

The Banking Companies Ordinance, 1962

BANKING COMPANIES ORDINANCE, 1962

(LVII of 1962)

AND

THE BANKING COMPANIES RULES 1963

MADE UNDER

THE ORDINANCE

(As amended up to 31st May , 1997)

THE BANKING COMPANIES ORDINANCE, 1962

(LVII of 1962)

CONTENTS

Part – I

Preliminary

Sections: Pages

1. Short title, extent and commencement 1
2. Application of other laws not barred 2
3. Limited application of Ordinance to Co-operative Banks (Omitted) 2
- 3A. Limited application of Ordinance to certain financial institutions 2
4. Power to suspend operation of Ordinance 2
5. Definitions:
 - (a) "approved securities" 3
 - (b) "banking" 3
 - (c) "banking company" 4
 - (d) "branch" or "branch office" 4

- (dd) "creditor" 4
- (e) "company" 4
- (ee) "debtor" 4
- (f) "demand liabilities" 4
- (ff) "family members" 4
- (g) "gold" 5
- (gg) "loans, advances and credit" 5
- (h) "managing director" 5
- (i) "prescribed" 5
- (j) "private company" 5
- (k) "registrar" 5
- (l) "scheduled bank" 5
- (m) "secured loans or advance" 5
- (mm) "securities" 5
- (n) "State Bank" 5
- (o) "substantial interest" 6

Sections: Pages

6. Ordinance to override memorandum, articles, etc 6

Part –II

Business of Banking Companies

7. Forms of business in which banking companies may engage. 7

8. Use of the word "Bank" or any of its derivatives. 10

9. Prohibition of trading. 10

10. Disposal of non-banking assets. 11

11. Prohibition of employment of managing agents and restrictions on certain forms of employment. 11
12. Restrictions on removal of records and documents. 13
13. Requirement as to minimum paid-up capital and reserve. 13
14. Regulation of paid-up capital, subscribed capital and authorised capital and voting rights of shareholders. 16
15. Election of new directors. 17
- 15A. Appointment of director by State Bank. 17
- 15B. Restriction on term of office of directors. 17
- 15C. Vacation of Office. 18
16. Restriction on commission, brokerage discount, etc., on sale of shares. 18
17. Prohibition of charge on un-paid capital. 18
18. Prohibition of floating charge on assets. 18
19. Restrictions as to payment of dividend. 19
20. Prohibition of common directors. 19
21. Reserve Fund. 20
22. Cash Reserve. 21
23. Restriction on the nature of subsidiary companies. 21
24. Restrictions on loans and advances. 22
25. Power of State Bank to control advances by banking companies. 23
- 25A. Power of State Bank to collect and furnish credit information. 24
- 25AA. Preparation of special reports. 26
- 25B. Recovery of certain dues of banking companies as arrears

of land revenue. 26

Sections: Pages

26. Power of Federal Government prohibit acceptance

of deposits by banking companies incorporated outside Pakistan. 26

26A. Deposits. 27

27. Licensing of banking companies. 28

27A. Prohibition of advertising for deposits and collection. 29

27B. Disruptive union activities. 30

28. Restrictions on opening of new, and transfer of existing
place of business. 30

29. Maintenance of liquid assets. 31

30. Assets in Pakistan. 32

31. Unclaimed deposits and articles of value. 32-33

32. Half-yearly returns and power to call for other returns
and information. 37

33. Power to publish information. 38

33A. Fidelity and secrecy. 38

33B. Guidelines by the State Bank. 39

34. Accounts and balance-sheet. 39

35. Audit. 40

36. Submission of returns. 41

37. Copies of Balance Sheets, and Accounts to be sent to Registrar. 41

38. Display of audited balance sheet by banking companies
Incorporated outside Pakistan. 41

39. Accounting provisions of this Ordinance not retrospective. 41

40. Inspection. 42

40A. Responsibility of State Bank. 43

41. Power of the State Bank to give directions. 42

41A. Power of the State Bank to remove directors or other managerial persons from office. 44

41B. Power of the State Bank to supersede Board of Directors of a banking company. 45

41C. Limitations. 46

41D. Prosecution of directors, Chief Executives or other Officers. 46

42. Further powers and functions of the State Bank. 46

43. Certain provisions of the Ordinance not to apply to certain banking companies. 48

Sections: Pages

Part –IIA

Transaction of Banking Business Illegally

By Companies, etc.

43A. Power to call for certain information, etc. 48

43AA. Special provisions. 49

43B. Power to make declaration. 51

43C. Consequences of a declaration under section 43B. 51

43D. Deposit of cash and preservation of assets, etc. 52

43E. Statement of assets and liabilities to be submitted to State Bank. 53

43F. Consequential provisions for winding up, etc. 54

Part –III

Suspension of Business and winding up of

Banking Companies

- 44. High Court defined. 55
 - 45. Restriction on stay order. 55
 - 46. Restriction on compromise or arrangement between banking companies and creditors. 56
 - 47. Power of State Bank to apply to Federal Government for suspension of business by a banking company and to prepare scheme of reconstruction or amalgamation. 56
 - 48. Procedure for amalgamation of banking companies. 63
 - 49. Winding up by High Court. 64
 - 50. Court Liquidator. 66
 - 51. State Bank to be Official Liquidator. 66
 - 52. Application of Companies Act to Liquidators. 67
 - 53. Stay of Proceedings. 67
 - 54. Preliminary report by official liquidator. 67
 - 55. Notice to preferential claimants and secured and unsecured creditors. 68
 - 56. Power to dispense with meetings of creditors, etc. 68
 - 57. Booked depositors' credits to be deemed proved. 69
- Sections: Pages
- 58. Preferential payments to depositors. 69
 - 59. Restriction on voluntary winding up. 71

Part –IV

Special Provisions for Speedy Disposal of Winding up

Proceedings

60. Part IV to override other Laws. 72
61. Power of High Court to decide all claims in respect of banking companies. 72
62. Transfer of pending proceedings. 72
63. Settlement of list of debtors. 73
64. Special provisions to make calls on contributories. 75
65. Documents of banking company to be evidence. 75
66. Public examination of directors and auditors. 75
67. Special provisions for assessing damages against delinquent directors, etc. 77
68. Duty of directors and officers of banking company to assist in the realisation of property. 78
69. Special provisions for punishing offences in relation to banking companies being wound up. 78
70. Public examination of directors and auditors, etc., in respect of a banking company under scheme of arrangement. 79
71. Special provisions for banking companies working under scheme of arrangement at the commencement of the Ordinance. 81
72. Appeals. 82
73. Special period of limitations. 82
74. State Bank to tender advice in winding up proceedings. 83

- 75. Power to inspect. 83
- 76. Power to call for returns and information. 83
- 77. District Magistrate to assist. official liquidator in taking charge of property of banking company being wound up. 84
- 78. Enforcement of orders and decisions of High Court. 84
- 79. Power of High Court to make rules. 84
- 80. References to directors, etc., shall be construed as including references to past directors, etc. 85

Sections: Pages

- 81. Part II not to apply to banking companies being wound up. 85
- 82. Validation of certain proceedings. 85

Part–IVA

Banking Mohtasib

- 82A. Appointment of Mohtasib. 85
- 82B. Terms and conditions of the Banking Mohtasib. 86
- 82C. Reference to Banking Mohtasib by Court. 88
- 82D. Procedure for making complaints. 88
- 82E. Recommendations for implementation 89
- 82F. Power to call for information. 90
- 82G. Report of Banking Mohtasib. 90

Part –V

Miscellaneous

- 83. Penalties. 91
- 83A. Dishonest removal of pledged goods. 94

84. Cognizance of offences, etc.	94	
85. Application of fines.	95	
86. Special provisions for private banking companies.	95	
87. Restriction on acceptance of deposits withdrawable by cheques.	95	
88. Change of name by a banking company.	95	
89. Alteration of memorandum of a banking company.	95	
90. Certain claims for compensation barred.	95	
91. Application of certain provisions to banking company incorporated by special enactments of the Federal Legislature.	96	
91A. Application of other laws barred.	96	
91B. Removal of difficulties.	96	
92. Power of Federal Government to make rules.	96	
93. Power to exempt in certain cases.	97	
Sections: Pages		
93A. Exemption of Officers, etc., from liability.	97	
93B. Exemption from requirement of licence.	97	
93C. Exchange of information.	98	
93D. Continuance of charge and priority.	98	
94. Protection of action taken in good faith.	98	
95. Repeals. (Omitted).	99	
The First Schedule (Omitted) .		100
The Second Schedule-FORM A-Form of Balance Sheet.		101 – 103
Notes.		104

Form B—Form of Profit & Loss Account. 105

The Third Schedule-List of Debtors. 106

Declaration of approved securities-Notifications. 107

The Banking Companies Rules, 1963

Rules:

1. Short title, extent and commencement. 107

2. Interpretation. 107

3. Submissions of returns. 108

4. List of officers . 109

5. Deposits. 109

6. Withdrawals of deposits. 111

7. Changes in deposits. 111

8. Maturing of security deposits. 111

9. Interest on deposits. 111

10. Licensing of banking companies. 111

11. Opening of new places of business. 112

12. List of Offices. 112

13. Publication of approved currencies and securities. 112

14. Manner of publication of accounts and balance sheet. 113

15. List of debtors. 113

16. Power to exempt in certain cases. 113

Sections: Pages

17. Submissions of returns in various forms. 113

Form I- Certificate of Deposits by the State Bank. 114

Form II- Statement of cash reserve. 115

Form III- Statement of un-secured loans and advances. 116 – 117

Form IV- Form of application for a licence to commence

Banking business by a company incorporated

in Pakistan and desiring to commence banking

business. 118-120

Form V- Form of application for a licence to carry on banking

business by a company incorporated in Pakistan and in

existence on the commencement of the Ordinance. 121 -122

Form VI- Form of a pplication for a licence to commence/carry

on banking business in Pakistan by a banking company

incorporated outside Pakistan. 123-1125

Form VII- Form of application for permission to open a new

place of business or change the location of an existing

place of business. 126-130

Table A- Statement showing number of existing offices making

losses. 131

Table B- Statement showing number of offices in existence for

less than three years on the date of application. 132

Form VIII- Statement of offices in Pakistan. 133

Form IX- Statement of demand and time liabilities. 134-135

Form X- Statement of Assets and Liabilities – Monthly. 135-137

Form XI- Return of unclaimed deposits. 138

Form XII- Statement of Assets and Liabilities in Pakistan as at

the close of business on 30th June/31st December, 139 -140

Form XIII- List of debtors of a banking company ordered to

be wound up. 141

THE BANKING COMPANIES ORDINANCE, 1962

ORDINANCE No. LVII OF 1962

{7th June, 1962}

An ordinance to consolidate and amend the law relating to banking companies.

Whereas it is expedient to consolidate and amend the law relating to banking companies;

Now, therefore, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to

make and promulgate the following Ordinance: –

Part I

PRELIMINARY

1. Short title, extent and commencement.— (1) This Ordinance may be called the Banking Companies Ordinance, 1962.

(2) It extends to the whole of Pakistan.*

(3) It shall come into force at once.

*The territories of Pakistan have been defined in Article 1, clause (2) of the Constitution of the Islamic Republic of

Pakistan and extended to A.J. & K (Extension of Land) Act, 1980.

The territories of Pakistan shall comprise:-

(a) The Provinces of Baluchistan, the North West Frontier, the Punjab and Sind;

(b) The Islamabad Capital Territory, hereinafter referred to as the Federal Capital;

(c) The Federally Administered Tribal Areas; and

(d) Such states and territories as are or may be included in Pakistan, whether by accession or otherwise.

Ref: The Constitution (First Amendment) Act, 1974 (Act No. XXXIII of 1974).
The Gazette of Pakistan, Extraordinary Part 1,

May 8, 1974.

The Ordinance and the rules, notification and orders made thereunder, as in force in N.W.F.P. before the 15th July, 1975, have

been applied to the Districts of Chitral, Dir., Swat and Malakand Protected Areas of the N.W.F.P. by Regulation No. III of 1975, Section 2

and the Schedule.

The Ordinance and the rules, notifications and orders made thereunder, have been applied to the whole of the Federally

Administered Tribal Areas or to the parts of those Areas to which they do not already apply, by Regulation No. I of 1975, Section 2 and the

Schedule.

2. Application of other laws not barred.- The provisions of this Ordinance shall be in

addition to, and not, save as hereinafter expressly provided, in derogation of, the Companies

Act, 1913 (VII of 1913), and any other law for the time being in force.

3A.@ Limited application of Ordinance to certain financial institutions._(1)
The

provisions of sections 6,25A, 25AA, 29,31,32,33,40, 41,41A, 41B, 41C, 41D, 42, 83, 84, and

94 of this Ordinance shall, with such modifications as the State Bank may determined from

time to time in relation to activities which have implications for the monetary or credit

policies of the State Bank, apply to the Investment Corporation of Pakistan, the National

Investment Unit Trust, the Pakistan Industrial Credit and Investment Corporation, the House

Building Finance Corporation, the National Development Finance Corporation, the Bankers

Equity Limited, the Pak-Libya Holding Company Limited, the Pakistan Kuwait Investment

Company Limited, the Saudi-Pak Industrial and Agricultural Investment Company Limited,

the Small Business Finance Corporation, the Regional Development Finance Corporation,

Investment Finance Companies, Venture Capital Companies, Housing Finance Companies,

Corporations or Institutions which carry on one or more of the businesses enumerated in

section 7 of this Ordinance, save and except for leasing companies and modaraba companies,

as the Federal Government may from time to time, by notification in the Official Gazette,

specify in this behalf.

(2) All notifications issued by the Federal Government which are inconsistent

with the provisions of sub-section (1) including such notifications in respect of the National

Development Leasing Corporations, Leasing Companies and Modaraba Companies shall

stand rescinded with immediate effect.

4. Power to suspend operation of Ordinance .— (1) the * Federal Government, if

on a representation made by the State Bank in this behalf is satisfied that it is expedient so to

do, may by notification in the Official Gazette suspend for such period, not exceeding sixty

days, as may be specified in the notification, the operation of all or any of the provisions of

this Ordinance, either generally or in relation to any specified banking company.

== "Omitted" vide Sec, 48 of the Establishment of the Federal Bank for Co-operatives and Regulation of Co-operati ve Banking Act,

1977 (Act No. IX of 1977). The Gazette of Pakistan, Extra, Part I, Dated 9 -1- 1977 Page 108 (Effective date of amendment is 9-

10-1976).

@ Substituted vide Ordinance No. IX of 1977 dated 21 -1-1997.

* For the words "Central Government" wherever occurring the words "Federal Government" substituted vide Banking

Companies (Amendment) Act, 1972, (Act No. XXX of 1972). The Gazette of Pakistan, Extra, Oct. 16, 1972 Part 1, Page.

252.

= The Banking Companies (Amendment) Act, 1997 dated 31-5-1997.

(2) The Federal Government may, notification in the official Gazette, extend from

time to time, the period of any suspension under sub-section (1) for such period or periods,

not exceeding sixty days at any one time, as it thinks fit so however that the total period does

not exceed one year.

(3) A copy of any notification issued under this section shall be laid on the table

of the Federal Legislature—

(i) if it is in session, within three days of the issue of the notification;

and

(ii) if it is not in session, as soon as it meets after the issue of the notification.

5. Definitions.— In this Ordinance, unless there is anything repugnant in

the subject or context,—

(a) “ approved securities” means the shares of the Bankers Equity Limited or securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Trust Act, 1882 (II of 1882), and for the purpose of—

(i) sub-section (3) of section 13, includes such other securities as the Federal Government may, by notification in the official Gazette, declare to be approved securities for the purpose of that subsection; and

(ii) sub-section (1) of section 29, includes such types of Pakistan rupee obligations of the Federal Government or a Provincial Government or of a Corporation wholly owned or controlled, directly or indirectly, by the Federal Government or a Provincial Government and guaranteed by the Federal Government as the Federal Government may, by notification in the official gazette, declare, to the extent determined from time

to time, to be approved securities for the purpose of that subsection;*

(b) "banking means the accepting, for the purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise, and withdrawable by cheque, draft, order or otherwise;

*Clause (a) of section 5 substituted vide the Banking Companies (Third Amendment) Ordinance, 1980 (LVIII of 1980) Gazette

of Pakistan Extra, Part I dated 24 -12-1980. Pages 548 and 549. (Effective date is 24-12-1980).

(c) "banking company" means any company which transacts the business of banking in Pakistan;

Explanation.— Any company which is engaged in the manufacture of goods or carries

on any trade and which accepts deposits of money from the merely for the purpose of financing its business as such manufacturer or trader shall not be deemed to transact the business of banking within the meaning of this clause;

(d) "branch" or "branch office", in relation to a banking company, means any

branch or branch office, whether called a pay office or sub-pay office or by

any other name, at which deposits are received, cheques cashed or moneys lent, and for the purposes of section 40 includes any place of business where any other form of business referred to in sub-section (1) of section 7 is transacted;

(dd) "creditor" includes persons from whom deposits have been received on the

basis of participation in profit and loss and a banking company or financial institution from which financial accommodation or facility has been received on the basis of participation in profit and loss, mark-up in price, hire-purchase, lease, or otherwise;**

(e) "company" means any company which may be wound up under the Companies Act, 1913 (VII of 1913);

(ee) "debtor" includes a person to whom, or a banking company or financial

institution to which, finance as defined in the Banking Tribunals Ordinance 1984, has been provided; =

(f) "demand liabilities" means liabilities which must be met on demand, and

"time liabilities" means liabilities which are not demand liabilities;

(ff) "family members" in relation to a person means his spouse, dependent lineal

ascendants and descendants and dependent brothers and sisters;*

**— In section 5 new clauses (dd) and (ee) inserted, vide the Banking Companies

(Third Amendment) Ordinance, 1980 (LVIII of 1980). Gazette of Pakistan Extra, Part I dated 24-12-1980. Pages 548 and 549 (Effective

date is 24-12-1980)

= Original clause (ee) substituted vice the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (Ordinance

No. LVII of 1984) Gazette of Pakistan, Extra, Part I, dated December 31, 1984 Pages 681 to 695.

* Inserted Clause (ff) vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of Pakistan, Extra,

Part I, Oct. 16, 1972 page 237.

(g) "gold" includes gold in the form of coin, whether legal tender or not, or in

the form of bullion or ingot, whether refined or not;

(gg) "loans, advances, and credit" includes "finance" as defined in the Banking

Tribunals Ordinance, 1984;*

(h) "managing director", in relation to a banking company, means a director who,

by virtue of an agreement with the banking company or of a resolution passed

by the banking company in general meeting or by its Board of Directors or, by

virtue of its memorandum or articles of association, is entrusted with the management of the whole, or substantially the whole of the affairs of the company, and includes a director occupying the position of a managing director, by whatever name called;

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

(j) "private company" has the same meaning as in the Companies Act, 1913 (VII

of 1913);

(k) "registrar" has the same meaning as in the Companies Act, 1913 (VII of

1913);

(l) "scheduled bank" has the same meaning as in the State Bank of Pakistan Act,

1956 (XXXIII of 1956);

(m) "secured loan or advance" means a loan or advance made on the security of

assets the market value of which is not at any time less than the amount of

such loan or advance, and "unsecured loan or advance" means a loan or

advance not so secured, or that part of it which is not so secured;

(mm) "securities" includes securities as defined in the Capital Issues (Continuance

of Control) Act, 1947 (XXIX of 1947), =

(n) "State Bank" means the State Bank of Pakistan;**

* Original clause (gg) substituted vide the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (Ordinance

No. LVII of 1984) Gazette of Pakistan, Extra, Part I, dated December 31, 1984 Pages 681 to 695.

** For the full stop at the end of clause (n) a semi colon substituted and thereafter a new clause (o) added vide Banking

Companies (Amendment) Act, 1972(Act No. XXX of 1972). The Gazette of Pakistan, Extra, Oct. 16, 1972 Part 1 Page 237. (Effective date

of amendments is 13-10-1972.)

15

(o) "substantial interest" in an undertaking shall be deemed to be possessed by a

person if he or any of his family members is the owner, director or officer of

or has control over the undertaking or if he or any of his family members

holds shares carrying not less than twenty per cent of the voting power in such

undertaking;

Explanation.— For the purpose of this clause,—

(i) “control” in relation to an undertaking, means the power to exercise a

controlling influence over the management or the policies of the undertaking, and, in relation to shares, means the power to exercise a controlling influence over the voting power attached to such shares;

(ii) “person” includes a Hindu undivided family, a firm, an association or body of

individuals, whether incorporated or not, a company and every other juridical person; and

(iii) “undertaking” means any concern, institution, establishment or enterprise

engaged in the production, supply or distribution of goods, or in the provision or control of any services relating to the provision of board, lodging, transport, entertainment or amusement, or of facilities in connection with the supply of electrical or other energy, or to the purveying of news, insurance or investment.*

6. Ordinance to override memorandum, articles, etc.— Save as other-wise expressly provided in this Ordinance,

(a) the provisions of this Ordinance shall have effect notwithstanding anything to the contrary contained in the memorandum or articles of a banking company, or in any agreement executed by it, or in any resolution passed by the banking company in general meeting or by its Board of Directors, whether the same be registered, executed or

passed, as the case may be, before or after the commencement of this Ordinance; and

(b) any provision contained in the memorandum, articles, agreement or resolution aforesaid shall, to the extent to which it is repugnant to the provisions of this Ordinance, become or be void, as the case may be,

* Added Clause (o) vide Banking Companies (Amendment) Act, 1972. (Act No. XXX of 1972). The Gazette of Pakistan, Extra, Oct. 16,

1972 Part I Page. 237, (effective date of amendment is 13-10-1972).

Part II

BUSINESS OF BANKING COMPANIES

7. Form of business in which banking companies may engage.—

(1) In addition to the business of banking, a banking company may engage in any one or

more of the following forms of business, namely:-

(a) The borrowing, raising, or taking up of money; the lending or advancing of money either upon or without security; the drawing, making, accepting, discounting, buying, selling, collecting and dealing in bills of exchange, hundies, promissory notes, coupons, drafts, bills of lading, railway receipts, warrants, debentures, certificates, scrips (participation term certificates, term finance certificates, musharika certificates, modaraba certificates and such other instruments as may be approved by the State Bank)*and other instruments, and securities whether transferable or negotiable or not; the granting and issuing of letters of credit, traveller's cheques

and circular notes; the buying, selling and dealing in bullion
spices the buying and selling of foreign exchange including
foreign bank notes; the acquiring, holding, issuing on
commission, underwriting and dealing in stock, funds, shares,
debentures, debenture stock, bonds, obligations, securities
(participation term certificates, term finance certificates,
musharika certificates, modaraba certificates and such other
instruments as may be approved by the State Bank)* and
investment of all kinds; the purchasing and selling of bonds,
scrips or other forms of securities (participation terms
certificates, term finance certificates, musharika certificates,
modaraba certificates and such other instruments as may be
approved by the State Banks)* on behalf of constituents or
others, the negotiating of loans and advances; the receiving of
all kinds of bonds, scrips of valuables on deposit or for safe
custody or otherwise; "the providing of safe deposit vaults": the
collecting and transmitting of money and securities;
(aa) the providing of finance as defined in the Banking Tribunals
Ordinance, 1984;**

*Inserted vide the Banking and Financial Services (Amendment of Laws) Ordinance
1984 (Ordinance No: LVII of 1984) Gazette

of Pakistan, Extra, Part I dated December 31, 1984 pages 681 to 695.

** New clause (aa) Inserted vide the Banking and Financial Services (Amendment
of Laws) Ordinance, 1984 (Ordinance No.

LVII of 1984) Gazette of Pakistan, Extra, Part I, dated the December 31, 1984, Pages 681 to 695.

(b) acting agents for any Government or local authority or any other person or persons; the carrying on of agency business of any description including the clearing and forwarding of goods, giving of receipts and discharges and otherwise acting as an attorney on behalf of customers, but excluding the business of a managing agent or treasurer of a company;

(bb) acting as "modaraba company" under the provision of the Modaraba Companies and Modaraba (Floatation and Control) Ordinance, 1980 (XXXI of 1980); 1

(c) contracting for public and private loans and negotiation and issuing the same;

(d) the effecting, insuring, guaranteeing, underwriting, participating in managing and carrying out of any issue public or private, Government, municipal or other loans or of shares, stock debentures, (debenture stock or other securities)* of any company, corporation or association and the lending of money for the purpose of any such issue;

(e) carrying on and transacting every kind of guarantee and indemnity business;

(ee) purchase or acquisition in the normal course of its banking business of any property, including commodities, patents, designs, trade-marks and copyrights with or without buy-back

arrangements by the seller, or for sale in the form of hirepurchase or on deferred payment basis with mark-up or for leaning or licensing or for rush-sharing or for any other mode of financing;**

(f) managing, selling and realising any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims;

(g) acquiring and holding and generally dealing with any property or any right, title or interest in any such property which may form security or part of the security for any loans or advances or which may be connected with any such security;

1. Clause (bb) inserted vide the Banking Companies (Third Amendment) Ordinance, 1980 (LVIII of 1980). The Gazette of

Pakistan, Extra, Part I, dated 24-12-1980, Page 549 (Effective date is 24-12-1980).

*Substituted for the words "or debenture stock" vide the Banking Companies (Third Amendment) Ordinance, 1980 (LVIII of

1980) the Gazette of Pakistan, Extra, Part I date 24-12-1980. Page 549.

**Original clause (ee) substituted vide the Banking and Financial services (Amendment of Laws) Ordinance, 1984 (Ordinance

No. LVII of 1984) Gazette of Pakistan, Extra, Part I dated December 31, 1984 Page 681 to 695.

for any loans or advances or which may be connected with any such security;

(h) undertaking and executing trusts;

(i) undertaking the administration of estates as executor, trustee or otherwise;

(j) establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the company or the dependents or connections of such persons; granting pensions and allowances and making payments towards insurance; subscribing to or guaranteeing moneys for charitable or benevolent objects or for any exhibition or for any public, general or useful object;

(k) the acquisition, construction, maintenance and alteration of any building or works necessary or convenient for the purpose of the company;

(l) selling, improving, managing, developing, exchanging, leasing, mortgaging, disposing of or turning into account or otherwise dealing with all or any part of the property and rights of the company;

(m) acquiring and undertaking the whole or any part of the business of any person or company, when such business is of a nature enumerated or described in this sub-section;

(n) doing all such other things as are incidental or conducive to the promotion or advancement of the business of the company;

(o) any other form of business which the Federal Government may, by notification in the official Gazette, specify as a form of business in which it is lawful for a banking company to engage.

(2) No banking company shall engage in any form of business other than

those referred to in sub-section (1).

