employment shall be treated as one full year. No account shall be taken of any period of beneficial employment completed by the beneficiary after becoming entitled to old-age pension.

- (i) The monthly wages of a beneficiary, referred to in above paragraph, shall be calculated on the basis of wages on which contributions were paid in respect of the twelve calendar months immediately preceding the date on which beneficiary fulfils the conditions for entitlement to any benefit under this Act,

Provided that the old-age pension or Invalidity pension payable to a beneficiary and survivor's pension payable to the survivors of the deceased beneficiary shall not be less than 45% of the minimum wages approved by the Government, per month for pension commencing on or before 1st day of July 2013.

- (ii) The monthly rate of old age pension, Invalidity pension and survivor's pension determined and payable under paragraph (1) shall be increased at the rate of 15% per annum at such time as may be decided by the Government.

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