8. Use of the word "Bank" or any of its derivatives – @@ Every company

carrying on the business of banking in Pakistan shall use the word "bank", or any of its

derivatives as part of its name and no company other than a banking company shall use in its

name any word calculated to indicate that it is a banking company:

Provided that nothing in this section shall apply to-

(a) subsidiary of a banking company formed for one or more of the

purpose mentioned in sub-section (1) of Section 23 whose name

indicates that it is a subsidiary of that banking company; and

(b) any association of banks formed for the protection of their mutual

interests and registered under section 42 of the Companies Ordinance

1984(XLVII of 1984):#

*Provided further that the State Bank may, subject to such conditions, if any, as it

may deem fit, by notification in the Official Gazette, authorise a company not being a

banking company to use in its name the word 'bank' or any of its derivatives.

9. Prohibition of trading.—Except as authorised under section 7, no banking

company shall directly or indirectly deal in the buying or selling or bartering of goods or

engage in any trade or buy, sell or barter goods for others, otherwise than in connection with

bills of exchange received for collection or negotiation.

Explanation._ For the purpose of this section, "goods" means every kind of movable

property, other than actionable claims, stocks, shares, money, bullion and species, and all

instruments referred to in clause (a) of sub-section (1) of Section 7. @

@@ In section 8, for the words, After the expiry of two years from the commencement of this Ordinance "every company" the words

"Every company" substituted vide Federal Laws (Revision and Declaration) Ordinance, 1981 (Ordinance No. XXVII of 1981)

Gazette of Pakistan, Extra, Part I, July 8, 1981 Pages 345 – 475.

#. The words '26 of Companies Act 1913' was substituted by '42 of Companies Ordinance 1984' and the words 'Federal Govt. In

the proviso was substituted by the words 'State Bank' vide Ordinance No. IX of 1997 dated 21-1-1997.

* In section 8 for the full stop at the end of the proviso a colon has been substituted and thereafter a new proviso has been added

vide Banking Companies (Amendment) Act, 1975 (Act No. LXV of 1975). The Gazette of Pakistan, Extra, Part I, Sept. 1, 1975,

Page 491—(Effective date of amendment is 29-8-1975).

@ Section 9 substituted vide the Banking Companies (Third Amendment) Ordinance, 1980 (Ord. LVIII of 1980). The Gazette of

Pakistan Extra, Part I dated 24-12-1980, Page 549 – 550.

= In 2nd proviso the words "wholly or partly owned or controlled by it or by the State Bank" occurring after the word "a company"

and before "not being" omitted vide No. F. 2(2)89-Pub, Ord. III of 1989. The Gazette of Pakistan, Extra Part-I, dated 23-1-1989,

Page –27 to 33.

£ The Banking Companies (Amendment) Act, 1997 dated 31-5-1997.

10. Disposal of non-banking assets.—Notwithstanding anything

contained in section 7, no banking company shall hold (except as may be permitted by

the State Bank from time to time or as is required)> for any period exceeding seven

years from the acquisition thereof or from the commencement of this Ordinance,

whichever is later or any extension of such period as in this section provided, and

such property shall be disposed of within such period or extended period, as the case

may be:

Provided that the banking company may, within the period of seven years as

aforesaid, deal or trade in any such property for the purpose of facilitating the disposal

thereof:

Provided further that the State Bank may in any particular case extend the

aforesaid period of seven years by such period not exceeding five years where it is

satisfied that such extension would be in the interests of the depositors of the banking

company.

Explanation.—For the purpose of this section property, a substantial portion

of which is in use by banking company for its own genuine requirements shall be

deemed to be property for its own use.

11. Prohibition of employment of managing agents and restrictions on

certain forms of employment.—(1) No banking company—

(a) shall employ or be managed by a managing agent; or

(b) shall employ or continue the employment of any person—

(i) who is, or at any time has been, adjudicated insolvent or has

suspended payment, or has compounded with his creditors, or who is, or has been, convicted by a criminal court of an offence involving moral turpitude; and

(ii) whose remuneration or part of whose remuneration takes the form of commission or a share in the profits of the company:

Provided that nothing contained in sub-clause (ii) shall apply to the payment by a banking company of—

= Substituted for the words and comma occurring between the word "shall hold" and the words "for any period" in Section 10

vide the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (Ordinance No. LVII of 1984) Gazette of Pakistan, Extra,

Part I dated December 31, 1984 Pages 681 to 695.

21

(a) any bonus in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business; or

(b) any commission to any broker (including guarantee broker), cashier-contractor, clearing and forwarding agent, auctioneer or any other person, employed by the banking company under a contract otherwise than as a regular member of the staff of the company;

(c) shall be managed by any person—

(i) who is a director of any other company not being a subsidiary company of the banking company or a company registered under section 26 of the Companies Act, 1913 (VII of 1913), except with the previous approval of the State Bank; or

(ii) who is engaged in any other business or vocation; or

(iii) who has a contract with the company for its management for a period exceeding five years at any one time:

Provide that any contract with the company for its management may be renewed or

extended for a further period not exceeding five years at a time if and so often as the directors

so decide:

Provided further that nothing in this clause shall apply to a director, other than the

managing director, of a banking company by reason only of his being such director.

(2) Where a person holding the office of a chairman or director or manager or

chief executive officer (by whatever name called) of a banking company is, or has been found

any tribunal or other authority (other than a criminal court) to have contravened the by

provision of any law and the State Bank is satisfied that the contravention is of such a nature

that the association of such person with the banking company is or will be detrimental to the

interest of the banking company or its depositors or otherwise undesirable, the State Bank

may

make an order that person shall cease to hold the office with effect from such date as may be

specified therein and thereupon, that office shall, with effect from the said date, become

vacant.

(3) Any order made under sub-section (2) in respect of any person may also

provide that he shall not, without the previous permission of the State Bank in writing, in any

way, directly or indirectly, be concerned with, or take part in the management of, the banking

company or any other banking company for such period not exceeding five years as may be

specified in the order.

(4) No order under sub-section (2) shall be made in respect of any person unless

he has been given an opportunity of making a representation to the State Bank against the

proposed order:

Provided that it shall not be necessary to give any such opportunity if, in the opinion

of the State Bank, any delay would be detrimental to the interests of the banking company or

its depositors.

(5) Any decision or order of the State Bank made under this section shall be final

for all purposes.

12. Restrictions on removal of records and documents.— No banking company

shall remove from Pakistan to a place outside Pakistan any of its records and documents

relating to its business at its branches, whether they are functioning or not, without the prior

permission in writing of the State Bank.

Explanation.— In this section the term "records" means ledgers, day books, cash

books, accounts books and all other books used in the business of a banking company and the

term "documents" means vouchers, cheques, bills, pay orders, securities for advances and any

other documents supporting entries in the books of, or claims by or against, a banking

company.

** 13. Requirement as to minimum paid-up capital and reserves.— (1) No

banking company incorporated in Pakistan shall—

(a) commence business unless it has such minimum paid-up capital as may be

determined by the State Bank; or

** Section 13 substituted vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972)

The Gazette of Pakistan Extra, Part I of 16th October, 1972-Page 238. (Effective date of amendment is 13-10-1972).

(b) carry on business unless [the aggregate of its paid-up capital and

unencumbered general reserves is]* of such minimum value within such

period as may be generally determined by the State Bank from time to time, subject to a maximum of ten per cent of the total demand and time liabilities of the banking company at any time:

Explanation.— In this section and in sections 22 and 29, 'liabilities' shall not

include the paid-up capital or the reserves or any credit balance in the profit and loss account of the banking company or the amount of any loan taken from the State Bank or the amount received as loan in Pakistan currency by the banking company from the Federal Government, whether out of a foreign currency loan contracted by the Government or otherwise, or the amount of foreign currency loans obtained by the banking company directly from any foreign agency: =

Provided that the minimum value so determined shall not, by the end

of December, [1985] (1), be less than [seven and a half per cent] (2) of the total

demand and time liabilities of a banking company as at the close of the last working day in December, 1972.

(2) Without prejudice to the provisions of section 83, the State Bank may, by order

in writing, require any banking company which has failed to comply with the provisions of

clause (b) of sub-section (1), within the period determined under that clause to deposit with

the State Bank such amount on such terms and conditions as the State Bank may determine;

and every banking company which is so required shall be bound to comply with the order:

Provided that the amount of the deposit so required shall not exceed the amount by

which the aggregate of the time and demand liabilities of the banking company exceeds the

amount of such liabilities computed on the basis of [the aggregate value of its paid-up capital

and unencumbered general reserves] @ determined under clause (b) of sub-section (1).

* Substituted for the words "it has paid up capital" vide Banking Companies (Amendment) Ordinance, 1978 (Ordinance No. III

of 1978). The Gazette of Pakistan Extra, Part I, dated Jan, 5. 1978 Page 9.

= After sub-section (1) in section 13 Explanation added vide Banking Companies (Amendment) Ordinance, 1984 (Ordinance No.

XXXIV of 1984)—Gazette of Pakistan Extra, Part I , dated 2-8-1984, Pages 139-40

(1) Substituted for the figure "1980" (2) Substituted for the words "five per cent" vide Banking Companies (Amendment)

Ordinance, 1980 (XLVI of 1980). The Gazette of Pakistan, Extra, Part I, dated 18th Sep., 1980 Page 467.

@ Substituted for the words "minimum paid up capital" vide Banking Companies (Amendment) Ordinance, 1978 (III of 1978).

The Gazette of Pakistan, Extra, Part I, dated 5th January, 1978. Page 9.

(3) No banking company incorporated outside Pakistan shall commence or carry

on business in Pakistan unless the aggregate value of its paid-up capital and reserves in

Pakistan at the close of any day is not less than fifty lakhs= of rupees or an amount

representing seven and a half per cent= of its total demand and time liabilities in Pakistan as at

the close of the last working day of the previous calendar year, whichever is higher:

Provided that no such banking company shall be deemed to have complied with the

provisions of this sub-section unless it deposits and keeps deposited with the State Bank an

amount not less than what is required to be maintained under this sub-section, in any one or

more of the following forms, namely:—

(i) interest-free deposit in cash in Pakistan rupees;

(ii) interest-free deposit in a freely convertible approved foreign exchange

within the meaning of the STATE BANK OF PAKISTAN ACT, 1956

(XXXIII of 1956), specified by the STATE BANK in respect of such

banking company; and

(iii) deposit of un-encumbered approved securities: @@.

Provided further that a deposit no made with the State Bank shall be by transfer of

funds banking company from outside Pakistan or in the form of assets acquired by the

banking company out of remittable profits made by it from deposits in Pakistan.

(4) Any amount deposited and kept deposited with the State Bank under the

proviso to sub-section (3) by any banking company incorporated outside Pakistan shall, in the

event of the company ceasing for any reason to carry on banking business in Pakistan, be an

asset of the company on which the claims of all the creditors of the company in Pakistan shall

be a first charges.

(5) The State Bank may, if it thinks fit, extend the period referred to in subsection

(1) or sub-section (3) either generally or in any particular case.

(6) If any dispute arises in computing the aggregate value of the paid-up capital [and unencumbered general reserves]* of any banking company, a determination thereof by the State Bank shall be final.

= Substituted for the words "twenty" and for the words "five per cent" vide Banking Companies Second Amendment) Ordinance

1978 (XXXVIII of 1978). The Gazette of Pakistan Extra, Part I dated 25th June, 1978. Page 135.

@@ First proviso to sub-section (3) substituted vide the Banking Companies (Amendment) Ordinance, 1980 (XLVI of 1980).

The Gazette of Pakistan Extra, Part I dated 18th Sept. 1980, page 467.

* Inserted after the word "capital" the words and unencumbered general reserve" vide Banking Companies (Amendment)

(Ordinance No. 111 of 1978) The Gazette of Pakistan Extra Part I dated January 5, 1978- Page 9.

(7) For the purposes of this section, "value" means the real or exchangeable value

or, if the real or exchangeable value exceeds the nominal value, the nominal value.

14. Regulation of paid-up capital, subscribed capital and authorized capital

and voting rights of share-holders.— (1) No banking company incorporated in Pakistan

shall carry on business in Pakistan unless it satisfies the following conditions, namely:-

(i) that the subscribed capital of the company is not less than one half of

the authorized capital and paid-up capital is not less than one half of

the subscribed capital and that if the capital is increased it complies

with the conditions prescribed in this clause within such period not

exceeding two years as the State Bank may allow;

(ii) that the capital of the company consists of ordinary shares

only;

(iii) that, subject to the provisions contained in clause (iv), the voting rights

of any one shareholder are strictly proportionate to the contribution

made by him to the paid-up capital of the company;

(iv) that the voting rights of any one shareholder, except those of the

Federal Government or a Provincial Government do not exceed five

per cent of the total voting rights of all the shareholders.

(2) Notwithstanding anything contained in any law for the time being in force or

in any contract or instrument no suit or other proceeding shall be maintained against any

person registered as the holder of a share in a banking company on the ground that the title to

the said share vests in a person other than the registered holder:

Provided that nothing contained in this sub-section shall bar a suit or other

Proceeding—

(a) by a transferee of the share on the ground that he has obtained from the

registered holder a transfer of the share in accordance with any law

relating to such transfer; or

(b) on behalf of a minor or a lunatic on the ground that the registered

holder holds the share on behalf of the minor or lunatic.

(3) Every chairman, managing director or chief executive officer by

whatever name called of a banking company shall furnish to the State Bank through that

banking company returns containing full particulars of the extent and value of his holding of

shares, whether directly or indirectly, in the banking company and of any change in the extent

of such holding or any variation in the rights attaching thereto and such other information

relating to those shares as the State Bank may, by order, require and in such form and at such

time as may be specified in the order.

15. Election of new directors.—(1) The State Bank may, by order, require any

banking company to call a general meeting of the shareholders of the company within such

time, not less than two months from the date of the order, as may be specified therein or

within such further time as the State Bank may allow in this behalf, to elect in accordance

with the voting rights permissible under this Ordinance fresh directors, and the banking

company shall be bound to comply with the order.

(2) Every director elected under sub-section (1) shall hold office until the date up

to which his predecessor would have held office, if the election had not been held.

(3) Any election duly held under this section shall not be called in question in any

court.

15A. Appointment of director by the State Bank.—Notwithstanding anything

contained in the Companies Act, 1913 (VII of 1913), or in the memorandum or articles of

association of any banking company, the State Bank may appoint not more than one person to

be a director of a banking company, whether or not he holds any qualification shares.*

15B. Restriction on term of office of directors.—(1) A director of a banking

company, not being its chief executive, by whatever name called, or a director nominated

under section 15A, shall not hold office for more than six consecutive years.

Explanation.—In computing the period of six consecutive years for the purpose of

this sub-section, any break of less than three years in the continuity of office shall be

disregarded.

(2) A director of a banking company vacating office in pursuance of sub-section

(1) shall not be eligible for re-election as a director of that banking company unless a period

of three years has elapsed since the date on which he so vacated his office:

* Section 15A, 15B and 15C inserted vide Bank Companies (Amendment) Act 1972 (Act No. XXX of 1972). The Gazette of

Pakistan , Extra, Part I dated October 16, 1972 Page 239 (Effective date of amendment is 13-10-1972).

27

Provided that a director who has to so vacate his office may continue in his office for

a period of not more than six months from the commencement of the Banking Companies

(Amendment) Act, 1972, or until a new director is elected or co-opted in his place whichever

is earlier.

15C. Vacation of Office.—A director of a banking company shall vacate his office

if in relation to the banking company he has failed to pay any advance or loan or any

instalment thereof or interest thereon or any amount due on any guarantee, or to do or

perform any act agreed to or undertaken in writing to be done or performed by him, and such

failure continues for a period of one month after notice in writing has been served on him by

the banking company calling upon him to make the payment or to do or perform the act.

16. Restriction on commission, brokerage, discount, etc. on sale of shares.—

Notwithstanding anything to the contrary in sections 105 and 105A of the Companies Act,

1913 (VII of 1913), no banking company shall pay out directly or indirectly by way of

commission, brokerage, discount or remuneration in any form in respect of any shares issued

by it, any amount exceeding in the aggregate two and one-half per cent of the paid-up value

of the said shares.

17. Prohibition of charge on unpaid capital.— No banking company shall

create any charge upon any unpaid capital of the company and such charge, if created, shall

be invalid.

18. Prohibition of floating charge on assets.—(1) Notwithstanding anything

contained in section 7 no banking company shall create a floating charge on the undertaking

or any property of the company or any part thereof, unless the creation of such floating

charge is certified in writing by the State Bank as not being detrimental to the interest of the

depositors of such company.

(2) Any such charge created without obtaining the certificate of the State Bank

shall be invalid.

(3) Any banking company aggrieved by the refusal of a certificate under subsection

(1) may, within ninety days from the date on which such refusal is communicated to

it, appeal to the Federal Government.

(4) The decision of the Government where an appeal has been preferred to it

under sub-section (3) or of the State Bank where no such appeal has been preferred shall be

final.

19. Restrictions as to payment of dividend.—(1) No banking company shall pay

any dividend on its shares until all its capitalised expense (including preliminary expenses,

organisation expenses, share-selling commission, brokerage, amounts of losses incurred and

any other item of expenditure not represented by tangible assets) have been completely

written off.

(2) Notwithstanding anything to the contrary contained in sub-section (1) or in the

Companies Act, 1913 (VII of 1913), a banking company may pay dividends on its shares

without writing off—

(i) the depreciation, if any, in the value of its investment in approved securities in any case where such depreciation has not actually been capitalised or otherwise accounted for as a loss;

(ii) the depreciation, if any, in the value of its investments in shares, debentures or bonds (others than approved securities) in any case where adequate provision for such depreciation has been made to the satisfaction of the auditor of the banking company;

(iii) the bad debts, if any, in any case where adequate provision for such debts had been made to the satisfaction of the auditor of the banking company.

20. Prohibition of common directors.—(1) Except with the permission of the

State Bank, no banking company incorporated in Pakistan shall have as a director any person

who is a director—

(i) of any other banking company; or

(ii) of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent of the total voting rights of all the shareholders of the banking company.

*(IA) No banking company incorporated in Pakistan shall

have as a director any person who is—

(a) a Federal Minister, a Minister of State or a Provincial Minister; or**

(b) a person in the service of Pakistan who is not appointed or nominated by Government as a director by virtue of his office.

* New sub-section (IA) inserted vide Banking Companies (Amendment) Act, 1972, (Act No. XXX of 1972- The Gazette of

Pakistan , Extra, Part I dated October 16, 1972. Page 240 (Effective date of amendment is 13-10-1972).

** Clause (a) substituted by Federal Adaptation of laws Order, 1975 (P.O. 4 of 1975) Article 2 Schedule Gazette of Pakistan

Extra, Part I, 1-8-1975(Effective date of Amendment is 14 -8-1973).

(2) If immediately before the commencement of this Ordinance any person

holding office as a director of a banking company is also a director of companies which

among themselves are entitled to exercise voting rights in excess of twenty per cent of the

total voting rights of all the shareholders of the banking company he shall, within such period

from such commencement as the State Bank may specify in this behalf—

(a) either resign his office as a director of the banking company; or

(b) choose such number of companies as among themselves are not

entitled to exercise voting rights in excess of twenty per cent of

the total voting rights of all the shareholder of the banking

companies as companies in which he wishes to continue to

hold the office of a director and resign his office as a director in

the other companies.

21. Reserve Fund.—(1) Every banking company incorporated in Pakistan shall create a reserve fund to which shall be credited—

(a) if the amount in such fund together with the amount in the

share premium account is less than the paid-up capital of the banking company, a sum equivalent to not less than twenty per cent of the balance of profit of each year as disclosed in the profit and loss account prepared under section 34 and before any dividend is declared; and

(b) if the amount in such fund together with the amount in the share premium account is equal to or exceeds the paid-up capital of the banking company, a sum equivalent to not less than ten per cent of the balance of profit disclosed as aforesaid and before any dividend is declared.*

(2) Where a banking company appropriates any sum or sums from the reserve fund or the share premium account, it shall, within twenty-one days from the date of such appropriation, report the fact to the State Bank explaining the circumstances relating to

such appropriation:

Provided that the State Bank may, in any particular case, extend the said period of twenty-one days by such period as it thinks fit or condone any delay in the making of such report.

* Substituted for sub-section (1) vide the Banking Companies (Amendment) Act, 1972(Act No. XXX of 1972). The Gazette of

Pakistan , Extra, Part I, dated 16 -10-1972 page 240.

22. Cash Reserve.— Every banking company, not being a schedule bank, shall

maintain by way of cash reserve in cash with itself, or in current account opened with the

State Bank or its agent or partly in cash with itself and partly in such account or accounts a

sum equivalent to at least two per cent of its time liabilities in Pakistan and five per cent of

its demand liabilities in Pakistan and shall submit to the State Bank before the fifteenth day of

every month a return showing the amount so held on Thursday* of each week of the

preceding month with particulars of its time and demand liabilities in Pakistan on each such

Thursday* or if any such Thursday* is a public holiday under the Negotiable Instruments

Act, 1881 (XXVI of 1881), at the close of business on the preceding working day.

23. Restriction on the nature of subsidiary companies.—(1) A banking

company shall not form any subsidiary company except a subsidiary company formed for one

or more of the following purposes, namely:—

(a) the undertaking and executing of trusts,

(b) the undertaking of the administration of estates as executor, trustee or

otherwise,

(bb) the carrying on of business of modaraba under the provisions of the

Modaraba Companies and Modaraba (Floatation and Control)

Ordinance 1980 (XXXXI of 1980). 1

(c) the providing of safe deposit vaults,

* Substituted for the word "Friday" and shall be deemed to have been so substituted on the first day of July 1977—vide Banking

Companies (Amendment) Ordinance 1978. (Ordinance No. III of 1978) The Gazette of Pakistan, Extra Part I dated Jan. 5, 1978 Page. 9.

Omitted vide Banking Companies (Amendment) Ordinance, 1984 (Ordinance No. XXXIV of 1984) Gazette of Pakistan Extra,

Part I, dated 2-8-1984 Pages 139-140

@ Added vide Banking Companies (Amendment) Ordinance, 1981 (Ordinance No. XVII of 1981) The Gazette of Pakistan

Extra, Part I May 11, 1981 Page. 91.

(1) In sub-section (1) of section 23, new clause (bb) inserted vide The Banking Companies (Third Amendment) Ordinance, 1980

(Ord. LVIII of 1980). The Gazette of Pakistan, Extra. Part I, dated 24-12-1980. Page. 550.

(d.) with the previous permission in writing of the State Bank, the carrying on of the business of banking exclusively outside Pakistan

(dd) the conduct of any form of business permitted by section 7; or=

(e) such other purposes as are incidental to the business of banking.

(2) Save as provided in sub-section (1), no banking company shall hold shares in

any company whether as pledgee, mortgagee or absolute owner, of an amount exceeding

thirty per cent of the paid-up share capital of that company or thirty per cent of its own paidup

share capital and reserves, whichever is less:

Provided that any banking company which is on the date of commencement of this

Ordinance holding any shares in contravention of the provisions of this sub-section shall not

be liable to any penalty therefore if it reports the matter without delay, to the State Bank and

if it brings its holding of shares into conformity with the said provision within such period,

not exceeding two years, as the State Bank may think fit to allow.

(3) Save as provided in sub-section (1) and notwithstanding anything contained in

sub-section (2), a banking company shall not, after the expiry of one year from the date of

commencement of this Ordinance hold shares, whether as pledgee, mortgagee or absolute

owner, in any company in the management of which any managing director or manager of the

banking company is in any manner concerned or interested.

24. Restrictions on loans and advance.—(1) No banking company shall—

(a) make any loans or advances against the security of its own shares; or

(b) grant unsecured loans or advances to, or make loans and advances on the guarantee of .—

(i) any of its directors;

(ii) any of the family members of any of its directors;

(iii) any firm or private company in which the banking company or any of the persons referred to in sub-clause (i) or sub-clause (ii) is interested

as director, proprietor or partner; or

= The word "or at the end of clause (d) omitted vide Banking and Financial Services (Amendment in Laws) Ordinance, 1984

(Ordinance No. LVII of 1984) Gazette of Pakistan, Extra. Part I, dated December 31, 1984 Pages 681 to 695.

(iv) any public limited company in which the banking company or any of the persons as aforesaid is substantially interested.

(2) No banking company shall make loans or advances to any of its directors or to

individuals, firms or companies in which it or any of its directors is interested as partner,

director or guarantor, as the case may be, without the approval of the majority of the directors

of that banking company, excluding the director concerned. *

25. Power of State Bank to control advances by banking companies.—

(1) Whenever the State Bank is satisfied that it is necessary or expedient in the public interest

so to do, it may determine the policy in relation to advances to be followed by banking

companies generally or by any banking company in particular, and, when the policy has been

so determined, all banking companies or the banking company concerned, as the case may

be, shall be bound to follow the policy as so determined.

(2) Without prejudice to the generality of the power conferred by sub-section (1),

the State Bank may give directions to banking companies either generally or to any banking

company or group of banking companies in particular.—

(a) as to the credit ceilings to be maintained, credit targets to be achieved for different purposes, sectors and regions, the purposes for which advances may or may not be made, the margins to be maintained in respect of advances, the rates of interest, charges or mark-up to be applied on advances and the maximum or minimum profit sharing ratios; and

(b) prohibiting the giving of loans, advances and credit to any borrower or group of borrowers on the basis of interest, either for a specific purpose or for any purpose whatsoever; and each banking company shall be bound to comply with any direction so given.**

(3) If any default is made by a banking company in complying with the policy determined under sub-section (1) or direction given under sub-section (2), every director and

other officer of the banking company and every other person who is knowingly a party to

such

* Substituted vide Banking Companies (Amendment) Act, 1972, (Act No. XXX of 1972)—The Gazette of Pakistan, Extra, Part I,

dated October 16, 1972-Page 241.

**For Sub -section (2) of section 25, substituted vide, The Banking Companies (Third Amendment) Ordinance, 1980. The

Gazette of Pakistan Extra, Part I, dated 24-12-1990 Page 550.

default shall, by order of the State Bank, be liable to a penalty of an amount which may

extend to #twenty thousand rupees and, where the default is a continuing one, of a further

amount which may extend to one thousand #rupees for every day after the first during which

the default continues.

(4) Without prejudice to the provisions of sub-section (3), the State Bank may, for

the purposes of securing implementation of any special credit schemes or monetary policy or

observance of credit ceilings by a banking company, by order in writing require banking

companies generally, or any banking company in particular, to make special deposits with it

for such amount and on such terms and conditions as may be laid down by the State Bank in

this behalf. *

(5) The amount deposited with the State Bank under sub-section (4) or any part

thereof may, at the discretion of the State Bank, be released by it to the banking company

which deposited it as and when the State Bank deems fit either unconditionally or on such

terms and subject to such conditions as the State Bank may, by order in writing, determine

from time to time.

(6) Any penalty imposed under sub-section (3) shall be payable on demand made

by the State Bank and, in the event of refusal or failure by the director, officer or other person

concerned to pay on such demand, shall be recoverable as arrear of land revenue.

**

25A. Power of the State Bank to collect and furnish credit information. -(1)
Every

banking company shall furnish to the State Bank credit information in such manner as the

State Bank may specify, and the State Bank may, either of its own motion or at the request of

any banking company, make such information available to any banking company on

payment, of such fee as the State Bank may fix from time to time:

Provided that, while making such information available to a banking company, the

State Bank shall not disclose the names of the banking companies which supplied such

information to the State Bank:

Provided further that, a banking company which proposes to enter into any financial

arrangement which is in excess of the limit laid down in this behalf by the State Bank from

time to time shall, before entering into such financial arrangement, obtain credit information

on the borrower from the State Bank.

In sub-section (3) of section 25 for the words "two" and five hundred" the words " twenty" and "one thousand" substituted vide

Ordinance No. IX of 1997 dated 21-1-1997.

U The Banking Companies (Amendment) Act, 1997 dated 31-1-1997.

* Substituted vide Banking Companies (Amendment) Act 1972 (Act No. XXX of 1972) –The Gazette of Pakistan, Extra Part I

dated Oct. 16, 1972 Page. 241

** Substituted for the original Section 25 vide Banking Companies (Amendment) Ordinance, 1971 (Ordinance No. VII of 1971)

The Gazette of Pakistan, Extra, Part I dated March 15, 1971 Page. 290. (Effective date of amendment is 15-3-1971.

(2) Any credit information furnished by the State Bank to a banking company under

sub-section (1) shall be treated as confidential and shall not, except for the purposes of this

section or with the prior permission of the State Bank, be published or otherwise disclosed.

(3) No court, tribunal or other authority, including an officer of Government shall

require the State Bank or any banking company to disclose any information furnished to, or

supplied by, the State Bank under this section.

Explanation.—For the purpose of this section,—

(a) "borrower" means any person to whom any credit limit has been sanctioned by any banking company, whether availed of or not, and includes—

(i) in the case of a company or corporation, its subsidiaries;

(ii) in the case of a Hindu undivided family, any member thereof or any firm in which such member is a partner;

(iii) in the case of a firm, any partner thereof or any other firm in which such partner is a partner; and

(iv) in the case of an individual, any firm in which such individual is a partner; and

(b) "credit information" means any information relating to—

(i) the amounts and the nature of loans or advances or other credit facilities, including bills purchased or discounted, letters of credit and guarantees, indemnities and other engagements extended by a banking company to any borrower or class of borrowers;

(ii) the nature of security taken from any borrower for credit facilities granted to him;

(iii) the guarantees, indemnities or other engagements furnished to a banking company by any of its customers; and

(iv) operations or accounts in respect of loans, advances and other

credit facilities referred to in this clause.*

*Inserted, Sections 25A & 25B after Section 25 vide Banking Companies (Amendment) Act 1972 (Act No. XXX of 1972)- The

Gazette of Pakistan Extra, Part I, dated Oct. 16, 1972 Page. 241.

35

25AA. @ Preparation of special reports.—The State Bank shall prepare, and submit

to the Federal Government, a special report every year on cases of write off of loans, mark-up

and other dues, or financial relief through rescheduling and restructuring of loans and

subsidised loans provided by the banking companies, in which established banking practices

or authorised procedures have been departed from with a view to causing wrongful loss to the

bank or conferring wrongful loss to the bank or conferred wrongful gain on any constituent.

If the matters raised in the report relate to public interest, the Federal Government may

submit the report, or such part of it as relates to public interest, to Parliament or to the

Standing Committee of a House of Parliament dealing with Finance.

25B.£ Recovery of certain dues of banking companies as arrears of land

revenue.-Loans and advances made by a banking company for agricultural and other

purposes "and any other** amounts decreed by any court in favour of a banking company or

a financial institution specified in section 3A" \$ shall be recoverable as an arrear of land

revenue as if the banking company were a local authority for the purposes of Section 5 of the

Revenue Recovery Act, 1890 (1 of 1890):

Provided that no sum shall be so recoverable unless the banking company has, by

notice in writing, informed the debtor, not less than fifteen days before proceeding to have it

so recovered, that he may repay by such instalment as may be fixed in the notice and that

action to have the debt recovered as an arrear of land revenue will be taken if he fails to pay

any instalment on or before the due date.*

26. ££ Power of State Bank to prohibit acceptance of deposits by banking

companies incorporated outside Pakistan.-The State Bank may, by notification in the

Official Gazette, order that any banking company or any class of banking companies

incorporated outside Pakistan shall from a date to be specified in the notification-

(1) discontinue to accept any interest bearing deposits or accept such deposits

only upon such terms and under such conditions as may be specified in the

notification:

Provided that no such notification shall be made earlier than three years after

the commencement of this Ordinance and the date specified in the notification

* Inserted Sections 25A and 25B after Section 25 vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972) The

@ Inserted vide, The Gazette of Pakistan, Extra Part -I dated 30-6-1990, Page -29, (Ord. III of 1989).

\$ Inserted vide Banking Companies (Amendment) Ordinance No. XXIX of 1993, dated 5-10-1993.

£ The words "and other" inserted after the word 'agricultural' vide Ordinance No, IX of 1997 dated 21-1-1997.

££ The words "Federal Government" was substituted by the words "State Bank" and for the word "all" before the words Banking

Companies incorporated outside Pakistan, the words "any class of" substituted vide Ordinance No, IX of 1997 dated 21-1-1997.

= The Banking Companies (Amendment) Act ,1997 dated 31-5-1997.

shall not be earlier than six months after the date of the notification; or

(2) discontinue to accept any deposits or accept deposits only upon such terms and

under such conditions as may be specified in the notification:

Provided that no such notification shall be made earlier than three

years after the commencement of this Ordinance and the date specified in the

notification shall not be earlier than one year from the date of the notification.

**26A. Deposits.—(1) Deposits of money may be accepted by a banking company on

the following basis:-

(i) on participation in profit and loss of the banking company;

(ii) free of interest or return in any form, and

(iii) until such time as the Federal Government determines and notifies by

publication in the official Gazette, that the domestic operations of the banking

companies have become free of interest, effective on and from the first of July,

1985.@

(2.) Every banking company receiving deposits on the basis of participation in

profit and loss shall maintain separate account in respect thereof as also of

investments made, finances provided out of the amount of such deposits, cash reserves and liquid assets maintained there against and all income and expenditure relating thereto.

(3) Deposits received on the basis of participation in profit and loss shall be

invested or employed, at the absolute discretion of the banking company, only in transactions or business the return on which does not accrue to the banking company by way of interest.

(4) A person depositing money with a banking company on the basis of participation in profit and loss shall be entitled, subject to such general directions as the State Bank may give from time to time in the interest of monetary stability, to receive periodically such share

@ No. SRO. 658(I)/85 in the Gazette of Pakistan, Extra, Part-II, dated 3-7-1985, Page 1217.

** A new section 26A inserted vide the Banking Companies (Third Amendment) Ordinance, 1980 (Ord. LVIII of 1980). The

Gazette of Pakistan Extra. Part-I, dated 24-12-80, Page 550.

of the profit of the banking company arising out of such transactions as may be determined by it and, in the event of loss incurred by the banking company, shall be liable to bear proportionate loss.*

27. Licensing of banking companies.—(1) No individual or association or

body of individuals, not being a company, shall carry on banking business in Pakistan

and, save as hereinafter provided, no company shall carry on banking business in

Pakistan unless it holds a licence issued in that behalf by the State Bank; and any such

licence may be issued subject to such conditions as the State Bank may think fit to

impose.

(2) Every banking company in existence on the commencement of this

Ordinance, before the expiry of six months from such commencement, and every

other company before commencing banking business in Pakistan, shall apply in

writing to the State Bank for a licence under this section:

Provided that nothing in sub-section (1) shall be deemed to prohibit a banking

company in existence on the commencement of this Ordinance from carrying on

banking business until it is granted a licence in pursuance of this section or is by

notice in writing informed by the State Bank that a licence cannot be granted to it:

Provided further that the State Bank shall not give a notice as aforesaid to a

banking company in existence on the commencement of this Ordinance before the

expiry of the period of two years in the case of banking companies incorporated in

Pakistan and of six months in the case of banking companies incorporated outside

Pakistan referred to in sub-section (1) of section 13 or of such further period as the

State Bank may under the proviso to that sub-section think fit to allow.

(3) Before granting any licence under this section, the State Bank may require to be satisfied by an inspection of the books of the company or otherwise that

all or any of the following conditions are fulfilled, namely:-

(a) that the company is or will be in a position to pay its present or future depositors in full as their claims accrue;

(b) that the affairs of the company are not being or are not likely to be conducted in a manner detrimental to the interests of its present or future depositors;

(c) that in the case of a company incorporated outside Pakistan, the Government or law of the country in

* Substituted for sub-section (1) vide Banking Companies (Amendment) Ordinance, 1979 (Ordinance No. LVI of 1979). The

Gazette of Pakistan, Extra, Part I, dated Oct. 8, 1979—Page 499.

which it is incorporated provides the same facilities to banking companies registered in Pakistan as the Government or law of Pakistan grants to banking companies incorporated outside Pakistan and that the company complies with all the provisions of this Ordinance applicable to banking companies incorporated outside Pakistan.

(4) The State Bank may cancel a licence granted to a banking company under this

section,—

(i) if the company ceases to carry on banking business in Pakistan; or

(ii) if the company at any time fails to comply with any of the conditions

imposed upon it under sub-section (1); or

(iii) if at any time, any of the conditions referred to in sub-section (3)

ceases to be fulfilled:

Provided that before cancelling a licence under clause (ii) or clause (iii) of this subsection

on the ground that the banking company has failed to comply with or has failed or

ceased to fulfil any of the conditions referred to therein, the State Bank, unless it is of opinion

that the delay will be prejudicial to the interest of the company's depositors or the public,

shall grant to the company on such terms as it may specify, an opportunity of taking the

necessary steps for complying with or fulfilling such condition.

(5) £ Any banking company aggrieved by the decision of the State Bank cancelling

a licence under this section may, within thirty days from the date on which such decision is

communicated to it apply for review to the Central Board of the State Bank.

(6) ££ The decision of the State Bank subject to the result of review under subsection

(5), if any, shall be final.

@ 27A.—Prohibition of advertising for deposits and collection.—

Notwithstanding anything contained in any other law for the time being in force, no

company, firm or person, not being a banking company or a corporation or authority

established by the Federal Government or a company duly authorised in this behalf by the

Controller of Capital Issues or the Corporate Law Authority or the Registrar

£ The words "appeal to the Federal Government" were substituted by the words "apply for revision to the Central Board of the

State Bank" vide Ordinance No. IX of 1997 dated 21-1-1997.

££ Sub-Section 6 was substituted vide Ordinance No. IX of 1997 dated 21-1-1997.

@ Substituted vide, The Gazette of Pakistan, Extra Part -I, dated 30-6-1990, Page 29 to 30.

= The Banking Companies (Amendment) Act, 1997 dated 31-5-1997.

Co-operative Societies, shall solicit or invite deposits of money from the public through

advertisements in the public media or by postal circulars, handbills, displays in public places

or by any other means, or collect or receive any deposits of money in pursuance thereof.

Explanation.—For the purposes of this section, "deposits of money" shall be deemed

to include money called, invited or collected for the purpose, or declared object, of

investment or borrowing in any business carried on, or proposed to be carried on, by the

company, firm or person by whom, or on whose behalf, such money is called, invited,

collected or received irrespective of the nature of the relationship, arrangement or terms

offered or provided by such company, firm or person to the person making the investment,

deposits of money or payment or of the basis or understanding or which the money is so

called, invited, collected or received.

*27B. Disruptive union activities.— (1) No officer or member of a trade union in a

banking company shall use any bank facilities including a car or telephone to promote trade

union activities, or carry weapons into bank premises unless so authorized by the

management, or carry on trade union activities during office hours, or subject bank officials

to physical harassment or abuse and nor shall he be a person who is not an employee of the

banking company in question.

(2) Any person violating any of new, and transfer of sub-section (1) shall be guilty

of an offence punishable with imprisonment of either description which may extend to three

years, or with fine, or with both.

28. Restrictions on opening of new, and transfer of existing place of

business.—(1) No banking company shall open a new place of business in any part of

Pakistan or change, otherwise than within the same city, town or village the location of an

existing place of business situated in any part of Pakistan and no banking company

incorporated in Pakistan shall open a new place of business outside Pakistan or change,

otherwise than within the same city, town or village in any country or area outside Pakistan,

the location of an existing place of business situated in that country area without first

obtaining the prior permission in writing of the State Bank.

(2) Nothing in this section shall apply to the opening for a period not exceeding

one month of a temporary place of business within a city, town or village or the environs

thereof within which the banking company already has a place of business, for the purpose of

affording banking facilities to the public on the occasion of an exhibition, a conference or a

mela or any other like occasion:

Provided intimation of such opening is given to the State Bank within one week of the

date of opening.

* The Banking Companies (Amendment)Act 1997 dated 31-5-1997.

Explanation.—For the purpose of this section—

(a) "place of business" includes any sub-office, pay-office, sub-pay office and

any place of business at which deposits are received, cheques cashed or moneys lent;

(b) "new place of business" includes a place of business which is reopened

after being temporarily closed.

(3) The State Bank may, before giving the permission referred to in sub-section

(1) of this section to any banking company, require to be satisfied by an inspection under

section 40 or otherwise regarding such aspects of the company's affairs as the State Bank

may deem necessary.

29. Maintenance of liquid assets.-(1) Every banking company "and every

financial institution specified in section 3A" \$ shall maintain in Pakistan in cash, gold or

unencumbered approved securities valued at a price not exceeding "the lower of the cost or" \$

the current market price an amount which shall not at the close of business on any day be less

than "such percentage" \$ of the total of its time and demand liabilities in Pakistan, as may be

notified by the State Bank from time to time. £

Provided that the State Bank may separately specify for banking companies or

financial institutions the applicable percentage either in general or in relation to any class of

banking companies or any class of financial institutions or to any bank or financial institution

in particular.

Explanation.—For the purpose of this section, "unencumbered approved securities"

of a banking company "or financial institution" \$ shall include its approved securities lodged

with another institution for an advance or any other credit arrangement to the extent to which

such securities have not been drawn against or availed of 'and the liabilities shall not include

the paid up capital or the reserves or any credit balance in the profit and loss account of the

Banking company or, as the case may be, the financial institution or any such liabilities as

may be notified by the State Bank for the purposes of this section' .\$.

(2) In computing the amount provided for in sub-section (1), any deposit required

under the proviso to sub-section (3) of section 13 to be made with the State Bank by a

banking company incorporated outside Pakistan and any balances maintained in Pakistan by a

banking company in current account with the State Bank or its agent or both, {or in profit and

loss sharing term deposit account with the State Bank,}** including in the case of a

scheduled bank the balance required

*BCD Circular No.13 dated 16th August 1973, Notification No.S.R.O. 1205 (1) 73 dt.15th August 1973— The Gazette of Pakistan,

Extra, Part II August 16, 1973—Page 1748.

**Acolon substituted by the Banking Companies (Amendment) Act, 1965 (7 of 1965). In sub-section (1) for the full stop. Effective

date of amendment is 31-7-1965.

**Inserted vide the Banking Companies (Third Amendment) Ordinance; 1980. (Ord. LVIII of 1980) The Gazette of Pakistan Extra,

Part 1, dt. 24-12-80. Page. 551.

\$ Inserted / Substituted vide Banking Companies (Amendment) Ordinance No. XXIX of 1993, dated 5-10-93.

£ The words "as may be notified by the State Bank from time to time." added vide Ordinance No. LIV of 1995

dated 13-5-1995.

to be so maintained under sub-section (1) of section 36 of the State Bank of Pakistan Act,

1956 (XXXIII of 1956), shall be deemed to be cash maintained.

(3) Every banking company shall, before the close of the month succeeding the

month to which the return relates, furnish to the State Bank a monthly return in the prescribed

form and manner showing particulars of the company's assets maintained in accordance with

this section and its time and demand liabilities in Pakistan at the close of business on each

Thursday= during the month, or if any Thursday= is a public holiday under the Negotiable

Instruments Act, 1881 (XXVI of 1881), at the close of business on the preceding working

day.

30. Assets in Pakistan.— (1) At the close of business on any day the assets in

Pakistan of every banking company shall not be less in value than an amount representing

such percentage of its time and demand liabilities in Pakistan as may be prescribed by the

State Bank from time to time provided that the percentage so prescribed shall not exceed

eighty five per cent.

(2) Every banking company shall, before the close of the month succeeding

that to which the return relates, furnish to the State Bank, in the prescribed form and manner

a monthly return showing particulars of the company's assets maintained in accordance with

this section and its time and demand liabilities in Pakistan at the close of business in every

Thursday* or if any Thursday* is a public holiday under the Negotiable Instruments Act,

1881 (XXVI of 1881), at the close of business, on the preceding working day.

(3) For the purposes of this section—

(a) "assets in Pakistan" shall be deemed to include export bills drawn in, and

import bills drawn on and payable in Pakistan and expressed in such

currencies as the State Bank may from time to time approve in this behalf and

also such securities as the State Bank may approve in this behalf

notwithstanding that all or any of the said bills or securities are held outside Pakistan, but shall exclude such assets as in the opinion of the State Bank cannot properly be regarded as assets;

(b) "liabilities in Pakistan" shall not include the paid-up capital or the reserves or

any credit balance in the profit and loss account of the banking company.

= Substituted for the word "Friday" and shall be deemed to have been so substituted on the first day of July 1977— vide Banking

Companies (Amendment) Ordinance, 1978 (Ordinance No. III of 1978). The Gazette of Pakistan Extra, Part I, dt. Jan. 5, 1978 Page. 9

*Substituted vide Banking Companies (Amendment) Ordinance 1978. (Ordinance No. III of 1978) The Gazette of Pakistan,

Extra, January 5, 1978 Part I page. 9.— Effective date of substitution is 1st July 1977.

31. Unclaimed deposits and articles of value.—(1) Where—

(a) a debt payable in Pakistan currency is owing by a banking company by reason of a deposit, not being a deposit in the name of a minor or a Government or a

court of law, at a branch of the banking company in Pakistan in respect of which no transaction has taken place and no statement of account has been requested or acknowledged by the creditor during a period of ten years reckoned—

(i) in the case of a deposit made for a fixed period, from the day on

which the fixed period terminated, and

(ii) in the case of any other deposit, from the day on which the last transaction took place or a statement of account was last requested or acknowledged by the creditor, whichever is later; or

(b) a dividend, bonus, profit or other sum of money whatsoever which has become due on a deposit and remained unpaid or unacknowledged by the creditor for period of ten years reckoned from the date on which the dividend, bonus, profit or other sum of money, as the case may be, became due and payable; or

(c) a cheque, draft or bill of exchange including an instrument drawn by one

branch of the banking company upon another such branch payable in Pakistan currency has been issued, certified or accepted by a banking company at a branch of the banking company in Pakistan and no payment has been made in respect thereof for a period of ten years from the date of issue, certification or acceptance; or

(d) a security share, goods or any valuable article, hereinafter collectively and

individually called article, lying in safe custody with a banking company has not been inspected or acknowledged by the person who deposited the article with the banking company for a period of ten years from the day on which it was last inspected or acknowledged by such person;

acknowledgement due to the creditor or the beneficiary of the cheque, draft or bill of

exchange or the person in whose name the article stands in the books of the banking company

on his address last made known by him to the banking company, and if on the expiry of the

three months' period no acknowledgement or reply is received from the addressee, the

banking company shall pay or deliver, as the case may be, to the State Bank an amount equal

to the amount, owing by the banking company in respect of the debt or to the amount that

would be owing if the instrument had been presented for payment, including interest, if any,

or the article, in accordance with the terms of the debt or instrument or of the arrangement

under which the article is lying in the safe custody of the banking company, an payment or

delivery accordingly shall discharge the banking company from all liabilities in respect of the

debt

or instrument or to the amount that would be owing if the instrument had been presented for

payment, including interest, if any or the article, in accordance with the terms of the debt or

instrument or of the banking company, and payment or delivery accordingly shall discharge

the banking company from all liabilities in respect of the debt or instrument or article, as the

case may be.

(2) A notice required to be given by sub-section (1)—

(a) may, in the case of a firm or a Hindu undivided family be addressed to any

member of the firm or the manager or any adult male member of the family and, in the case of any other association of persons, to the principal officer thereof;

(b) may be given to a duly authorised agent of the person whom it is required to be given or, where he has died, to his legal representative or where he has been declared an insolvent, to his assignee, provided the banking company has had notice of appointment of the agent or of the death or insolvency of the person to whom it is required to be given;

(c) shall, in the case of joint creditor or more than one beneficiaries of a cheque, draft or bill of exchange or article standing in the names of more than one person, be deemed to be sufficient notice to all such persons if given to any one of them; and

(d) shall, notwithstanding the fact that it is miscarried or the addressee is dead or insane or has become insolvent or the envelope or wrapper is returned with the postal endorsement "addressee is untraceable" or any other like endorsement, be deemed to have been served on the fifteenth day following the day on which the envelope or wrapper in which it is contained is posted, if it is properly addressed, prepaid and posted, provided the banking company has had no notice of the death, insanity or insolvency of the person to whom it is required to be given.

(3) A certificate in writing under the signature of an employee of the banking company whose duty it is to address, prepay and post letters on behalf of the banking

company to the effect that the envelope or wrapper containing a notice required to be given

by sub-section (1) was addressed, prepaid and posted shall be conclusive evidence of its

having been so addressed, prepaid and posted.

(4) As soon as an amount is paid by a banking company to the State Bank under

sub-section (1), it shall cease to bear interest [or rank for a share of profit or loss]*

notwithstanding anything to the contrary contained in the terms of the debt or instrument or

any law for the time being in force.

(5) Where any banking company has paid an amount or delivered an article to the

State Bank under sub-section (1), the banking company shall preserve and continue to

preserve all signature cards and signing authorities and other documents relating to the debt

or instrument or article, as the case may be, until it is informed by the State Bank in writing

that they need not be preserved any longer.

(6) Nothing in the Limitation Act, 1908 (IX of 1908), or in any other law for the

time being in force shall affect the liability of a banking company toward the State Bank

under sub-section (1).

(7) Every banking company shall, within thirty days after the close of each

calendar year, submit to the State Bank a return in the prescribed form and manner of all

unclaimed amounts and articles remaining unpaid or undelivered, as the case may be, in the

books of the banking company, after the expiry of ten years as reckoned under sub-section

(1).

(8) The State Bank shall publish in the Gazette of Pakistan and not less than two

newspapers once each quarter for a period of one year a list of the amounts and articles

received by the State Bank under sub-section (1) and not claimed by any person:

Provided that it shall not be necessary to include in a list so published such amounts

and articles of such value as the Federal Government may from time to time determine.

(9) Any banking company which has paid any amount or delivered any article to

the State Bank in accordance with sub-section (1) may, within thirty days from the date of

such payment or delivery, as the case may be, submit to the State Bank its claim as regards

lien, counter-claim or right of set-off in relation to the amount so paid or article so delivered.

(10) Any person who claims to be entitled to any money or article paid or delivered

to the State Bank under sub-section (1) may submit his claim to the State Bank.

*Inserted vide the Banking Companies (Third Amendment) Ordinance, 1980 (Ord. LVIII of 1980).

The Gazette of Pakistan Extra, Part I dt. 24-12-80 Page 551.

(11) Subject to sub-sections (9), (12) and (14), the State Bank may pass such order

on a claim submitted to it under sub-section (9) or sub section (10) as it may deem fit, and,

where the State Bank makes any payment or delivers any article to any person submitting a

claim under sub-section (10) a receipt given by him shall be a good discharge to the State

Bank.

(12) If any action involving a dispute about the ownership of any amount or article

paid or delivered to the State Bank under sub-section (1) is pending in any court before the

expiry of one year following the year in which the amount or article is so paid or delivered to

the State Bank and the State Bank receives an intimation from the court or otherwise about

such dispute, it shall retain the amount or article in the custody and dispose of it in

accordance with the decision of the court.

(13) Subject to sub-sections (9), (12) and (14), any amount or article in respect of

which no claim is preferred or about the disposal of which no information is received from

any person before the expiry of one year following the year in which the amount or article is

received by the State Bank shall, on the expiry of the said period of the said period of one

year, cease to be claimable and shall, become the absolute property of and vest.—

(a) in the Government of the Province in the territory of which the debt or

instrument was payable or , as the case may be the article was to be

delivered, and

(b) in the Federal Government in any other case.

(14) Notwithstanding anything contained in sub-section (1) about the giving of a

notice by a banking company to any creditor or beneficiary of any cheque, draft or in subsection

(8) about the publication by the State Bank of the list of unclaimed amounts or

articles, the procedure to be followed and the manner of disposal of debts, instruments and

articles in a case where the person concerned is not for the time being residing in Pakistan

shall be such as may be determined by the Federal Government from time to time.

(15) Any decision of the State Bank under sub-section (11) about the acceptance,

satisfaction or otherwise of the lien, right of set-off or counter-claim of a banking company

or, as the case may be, the entitlement of any person to any money or article received by the

State Bank under sub-section (1) shall be final and shall not, except as provided in subsection

(16), be called in question in any manner by or before any court, tribunal or other

authority.

(16) Any person aggrieved by a decision of the State Bank under sub-section (11)

may, within one month from the date of the decision, prefer an appeal to such officer of the

State Bank superior in rank to the officer by whom the decision appealed against was given

as may be authorised in this behalf by the Governor or the State Bank.

(17) For the purpose of adjudicating and determining any claim under sub-section

(9) or sub-section (10) or deciding any appeal under sub-section (16) the State Bank shall

follow such procedure as may be prescribed and shall have the same powers as are vested in a

court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit in respect

of the following matters, namely:-

(a) enforcing the attendance of any person and examining him on oath;

(b) compelling the production of documents and materials objects; and

(c) issuing commissions for the examination of witnesses.

(18) Any proceeding before the State Bank under this section shall be deemed to

be a "judicial proceeding" within the meaning of section 228 of the Pakistan Penal Code (

Act XLV of 1860), and the State Bank shall, for the purposes of any such proceeding, be

deemed to be a "Civil Court" within the meaning of section 480 of the Code of Criminal

Procedure, 1898(Act V of 1898).

(19) No court fee shall be payable for filing, exhibiting or recording any document

in, or obtaining any document from, the State Bank in any proceeding under this section.*

32. Half-yearly returns and power to call for other returns and information.-

(1) Every banking company shall, before the close of the month succeeding the half-year to

which the return relates submit to the State Bank a half -yearly return in the prescribed form

and manner showing its assets and liabilities in Pakistan as they stood at the close of business

on the thirtieth day of June in the first half and the thirty-first day of December in the second

half of the year.

(2) The State Bank may, at any time, by notice in writing, require banking companies

generally, or any banking company in particular to furnish it within the time specified therein

or such further time as the State Bank may allow, with any statement or information relating

to the business or affairs of such banking company or companies (including any business or

affairs with which such banking

* Substituted vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of Pakistan Extra Part I

dated October 16.1972___Page 243.

company or companies is or are concerned) and, without prejudice to the generality of

the foregoing power, may call for information, at such intervals as the State Bank may deem

necessary, regarding the investment of banking companies and the classification of their

advances in respect of industry, commerce and agriculture.

33. Power to publish information.— The State Bank, if it considers it in the

public interest so to do, may publish any information obtained by it under this Ordinance in

such consolidated form as it thinks fit.

*33A.Fidelity and secrecy.—(1) Subject to sub-section (4), every bank and financial

institution shall, except as otherwise required by law, observe the practices and usage

customary among bankers and, in particular, shall not divulge any information relating to the

affairs of its customers except in circumstances in which it is , in accordance with law,

practice and usage customary among bankers, necessary or appropriate for a bank to divulge

such information.

(2) Every president, chairman, member of the Board, administrator, auditor,

advise, officer or other employee of any bank and financial institution shall, before entering

upon his office, make a declaration of fidelity and secrecy in such form as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1) and (2), every balance

sheet and profit and loss account statement prepared by a bank and financial institution shall

include statements prepared in such form and manner as the State Bank may specify in

respect of written off loans or any other financial relief of five hundred thousand repress or

above allowed to a person as well as the provision, if any, made for bad or doubtful debts.

(4) The State Bank of Pakistan may, if satisfied that it is necessary so to do at the

time of holding general elections under any law relating thereto, publish a list of persons to

whom any loans, advances or credits were extended by a bank or financial institution, either

in their own names or in the manes of their spouses or dependents or of their business

concerns (if mainly owned and managed by them) which were due and payable and had not

been paid back for more than one year from the due date, or whose loans were unjustifiably

written off in violation of banking practices, rules or regulations on or after such date as may

be determined by the Government:

Provided that before publishing the name of any person in any such list he shall be

given prior notice and, if he so requests, an opportunity of hearing.

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

*33B Guidelines by the State Bank.—The Bank may at any time either on the

request of any one or more banking companies or the Federal Government or suo motu, lay

down general guidelines for facilitating recovery of bad or doubtful loans, advances or

finance by giving incentives to borrowers or customers to make repayments within a

specified time frame by making adjustments or remissions in relation to interest or mark-up

or part of the principal amount in cases in which all full recovery is not possible by reason of

inadequacy of security or as part of a general scheme for their habilitation of sick units.

34. Accounts and balance-sheet.—(1) At the expiration of each calendar year

every banking company incorporated in Pakistan, in respect of all business transacted by it,

and every banking company incorporated outside Pakistan, in respect of all business transacted

through its branches in Pakistan, shall prepare with reference to that year a balance -sheet and

profit and loss account as on the last working day of the year in the forms set out in the

Second Schedule or as near thereto as circumstances admit.

(2) The balance sheet and profit and loss account shall be signed.—

(a) in the case of a banking company incorporated in Pakistan, by the manager or

the principal officer of the company and where there are more than three directors of the company, by at least three of those directors, or where there are not more than three directors, by all the directors, and

(b) in the case of a banking company incorporated outside Pakistan by the manager or agent of the principal office of the company in Pakistan and by another officer next in seniority to the manager or agent.

(3) Notwithstanding that the balance sheet of a banking company is under subsection

(1) required to be prepared in a form other than the form marked 'F' in the Third

Schedule to the Companies Act, 1913 (VII of 1913), the requirements of that Act relating to

the balance sheet and profit and loss account of a company shall, in so far as they are not

inconsistent with this Ordinance, apply to the balance-sheet of profit and loss account, as the

case may be, of a banking company.

* The Banking Companies (Amendment) Act 1997 dated 31 -5-1997.

(4) The State Bank may, after giving not less than fifteen days notice of its

intention so to do, from time to time by a notification in the official Gazette, amend the forms

set out in the Second Schedule.*

35. Audit.—(1) The balance sheet and profit and loss account prepared in accordance

with section 34 shall be audited by a person who is duly qualified, under the Chartered

Accountants Ordinance, 1961 (X of 1961), or any other law for the time being in force, to be

an auditor of companies and is borne on the panel of auditors maintained by the State Bank

for the purposes of audit of banking companies.

(2) An auditor shall hold office for a period of three years and shall not be

removed from office before the expiry of that period except with the prior approval of the

State Bank.

(3) The State Bank may, from time to time, lay down guidelines for the audit of

banking companies and the auditors shall be bound to follow those guidelines.

(4) Subject to the provisions of sub-section (2), the auditor shall have the powers

of, exercise the functions vested in, and discharge the duties and be subject to the liabilities

and penalties imposed on, auditors of companies by section 145 of the Companies Act, 1913

(VII of 1913).

(5) In addition to the matters which, under the aforesaid Act and the guidelines

laid down by the State Bank under sub-section (3), the auditor is required to state in his

report, he shall also state—

(a) whether or not the information and explanations required by him have been found to be satisfactory;

(b) whether or not the transactions of the banking company which have come to his notice have been within the powers of the banking company;

(c) whether or not the returns received from branch offices of the banking company have been found adequate for the purposes of his audit;

(d) whether the profit and loss account shows a true balance of profit and loss for the period covered by such account; and

*Substituted vide the Banking Companies (Third Amendment) Ordinance, 1980 (Ord. LVIII of 1980).

The Gazette of Pakistan Extra, Part I, dt. 24-12-1980. Page. 551.

(e) any other matter which he considers should be brought to the notice of the

shareholders of the banking company.*

36. Submission of returns.— The accounts and balance-sheet referred to in section

34 together with the auditor's report as passed in the Annual General Meeting shall be

furnished as returns to the State Bank within three months of the close of the period to which

they relate:

Provided that the State Bank may in special circumstances extend the said period of

three months for the furnishing of such returns by a further period not exceeding three

months.

37. Copies of Balance Sheet and Accounts to be sent to Registrar.— Where a

banking company in any year furnishes its balance sheet and accounts in accordance with the

provisions of section 36 it may, or when it is a private company, shall, at the same time send

to the registrar three copies of such balance sheet and accounts and of the auditor's report,

and where such copies are so sent, it shall not be necessary for the company, to file copies of

the balance sheet and accounts with the registrar as required by sub-section (1) of section 134

of the Companies Act, 1913 (VII of 1913), and such copies so sent shall be chargeable with

the same fees and shall be dealt with in all respects as if they were filed in accordance with

that section.

38. Display of audited balance sheet by banking companies incorporated

outside Pakistan.— Every banking company incorporated outside Pakistan shall, not later

than the first Monday in August of any year in which it carries on business, display in a

conspicuous place in its principal office and in every branch office in Pakistan, a copy of its

last audited balance sheet and profit and loss account prepared under section 34 and shall

keep it so displayed until replaced by a copy of the subsequent balance sheet and profit and

loss account so prepared and every such banking company shall in addition display in like

manner copies of its complete audited balance sheet and profit and loss account relating to its

banking business as soon as they are available and shall keep the copies so displayed until

copies of such subsequent accounts are available.

39. Accounting provisions of this Ordinance not retrospective.— Nothing in

this Ordinance shall apply to the preparation of accounts by a banking company and the audit

and submission thereof

*Substituted vide Banking Companies (Amendment) Act, 1972(Act No. XXX of 1972). The Gazette of Pakistan, Extra, Part I

dated Oct. 16, 1972 Page.247.

in respect of any accounting year which has expired prior to the commencement of this

Ordinance, and notwithstanding the other provision of this Ordinance such accounts shall be

prepared, audited and submitted in accordance with the law in force immediately before the

commencement of this Ordinance.

40. Inspection.— (1) Notwithstanding anything to the contrary contained in section

138 of the Companies Act, 1913 (VII of 1913), the State Bank may, at any time, and, on

being directed so to do by the Federal Government, shall, inspect any banking company and

its books and accounts.

(2) The inspection shall be carried out by such officer of the State Bank as the State

Bank may direct.

(3) The State Bank shall supply to the banking company a copy of its report on the

inspection made under this section.

(4) It shall be the duty of every director or other officer of the banking company or

any company or firm or person referred to in section 27A£ to produce to any officer,

hereafter in this called the inspecting officer, making an inspection under this section, all such

books, accounts and other documents in his section custody or power and to furnish him with

such statements and information relating to the affairs of the banking company or any

company or firm or person referred to in section 27A£ and within such time as the inspecting

officer may require,

(5) The inspecting officer may examine on oath any director or other officer of the

banking comp-any in relation to its business and may administer an oath accordingly.

(6)££ The State Bank shall, if it has been directed by the Federal Government to make

an inspection, and, in any other case, may, submit a report to the Federal Government on any

inspection made under this section.

£ Inserted the words "or any company or firm or person referred to in section 27A" vide, The Gazette of Pakistan, Extra Part-I

dated 30-6-1990, Page -30.

££ Sub-section 6 substituted and sub-section 7 omitted vide Ordinance No. IX of 1997 dated 21-1-1999

= The Banking Companies (Amendment) Act, 1997 dated 31-5-1997.

*40A. Responsibility of State Bank— (1) Without prejudice to the powers conferred

on the State Bank under Section 40 and notwithstanding anything contained therein, it shall

be the responsibility and duty of the State Bank to systematically monitor the performance of

every banking company so as to ensure that it is complying with the applicable statutory

criteria and banking rules and regulations.

(2) In every case in which the management of a banking company is failing to

discharge its responsibility in accordance with the applicable statutory criteria and banking

rules or regulations, or is failing to protect the interests of depositors, or is advancing loans

or finances without due regard for the best interests of the banking company or for reasons

other than the merits, it shall be the duty of the State Bank, in addition to taking such

remedial steps as may be required in accordance with law, to report the shortcomings and

violations on the part of the banking company's management to the Federal Government the

every quarter, or more frequently, if so deemed necessary, so as to prevent any grave or

irreparable loss from being caused to the banking company or its depositors, along with its

recommendations and the action, if any, taken by it.

41. Power of the State Bank to give directions.—(1) Where the State Bank is

satisfied that—

(a) in the public interest; or

(b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or

(c) to secure the proper management of any banking company generally;

it is necessary to issue directions to banking companies generally or to any banking company

in particular, it may, from time to time, issue such directions as it deems fit, and the banking

companies or the banking company, as the case may be, shall be bound to comply with such

directions.

(2) The State Bank may, in representation made to it or on its own motion, modify or

cancel any direction issued under sub-section

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997

(1), and in so modifying or canceling any direction may impose such conditions as it thinks

fit, subject to which the modification or cancellation shall have effect.

41A. Power of the State Bank to remove directors or other managerial persons

from office—.(1) where the State Bank is satisfied that—

(a) the association of any chairman or director or chief executive (by

whatever name called) or other officer of a banking company, not

being lower in rank than a branch manager, is or is likely to be

detrimental to the interests of the banking company or its depositors or

otherwise undesirable; or

(b) in the public interest; or

(c) to prevent the affairs of a banking company being conducted in a manner detrimental to the interest of its depositors or in a manner prejudicial to the interests of the banking company; or

(d) to secure the proper management of any banking company; it is necessary so to do, the State Bank may, for reasons to be recorded in writing, by order, remove from office, with effect from such date as may be specified in the order, any chairman or director or chief executive (by whatever name called) or other officer of the banking company .

(2) No order under sub-section (1) shall be made unless the chairman or director or chief executive or other officer has been given a reasonable opportunity of making

a representation to the State Bank against the proposed order:

Provided that if, in the opinion of the State Bank, any delay would be

detrimental to the public interest or the interest of the banking company or its

depositors, the State Bank may, at the time of giving the opportunity aforesaid or at

any time thereafter and pending the consideration of the representation aforesaid, if

any, by order direct that—

(i) the chairman or, as the case may be, director or chief executive or other officer shall not, with effect from the date of the order,—

(a) act as such chairman or director or chief executive or

other officer of the banking company; or

(b) in any way, whether directly or indirectly, be concerned

with, or take part in the management of the banking

company; and

(ii) any person authorised by the State Bank in this behalf shall act

as such chairman or director or chief executive of the banking

company; and

(3) Where any order under sub-section (1) is made in respect of a chairman or

director or chief executive or other officer of a banking company, he shall cease to be a

chairman or, as the case may be, a director or chief executive or other officer of the banking

company and shall not in any way, whether directly or indirectly, be concerned with, or take

part in, the management of the banking company or any other banking company for such

period not exceeding three years as may be specified in the order.

(4) £ Any person appointed as chairman or director or chief executive under subsection

(2) shall—

(a) hold office during the pleasure of the State Bank subject to such

conditions as may be specified in the order of his appointment and,

subject thereto, for such period, not exceeding three years as the State

Bank specify; and

(b) not incur any obligation or liability for anything which is done or

intended to be done in his capacity as such chairman or director or

chief executive.

(5) No person removed from office under-section (1) shall be entitled to claim any

compensation for the loss or termination of office.*

41B. Power of the State Bank to supersede Board of Directors of banking company.—(1) where the State Bank is satisfied that –

(a) the association of the Board of Directors (by whatever name called) of a banking company is or is likely to be detrimental to the interests of the banking company or its depositors or otherwise undesirable; or

(b) for all any of the reasons mentioned in sub-section (1)of section 41A;

it is necessary so to do, the State Bank may, for reasons to be recorded in writing, by order,

supersede the Board of Directors of a banking company with effect from such date and for

such period as may be specified in the order.

(2) The period of supersession specified in an order under sub-section (1) may

from time to time be extended by the State Bank so, however, that the total period of

supersession does not exceed three years. £

(3) All orders and duties of the Board of Directors shall, during the period of

supersession, be exercised and performed by such person as the State Bank may from time to

time appoint in this behalf.

£ In clause (a) for the word "months" the word "years" substituted vide Ordinance No IX of 1997 dated 21 -1-1997.

* Section 41A, 41B, 41C inserted vide Banking Companies (Amendment) Act 1972 (Act No. XXX of 1972). The Gazette of

Pakistan, Extra, Part I dated Oct. 16, 1972-Page. 247.

= The Banking Companies (Amendment)Act, 1997 dated 31-5-1997.

(4) The provisions of sub-sections (2), (3), (4), and (5) of section 41A shall, with

the necessary modification, apply to an order made under sub-section (1) or sub-section (3). *

41C. Limitations.—(1) No order under section 41A or section 41B shall be made

except by the Governor of the State Bank on a report by a standing committee set up by the

State Bank for the purpose.

(2) Any person or banking company aggrieved by an order made by the Governor

of the State Bank under section 41A or section 41B may make an appeal to the Central Board

of Directors of the State Bank whose decision shall be final.

(3) No action taken under section 41A or section 41B or sub-section (2) shall be

called in question by or before any court, tribunal or other authority. *

41D.££ Prosecution of directors, chief executives or other officers.—

Notwithstanding anything contained in section 41A, the State Bank may direct prosecution of

a director or chief executive by whatever name called or other officer who, in its opinion, has

knowingly acted in manner causing loss of depositors' money or of the income of the

banking company.

Explanation:- For the purpose of this section a director or chief executive or other

officer shall be deemed to have acted knowingly if he has departed from established banking

practices and procedures or circumvented the regulations or related credit restrictions laid

down by the State Bank of Pakistan from time to time.

42. Further powers and functions of the Bank.— (1) The State Bank may—

(a) caution or prohibit banking companies generally or any banking company in particular against entering into any particular transaction or class of transactions and generally give advice to any banking company;

(b) require bank companies generally, or any banking company in particular, to refrain from taking such actions as it may specify in relation to any matter relating to the business of such banking company or companies, or to take such action in relation thereto as the State Bank thinks fit;

(c) on a request from the banking companies concerned and subject to the provisions of section 59 assist as intermediary or otherwise, in proposals for the amalgamation of such banking companies;

* Section; 41A, 41B, 41C inserted vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of

Pakistan, Extra, Part I dated Oct. 16, 1972-Page 247.

££ Inserted vide the Banking Companies (Amendment) = Ordinance No. IX of 1997 dated 21-1-1997.

= The Banking Companies (Amendment) Act, 1997 dated 31-2-1997.

(d) during the course, or after the completion, of any inspection of a banking company under section 40, by order in writing and on such terms and conditions as may be specified therein—

(i) require the banking company to call a meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the banking company, or require an officer of the banking company to discuss any such matter with an officer of the State Bank;

(ii) depute one or more of its officers to watch the proceedings at any meeting of the Board of Directors of the banking company or of any committee or of any other body constituted by it; require the banking company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the State Bank;

(iii) require the Board of Directors of the banking company or any committee or any other body constituted by it to give in writing to any officer specified by the State Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the Board, committee or other body constituted by it;

(iv) appoint one or more of its officers to observe the manner in which the affairs of the banking company or of its offices or branches are being conducted and make a report thereon;

(v) require the banking company to make, within such time as may be specified in the order, such changes in the management as the State Bank may consider necessary in consequence of the state of affairs

disclosed during or by the inspection.

(2) The State Bank shall make an annual report to the Federal Government on the

trend and progress of banking in the country, with particular reference to its activities under

sub-section (2) of section 17 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956),

including in such report its suggestions if any, for the strengthening of banking business

throughout the country.

43. Certain provision of the Ordinance not to apply certain banking

companies.—(1) The provisions of section 13, sub-section (1) of section 14, and sections 21,

22, 29 and 30 shall not apply to a banking company—

(a) which has been refused a licence under section 27, or prohibited from

accepting fresh deposits by a compromise, arrangement or scheme

sanctioned by a Court or by any order made in any proceeding relating

to such compromise, arrangement or scheme, or prohibited from

accepting deposits by virtue of any alteration made in its

memorandum, or

(b) whose licence has been cancelled under section 27.

(2) Where the State Bank is satisfied that any such banking company as is referred

to in sub-section (1) has repaid, or has made adequate provision for repaying all deposits

accepted by the banking company, either in full or to the maximum extent possible, the State

Bank may, by notice published in the official Gazette, notify that the banking company has

ceased to be a banking company within the meaning of this Ordinance, and thereupon all the

provisions of this Ordinance applicable to such banking company shall cease to apply to it,

except as respects things done or omitted to be done before such notice.

PART-IIA*

TRANSACTIONS OF BANKING BUSINESS ILLEGALLY BY
COMPANIES, ETC.

43A. Power to call for certain information, etc.— Where it appears to the State

Bank that a company, firm= or any other person is transacting in any manner or form

whatsoever the business of banking received deposits of money in contravention of section

27A the State Bank may—

(a) direct the company, firm or such other person, or any person who is, or has at any time been, dealing, doing business or associated in any manner with the company, firm or such other person, to give or furnish to the State Bank, within such time as the State Bank may specify in its requisition, such information, documents or records respecting any business carried on by the company, firm

* Part IIA inserted vide Banking Companies (Amendment) Ordinance, 1979 (Ordinance No. LVI of 1979). The Gazette of

£ Inserted the words "or is receiving or has received deposits of money in contravention of section 27A' vide No. F. 17 (2) 88-Pub,

The Gazette of Pakistan, Extra, Part-I, dated 24-9-1988, Page 825 to 831.

= After the word "Company" wherever occurring, the comma and word, "firm" inserted vide No. F.2(2) 89-Pub, Ord. III 1989. The

Gazette of Pakistan, Extra, Part-I dated 23-1-1989, Page-27 to 33.

or such other person as may be within its or his knowledge or in or under its or his possession, custody or control;

(b) authorise any person to enter and search any premises and seize books, accounts or other documents or records respecting any business carried on by the company, firm or such other person as may be in or under the possession, custody or control of the company, firm or such other person or a person who is, or has at any time been, dealing, doing business or associated in any manner with the company, firm or such other person, or any officer or employee of the company, firm or such other person or of the person dealing, doing business or associated with the company, firm or such other person.

(c) inspect or examine, or cause to be inspected or examined, the company, firm or such other person, or a person who is, or has at any time been, dealing, doing business or associated with it or him as aforesaid or any officer or employee of the company, firm or such other person or of the person dealing, doing business or associated with the company, firm or such other person, and any of its or his books, accounts or other documents or records referred to in clause (b); and

(d) exercise, as far as may be applicable, in relation to the company, firm

or such other person, or any person who is, or has at any time been, dealing, doing business or associated with it or him as aforesaid, the powers conferred on the State Bank by sub-sections (1), (2), (4) and (5) of section 40.

£43AA. Special provisions.—(1) Where the State Bank has called for

information under section 43A from a company, firm or person and it appears to the

State Bank that, in the interest of the person for whom the deposits of moneys were

received, it is necessary that the moneys received and other assets of the company,

firm or person, whether held in the name of that company, firm or person or of any

other persons, are protected and preserved, the State Bank may, without prejudice to

any other action or proceeding which may be taken against such company, firm or

person under any other provisions of this Ordinance or any other law for the time

being in force, make an order in writing—

(a) appointing one or more persons as interim receiver or

£ Inserted the new section 43AA vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page 30 to 31.

receivers authorising him or, as the case may be, each one of them to—

(i) enter and search any premises and seize books of accounts or

other documents or records of such deposits of money; and

(ii) take in his custody, on behalf of the State Bank, all moneys, cash

securities, title deeds, properties, whether moveable or immovable, belonging to such company, firm or person, including those being held on behalf, or in the name, of any director, manager, officer, partner, employee, agent, beneficiary or transferee of such company, firm or person or their dependants;

(b) directing any bank, financial institution or person to freeze all moneys deposited with it or him on behalf of the company, firm or person or of any director, manager, officer, partner or employee, agent, beneficiary or transferee of such company, firm or person appointed by it under clause (a);

(c) authorising a person appointed under clause (a) to take all necessary steps and measures for identifying the assets and properties of the company, firm or person and for realisation, protection and preservation thereof;

(d) restraining any company, firm or person or any director, manager, officer, partner or employee or agent, beneficiary or transferee of such company, firm or person or their dependants or any other person deriving or claiming title through any of them from alienating, transferring, selling, assigning, disposing of or parting with possession of any property, movable or immovable, or deriving any benefit, rent or income therefrom; and

(e) making such orders for realisation, protection and preservation of deposits of money and other assets and properties of the company, firm or person as it may deem fit.

(2) An order made under sub-section (1) shall, unless it is earlier

withdrawn in pursuance of the proviso to sub-section (1) of section 43B, remain in

force until possession of the moneys, cash securities, title deeds, properties, book of

account, documents or records to which the order relates is taken over by the official

liquidator or, as the case may be, the High Court, in pursuance of an order of the

High Court under section 43F:

Provided that any order made under sub-section (1) shall not prevent the High

Court from determining the right of a person claim-

ing to have acquired the property or asset from the company, firm or person, bonafide

and for valuable and adequate consideration which such person shall be required to

prove as paid from his own resources.

(3) An order made under sub-section (1) may be served on the Registrar of Joint

Stock Companies or such other officer or authority or person as the State Bank may deem

proper.

(4) If any person authorised under sub-section (1) require assistance of the police

or any other civil authority in the exercise of his powers or discharge of his functions

thereunder, he may send a requisition to the officer in charge of a police station or to such

authority who shall on such requisition render the assistance required.

43B. Power to make declaration.—(1) Where the State Bank, after making such

inquiries as it may deem fit, is of opinion that a company, firm @ or person referred to in

section 43A is transacting in any manner or form whatsoever the business of banking in

contravention of sub-section (1) of section 27, or is receiving or has received deposits of

money in contravention of section 27A, the State Bank may, after giving the company, firm

or such person an opportunity of showing cause against the proposed action being taken,

make a declaration to that effect:

£ Provided that, in a case in which the State Bank has made an order under subsection

(1) of section 43AA in respect of company, firm or person, the State Bank shall make

a declaration under this sub-section in respect of such company, firm or person within three

months of the making of such order or within such further time, not exceeding three months

in the aggregate, as the High Court may allow, or withdraw such order.

£(2) The State bank shall publish, or cause to be published, a declaration made under

sub-section (1) in two newspapers having wide circulation in the area in which the registered

office of the company or firm, or the principal office of the person, to which or to whom the

declaration relates is situated; and upon such publication, the company, firm or such person

or the chief executive, by whatever name called, or directors, managers, officers, employees

or agents of the firm, or such person, or any other person referred to in sub-section (1), (3) or

(4) of section 43D or section 43E, shall not be heard to plead ignorance of the making of the

declaration.

(3) A declaration under sub-section (1) shall, for the purposes of this Part, be

conclusive proof of the fact stated therein.

43.C Consequences of a declaration under section 43B.—(1) A company, firm. @

or other person in respect of which or whom a declaration

@ After word "Company", wherever occurring in sub-section (1) of section 43B and in sub-section (1) of section 43C the comma

and word "firm" inserted vide, The Gazette of Pakistan, Extra Part-1, dated 30-6-90, Page-32.

£ Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-32.

has been made under sub-section (1) of section 43B shall, on the publication of such

declaration in pursuance of sub-section (2) of that section, cease to function or to transact

business and any transaction with such company, firm or person, or with any person acting or

purporting to act for and on behalf of such company, firm or person, on or after the

publication of the declaration as aforesaid, shall be void.

(2) The provisions of sub-section (1) and sections 43D, 43E and 43F shall, as far

as may be, apply to company or undertaking which is an associated undertaking of a

company, firm* or person in respect of which or whom a declaration under sub-section (1) of

section 43B is made.

Explanation.—In this sub-section, “undertaking” and “associated undertaking” have

the same meaning as in the Monopolies and Restrictive Trade Practices (Control and

Prevention) Ordinance, 1970 (V of 1970).

43D. Deposit of cash and preservation of assets, etc.—(1) Notwithstanding

anything contained in section 43C, where a declaration under sub-section (1) of section 43B

has been made in respect of a company, firm or other person, every person who has in his

possession or custody, or under his control, any moneys, movable properties, shares,

securities of any description or title deeds relating to property which belong to the company,

firm* or such other person shall forthwith deposit, or cause to be deposited, such moneys,

movable properties, shares, securities and title deeds with any of the banks referred to in the

Schedule to the Banks (Nationalization) Act, 1974 (XIX of 1974), or the State Bank or any

person authorised by the State Bank in this behalf.

(2) If any person who is required by sub-section (1) to deposit, or to cause to be

deposited, any moneys, movable properties, shares, securities or title deeds fails to do so

within two days of the publication of the declaration under sub-section (1) of section 43B,

any person authorised by the State Bank in this behalf may enter and search any premises and

seize such moneys, movable properties, shares, securities or title deeds and deposit, or cause

to be deposited, the same in accordance with sub-section(1).

*(3) Until such time as an official liquidator, official assignee, interim receiver,

receiver or official receiver, as the case may be appointed by the Court on an application

made under section 43F takes over the possession, custody or control of any books,

documents, records and assets of a company, firm or person in respect of which or whom a

declaration under sub-section (1) of section 43B has been made, includ

Following have been made vide, The Gazette of Pakistan, Extra Part -I, dated 30-6-90, Page 32 to 33.

* In sub-section (2), section 43C, after the word "company" occurring for the second time word "firm" inserted.

In section 43D, sub-section (1) after the word "company" wherever occurring the word "firm" inserted and sub-section (3)

substituted.

ing any actionable claims to which such company, firm or person is, or appears to be,

entitled, the chief executive, by whatever name called, and a director, manager, officer,

employee and agent of such firm or person, and every other person who may have in or under

his possession, custody or control of such books, documents, records, assets or claims, shall

preserve and aid in preserving, such books, documents, records, assets and claims and shall,

without prejudice to any other liability that he may incur, be jointly and severally liable for

any loss or damage.*

(4) Every person who is, or becomes, indebted in any manner to a company,

firm** or person in respect of which or whom a declaration under sub-section (1) of section

43B has been made shall, during the period between the date on which such declaration is

published and the date on which an order for winding up or, as the case may be an order of

adjudication is made by the Court, repay the amount of the debt by depositing in the manner

provided for in sub-section (1) and inform the State Bank in writing of his having done so.

(5) In computing the period prescribed by the Limitation Act, 1908 (IX of 1908),

for any suit, appeal or application in respect of anything arising from actions which,

immediately before the commencement of the Banking Companies (Amendment) Ordinance,

1979, were pending against a company or person in respect of which or whom a declaration

under sub-section (1) of section 43B has been made, or in respect of any action to the filing

of which the company or person may be entitled, the period commencing on the publication

of such declaration and ending on the day on which an order for winding up or, as the case

may be, an order of adjudication is made by the Court shall be excluded.

*43E. Statement of assets and liabilities to be submitted to State Bank.—Within three days of the publication of a declaration under sub-section (1) of section 43B in respect

of a company, firm or other person, or within such further time as the State Bank may, by

order in writing, allow, the chief executive, by whatever name called, and every director,

manager, officer, and agent of the company, and every partner of the firm and the manager,

officer and agent of the firm or such person, and every other person having a claim or

liability against or towards the company, firm or such person shall submit to the State Bank

as statement showing the assets and liabilities of the com

* Following have been made vide, The Gazette of Pakistan, Extra Part -I, dated 30-6-90, Page-33: -

** In sub-section (4), section 43D, after the word "company" the word "firm" inserted vide Gazette of Pakistan, Extra, Part-I, dated

30-6-90, page-33.

pany, firm or such person so far as may be known to him.*

43F. Consequential provisions for winding up, etc.—(1) Where the declaration

made under sub-section (1) of section 43B is in respect of a person other than an individual or

a company, such person shall, irrespective of the number of members of which it consists, be

deemed to be an unregistered company which may be wound up under Part IX of the

Companies Act, 1913 (VII of 1913).

(2) Where the person in respect of which a declaration has been made under subsection

(1) of section 43B is a company or an unregistered company, the High Court shall,

upon an application made by the State Bank within seven days of the publication of the

declaration in pursuance of sub-section (2) of Section 43B, or within such further time as the

Federal Government may allow, make an order for the winding up of the company or the

unregistered company.

(3) The provisions of Part III, other than those of sections 45 to 49 and 59, and

Part IV shall, in so far as they relate to winding up of a banking company apply to an

application made under sub-section (2) and to the winding up proceedings following such

application.

(4) Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (V

of 1920), and the Insolvency (Karachi Division) Act (III of 1909), a declaration made under

sub-section (1) of section 43B in respect of an individual shall constitute an effective ground

for adjudging the individual an insolvent and the court competent to adjudge him an

insolvent shall, upon an application made by the State Bank within seven days of the

publication of the declaration in pursuance of sub-section (2) of section 43B, or such further

time as the Federal Government may allow, pass an order of adjudication against such

individual without further proof and follow thereafter the provisions of the Provincial

Insolvency Act, 1920 (V of 1920) or, as the case may be, the Insolvency (Karachi Division)

Act (III of 1909), for the administration and distribution of the property of the insolvent:

Provided that the court shall not have the power to subsequently annul the adjudication or accept any composition or scheme or arrangement.

* Section 43E shall be substituted vide Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-33.

PART III

SUSPENSION OF BUSINESS AND WINDING UP OF BANKING

COMPANIES

44. High Court defined.—In this Part and in Part IV “High Court”, in relation to

a banking company, means the High Court exercising jurisdiction in the place where the

registered office of the banking company is situated or, in the case of a banking company

incorporated outside Pakistan, where its principal place of business in Pakistan is situated.

45. Restriction on stay order.—(1) The High Court may, on the application of a

banking company which is temporarily unable to meet its obligations make an order staying

for a fixed period on such terms and conditions as it may think fit the commencement or

continuance of all proceedings against the company and may from time to time extend the

period so however that the total period including the period of any stay order granted under

the proviso to sub-section (2), shall not exceed six months.

(2) Except as hereinafter provided no order of stay shall be granted upon such

application unless it is accompanied by a report of the State Bank showing that in the opinion

of the State Bank the banking company will be able to pay its debts if the application is

granted.

Provided that in the case of an application not so accompanied the High Court may, if

it thinks fit, grant stay for a period of not more than thirty days in aggregate, and, if such stay

is granted, shall call for a report from the State Bank on the affairs of the banking company,

on receipt of which it may either rescind an order already passed or pass such further orders

as it may consider just and proper in the circumstances.

(3) The High Court shall forward to the State Bank a copy of every stay order made under this section.

(4) Where an application is made under sub-section (1), the High Court may

appoint a special officer who shall forthwith take into his custody or under his control all the

assets, books, documents, effects and actionable claims to which the banking company is or

appears to be entitled and shall also exercise such other powers as the interests of the

depositors of the banking company.

(5) Where the State Bank is satisfied that the affairs of a banking company in

respect of which an order under sub-section (1) has been made, are being conducted in a

manner detrimental to the interests of the depositors, it may make an application to the High

Court for the winding up of the company, and where any such application is made, the High

Court shall not make any order extending the period for which the commencement or

continuance of all actions and proceedings against the company were stayed under that subsection.

(6) The special officer appointed by the High Court under sub-section (4) of this

section shall continue to hold office until he is removed from office, or until the bank

resumes business, or until a liquidator is duly appointed to wind up the business of the bank.

46. Restriction on compromise or arrangement between banking companies

and creditors.—(1)Notwithstanding anything contained in any law for the time being in

force, no High Court shall sanction a compromise or arrangement between a banking

company and its creditors or any class of them or between such company and its members or

any class of them unless the compromise or arrangement is certified by the State Bank in

writing as not being incapable of being worked and as not being detrimental to the interests of

the depositors of such banking company.

(2) Where an application under section 153 of the Companies Act, 1913 (VII of

1913), is made in respect of a banking company, the High Court may direct the State Bank to

make an inquiry in relation to the affairs of the banking company and the conduct of its

directors and when such a direction is given, the State Bank shall make such inquiry and

submit its report to the High Court.

47. Powers of State Bank to apply to Federal Government for suspension of

business by a banking company and to prepare scheme of reconstruction or

amalgamation.—(1) Notwithstanding anything contained in the provisions of this Part or in

any other law or any agreement or other instrument, for the time being in force, where it

appears to the State Bank that there is good reason so to do, the State Bank may apply to the

Federal Government for an order of moratorium in respect of a banking company.

(2) The Federal Government, after considering the application made by the State

Bank under sub-section (1), may make an order of moratorium staying the commencement or

continuance of all action and proceedings against the company for a fixed period of time on

such terms and conditions as it thinks fit and proper and may from time to

time extend the period so however that the total period of moratorium shall not exceed six

months.

(3) Except as otherwise provided by any directions given by the Federal

Government in the order made by it under sub-section (2) or at any time thereafter, the

banking company shall not during the period of moratorium make any payment to any

depositors or discharge any liabilities or obligations to any other creditors.

(4) During the period of moratorium, if the State Bank is satisfied that—

(a) in the public interest; or

(b) in the interests of the depositors; or

(c) in order to secure the proper management of the banking company; or

(d) in the interests of the banking system of the country as a whole,

it is necessary so to do, the State Bank may prepare a scheme —

(i) for the reconstruction of the banking company, or

(ii) for the amalgamation of the banking company with any other banking institution (in this section referred to as “the transferee bank”).

(5) The scheme aforesaid may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations, of the banking company in its reconstruction or, as the case may be, of the transferee bank;

(b) in the case of amalgamation of the banking company, the transfer to the transferee bank of the business, properties, assets and liabilities of the banking company on such terms and conditions as may be specified in the scheme;

(c) any change in the Board of Directors, or the appointment of a new Board

of Directors, of the banking company on its reconstruction or, as the case may be, of the transferee bank and the authority by whom, the manner in which and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made;

(d) the alteration of the memorandum and articles of association of the banking company on its reconstruction or, as the case may be, of the transferee bank for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation;

(e) subject to the provisions of the scheme, the continuation by or against the banking company on its reconstruction or, as the case may be, the transferee bank, of any actions or proceedings pending against the banking company immediately before the date of the order of moratorium;

(f) the reduction of the interest or rights which the members, depositors and other creditors have in or against the banking company before its reconstruction or amalgamation to such extent as the State Bank considers necessary in the public interest of the members, depositors and the creditors or for the maintenance of the business of the banking company;

(g) the payment in cash or otherwise to depositors and other creditors in full satisfaction of their claim—

(i) in respect of their interest or rights in or against the banking company before its reconstruction or amalgamation; or

(ii) where their interest or rights aforesaid in or against the banking company has or have been reduced under clause (f), in respect of such interest or rights as so reduced;

(h) the allotment to the members of the banking company for shares held by them

therein before its reconstruction or amalgamation, whether their interest in

such shares has been reduced under clause (f) or not, of shares in the banking company on its reconstruction or,

as the case may be, in the transferee bank and where any members claim

payment in cash and not allotment of shares, or where it is not possible to allot

shares to any members, the payment in cash to those members in full

satisfaction of their claim—

(i) in respect of their interest in shares in the banking company before its reconstruction or amalgamation; or

(ii) where such interest has been reduced under clause (f) in respect of their interest in shares as so reduced;

(i) the continuance of the services of all the employees of the banking company, excepting such of them who, not being workmen within the

meaning of the [Industrial Relations Ordinance, 1969 (XXII of 1969)],*

are specifically mentioned in the scheme, in the banking company itself on

its reconstruction or, as the case may be, in the transferee bank at the same

remuneration and on the same terms and conditions of service, which they were getting or , as the case may be, by which they were being governed immediately before the date of the order of moratorium:

Provided that the scheme shall contain a provision that—

(i) the banking company shall pay or grant not later than the expiry of the period of three years from the date on which the scheme is sanctioned by the Federal Government, to the said employees the same remuneration and the same terms and conditions of service as are applicable to employees of corresponding rank or status of a comparable banking company to be determined for this purpose by the State Bank whose determination in this respect shall be final;

(ii) the transferee bank shall pay or grant not later than the expiry of the aforesaid period of three

· The words, comma and figure "Industrial Disputes Ordinance, 1959" substituted by the words, comma, figure and brackets "Industrial

Relations Ordinance, 1969 (XXVII of 1981) vide Federal Laws (Revision and Declaration) Ordinance 1981 (Ordinance No.XXVII of

1981). Gazette of Pakistan Extra, Part I. dated July 8, 1981.

69

years, to the said employees the same remuneration and the same terms and conditions of service as are applicable to the other employees of corresponding rank or status of the transferee bank subject to the qualifications and experience of the said employees being the same as or equivalent to those of such other employees of the transferee bank:

Provided further that if in any case under clause (ii) of the first proviso any doubt or

difference arises as to whether the qualification and experience of any of the said

employees are the same as or equivalent to qualifications and experience of the other

employees of corresponding rank or status of the transferee bank, the doubt or

difference shall be referred to the State Bank whose decision thereon shall be final;

(j) notwithstanding anything contained in clause (i) where any of the employees

of the banking company, not being workman within the meaning of the

Industrial Disputes Ordinance, 1959, are specifically mentioned in the scheme

under clause (i), or where any employees of the banking company have by

notice in writing given to the banking company or, as the case may be, the

transferee bank at any time before the expiry of one month next following the

date on which the scheme is sanctioned by the Federal Government, intimated

their intention of not becoming employees of the banking company on its

reconstruction or, as the case may be, of the transferee bank, the payment to

such employees of compensation, if any, to which they are entitled under the

Industrial Disputes Ordinance, 1959, and such Pension, gratuity, provident

fund and other retirement benefits ordinarily admissible to them under the

rules or authorizations of the banking company immediately before the date of

the order of moratorium;

(k) any other terms and conditions for the reconstruction or amalgamation of the

banking company;

(l) such incidental, consequential and supplemental matters as are necessary to

secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(6) A copy of the scheme prepared by the State Bank shall be sent in draft to the

banking company and also to the transferee bank and any other banking company concerned

in the amalgamation, for suggestions and objections, if any, within such period as the State

Bank may specify for this purpose.

(7) The State Bank may make such modifications, if any, in the draft scheme as it

may consider necessary in the light of the suggestions and objections received from the

banking company and also from the transferee bank, and any other banking company

concerned in the amalgamation and from any members, depositors or other creditors of each

of those companies and the transferee bank.

(8) The scheme shall thereafter be placed before the Federal Government for its

sanction and the Federal Government may sanction the scheme without any modifications or

with such modifications as it may consider necessary; and the scheme as sanctioned by the

Federal Government may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(9) Upon the coming into operation of the scheme or any provision thereof, the

scheme or such provision shall be binding on the banking* company or, as the case may be,

on the transferee bank and any other banking company concerned in the amalgamation and

also on all the members, depositors and other creditors and employees of each of those

companies and of the transferee bank, and on any other person having any right or liability in

relation to any of those companies or the transferee bank.

(10) On such date as may be specified by the Federal Government in this behalf,

the properties and assets of the banking company shall, by virtue of and to the extent

provided in the scheme, stand transferred to, and vest in, and the liabilities of the banking

company shall, by virtue of and to the extent provided in the scheme, stand transferred to, and

become the liabilities of, the transferee bank.

(11) If any difficulty arises in giving effect to the provisions of the scheme, the

Federal Government may by order do anything not inconsistent with such provisions which

appears to it necessary or expedient for the purpose of removing the difficulty.

*In sub -section (9) the words " and any other Banking Company concerned in the amalgamation and also" occurring for the first

time, omitted vide Banking Companies (Amendment) Act 1972. (Act No, XXX of 1972). The Gazette of Pakistan Extra, Part I, dated Oct.

16, 1972 Page 249. Effective date of omission is 13-10-1972.

(12) Copies of the scheme or of any order made under sub-section (11) shall be laid

on the table of the Legislature, as soon as may be, after the scheme has been sanctioned by

the Federal Government, or as the case may be, the order has been made.

(13) Where the scheme is a scheme for amalgamation of the banking company, any

business acquired by the transferee bank under the scheme or under any provision thereof

shall, after the coming into operation of the scheme or such provision, be carried on by the

transferee bank in accordance with the law governing the transferee bank, subject to such

modifications in that law or such exemptions of the transferee bank from the operation of any

provisions thereof as the Federal Government, on the recommendation of the State Bank,

may, by notification in the official Gazette, make for the purpose of giving full effect to the

scheme:

Provided that no such modification or exemption shall be made so as to have effect

for a period of more than seven years from the date of the acquisition of such business.

(14) Nothing in this section shall be deemed to prevent the amalgamation with

{one or more banking institutions}* by a single scheme of several banking companies in

respect of each of which an order of moratorium has been made under this section.

(14A) The provisions of this section shall apply also to a banking company in

respect of which no order of moratorium has been made and in its application to such a

banking company, shall have effect as if—

(a) in sub-section (4), the words and comma "During the period of moratorium," were omitted;

(b) in sub-section (5), the references to the date of the order of moratorium were references to the date specified under sub-section (8) for the coming into force of the scheme; and

(c) in sub-section (14), the words "in respect of each of which an order of

moratorium has been made under this section" were omitted.**

*Substituted for words "a banking institution" vide Banking Companies (Amendment) Act 1972, (Act No. XXX of 1972). The

Gazette of Pakistan, Extra Part I Oct. 16, 1972, Page 249.

** After sub-section 14 amended as aforesaid new sub-section (14B) inserted vide Banking Companies (Amendment) Act 1972, (Act

No. XXX of 1972). The Gazette of Pakistan, Extra, Part I dated Oct. 16, 1972. Page. 249.

(15) The provisions of this section and of any scheme made under it shall have

effect notwithstanding anything to the contrary contained in any other provisions of this

Ordinance or in any other law or any agreement, award or other instrument for the time being

on force.

(16) In this section, "banking institution" means any banking company and

includes the National Bank of Pakistan.

48. Procedure for amalgamation of banking companies.—(1) Notwithstanding

anything contained in any law for the time being in force, no banking company shall be

amalgamated with another banking company, unless a scheme containing the terms of such

amalgamation has been placed in draft before the shareholders of each of the banking

companies concerned separately, and approved by a resolution passed by a majority in

number representing two thirds in value of the shareholders of each of the said companies,

present either in person or by proxy at a meeting called for the purpose.

(2) Notice of every such meeting as is referred to in sub-section (1) shall be given

to every shareholder of each of the banking companies concerned in accordance with the

relevant articles of association, indicating the time, place and object of the meeting, and shall

also be published at least once a week for three consecutive weeks in not less than two

newspapers which circulate in the locality or localities where the registered offices of the

banking companies concerned are situated, one of such newspapers being in a language

commonly understood in the locality or localities.

(3) Any shareholder, who has voted against the scheme, of amalgamation at the

meeting or has given notice in writing at or prior to the meeting to the company concerned or

the presiding officer of the meeting that he dissents from the scheme of amalgamation, shall

be entitled, in the event of the scheme being sanctioned by the State Bank to claim from the

banking company concerned, in respect of the shares held by him in that company, their

value as determined by the State Bank when sanctioning the scheme and such determination

by the State Bank as to the value of the shares to be paid to dissenting shareholder shall be

final for all purposes.

(4) If the scheme of amalgamation is approved by the requisite majority of

shareholders in accordance with the provisions of this section, it shall be submitted to the

State Bank for sanction and shall, if sanctioned by the State Bank by an order in writing

passed in this behalf be binding on the Banking by an order in writing passed in this behalf be

binding on the banking companies concerned and also on all the shareholders thereof.

(5) Where a scheme of amalgamation is sanctioned by the State Bank under the

provisions of this section, the State Bank shall transmit a copy of the order sanctioning he

scheme to the registrar before whom the banking companies concerned have been registered

and the registrar shall, on receipt of any such order, strike off the name of the company

(hereinafter in this section referred to as the amalgamated banking company) which by reason

of the amalgamation will cease to function.

(6) On the sanctioning of scheme of amalgamation by the State Bank, the property of the amalgamated banking company shall, by virtue of the order of sanction, be transferred

to and vest in, and the liabilities of the said company shall, by virtue of the said order be

transferred to and become the liabilities of the banking company which under the scheme o

amalgamation is to acquire the business of the amalgamated banking company, subject in all

cases to the terms of the order sanctioning the scheme.

49. Winding up by High Court.—(1) Notwithstanding anything contained in

section 153, section 162 and section 271 of the Companies Act, 1913 (VII of 1913), but and

section 271 of the Companies Act, 1913 (VII of 1913), but without prejudice to its powers

under the sub-section (1) of section 45 of this Ordinance, the High Court shall order the

winding up of a banking company—

(a) if the banking company is unable to pay its debts; or

(b) if an application for its winding up has been made by the State Bank under section 45 or this section.

(2) The State Bank shall make an application under this section for the winding up

of a banking company if it is directed so to do by an order under clause (b) of sub-section (6)

of section 40.

(3) The State Bank may make an application under this section for the winding up

of a banking company—

(a) if the banking company—

(i) has failed to comply with the requirements specified in section 13; or

(ii) has, because of the provisions of section 27, become disentitled to carry on banking business in Pakistan; or

(iii) has been prohibited from receiving fresh deposits by an order under clause (a) of sub-section (6) of section 40, or under clause (b)

of sub-section (5) of section 36 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956); or

(iv) having failed to comply with any requirement of this Ordinance other than the requirements laid down in section 13, has continued such failure, or, having contravened any provision of this Ordinance has continued such contravention beyond such period or periods as may be specified in that behalf by the State Bank from time to time, after notice in writing of such failure or contravention has been conveyed to the banking company; or

(b) if in the opinion of the State Bank—

(i) a compromise or arrangement sanctioned by a Court in respect of the banking company cannot be worked satisfactorily with or modifications; or

(ii) the returns, statements or information furnished to it under or in pursuance of the provisions of this Ordinance disclose that the banking

company is unable to pay its debts; or

(iii) the continuance of the banking company is prejudicial to the interest of

its depositors.

(4) Without prejudice to the provisions contained in section 163 of the Companies

Act, 1913 (VII of 1913), a banking company shall be deemed to be unable to pay its debts if

it has refused to meet any lawful demand made at any of its offices or branches within two

working days, if such demand is made at a place where there is an office, branch or agency of

the State Bank, or, within five working days, if such demand is made elsewhere, and if the

State Bank certifies in writing that banking company is unable to pay its debts.

(5) A copy of every application made by the State Bank under sub-section (1) shall

be sent by the State Bank to the registrar.

(6) Notwithstanding anything contained in the Companies Act, 1913 (VII of

1913), no Court shall entertain an application for winding up of banking company by the

Court unless such application is accompanied by a certificate in writing from the State Bank

certifying that it has no objection to the making of such application.

50. Court Liquidator.—(1) When, having regard to the number of proceedings for

the winding up of banking companies or the extent of the work involved in such

proceedings, in any Province or at any place in any Province, the Federal Government is of

the opinion that it is necessary or expedient to attach a court Liquidator to the High Court of

that province it may, in consultation with the State bank, appoint a Court Liquidator, the

province or at a place in Province, and for such time as the Federal Government may think

fit, for the purpose of conducting all proceedings for the winding up of banking companies

and performing such duties in reference thereto as the High Court may impose.

(2) where there is a court liquidator attached to a High Court and an order is

passed by the High court for the winding up of any banking company, then notwithstanding

anything contained in section 171A or section 175 of the Companies Act, 1913 (VII of 1913),

the court liquidator shall become the official liquidator of the banking company.

(3) where there is a court liquidator attached to a High Court and any proceeding,

for the winding up of a banking company in which any person other than the State Bank or

the court liquidator has been appointed as official liquidator, is pending before the High

Court immediately before the commencement of this Ordinance or the date on which the

court liquidator is so attached the High court, whichever is later, then, notwithstanding

anything contained a section 176 of the Companies Act, 1913 (VII of 1913), the person

appointed as official liquidator shall, on such commencement or, as the case may be, on the

aforesaid date, be deemed to have vacated his office as such and the vacancy so caused shall

be deemed to be filled up by the appointment of the court liquidator as the official liquidator:

Provided that where the High Court, after giving the court liquidator and the State

Bank an opportunity of being heard, is of opinion that the appointment of the court liquidator

would be detrimental to the interests of the depositors of the banking company, it may direct

the person appointed as the official liquidator to continue to act as such.

51. State Bank to be official liquidator.—Notwithstanding anything contained in

section 50, or in section 175 of the Companies Act, 1913 (VII of 1913, where in any

proceeding for the winding up of a banking company by the High Court the State Bank

applies for an order appointing the State Bank or any individual as the official liquidator of

the banking company in that proceeding, the application

shall ordinarily be granted and the liquidator, if any, functioning in such proceeding shall

vacate office upon such appointment.

52. Application of Companies Act to Liquidators.—(1) all the provisions of the

Companies Act, 1913, relating to a liquidator, and so far as they are not inconsistent with this

Ordinance, shall apply to or in relation to a liquidator appointed under section 50 any

liquidator of a banking company.

(2) Any reference to the "official liquidator" in this part and Part IV shall be

construed as including a reference to any liquidator of a banking company.

53. Stay of proceedings.—Notwithstanding anything to the contrary contained in

section 173 of the Companies Act, 1913 (VII of 1913), the High Court shall not make any

order staying the proceedings in relation to the winding up of a banking company, unless the

high Court is satisfied that an arrangement has been made whereby the company can pay its

depositors in full as their claims accrue.

54. Preliminary report by official liquidator.—Notwithstanding anything to the

contrary contained in section 177B of the Companies Act, 1913 (VII of 1913), where a

winding-up order has been made in respect of a banking company whether before or after the

commencement of this Ordinance, the official liquidator shall submit a preliminary report to

the High Court within two months from the date of the winding-up order or where the

winding –up order has been made before such commencement , within two months from

such commencement, giving the information required by that section so far as it is available

to him and also stating the amount of assets of the banking company in cash which are in his

custody or under his control on the date of the report and the amount of its assets which are

likely to be collected in cash before the expiry of that period of two months in order that such

assets may be applied speedily towards the making of preferential payments under section

230 of the Companies Act, 1913 and in the discharge, as far as possible, of the liabilities and

obligations of the banking company to its depositors and other creditors in accordance with

the provisions hereinafter contained; and the official liquidator shall make for the purposes

aforesaid every endeavour to collect in cash as much of the assets of the banking company as

practicable:

Provided that the High Court may, if it thinks fit in any particular case, extend the

period of two months referred to in this section by a further period of one month.

55. Notice to preferential claimants and secured and unsecured creditors.—

(1) Within fifteen days from the date of the winding-up order of a banking company or

where the winding-up order has been made before the commencement of this Ordinance,

within one month from such commencement, the official liquidator shall, for the purpose of

making an estimate of the debts and liabilities of the banking company (other than its

liabilities and obligations to its depositors), by notice served in such manner as the State

Bank may direct, call upon—

(a) every claimant entitled to preferential payment under section 230

of the Companies Act, 1913 (VII of 1913), and

(b) every secured and every unsecured creditor, to send to the official

liquidator within one month from the date of the service of the notice a statement of the amount claimed by him.

(2) Every notice under sub-section (1) sent to a claimant having a claim under section 230 of the Companies Act, 1913 (VII of 1913), shall state that if a statement of the claim is not sent to the official liquidator before the expiry of the period of one month from the date of the service, the claim shall not be treated as a claim entitled to be paid under that section in priority to all other debts but shall be treated as an ordinary debt due by the banking company.

(3) Every notice under sub-section (1) sent to a secured creditor shall require him to value his security before the expiry of the period of one month from the date of the service of the notice and shall state that if a statement of the claim together with the valuation of the security is not sent to the official liquidator before the expiry of the said period, then the official liquidator shall himself value the security and such valuation shall be binding on the creditor.

(4) If a claimant fails to comply with the notice sent to him under subsection (1), his claim will not be entitled to be paid under section 230 of the Companies Act, 1913 (VII of 1913), in priority to all other debts but shall be treated as an ordinary debt due by the banking company; and if a secured creditor fails to

comply with the notice sent to him under sub-section (1), the official liquidator shall

himself value the security and such valuation shall be binding on the creditor.

56. Power to dispense with meetings of creditors, etc.—

Notwithstanding anything to the contrary contained in sections 178A.

and 183 of the Companies Act, 1913 (VII of 1913), the High Court may, in the proceedings

for winding-up a banking company, dispense with any meetings of creditors or

contributories or with the appointment of a committee of inspection if it considers that no

object will be secured thereby sufficient to justify the delay and expense.

57. Booked depositors' credits to be deemed proved.—In any proceeding for

the winding-up of a banking company, every depositor of the banking company shall be

deemed to have filed his claim for the amount shown in the books of the banking company

as standing to his credit and notwithstanding anything to the contrary contained in section

191 of the Companies Act, 1913 (VII of 1913), the High Court shall presume such claim to

have been proved, unless the official liquidator shows that there is reason for doubting its

correctness.

58. Preferential payments to depositors .—(1) In every proceeding for the

winding-up of a banking company where a winding-up order has been made, whether before

or after the commencement of this Ordinance, within three months from the date of the

winding-up order or where the winding-up order has been made before such

commencement, within three months therefrom, the preferential payments referred to in

section 230 of the Companies Act, 1913 (VII of 1913), in respect of which statements of

claims have been sent within one month from the date of the service of the notice referred to

in section 55, shall be made by the official liquidator or adequate provision for such

payments shall be made by him.

(2) After the preferential payments as aforesaid have been made or adequate provision

has been made in respect thereof, there shall be paid within the aforesaid period of three

months—

(a) in the first place, to every depositor in the savings bank account of the banking

company a sum of two hundred and fifty rupees or the balance at his credit whichever is less, and

(b) In the next place, to every other depositor of the banking company fifty per

cent of the balance at his credit subject to a maximum of two hundred and fifty rupees, in priority to all other debts from out of the remaining assets of

the banking company available for payment to general creditors :

Provided that the sum total of the amounts paid under clause (a) and clause (b) to any

person who in his own name

(and not jointly with any other person) is a depositor in the savings bank account of the

banking company and also a depositor in any other account, shall not exceed the sum of two

hundred and fifty rupees.

(3) Where within the aforesaid period of three months full payment cannot be

made of the amounts required to be paid under clause (a) or clause (b) of sub-section (2) with

the assets in cash, the official liquidator shall pay within that period to every depositor under

clause (a) or, as the case may be, clause (b) of that sub-section on a pro rata basis so much of

the amount due to the depositor under that clause as the official liquidator is able to pay with

those assets; and shall pay the rest of that amount to every such depositor as and when

sufficient assets are collected by the official liquidator in cash.

(4) After payments have been made first to depositors in the savings bank account

and then to the other depositors in accordance with the foregoing provisions, the remaining

assets of the banking company available for payment to general creditors shall be utilised for

payment on a pro rata basis of the debts of the general creditors; and of the further sum, if

any, due to the depositors; and after making adequate provision for payment on a pro rata

basis as aforesaid of the debts of the general creditors, the official liquidator shall, as and when

the assets of the company are collected in cash, make payment on a pro rata basis as

aforesaid, of the further sums, if any, which may remain due to the depositors referred to in

clause (a) and clause (b) of sub-section (2).

(5) In order to enable the official liquidator to have in his custody or under his

control in cash as much of the assets of the banking company as possible, the securities given

to every secured creditor may be redeemed by the official liquidator—

(a) where the amount due to the creditor is more than the value of the securities as assessed by him or, as the case may be as assessed by the official liquidator, on payment of such value; and

(b) where the amount due to the creditor is equal to or less than the value of

the securities as so assessed, on payment of the amount due:

Provided that where the official liquidator is not satisfied with the valuation made by

the creditor, he may apply to the high court for making a valuation.

(6) When any claimant, creditor or depositor to whom any payment is to be made

in accordance with the foregoing provisions, cannot be found or is not readily traceable,

adequate provision shall be made by the official liquidator for such payment.

(7) For the purposes of this section, the payments specified in each of the following clauses shall be treated as payments of a different class, namely:—

(a) payments to preferential claimants under section 230 of the Companies Act, 1913 (VII of 1913);

(b) payment under clause (a) of sub-section (2) to the depositors in the savings bank account;

(c) payments under clause (b) of sub-section (2) to the other depositors;

(d) payments to the general creditors and payments to the depositors in addition to those specified in clause (a) and clause (b) of sub-section (2).

(8) The payments of each different class specified in sub-section (7) shall rank

equally among themselves and be paid in full unless the assets are insufficient to meet them,

in which case they shall abate in equal proportion.

59. Restriction on voluntary winding up.—Notwithstanding anything to the

contrary contained in section 203 of the Companies Act, 1913 (VII of 1913), no banking

company which holds a licence granted under section 27 may be voluntarily wound up unless

the State Bank certifies in writing that the company is able to pay in full all its debts to its

creditors as they accrue, and without prejudice to the provisions contained in sections 218

and 220 of that Act, the High Court shall, on application of the State Bank, order the winding

up of the company by the High Court if at any stage during the voluntary winding up

proceedings the company is not able to meet such debts as they accrue.

PART IV

SPECIAL PROVISIONS FOR SPEEDY DISPOSAL OF WINDING UP

PROCEEDINGS

60. Part IV to override other Laws . – The provisions of this Part and the rules made

thereunder shall have effect notwithstanding anything inconsistent therewith contained in the

Companies Act, 1913 (VII of 1913), or the code of Civil Procedure, 1908 (Act V of 1908), or

the code Criminal Procedure, 1898 (Act V of 1898), or any other law for the time being in

force or any instrument having effect by virtue of any such law; but the provisions of any

such law or instrument in so far as the same are not varied by, or inconsistent with, the

provisions of this Part or rules made thereunder shall apply to all proceedings under this Part.

61. Power of High Court to decide all claims in respect of banking companies.—

The High Court shall, save as otherwise expressly provided in section 62, have exclusive

jurisdiction to entertain and decide any claim made by or against a banking company which is

being wound up (including claims by or against any of its branches in Pakistan) or any

application made under section 153 of the Companies Act, 1913 (VII of 1913), by or in

respect of a banking company or any question of priorities or any other question whatsoever,

whether of law or fact, which may relate to or arise in the course of the winding up of a

banking company, whether such claim or question has arisen or arises or such application has

been made or is made before or after the date of the order for the winding up of the banking

company or before or after the commencement of this Ordinance.

62. Transfer of pending proceedings. – (1) Where a winding up order is made or has

been made in respect of a banking company, no suit or other legal proceedings, whether civil

or criminal, in respect of which the High Court has jurisdiction under this Ordinance and

which is pending in any other court immediately before the commencement of this Ordinance

or the date of the order for the winding up of the banking company, whichever is later, shall

be proceeded with except in the manner hereinafter provided.

(2) The official liquidator shall, within three months from the date of the winding up

order or the commencement of this Ordinance whichever is later or such further time as the

High Court may allow, submit to the High Court a report containing a list of all such pending

proceedings together with particulars thereof.

(3) On receipt of a report under sub-section (2), the High Court may, if it so

thinks fit, give the parties concerned an opportunity to show cause why the proceedings

should not be transferred to itself and after making an inquiry in such manner as may be

provided by rules made under section 79, it shall make such order as it deems fit transferring

to itself all or such of the pending proceedings as may be specified in the order and such

proceedings shall thereafter be disposed of by the High Court.

(4) If any proceeding pending in a court is not so transferred to the High Court

under sub-section (3), such proceeding shall be continued in the court in which the

proceeding was pending.

(5) Nothing in this section shall apply to any proceeding pending in appeal before

in Supreme Court or a High Court.

63. Settlement of list of debtors.—(1) Notwithstanding anything to the contrary

contained in any law for the time being in force, the High Court may settle in the manner

hereinafter provided a list of debtors of a banking company which is being wound up.

(2) Subject to any rules that may be made under section 92, the official liquidator

shall, within six months from the date of the winding up order or the commencement of this

Ordinance, whichever is later, from time to time, file to the High Court lists of debtors

containing such particulars as are specified in the Third Schedule:

Provided that such lists may, with the leave of the High Court, be filed after the expiry

of the said period of six months.

(3) On receipt of any list under sub-section (2), the High Court shall, wherever

necessary, cause notices to be issued on all persons affected and after making an inquiry in

such manner as may be provided by rules made under section 79, it shall make an order

settling the list of debtors:

Provided that nothing in this section shall debar the High Court from settling any such

list in part as against such of the persons whose debts have been settled without settling the

debts of all the persons placed on the list.

(4) At the time of the settlement of any such list, High Court shall pass an order

for the payment of the amount due by each debtor and make such further orders as may be

necessary in respect of the relief claimed, including reliefs against any guarantor or in respect

of the realisation of any security.

(5) Every such order shall, subject the provisions for appeal, be final and binding

for all purposes as between the banking company on the one hand and the person against

whom the order is passed and all persons claiming through or under him on the other hand,

and shall be deemed to be a decree in a suit.

(6) In respect of every such order, the High Court shall issue a certificate

specifying clearly the reliefs granted and names and descriptions of the parties against whom

such reliefs have been granted, the amount of costs awarded and by whom, and out of what

funds and in what proportions, such costs are to be paid; and every such certificate shall be

deemed to be a certified copy of the decree for all purposes including execution.

(7) At the time of settling the list debtors or at any other time prior or subsequent

thereto, the High Court shall have power to pass any order in respect of a debtor on the

application of the official liquidator for the realisation, management, protection, preservation

or sale of any property given as security to the banking company and to give such powers to

the official liquidator to carry out the aforesaid directions as the High Court thinks fit.

(8) The High Court shall have power to sanction a compromise in respect of any

debt and to order the payment of any debt by instalments.

(9) In any case in which any such lists, settled ex-parte as against any such person

may, within thirty days from the date of the order settling the list, apply to the High Court for

an order to vary such list, so far as it concerns him, and if the High Court is satisfied that he

was prevented by any sufficient cause from appearing on the date fixed for the settlement of

such list and that he has a good defence to the claim of the banking company on merits, the

High Court may vary the list and pass such orders in relation thereto as it thinks fit.

Provided that High Court may, if it so thinks fit, entertain the application after the

expiry of the said period of thirty days.

(10) Nothing in this section shall—

(a) apply to debt which has been secured by a mortgage of immovable property, if a third party has any interest in such immovable property;

or

(b) prejudice the rights of the official liquidator to recover any debt due to

banking company under any other law for the being in force.

64. Special provisions to make calls on contributories.— Notwithstanding that

the list of contributories has been settled under section 184 of the Companies Act, 1913 (VII

of 1913), the High Court may, if it appears to it necessary or expedient so to do, at any time

after making a winding up order, make a call on and order payment thereof by any

contributory under sub-section (1) of section 187 of the Companies Act, 1913 (VII of 1913),

if such contributory has been placed on the list of contributories by the official liquidator and

has not appeared to dispute his liability.

65. Documents of banking company to be evidence.—(1) Entries in the books

of account or other documents of a banking company which is being wound up shall be

admitted in evidence in all proceeding by or against the banking company; and all such

entries may be proved either by the production of the books of account or other documents of

the banking company containing such entries or by the production of a copy of the entries,

certified by the official liquidator under his signature and stating that it is a true copy of the

original entries and that such original entries are contained in the books of account or other

documents of the banking company in his possession.

(2) Notwithstanding anything to the contrary contained in the Evidence Act, 1872, all

such entries in the books of account or other documents of a banking company shall as

against the directors of the banking company in respect of which the winding up order has

been made before the commencement of this Ordinance, be prima facie evidence of the

truth of all matters purporting to be therein recorded.

66. Public examination of directors and auditors.—(1) Where an order has

been made for the winding up of a banking company, the official liquidator shall submit a

report whether in his opinion any loss has been caused to the banking company since its

formation by any act or omission (whether or not a fraud has been committed by such act or

omission) of any person in the promotion or formation of the banking company or of any

director or auditor of the banking company.

(2) If, on consideration of the report submitted under sub-section (1), the High Court

is of opinion that any person who has taken part in the promotion or formation of the banking

company or has been a director or an auditor of the banking company should be publicly

examined, it shall hold a public sitting on a date to be appointed for the purpose and direct

that such person, director or auditor shall attend thereat and shall be publicly examined as to

the promotion or formation or the conduct of the business of the banking company,

or as his conduct and dealings, in so far as they relate to the affairs of the banking company:

Provided that no such person shall be publicly examined unless he has been given an

opportunity to show cause why he should not be so examined

(3) The official liquidator shall take part in the examination and for that purpose

may, if specially authorized by the High Court in that behalf, employ such legal assistance as

may be sanctioned by the High Court.

(4) Any creditor or contributory may also take part in the examination either personally or by any person entitled to appear before the High Court.

(5) The High Court may put such questions to the person examined as it think fit.

(6) The person examined, shall be examined on oath and shall answer all such questions as the High Court may put or allow to be put to him.

(7) A person ordered to be examined under this section may, at his own cost, employ any person entitled to appear before the High Court who shall be at liberty to put to

him such questions as the High Court may deem just for the purpose of enabling him to

explain or qualify and answer given by him:

Provided that if he is, in the opinion of the High Court, exculpated from any charges

made or suggested against him, the High Court may allow him such costs in its discretion as

it may deem fit.

(8) Notes of the examination shall be taken down in writing, and shall be read

over to or by, and signed by, the person examined and may thereafter be used in evidence

against him in any proceeding, civil or criminal, and shall be open to the inspection of any

creditor or contributory at all reasonable times.

(9) Where on such examination, the High Court is of opinion (whether a fraud has

been committed or not)—

(a) that a person who has been a director of the banking company is not fit to be a director of a company, or

(b) that a person who has been an auditor of the banking company or a partner of a firm acting as such auditor is not fit to act as an auditor of a company or to be a partner of a firm acting as such auditor,

the High Court may make an order that that person shall not, without the leave of the High

Court, be a director of, or in any way, whether directly or indirectly, be concerned or take

part in the management of any company or, as the case may be, act as an auditor of, or be a

partner of a firm acting as auditors of, any company for such period not exceeding five years

as may be specified in the order.

67. Special provisions for assessing damages against delinquent directors,

etc.—(1) Where an application is made to the High Court under section 235 of the

Companies Act, 1913 (VII of 1913), against any promoter, director, manager, liquidator or

officer of a banking company for repayment or restoration of any money or property and the

applicant makes out a prima facie case against such person, the High Court shall make an

order against such person to repay and restore the money or property unless he proves that he

is not liable to make the repayment or restoration either wholly or in part.

Provided that where such an order is made jointly against two or more such persons,

they shall be jointly and severally liable to make the repayment or restoration of the money or

property.

(2) Where an application is made to the High Court under section 235 of the

Companies Act 1913 (VII of 1913), and the High Court has reason to believe that a property

belongs to any promoter, director, manager, liquidator or officer of the banking company,

whether the property stands in the name of such person or of any other person as the

ostensible owner, the High Court may, at any time, whether before or after making an order

under sub-section (1), direct the attachment of such property or of such portion thereof as the

High Court may think fit, and when the property so attached stands in the name of an

ostensible owner, it shall remain subject to attachment unless the ostensible owner can prove

to the satisfaction of the High Court that he is the real owner and the provisions of the Code

of Civil Procedure, 1908 (Act V of 1908), relating to attachment of property shall, as far as

may be, apply to such attachment.

(4) For the purposes of this section and section 70 of this Ordinance and section

235 of the Companies Act, 1913 (VII of 1913),

property includes property transferred or otherwise disposed of by the referred to in

sub-section (1) or any other person as ostensible owner of such property within two

years preceding the commencement of proceedings under section 235 of the

Companies Act, 1913 (VII of 1913), or during the currency of such proceedings, if the

High Court is satisfied by affidavit or otherwise that the transfer was otherwise than in

good faith and for sufficient consideration. *

68. Duty of directors and officers of banking company to assist in the

realisation of property.—Every director or other officer of a banking company which is

being wound up shall give such assistance to the official liquidator as he may reasonably

require in connection with the realisation and distribution of the property of the banking

company.

69. Special provisions for punishing offences in relation to banking

companies being wound up.—(1) The High Court may, if it thinks fit, take cognizance of

and try in a summary way any offence punishable under this Ordinance or under the

Companies Act, 1913 (VII of 1913), alleged to have been committed by any person who has

taken part in the promotion or formation of the banking company which is being wound up

or by any director, manager or officer thereof.

(2) When trying any such offence as aforesaid, the High Court may also try any

other offence not referred to in sub-section (1) which is an offence with which the accused

may, under the Code of Criminal Procedure, 1898 (Act V of 1898), be charged at the same

trial.

(3) In any case tried summarily under sub-section (1), the High Court—

(a) need not summon any witness, if it is satisfied that the evidence of such witness will not be material;

(b) shall not be bound to adjourn a trial for any purpose unless such adjournment is, in the opinion of the High Court, necessary in the interest of justice;

(c) shall, before passing any sentence, record judgement embodying the substance of the evidence and also the particulars specified in section 263 of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as the section may be applicable;

* New sub-section (3) added vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of

Pakistan. Extra Part I dated Oct. 16, 1972—Page 250.

and nothing contained in sub-section (2) of section 262 of the Code of Criminal Procedure,

1898 (Act V of 1898), shall apply to any such trial.

(4) All offences in relation to winding up alleged to have been committed by any

person specified in sub-section (1) which are punishable under this Ordinance or under the

Companies Act, 1913 (VII of 1913), and which are not tried in a summary way under subsection

(1) shall, notwithstanding anything to the contrary contained in that Act or the Code

of Criminal Procedure, 1898 (Act V of 1898), or in any other law for the time being in force,

be taken cognizance of and tried by a Judge of the High Court other than the Judge for the

time being dealing with the proceeding for the winding up of the banking company.

(5) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the High Court may take cognizance of any offence under

this section without the accused being committed to it for trial and all such trials shall be

without the aid of a jury.

70. Public examination of directors and auditors, etc., in respect of a banking

company under scheme of arrangement.— (1) Where an application for sanctioning a

compromise or arrangement in respect of a banking company is made under section 153 of

the Companies Act, 1913 (VII of 1913), or whether on a report of the State Bank or

otherwise, that any person who has taken part in the promotion or formation of that banking

company or has been a director or auditor thereof should be publicly examined, it may direct

such examination of such person and the provisions of section 66 shall, as far as may be,

apply to such banking company as they apply to a banking company which is being wound

up.

(2) Where a compromise or arrangement is sanctioned under section 153 of the

Companies Act, 1913 (VII of 1913), in respect of a banking company, the provisions of

section 235 of that Act and of section 67 shall, as far as may be, apply to such banking

company as they apply to a banking company which is being wound up as if the order

sanctioning the compromise or arrangement were an order for the winding up of that banking

company.

(3) Where a scheme of reconstruction or amalgamation of a banking company has

been sanctioned by the Federal Government

under section 47 and the Federal Government is of opinion that any person who has taken

part in the promotion or formation of that banking company or has been a director or auditor

thereof should be publicly examined, that Government may apply to the High Court for the

examination of such person and if on such examination the High Court finds (whether a fraud

has been committed or not) that that person is not fit to be a director of a company or to act as

an auditor of a company or to be a partner of a firm acting as such auditors, the Federal

Government shall make an order that that person shall not, without the leave of the Federal

Government, be a director of , or in any way, whether directly or indirectly, be concerned or

take part in the management of any company or, as the case may be, act as an auditor of, or

be a partner of a firm acting as auditors of, any company for such period not exceeding five

years as may be specified in the order.

(4) Where a scheme of reconstruction or amalgamation of a banking company has

been sanctioned by the Federal Government under section 47, the provision of section 235 of

the Companies Act, 1913 (VII of 1913), and those of section 67 shall, as far as may be, apply

to the banking company as they apply to a banking company which is being wound up as if

the order sanctioning the scheme of reconstruction or amalgamation, as the case may be,

were an order for the winding-up of the banking company; and any reference in the said

section 235 to the application of the official liquidator shall be construed as a reference to the

application of the Federal Government.

*(5) The provisions of sub-sections (3) and (4) shall apply to a banking company in

respect of which a scheme of amalgamation has been sanctioned by the State Bank under

section 48, and in their application to such a banking company shall have effect as if—

(a) the word "reconstruction" wherever occurring were omitted; and

(b) for the words "Federal Government".** wherever occurring the words

“State Bank” were substituted.

*(6) The provisions of sub-sections (3) and (4) shall apply to a banking company other than a banking company in relation to

* New sub-section (5) and (6) added vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of

Pakistan Extra, Part I, dated Oct. 16, 1972 Page, 250.

** Substituted for “Central Government” vide Article 2 of the Federal Adaptation of Laws Order, 1975 (P.O. 4 of 1975)—Effective date of

amendment is 28-7-75 Reference Gazette of Pakistan, Extra, Part I, dated 1-8-75. Page 435.

which provision has been made in the preceding sub-sections and, in their application to such

a banking company, shall have effect as if their application to such a banking company, shall

have effect as if—

(a) in sub-section (3),—

(i) for the words and figure “where a scheme of reconstruction or amalgamation of a banking company has been sanctioned by the Federal Government under section 47 and” the word “If” were substituted; and

(ii) for the words “Federal Government” wherever occurring the words “State Bank” were substituted; and

(b) in sub-section (4),—

(i) the words, figure and comma “Where a scheme of reconstruction or amalgamation of a banking company has

been sanctioned by the Federal Government under Section 47,"
were omitted;

(ii) for the words and commas "order sanctioning the scheme of
reconstruction or amalgamation, as the case may be," the words
and figure" making of the application by the State Bank under
the said section 235" were substituted; and

(iii) for the words "Federal Government"*** twice occurring the
words "State Bank" were substituted.

71. Special provisions for banking companies working under schemes of
arrangement at the commencement of the Ordinance.—Where any company under
section 153 of the Companies Act, 1913 (VII of 1913), is being worked at the
commencement of this Ordinance, the High Court may, if it so thinks fit, on
the application
of such banking company—

(a) excuse any delay in carrying out any of the provisions of the compromise
or arrangement;

(b) allow the banking company to settle the list of its debtors in accordance
with the provisions of section

***Substituted for "Central Government" vide Article 2 of the Federal
Adaptation of Laws Order, 1975 (P.O. 4 of 1975)—

Effective date of amendment is 28-7-1975.

Reference: The Gazette of Pakistan, Extra, Part I dated 1-8-1975 Page 435.

63 and in such a case, the provisions of the said section
shall, as far as may be, apply to the banking company as

they apply to a banking company which is being wound up as if the order sanctioning the compromise or arrangement were an order for the winding up of the banking company.

72. Appeals.—(1) An appeal shall lie from any order or decision of the High

Court in a civil proceeding under this Ordinance when the amount or value of the subjectmatter

of the claim exceeds five thousand rupees.

(2) The High Court may by rules provide for an appeal against any order made under section 69 and the conditions subject to which any such appeal would lie.

(3) Subject to the provisions of sub-section (1) and sub-section (2) and

notwithstanding anything contained in any other law for the time being in force, every order

or decision of the High Court shall be final and binding for all purposes as between the

banking company on the one hand, and all person who are parties thereto and all persons

claiming through or under them or any of them, on the other hand.

73. Special period of limitation.—(1) Notwithstanding anything to the contrary

contained in the Limitation Act, 1908 (IX of 1908), or in any other law for the time being in

force, in computing the period of limitation prescribed for a suit or application by a banking

company which is being wound up, the period commencing from the date of the presentation

of the petition for the winding up of the banking company shall be excluded.

(2) Notwithstanding anything to the contrary contained in the Limitation Act, 1908 (IX of 1908), or section 235 of the Companies Act, 1913 (VII of 1913), or in any other

law for the time being in force, there shall be no period of limitation for the recovery of

arrears of calls from any director of a banking company which is being wound up or for the

enforcement by the banking company against any of its directors of any claim based on a

contract, express or implied; and in respect of all other claims by the banking company

against its directors, the period of limitation shall be twelve years from the date of the

accrual of such claims or five years from the date of the first appointment of the liquidator,

whichever is longer.

(3) The provisions of this section, in so far as they relate to banking companies

being wound up, shall also apply to a banking

company in respect of which a petition for the winding up has been presented before the

commencement of this Ordinance.

74. State Bank to tender advice in winding up proceedings.— Where in any

proceeding for the winding up of a banking company in which any person other than the State

Bank has been appointed as the official liquidator and the High Court has directed the official

liquidator to obtain the advice of the State Bank on any matter (which it is hereby empowered

to do), it shall be lawful for the State Bank to examine the record of any such proceeding and

tender such advice on the matter as it may think fit.

75. Power to inspect.—(1) The State Bank shall, on being directed so to do by the

Federal Government or by the High Court, cause an inspection to be made one or more of its

officers of a banking company which is being wound up and its books and accounts.

(2) On such inspection, the State Bank shall submit its report to the Federal Government and the High Court.

(3) If the Federal Government, on consideration of the report of the State Bank, is

of opinion that there has been a substantial irregularity in the winding up proceedings, it may

bring such irregularity to the notice of the High Court for such action as the High Court may

think fit.

(4) On receipt of the report of the State Bank under sub-section (2) or on any

irregularity being brought to its notice by the Federal Government, under sub-section (3) the

High Court may, if it deems fit, after giving notice to and hearing the Federal Government in

regard to the report, give such directions as it may consider necessary.

76. Power to call for returns and information.— The State Bank may, at any

time by notice in writing, require the liquidator of a banking company to furnish it, within

such time as may be specified in the notice or such further time as the State Bank may allow,

any statement or information relating to or connected with the winding up of the banking

company; and it shall be the duty of every liquidator to comply with such requirements.

Explanation.— For the purpose of this section and section 75, a banking company

working under a compromise or arrangement but prohibited from receiving fresh deposits,

shall, as far as may be, be deemed to be a banking company which is being wound up.

77. District Magistrate to assist official liquidator in taking charge of

property of banking company being wound up.— (1) For the purpose of enabling the

official liquidator or the special officer appointed under sub-section (4) of section 45 take into

his custody or under his control all property, effect and actionable claims to which a banking

company, which has been ordered to be wound up, is or appears to be entitled, the official

liquidator or the special officer as the case may be, may if he deems it necessary in the

interest of speedy liquidation, request in writing the District Magistrate, within whose

jurisdiction any property, books of account or other documents of such banking company

may be situated or be found, to take possession thereof, and the District Magistrate shall, on

such request being made to him, take possession of such property, books of account or other

documents and forward them to the official liquidator or the special officer.

(2) For the purpose of securing compliance with the provisions of sub-section (1),

the District Magistrate may take or cause to be taken such steps and use or cause to be used

such force as may, in his opinion, be necessary.

78. Enforcement of orders and decisions of High Court.— (1) All orders made

in any civil proceeding by a High Court may be enforced in the same manner in which

decrees of such court made in any suit pending therein may be enforced.

(2) Notwithstanding anything to the contrary contained in the Code of Civil

Procedure, 1908 (V of 1908), a liquidator may apply for the execution of a decree by a court,

other than the one which made it, on production of a certificate granted under sub-section (6)

of section 63 and on his certifying in writing the amount remaining due or relief remaining

unforced under the decree.

(3) Without prejudice to the provisions of sub-section (1) or sub-section (2), any

amount found due to the banking company by an order or decision of the High Court may,

with the leave of the High Court, be recovered in the same manner as an arrears of land

revenue.

79. Power of High Court to make rules.— The High Court may make rules

consistent with this Ordinance and the rules made under Section 92 prescribing:

(a) the manner in which inquiries and proceedings under Part III or Part

IV may be held;

(b) the offences which may be tried summarily;

(c) the authority to which, and the conditions subject to which, appeals may be preferred and the manner in which such appeals may be filed and heard; and

(d) any other matter for which provision has to be made for enabling the High Court to effectively exercise its functions under this Ordinance.

80. References to directors, etc., shall be construed as including reference to

past directors, etc.—For the removal of doubts it is hereby declared that any reference in

this Part to a director, manager, liquidator, officer or auditor of a banking company shall be

construed as including a reference to any past or present director, manager, liquidator, officer

or auditor of the banking company.

81. Part II not to apply to banking companies being wound up—Nothing

contained in Part II shall apply to a banking company which is being wound up.

82. Validation of certain proceedings.— Notwithstanding anything contained

in section 61 or any other provision of this Part, no proceeding held, judgement delivered or

decree or order made before the commencement of this Ordinance, by any Court other than

the High Court in respect of any matter over which the High Court has jurisdiction under this

Ordinance shall be invalid or be deemed ever to have been invalid merely by reason of the

fact that such proceeding, judgement, decree or order was held, delivered or made by a court

other than the High Court.

PART IVA

BANKING MOHTASIB

*82A. Appointment of Mohtasib.—There shall be a Banking Mohtasib who shall be

appointed by the President in consultation with the Governor of the State Bank of Pakistan.

(2) The Banking Mohtasib shall be a person of high integrity and unimpeachable

banking or legal credentials who is not a share-holder of a banking company or financial

institution and is not, has not, been a bank defaulter.

(3) The jurisdiction of the Banking Mohtasib in relation to banking transactions shall be to—

(a) enquire into complaints of banking malpractices;

(b) perverse, arbitrary or discriminatory actions;

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

(c) violations of banking laws, rules, regulations or guidelines;

(d) inordinate delays or inefficiency and

(e) corruption, nepotism or other forms of maladministration.

(4) The Banking Mohtasib shall hold office a period of three years and shall not

be eligible for any extension of tenure or for re-appointment under any circumstances whatsoever.

(5) The Banking Mohtasib shall not hold any other office of profit in the service

of Pakistan or occupy any other position carrying the right to remuneration for the

rendering of services.

*82B. Terms and conditions of the Banking Mohtasib.—(1)The Banking Mohtasib

shall be entitled to the same salary and allowances as a Judge of a High Court.

(2) The Banking Mohtasib may be removed from office on the ground that he has

been guilty of misconduct or that he is incapable of properly performing the duties of his

office by reason of physical or mental incapacity.

Provided that he shall have the right to file an appeal before the Federal Services

Tribunal.

(3) The Banking Mohtasib shall be provided with a secretariat to be appointed in

consultation with the State Bank. Appointments to the Secretariat may be made on deputation

from the State Bank of Pakistan or other banks or otherwise on the basis of professional

qualifications and the costs of the Secretariat shall be shared by banks in such proportions as

may be determined by the State Bank of Pakistan.

(4) The Banking Mohtasib shall have the power and responsibility—

(a) to entertain complaints from customers, borrowers, banks or from any concerned body or organization;

(b) to facilitate the amicable resolution of complaints after giving hearings to the complainant and the concerned bank; and

(c) in the event that complaints cannot be resolved by consent, to give finding which shall be acted upon in the manner set out herein.

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

(5) The Banking Mohtasib shall exercise his powers and authority in the following manner:-

(a) In relation to all banks operating in Pakistan.— The Banking Mohtasib shall

be authorised to entertain complaints of the nature set out herein below:-

(i) failure to act in accordance with banking laws and regulations

including policy directives or guidelines issued by the State bank from time to time.

Provided that if there is a dispute as to the proper interoperation of any regulations, directions or guidelines, the same shall be referred to the State Bank for clarification.

(ii) delays or fraud in relation to the payment or collection of cheques, drafts or other banking instruments or the transfer of funds;

(iii) fraudulent or unauthorised withdrawals or debit entries in accounts;

(iv) complaints from exporters or importers relating to banking services and obligations including letter of credits;

(v) complaints from holders of foreign currency accounts, whether maintained by residents or non-residents;

(vi) complaints relating to remittances to or from abroad;

(vii) complaints relating to mark-up or interest rates based on the ground of

a violation of an agreement or of State Bank directives; and

(viii) complaints relating to the payment of utility bills.

(b) In relation to banks in the public sector.— The Banking Mohtasib shall be

authorized to entertain complaints against such banks on the following additional grounds as well—

- (i) corrupt or malafide practices by bank officers;
- (ii) gross dereliction of duty in dealing with customers; and
- (iii) inordinate delays in taking decisions.

*82C. Reference to Banking Mohtasib by Court.— if at any time during the

pendency of a case, a court trying a case relating to recovery of loan by a banking company

is of the opinion that the management of the banking company has prima facie acted in a

malafide manner, or in violation of banking rules and regulations, it may reference to the

Banking Mohtasib for inquiring into the matter and passing such order in accordance with the

provisions hereof as may deem fit:

Provided that the making of a reference shall not prevent the court from deciding the

claim before it on merits.

*82D. Procedure for making complaints.— (1) A complaint shall be made on

solemn affirmation or oath in writing addressed to the Banking Mohtasib. The complaint

shall set out the full particulars of the transaction complained of and the name and address of

the complainant.

(2) Prior to making a complaint the complainant shall intimate in writing to the

concerned bank his intention of filing a complaint and if the bank either fails to respond, or

makes a reply which is unsatisfactory to the complaint, within a period of three months, the

complainant may file a complaint at any time thereafter within a further period of three

months:

(3) The Banking Mohtasib may adopt any procedure as he considers appropriate for investigating a complaint:

Provided that he shall not pass any order against a bank without first giving it a

notice and an opportunity of a hearing.

(4) Subject to section 82C, the Banking Mohtasib shall not have any power to

issue an order in the nature of a stay order or to entertain any complaints if the matter is

pending before a court or other legal forum.

(5) The Banking Mohtasib may reject a complaint summarily or he may accept the same or pass any other order he deems fit:

Provided that in each case he shall pass a reasoned order for his decision.

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

*82E. Recommendations for implementation.— (1) In the event the Banking Mohtasib comes to the conclusion that the complain is justified, in part or in whole, he shall

try and facilitate an amicable resolution or settlement by resort to mediation and failing that

communicate his findings to the concerned bank with the direction—

(a) to reconsider the matter;

(b) to modify or cancel the earlier decision, action or failure to take the appropriate action;

(c) to pay reasonable compensation to the complaint as fixed by the Banking Mohtasib;

(d) to take the requisite steps to improve the functioning or efficiency of the bank; and

(e) to take such other remedial steps or actions as may be specified by the Banking Mohtasib.

(2) The Banking Mohtasib may, in any case, he deems fit or proper, forward a

report to the State Bank recommending—

(a) an inquiry, or the taking of the requisite steps or legal proceedings against a bank which has acted in violation of banking laws, procedure, regulations or directives of the State Bank; and

(b) in the case of a bank in the public sector in cases of banking malpractices or corruption, nepotism or gross and flagrant dereliction by bank officers of their duties and responsibilities, the initiation of such action including a criminal prosecution or disciplinary proceedings as the State Bank may deem fit, either by itself, or through filing a report with the Government of Pakistan.

(3) In no case whatsoever shall be Banking Mohtasib have the power to direct that

loans, advances or finances be given to a complainant.

(4) Any bank, or official of a bank or a complainant aggrieved by an order passed

by the Banking Mohtasib may file an appeal with the State Bank within thirty days which

shall pass any order thereon it deems fit.

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997

(5) Any order passed by the Banking Mohtasib which has not been appealed

against, or any order passed by the State Bank in appeal, as the case may be, shall become

final and operative and if not implemented shall render the bank concerned to such action

including the imposition of a fine or penalty as the State bank may deem fit, and in relation to

a bank officer, to the appropriate disciplinary or other proceedings.

(6) Nothing contained herein shall prevent a complainant from filing a suit against

a bank in the event his complaint is rejected.

*82F. Power to call for information.— The Banking Mohtasib shall have the power

for purposes of disposing a case, to require a bank to disclose to him any information subject

to the following conditions:-

(a) The Banking Mohtasib shall make every endeavour to ensure that

banking confidentiality is maintained as required by banking law and procedure and shall take no action which is violative thereof.

(b) The Banking Mohtasib may call for any or all such documents which are relevant or pertinent for purposes of deciding a complaint:

Provided that he shall not be entitled to call for unrelated documents or

documents which may compromise the bank's position in relation to other customers:

Provided further that in cases where the Banking Mohtasib is investigating a case of corruption, he shall have a greater latitude in relation to the inspection of documents.

(c) In the event of a bank refusing to furnish information, or copies of relevant documents, the Banking Mohtasib shall not be authorised to compel the bank to comply with his order but he may draw an adverse inference and comment on the same in his findings.

*82G. Report of Banking Mohtasib.— (1) The Banking Mohtasib shall send to the State Bank of Pakistan on or before the 31st March in every succeeding year a report setting out a review of the activities of his office during the preceding year.

(2) The Banking Mohtasib shall also submit a report or reports to the State Bank of Pakistan containing the results of such inquiries as he may be directed to conduct by the State Bank from time to time.

(3) All reports submitted by the Banking Mohtasib shall be published and released to the public unless he directs otherwise for reasons to be recorded.

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

PART V

MISCELLANEOUS

83. Penalties.—(1) Whoever in any return, balance-sheet or other document or in

any information required or furnished by or under or for the purposes of any provision of this

Ordinance, wilfully makes a statement which is false in any material particular, knowing it to

be false, or wilfully omits to make a material statement, shall be punishable with

imprisonment for a term which may extend to three years and shall also be liable to fine.

*(1A) If any person, being the chairman, director, chief executive, by whatever

name called, or official liquidator or an officer of a banking company, mismanages the affairs

of the banking company or misuses his position for gaining direct or indirect benefit for

himself or any of his family members he shall be punishable with imprisonment for a term

which may extend to three years and shall also be liable to fine, and shall be ordered by the

court trying the offence, to deliver up or refund within a time to be fixed by the court any

property acquired or gained by him in his own name or in the name of his family members

by so mismanaging the affairs of the banking company or misusing his position or, in default,

to suffer imprisonment for a term which may extend to three years.

@(1AA) Any executive officer, director or chief executive of a banking

company which is either directly or indirectly owned, controlled or managed by the Federal

Government or a Provincial Government who extends, or aids in extending, a loan, advance,

or any financial facility to a borrower or customer on the verbal instructions of a holder of a

public office without reducing the terms of the instructions into writing and drawing them to

the attention of his superior officer, or the board of directors, shall be guilty of an offence

punishable with imprisonment of either description which may extend to one year, or with

fine, or with both, in addition to such other action which may be taken against him in

accordance with law;

******(1B) If any company which is not a banking company, or a banking company which

does not hold a licence under section 27 or the licence granted to which has been cancelled,

or any individual or association or body of individuals, transacts the business of banking in

Pakistan, the chief executive, by whatever name called, of the company and every director,

manager, and other officer of the company,

* New sub-section (1A) inserted vide Banking Companies (Amendment) Act 1972 (Act No. XXX of 1972). The Gazette of

Pakistan, Extra, Part I dated Oct. 16, 1972 Page 251.

@ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

****** Sub-Section (IB) and (IC) inserted vide Banking Companies (Amendment) Ordinance 1979 (Ordinance No. LVI of 1979). The

Gazette of Pakistan, Extra, Part-I, dated Oct. 8, 1979—Page. 502.

and the individual and every member of the association or body of individuals, shall be

deemed to be guilty of such contravention and shall be punishable with imprisonment of

either description for a term which may extend to seven years and with fine the amount of

which shall not be less than twice the amount of deposits received by the company or, as the

case may be, the individual or the association or body of individuals in transacting the

business of banking, and shall be ordered by the Court trying the offence to pay the fine

within a time to be fixed by the Court or in default to suffer further imprisonment for a term

which may extend to five years.

**(1C) Whoever contravenes, or attempts to contravene, or abets the contravention

of, the provisions of section 43A [27A or section 43A] or section 43C or sub-section (1) or subsection

(3) or sub-section (4) of section 43D*, or section 43E [or obstructs or hinders any

person in the exercise of his powers or discharge of his functions under section 43AA], shall

be punishable with imprisonment of either description for a term which may extend to five

years and with fine, and, where the contravention is a continuing one, with a further fine

which may extend to ten thousand rupees for every day during which such contravention continues.

(2) If advances are made by a banking company in contravention of the

provisions of sub-section (1) and (2) of section 24, every director or other officer of the

banking company who is knowingly a party to the contravention shall be punishable with

imprisonment which may extend to three years and with a fine not exceeding twenty

thousand rupees.

(3) If any person fails to produce any book, account or other document or to

furnish any statement or information which under sub-section (4) of section 40 it is his duty

to produce or furnish, or to answer any question relating to the business of a banking

company which he is asked by an officer making an inspection under the section, he shall be

punishable with a fine which may extend to two thousand rupees in respect of each offence,

and if he persists in such refusal, to further fine which may extend to one hundred rupees for

every day during which the offence continues.

(4) If any deposits are received by a banking company in contravention of an

order under clause (a) of sub-section (6) of section 40, every director or other officer of the

banking company unless he proves that the contravention took place without his knowledge

or that he exercised all due diligence to prevent it, shall be deemed to be guilty of such

contravention and shall be punishable with a fine which may extend to twice the amount of

the deposits so received.

* 43B corrected as 43D Ref. corrigendum published in the Gazette of Pakistan, Extra, Part I, dated March

20,1980, page 39.

£ Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page 33 to 34.

** Sub-Section s (1B) and (1C) inserted vide Banking Companies (Amendment) Ordinance 1979

(Ordinance No. LVI of 1979). The Gazette of Pakistan, Extra, Part -I, dated Oct. 8, 1979-Page. 502.

(5)££ If any other provision of this Ordinance is contravened, or if any default is

made in complying with any requirement of this Ordinance or of any order, rule or direction

made or condition imposed thereunder, every director, liquidator and other officer of the

company and any other person who is knowingly a party to the contravention or default shall

be punishable with fine which may extend to twenty thousand rupees, and where a

contravention or default is a continuing one, with a further fine which may extend to one

thousand rupees for every day during which such contravention or default continues.

(6) Without prejudice to the provisions of sub-section (5), a banking company

which makes default in complying with the requirements of sub-section (1) of section 29

shall, in respect of every day of default, pay to the State Bank on demand a penalty of a sum

not exceeding such percentage as is five per cent above the bank rate:-

(a) if no amount is maintained, of the minimum amount required to be maintained under that sub-section, and

(b) if any amount below such minimum is maintained, of the amount by

which the amount maintained falls short of the required minimum: **

Provided that, in the case of default relating to liabilities assumed on the basis of

participation in profit and loss, penalty shall be as determined by the State Bank from time to

time**

@ (7) Without prejudice to the provisions of sub-section (5), if a banking company

fails or refuses to pay or make whole or part of the amount of deposit or special deposits or

penalty referred to respectively in sub-section (2) of section 13, sub-section (4) of section 25

and sub-section (6), the State Bank may, without notice to the banking company, debit the

amount of default to any account of defaulting banking company held with the State Bank.

£(1D) If any company, firm or person contravenes the provisions of section 27A, the

chief executive of the company and its directors, every partner of the firm and such person

shall be guilty of an offence punishable with imprisonment of either description for a term

which may extend to ten years and with fine the amount of which shall not be less than twice

the amount of deposits received in contravention

££ Following Substitution was made vide Ordinance No. IX of 1997 dated 21-1-1997.

(i) For the word "two" the word "twenty"

(ii) For the word "hundred" the word "thousand".

= The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

* Added by the Banking Companies (Amendment) Act 1968 15 of 1968, Section 2-w.e.f. 23-12-1968.

** In the sub-section 6 for the full stop at the end a colon has been substituted and thereafter a proviso added

vide the Banking Companies (Third Amendment) Ordinance, 1980. The Gazette of Pakistan Extra, Part

1, dated 24 -12-1980, Page 551.

@ New sub-section (7) added vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972).

The Gazette of Pakistan, Extra, Part I, dated Oct. 16, 1972- Page 251. Effective date of amendment is

13-10-1972.

£ Substituted sub-sections vide, The Gazette of Pakistan, Extra Part -I, dated 30-6-90, Page-34.=

of the said section and forfeiture of whole or part of the property of such company, firm or

person and the chief executive of the company and its directors, every partner of the firm and

person.

*83A. Dishonest removal of pledged goods.— Whoever, dishonestly removes or

disposes of any goods pledged with any banking company as security for the payment of any

debt, loan, finance or other similar facility or removes or disposes of any such goods without

the prior approval in writing of the banking company, shall be punishable with imprisonment

for a term which may extend to three years, and shall also be liable to fine which may extend

to the value of the goods removed or disposed of.

@84. Cognizance of offences, etc.—£ (1) No court shall take cognizance of any

offence punishable under sub-sections (1), (1A), (1B), (1C) and (1D) of section 83 except on

a complaint in writing made by an officer of the State Bank generally or specially authorised

in writing in this behalf by the State Bank and no court other than the High Court shall try

any such offence.

(2) The High Court shall have in respect of the trial of an offence referred to in

sub-section (1), all the powers which it has in relation to trial before it under the Code of

Criminal Procedure, 1898 (Act V of 1898), hereafter in this section referred to as the Code,

and shall follow the procedure provided in the Code for such trial except as hereinafter

provided, namely:-

(a) the trial shall be without a jury and the provisions of the Code shall have effect as if all references therein to jury or jurymen and to commitment proceedings and to any statement or documents made or prepared in the course of such proceedings had been omitted;

(b) section 297 of the Code shall have effect as if it required the High Court, upon the case for the defence and the prosecutor's reply, if any being concluded, to proceed, with all reasonable speed, to pronounce its judgment; and

(c) section 352 of the Code shall have effect as if it required the High Court, upon an application being submitted to it by the State Bank

stating that it is in the interest of the banking companies in general or
a

banking company in particular that any proceedings are not held in
open court, to order that the public

* The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

@ Substituted vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of
1972). The Gazette of Pakistan, Extra, Part -I,

dated Oct. 16, 1972 page 251.

generally shall not have access to, or be or remain in, the room or building
used by the Court.

@85. Application of fines.—A Court imposing any fine under this Ordinance
may

direct that the whole or any part thereof shall be applied in or towards—

(a) payment of the costs of the proceedings;

(b) the rewarding of the person on whose information the fine is
recovered; or

(c) payment to a banking company of compensation for any loss caused by
the offence.

86. Special provisions for private banking companies.—The exemptions,

whether express or implied, in favour of a private company in sections 17,
77, 83B, 86H, 91B

and 91D, and sub-section (5) of Section 144 of the Companies Act, 1913 (VII
of 1913), shall

not operate in favour of a private company which is a banking company.

87. Restriction on acceptance of deposits withdrawable by cheques.— No

person other than a banking company, the State Bank, the National Bank of
Pakistan or any

other banking institution notified by the Federal Government in this behalf shall accept from

the public deposits of money withdrawable by cheque:

Provided that nothing contained in this Section shall apply to any savings bank

scheme run by the Government.

88. Change of name by a banking company.— Notwithstanding anything

contained in section 11 of the Companies Act, 1913 (VII of 1913), the Federal Government

shall not signify its approval to the change of name of any banking company unless the State

Bank certifies in writing that it has no objection to such change.

89. Alteration of memorandum of banking company— Notwithstanding

anything contained in the Companies Act, 1913 (VII of 1913), no application for the

confirmation of the alteration of the memorandum of a banking company shall be

maintainable unless the State Bank certifies that there is no objection to such alteration.

90. Certain claims for compensation barred.—No person shall have any right,

whether in contract or otherwise, to any compensation for loss incurred by reason of the

operation of any of the provisions contained in sections 11, 15, *15A,15B, 15C, 20, *25,

25A, **27, =27A, 35, 41, 41A, 41B, 41C, 42, ** 43A, =43AA, 43B, 43C, 43D, 43E, 43F, 47,

@ Substituted for original sections 84 and 85 vide Banking Companies (Amendment), Act, 1972(Act No.

XXX of 1972). The Gazette of Pakistan, Extra, Part-I, dated Oct. 16, 1972 page 251.

* In Section 90, for the figures and comma "20, 41" the figures, letters and commas " 15A, 15B, 15C, 20,

25A, 35, 41, 41A, 41B, 41C substituted vide Banking Companies 9Amendment)Act, 1972 (Act No.

XXX of 1972). The Gazette of Pakistan, Extra, Part-I, dated Oct. 16, 1972 Page 237.

** In Section 90, for the figure and comma "42" the figures, letters and commas " 43A, 43B, 43C, 43D,

43E, 43F" inserted vide Banking Companies (Amendment) Ordinance, 1979 (Ordinance No. LVI of

1979). The Gazette of Pakistan, Extra, Part-I, dated Oct. 8, 1979. Page-499.

= Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-34.

and 58 or by reason of the compliance by a banking company with any order or direction

given to it under this Ordinance.

91. Application of certain provisions to banking company incorporated by

special enactments of the @Federal Legislature.—In the case of a banking company

incorporated by a Federal Act (or an Act of Parliament)@ and not liable to be wound up

under the companies Act, 1913, (VII of 1913), the provisions of sections 11, (15A, 15C, 16 to

19, 21, 23 to 25B), @@ 28 to 33, 34 (excluding sub-section (3)), 36, 39, 40, ££41, 41A, 41B,

41C, 41D, 42, 45, 46, 83, 84, 85, 90, 92 and 93 shall, without prejudice to the provisions of

such Federal Act, apply so far as may be, to and in relation to such banking company.

91A. Application of other laws barred.—The provisions of clauses (dd), (ee) and

(gg) of section 5, section 13, 15A, 15B, 15C, 21, 24, 25, 25A, 25B, 26A, 27*, £27A, 35, 41,

41A, 41B, 41C, 42, 43A, £43AA, 43B, 43C, 43D, 43E, 43F and 84 shall have effect notwithstanding

any thing contained in any other provision of this Ordinance except section 91, or in

any other law for the time being in force or in any contract, agreement, award, memorandum

or articles of association or other instrument. (see foot note).

91B. Removal of difficulties.—If any difficulty arises in giving effect to any of the

provisions of this Ordinance, the Federal Government may make such order as may appear to

it to be necessary for the purpose of removing the difficulty.*

92. Power of Federal Government to make rules.—(1) The Federal

Government may, after consultation with the State Bank, make rules to provide for all matters

for which provision is necessary or expedient for the purpose of giving effect to the

provisions of this Ordinance and all such rules shall be published in the Official Gazette.**

(2) In particular, and without prejudice to the generality of the foregoing power,

such rules may provide for the details to be

@ Substituted for the word "Central" and inserted after the word "Central Act of Parliament"

vide the Federal Adaptation of Laws Order, 1975 (President's order No. 4 of 1975)- The Gazette of

Pakistan Extraordinary, Part I, dated August 1, 1975 page 435.

@@ For the figures, words and commas "16 to 19, 21, 23 to 25" the figures, letters, commas and words "15A;

15C, 16 to 19, 21, 23, to 25B" substituted vide Banking Companies (Amendment) Act, 1972 (Act No.

XXX of 1972). The Gazette of Pakistan, Extra, Part -I, dated Oct. 16, 1972 page 237.

1. New Section 91A inserted vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972)—

The Gazette of Pakistan, Extraordinary Part I, dated October 16, 1972 Page 237.

2. In Section 91A after the figure "42", the commas, figures and letters, "43A, 43B, 43C, 43D, 43F"

inserted vide Banking Companies (Amendment) Ordinance, 1979 (Ordinance No. LVI of 1979). The

Gazette of Pakistan, Extraordinary Part I, dated October 8, 1979 page 449.

3. In Section 91A, for the word, commas, figures and letters" section 13, 15A, 15C, 21, 24, 25, 25A,

25B", the words, brackets, letters, commas and figures "clauses (dd), (ee) and (gg) of section 5, sections

13, 15A, 15B, 15C, 21, 24, 25, 25A, 25B, and 26A substituted vide Banking Companies (Third Amendment)

Ordinance, 1980 (Ordinance No. LVIII of 1980). The Gazette of Pakistan, Extraordinary, Part

I, dated December 24, 1980 Page 548.

* New section inserted after section 91A vide Banking Companies (Third Amendment) Ordinance, 1980—

The Gazette of Pakistan, Extra, Part-I, dated December 24, 1980 Page-548.

** For the Banking Companies Rules, 1963, see Gazette of Pakistan, Extraordinary, dated July 8, 1963.

Page-4402.

£ Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-34.

££ The words 41, 41A, 41B, 41C, 41D inserted vide Ordinance No. IX of 1997 dated 21-1-1997.

= The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

included in the returns required by this Ordinance and the manner in which such returns shall

be submitted and the form in which the official liquidator may file lists of debtors to the

Court having jurisdiction under Part III or Part IV and the particulars which such lists may

contain and any other matter which has to be, or may be prescribed.

(3) All rules made under this section shall be subject to the condition of previous

publication, and the date to be specified under clause (3) of Section 23 of the General Clauses

Act, 1897 (X of 1897), shall not be less than six month from the date on which the draft of

the proposed rules was published:

Provided that in respect of that first occasion on which rules are made under this

section, the provisions of this sub-section shall not apply.

(4) The Federal Government may, by rules made under this section, annul, alter or

add to, all or any of the provisions of the Third Schedule.

93. Power to exempt in certain cases.—The Federal Government may, on the

recommendation of the State Bank, declare, by notification in the official Gazette, that any or

all of the provisions of this Ordinance shall not apply to any banking company or to any class

of banking companies either generally or for such period as may be specified.

93A. Exemption of Officers, etc. from liability.—A banking company and its

officers and employees shall be exempted from criminal or civil liability of every description

provided for in any law in respect of any property, movable or immovable, owned by the

banking company, exclusively or jointly with another person or persons so long as the

property remains in the custody, power and control of such person or persons of account of

licence, lease, hire-purchase, forward sale, rent sharing agreement or in any other

arrangement within the purview of clauses (ee) and (gg) or section. =

93B. Exemption from requirement of licence.— Any requirement of a licence or permit

to import or export any commodity or article or its purchase or sale shall not apply to a

banking company undertaking such transaction in the normal course of its banking business.

=New Sections 93A, 93B, 93C, 93D and Exploitation inserted vide the Banking and Financial Services (Amendment of Law)

Ordinance 1984 (Ordinance No. LVII of 1984) Gazette of Pakistan, Extra, Part I dated December 31, 1984 pages 681 to 695.

Explanation.—In this section, a transaction undertaken by a banking company shall

be deemed to be in the normal course of its banking business, only if it is based on an

agreement for sale or purchase, lease, or hire-purchase of the said commodity or article by the

banking company with its customer to whom finance is provided by it and who is in

possession of a valid licence or has otherwise complied with the requirements of law

governing the import or export or sale or purchase of such commodity or article.

=

93C. Exchange of information.—(1) Banking companies may exchange on confidential

basis amongst themselves, either directly or through the Pakistan Banking Council,

information about their respective clients.

(2) No suit or other legal proceeding shall lie against the Pakistan Banking Council or

any banking company or any officer of the Pakistan Banking Council or banking company

for anything which is in good faith done in pursuance of this section or for any damage

caused or likely to be caused by anything done or intended to be done as aforesaid.

=

93D. Continuance of charge and priority.— Where a charge over any property has been

or is created by any person in favour of a banking company to secure any interest-based

facility extended by the banking company to such person and such facility is at any time

converted into or substituted by any facility not based on interest, such charge shall continue

to remain valid and shall maintain its priority in favour of the banking company against all

charges created by such person in favour of any other person subsequent to the original date

of registration of such charge. =

Explanation:- For the purposes of section 93A, 93B, 93C and 93D, "Banking company"

shall have the same meaning as in the Banking Tribunals Ordinance, 1984".=

94. Protection of action taken in good faith.—No suit or other legal proceeding

shall lie against the Federal Government, the Provincial Government, the State Bank or any

officer of such Government or Bank for anything which is in good faith done or intended to

be done in pursuance of this Ordinance or of any rules or orders made thereunder, or for any

damage caused or likely to be caused by anything done or intended to be done as *[foresaid].

= New Sections 93A, 93B, 93C, 93D and explanation inserted vide the Banking and Financial Services (Amendment of Laws) Ordinance,

1984 (Ordinance No. LVIII of 1984) Gazette of Pakistan, Extra, Part I, dated Dec. 31, 1984. Page 681 to 695.

* The word should read aforesaid.

108

**95. Repeals.—(1) The enactments mentioned in the third column of the First

Schedule shall be repealed to the extent specified in the fourth column thereof.

** Section 95 shall be omitted.

Ref: – Federal Laws (Revision and Declaration) Ordinance 1981 (Ordinance No. XXVII of 1981)

Gazette of Pakistan Extraordinary Part I dated July 8, 1981, Page. 453.

THE SECOND SCHEDULE

(See Section 34)

FORM A

FORM OF BALANCE SHEET

Capital and Liabilities Property and Assets

Rs. Ps. Rs. Ps. Rs. Ps. Rs. Ps.

1. Capital: (a) 1. Cash:

In hand and with State Bank and National

Authorised Capitalshares of Bank of Pakistan (including foreign
currency

Rs.each..... notes) _____

Issued Capital shares of Rs. each _____ 2. BALANCES WITH OTHER
BANKS

(showing whether on deposit or current

account)

Subscribed Capital shares of (i) In Pakistan

Rs.each _____ (ii) Outside Pakistan ..
.. .. _____

Amount called up at Rs. per share 3. MONEY AT CALL & SHORT
NOTICE

less calls unpaid _____ 4. INVESTMENTS (stating mode of valuation,

e.g., cost or market value: (d)

add forfeited shares _____ _____

(i) Securities of the Federal and Provincial

Governments and other Trustee Securities,

2. RESERVE FUND AND OTHER RESERVES _____ including, Treasury Bill of the Federal and

Provincial Governments.

3. DEPOSITS AND OTHER ACCOUNTS: ..

Fixed Deposits (ii) Shares (classifying into preference,

ordinary, deferred and other classes of

shares and showing separately shares

Saving Bank Deposits fully paid-up and partly paid-up)

Current Accounts, Contingency Accounts etc. _____ _____ (ii) Debentures or Bonds

(iv) Other investments (to be classified

under proper heads)

(v) Gold

FORM A—Contd.

Capital And Liabilities ———Contd. Property And Assets——Contd.

Rs. Ps. Rs. Ps. Rs. Ps. Rs. Ps.

4. BORROWINGS FROM OTHER BANKING 3. ADVANCES: (Other than bad and doubtful

COMPANIES, AGENTS ETC:- debts for which provision has been made to

The satisfaction of the auditors).

(i) In Pakistan _____ _____

(ii) Outside Pakistan (I) Loans, Cash Credits, Overdrafts, etc.

(i) In Pakistan

Particulars: (ii) Outside Pakistan

(i) Secured (stating the nature of securities) (II) Bills Discounted and purchased:
(excluding

(ii) Unsecured Treasury Bills of the Federal and Provincial
Governments):

5. BILLS PAYABLE (i) Payable in Pakistan

6. BILLS FOR COLLECTION BEINGS BILLS (ii) Payable outside Pakistan

RECEIVABLE AS PER CONTRA:

(i) Payable in Pakistan Particulars of ADVANCES:

(ii) Payable outside Pakistan (i) Debts considered
good in respect of

which the banking company is fully

7. OTHER LIABILITIES: (b) secured

8. ACCEPTANCES, ENDORSEMENTS AND (ii) Debts considered good for which the

OTHER OBLIGATIONS PER CONTRA: banking company holds no other
security than the debtors personal security

9. PROFIT AND LOSS:

Profit as per last balance-sheet .. (iii) Debts considered good secured by
the

personal liabilities of one or more parties

Less appropriations in addition to the personal security
of

the debtors

Add Profit for the year brought from the

Profit & Loss Account _____ (iv) Debts considered doubtful or bad, not

provided for

10. CONTINGENT LIABILITIES : (c) (v) Debts due by directors or officers of the

banking company or any of them either severally or jointly with any other persons

(vi) Debts due by companies or firms in

which the directors of the banking company are interested as directors, partners or managing agents or in the case of private companies, as members.

(vii) Maximum total amount of advances, including temporary advances made at any time during the year to directors or managers or officers of the banking company or any of them either severally or jointly with any other persons:(e)

(viii) Maximum total amount of advances, including temporary advances granted during the year in which the directors of the banking company are interested as directors, partners or managing agents or, in the case of private companies, as members: (e)

(ix) Due from banking companies

6. BILLS RECEIVABLE BEING BILLS FOR

COLLECTION AS PER CONTRA:

(i) Payable in Pakistan

(ii) Payable outside Pakistan ..

7. CONSTITUTENTS LIABILITIES FOR
ACCEPTANCES, ENDORSEMENTS AND
OTHER OBLIGATIONS PER CONTRA:

8. PREMISES LESS DEPRECIATION: (f)

9. FURNITURE AND FIXTURES LESS
DEPRECIATION:(f)

10. OTHER ASSETS. INCLUDING SILVER

(to be specified): (g) _____

11. NON-BANKING, ASSETS ACQUIRED
IN SATISFACTION OF CLAIMS (stating
mode of valuation: (h)

12. PROFIT AND LOSS

Total Total

NOTES

(a)Capital.—(i) The various classes of capital, if any, should be distinguished.

(ii)Shares issued as fully paid-up pursuant to any contract without payments
being received in cash

should be stated separately.

(iii) Where circumstances permit, issued and subscribed capital and amount called up may be shown as

one item, e.g., Issued and Subscribed Capital.....Shares
of Rs.

..... Paid-up.

(iv) In the case of banking companies incorporated outside Pakistan the amount of deposit kept with the

State Bank of Pakistan under sub-section (3) of Section 13 of the Banking Companies Ordinance, 1962, should

be shown under this head; the amount, however should not be extended to the outer column.

(b) Under this heading may be included such items as the following: pension or insurance funds,

unclaimed dividends, advance payments and un-expired discounts, liabilities to subsidiary companies and any

other liabilities.

(c) These should be classified under the following categories:-

(i) Claims against the banking company not acknowledged as debts.

(ii)(A) Money for which the banking company is contingently liable showing separately the amount of

any guarantee given by the banking company on behalf of directors or officers.

(ii) (B) Money for which the banking company is contingently liable showing separately the

amount of guarantees given by the banking company favouring: -

(1) Government

(2) Banks and other financial institutions.

(3) Others.

(iii) Arrears of cumulative preference dividends.

(iv) Liabilities on Bills of Exchange re-discounted.

(v) Liability on account of outstanding Forward Exchange Contracts.

(d) Where the value of the investments shown in the outer column of the balance-sheet is higher

than the market value, the market value shall be shown separately in brackets.

(e) Maximum total outstanding balance in all such accounts as a unit on any day during the year

should be given under this heading.

(f) Premises wholly or partially occupied by the banking company for the purposes of business

should be shown against "Premises less depreciation". In the case of fixed capital expenditure, the original cost,

and additions thereto and deductions therefrom during the year should be stated, as also the total depreciation

written off. Where sums have been written off on a reduction of capital or revaluation of assets, every balance-sheet

after the first balance-sheet subsequent to the reduction or revaluation should show the reduced figures

with the date and amount of the reduction made. Furniture, fixtures and other assets which have been

completely written off need not be shown in the balance-sheet.

(g) These should be classified under the following categories:

(i) Investment in shares of subsidiary companies.

(ii) Stationery and stamps on hand.

(iii) Interest accrued on investment but not collected, commission and brokerage on shares and

debentures and other income receivable.

(iv) Advance deposit and advance rent.

(v) Preliminary, formation and organisation expenses, renovation/development expenses, and

pre-paid expenses.

(vi) Branch adjustments.

(vii) Suspense Account.

(viii) Others.

(h) Value shown shall not exceed the market value and in cases where the market value is not

ascertainable, the estimated realisable value.

General Instructions.— The corresponding figures (to the nearest rupee, if so desired for the year,

immediately preceding the year to which the profit and loss account relates should be shown in separate

columns.

FORM B

FORM OF PROFIT AND LOSS ACCOUNT

Profit and Loss Account for the year ended December,

EXPENDITURE INCOME* (Less Provisions Made During The Year For Bad And Doubtful Debts

And Other Usual Or Necessary Provisions)

Rs. Ps. Rs. Ps.

1. Interest on deposits, borrowings etc. and or Return 1. Interest and Discount and or Return

2. Salaries and Allowances and Provident Fund (showing separately 2. Commission, Exchange and Brokerage

salaries and allowances to managing director, manager or chief

executive officer) 3. Rents

3. Directors and Local Committee Members; fees and allowances 4. Net profit on sale of investments, gold and silver, land

premises and other assets (not credited to Reserves or

4. Rent, Taxes, Insurance, Lighting etc. any particular Fund or Account)

5. Law Charges 5. Income from non-banking assets, and profit from sale

of or dealing with such assets

6. Postage, Telegrams and Stamps

7. Auditors Fees 6. Other receipts

8. Depreciation on repairs to the banking company's property .. 7. Loss (if any)

9. Stationery, Printing, Advertisement, etc.

10. Loss from sale of or dealing with non-banking assets

11. Other Expenditure

12. Balance of Profit

Total Total

* Net loss on sale or revaluation of investments, gold and silver, land, premises and assets, if any, may be deducted from income.

+ 'Return' means income from or as the case may be, paid on, non-interest bearing account. Item 1 on the Expenditure and Income side amended vide Notification No.

BCD 2/81 dated 13th Dec. 1981. Ref: Gazette of Pakistan, Extraordinary, Part III dated Dec. 19, 1981 Page. 446 BCD circular No. 32 dated 28th December 1981.

[See Section 63 (2)]

List of Debtors

1. The official liquidator shall, from time to time, submit lists of debtors to the

High Court, each list being verified by an affidavit.

2. Every such list shall contain the following particulars:-

(a) names and addresses of the debtors;

(b) amount of debt due to the banking company by each debtor;

(c) rates of interest, if any, and the date up to which such interest has been calculated in the case of each debtor;

(d) description of papers, writings and documents, if any, relating to each debt;

(e) relief or reliefs claimed against each debtor.

3. (a) In every such list, the official liquidator shall distinguish between the

debts for which the banking company holds any security other than a personal security and

the debts for which no security or only a personal security is given;

(b) In the case of secured debts, particulars of the securities claimed by the

banking company, and whenever possible their estimated value, and the names and addresses

of person or persons, if any, having an interest in the securities or the right of redemption

therein;

(c) In case the debt is guaranteed by any person or persons, the name and

address of the guarantor or guarantors with particulars as to the extent to which the debt is

guaranteed and description of documents, papers or writings in support of such guarantee.

4. If the debtor is adjudged insolvent either before or after he has been included

in any such list, but before such list is settled, the name and address of the assignee or the

receiver of his estate, as the case may be, should be stated in, or added to the list.

5. If the original debtor dies either before or after he has been included in any

such list, but before such list is settled, there shall be substituted in his place the names and

addresses of his legal representatives as far as the official liquidator is able to ascertain.

Mohammad Ayub Khan, N.Pk.. H.J.,

Field-Marshal,

President.

{1962: Ord. LVII STATUTORY RULES AND ORDERS

(Under Section 5.—Order.)

DECLARATION OF APPROVED SECURITIES

S.R.O. 310 (R) 65, dated the 4th December, 1965.—In exercise of the powers conferred by

clause (a) of Section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962), the

Central Government is pleased to declare Dollar Securities of the Federal Government of the

United States of America and the Bonds of the International Bank for Reconstruction and

Development as approved securities for the purpose of sub-section (3) of Section 13 of the

said Ordinance.

{See Gazette of Pakistan, 1965, Ext., page 1471.}

S.R.O. 8 (R) 66, dated the 1st February, 1966.—In exercise of the powers conferred

by clause (a) of Section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962), the

Central Government is pleased to declare Bonds of the Government of Federal Republic of

Germany in Deutsche Marks as approved securities for the purpose of sub-section (3) of

Section 13 of the said Ordinance.

{See Gazette of Pakistan, 1966, Extra., p. 40, dated 1st February, 1966}

THE BANKING COMPANIES RULES, 1963

S.R.O. 28 (R) 63, dated the 4th July, 1963.—In exercise of the powers conferred by

Section 92 of the Banking Companies Ordinance, 1962 (LVII of 1962), the Federal

Government after consultation with the State Bank, is pleased to make the following rules,

namely:—

1. Short title, extent and commencement.—(1) These rules may be called the

Banking Companies Rules, 1963.

(2) They extend to the whole of Pakistan.

(3) They shall come into force on such date 1 as the Federal Government may, by

notification in the official Gazette, specify in this behalf.

2. Interpretation.—In these rules,

(a) "Ordinance" means the Banking Companies Ordinance, 1962 (LVII of

1962):

(b) "principal office of the State Bank" means the office of the State Bank

to which the returns required under the Ordinance or these rules are to be submitted;

1. i.e., the first day of September, 1983, see Gazette of Pakistan of 1963 Ext. Page 614a.

STATUTORY RULES AND ORDERS 1962: Ord. LVII

(Under Section 5-Order)

(c) "principal office of the banking company" means the office of the

banking company which shall be responsible for the submission of returns under the Ordinance or these rules:

(d) "quarter" means a period of three months ending on the last day of

March, June, September and December of any year ; and

(e) "Place of business" of a banking company includes any sub-office, sub-pay-office or any place of business at which deposits are received, cheques cashed or moneys lent.

(Under Section 92.—Banking Companies Rules.)

3. Submission of returns.—(1) A banking company having its principal office

in any area specified below shall submit all the returns required under the Ordinance or these

rules to the office of the State Bank shown against that area in the form prescribed for such

returns or as nearly in that from as the circumstances in the particular case admit, namely:—

Area Name of Office of the State Bank

1 2

1. Province of Punjab State Bank of Pakistan, Post Box No. 40. Lahore.
2. Province of Sindh State Bank of Pakistan, Post Box No. 4713, Karachi.
3. North West Frontier Province. State Bank of Pakistan, Post Box No. 28, Peshawar.
4. Province of Balochistan. State Bank of Pakistan, Kimberly Road, Quetta,
5. Islamabad Capital Territory. State Bank of Pakistan, Post Box No. 1062, Islamabad.

(2) Where any such return relates to a particular day or date, on which any office

of the banking company, is closed on account of a holiday the return in respect of the that

office shall be prepared on the basis of the figures of the day preceding the holiday.

(3) A banking company shall, within one month of the commencement of these rules or of the commencement of its business, whichever is later, intimate to the principal

office of the State Bank

* Substituted vide notification No. SRO. 980 (I) 80, dt. 27-9-1980, the Gazette of Pakistan Extraordinary Part

II, dt. 28-9-1980, Page 1739.

{1962: Ord. LVII STATUTORY RULES AND ORDERS

(Under Section Banking 92—Companies Rules)

the address of its principal office and shall also from time to time inform that office of any

change in the address within one month of the change.

4. List of Officers .—(1) (i) a banking company shall, within one month of the

commencement of these rules or of the commencement of its business, whichever is later,

send to the principal office of the State Bank a written statement containing a list of –

(a) the names, the official designations and specimen signatures

of the officers authorised to sign on behalf of

the banking company returns required under the Ordinance

or these rules; and

(b) the names and addresses of the directors of the bank-

ing company.

(ii) Any change in the list referred to in clause (i) shall be intimated to the

principal office of the State Bank within one month of such change.

(2) A banking company incorporated outside Pakistan, which at the

commencement of these rules has a place of business in Pakistan, and every such company

which after the commencement of these rules establishes a place of business in Pakistan,

shall, within one month of the commencement of these rules or of the establishment of such

place of business, as the case may be, furnish to the principal office of the State Bank the full

address of the principal place of business declared in terms of clause (e) of sub-section (1) of

Section 277 of the Companies Act, 1913 and the name and address of one or more persons

resident in Pakistan authorised to accept on behalf of the company any notice or order

required to be served on the company under the Ordinance or these rules and shall intimate

the principal office of the State Bank any change in such name or address within one month

of such change:

Provided that information furnished by a banking company under rule 4 of the

Banking Companies (Control) Rules, 1949, shall be deemed to have been furnished under

this rule.

{5. Deposits.—(1) The deposit specified in sub-section (3) of section 13 of the

Ordinance shall be maintained at the principal office of the State Bank.

Note-1. The original Rules 5,7 and 9 substituted by Notification No. SRO 312 (R)/65, dated the 6th December

1965, See Gazette of Pakistan, 1965, Extraordinary, Pages 1482-1484.

2. Rule 5 again substituted by Notification No. SRO 431 (1) 74 dated the 4th April 1974. See Gazette of

Pakistan. Extra, Part II dated 4-4-1974 and BCD circular No.8 dated 30-5-1974.

RP—1/82

STATUTORY RULES AND ORDERS 1962: Ord. LVII}

(Under Section 92.— Banking Companies Rules)

(1A) Where a banking company desires to make deposit in a freely convertible approved foreign exchange, it may, with the permission of the State Bank, make the deposit either in United States dollars or in

the currency of the country of its incorporation. The deposit for each year shall be made by such banking company not later than the 31st March of the year and no substitution on that account shall be allowed during the remaining part of that year. *

(IB) Any banking company desiring to make deposit in, or make changes in the currency or quantum of deposit already made in, any freely convertible approved foreign exchange may make a written application, not later than the 15th February of the year, to the State Bank for permission to make such deposit or to make such changes to the extent proposed in the application, and the State Bank may, at its discretion, grant or refuse to grant such permission.*

(2) The value of each security deposited under sub-rule (1) shall be estimated at its market rate, ex-dividend.

(2A) For the purpose of valuation of deposit made in a freely convertible approved foreign exchange on any day—

(a) United States dollar shall be valued at the parity rate of Pakistan rupee to the United States dollar; and

(b) other freely convertible approved foreign exchange shall be valued at the parity equivalent in Pakistan rupee of the United States dollars arrived at on the basis of closing buying rate of such freely convertible approved foreign exchange in terms of United States dollars in the New York market on the day preceding that day or, if such day is a holiday or not a business day at New York, on the first business day counted backward

from such day.*

*In rule 5 after sub-rule(1) sub-rule(1A) and (1B) and after sub-rule(2) sub-rule (2A) inserted. Reference

Finance Division Notification S.R.O. 41(1)82 dated 16-1-1982, Gazette of Pakistan, Extraordinary Part II, dated

19-1-1982 Page. 64.

RP—1/82

121

RP—1/82

1962: Ord. LVII} STATUTORY RULES AND ORDERS

(Under Section 92—Banking Companies Rules)

(3) Securities shall be duly transferred to the State Bank by the banking company.

(4) Upon receipt of a deposit under sub-rule (1) the principal office of the State

Bank shall, as soon as possible, send to the principal office of the banking company a

certificate in form 1.}

6. Withdrawals of Deposits. The principal office of the State Bank shall not be

bound to return securities actually deposited, but may substitute therefor new scrip of

securities of the same description and amount.

1{7. Changes in deposits.—(1) the office of the National Bank of Pakistan holding

securities under sub-rule (1) of rule 5 shall permit the withdrawal of foreign approved

securities only under instructions from the principal office of the State Bank.

(2) When the form or amount of deposits is changed by reason of a subsequent deposit or withdrawal, the principal office of the State Bank of Pakistan shall, as soon as

possible, send to the principal office of the banking company a fresh certificate in Form 1.}

8. Maturing of security deposits.—When a security in deposit matures or when

any yield on such a security ceases to accrue, the principal office of the State Bank shall not

be bound to inform the banking company; but upon the receipt of a requisition in writing

from the banking company, the principal office of the State Bank shall, as soon as possible,

collect the discharge value and hold the amount in deposit for purposes of sub-section (3) of

section 13 of the Ordinance.

1{9. Interest on deposits. —(1) No interest shall be payable on cash deposits.

(2) The principal office of the State Bank shall credit, as soon as possible, the

current account of the banking company maintained with it with the interest realised on

securities subject to the usual charges.}

10. Licensing of banking companies. —A company desiring to have a licence under

section 27 of the Ordinance shall apply to the

1. Substituted for the original Rule 7 and 9 by Notification No. SRO 312 (R) 65, dated the 6th December 1965,

See Gazette of Pakistan 1965, Extraordinary Page 1482-83.

RP—1/82

STATUTORY RULES AND ORDERS {1962: Ord. LVII

(Under Section 92—Banking Companies Rules)

Director, Banking Control Department, State Bank of Pakistan , Central Directorate,
Karachi.

(a) in Form IV in the case of a company incorporated in Pakistan
and desiring to commence banking business;

(b) in Form V in the case of a company incorporated in Pakistan
and in existence at the commencement of the Ordinance;

(c) in Form VI in the case of a company incorporated outside
Pakistan and desiring to commence or carry on banking
business in Pakistan.

11. Opening of new places of business.— An application by a banking company
for

permission to open a newplace of business or change the location of an existing
place of

business under Section 28 of the Ordinance shall be submitted in form VII
to –

(a) the Director, Banking Control Department, State Bank of
Pakistan, Central Directorate, Karachi in the case of banking
companies having their principal offices in West Pakistan, and

(b) the Deputy Chief Officer, Banking Control Department; State
Bank of Pakistan, Dacca, in the case of banking companies
having their principal offices in East Pakistan.

12. List of offices—A banking company shall, within a period of one month
from the

close of every quarter, send to the principal office of the State Bank a list in Form VIII of all

its offices in Pakistan at which it was doing business during that quarter.

13. Publication of approved currencies and securities.—(1) The State Bank shall,

not later than one month from the commencement of these rules, by a notification in the

official Gazette, publish for the purpose of section 30 of the Ordinance a list of currencies in

which export bills drawn in, and import bills drawn on and payable in Pakistan may be

expressed.

(2). The State Bank may, by notification in the official Gazette, publish for the

purpose of section 30 of the Ordinance, a list of securities approved by it.

RP—1/82

1962:Ord.LVII STATUTORY RULES AND ORDERS

(Under Section 92—Banking Companies Rules)

(3) Any alteration in the lists referred to in sub-rules(1) and

(2) shall also be published in the Official Gazette.

(4) An alteration adding a currency or security to the list shall take effect from

date of publication of the alteration and an alteration omitting a currency or security from the

list shall take effect at the expiry of the three months from the date of publication of the

alteration.

14. Manner of publication of accounts and balance-sheet.—The balance-sheet

and profit and loss account prepared in terms of Section 34 of the ordinance together with

the auditor's report shall be published within a period of six months from the end of the

period to which they relate in a newspaper which is in circulation at the place where the

banking company has its principal office.

Explanation.—For the purposes of this rule, the expression "newspaper" means any

newspaper or journal published at least once a week, but does not include a journal other

than a banking, commercial, financial or economic journal.

15. List of Debtors.—The list of debtors under Section 63 of the Ordinance shall be

in Form XIII or as near thereto as circumstances permit.

16. Power to exempt in certain cases.—The Federal Government may, on the

recommendation of the State Bank, declare by notification in the Official Gazette that any or

all of the provisions of these rules shall not apply to any banking company or to any class of

banking companies either generally or for such period as may be specified.

17. The return under Sections 22,24,29,30,31, and 32 of the Ordinance shall be

submitted in Forms, II, III, IX, X, XI respectively.

RP—1/82

1962: Ord. LVII} STATUTORY RULES AND ORDERS

(Under Section 92.—Banking Companies Rules)

THE BANKING COMPANIES ORDINANCE, 1962

From II (See rule 17)

(Section 22)

Name of the baking company _____

Name and Designation of the officer submitting the return

Statement of cash reserve as at the close of business on the following days
of the

month of _____

(To be filed in triplicate with State Bank before the fifteenth day of the
month succeeding that

to which the return relates.)

(Rounded off to the nearest thous and)

1st 2nd 3rd 4th 5th

Thursday Thursday Thursday Thursday Thursday

* * * * *

A. Liabilities:

1. Demand Liabilities.

2. Time Liabilities.

3. Total Demand and Time Liabilities _____

B. Minimum amount of cash required to be held under Section 22 of the Ordinance:

1. Five per cent. Of A (1).

2. Two per cent of A (2).

3. Total of B (1) and B (2). _____

C. Cash reserve:

1. Cash=

(a)Notes

(b) Rupee coin (including one rupee notes)

(c)Subsidiary coin

2. Balances with the State Bank. _____

3. Balances with the agent of the State Bank**

4. Total of C(1) C(2) and C(3)**

Date..... Signature.....

* Give dates.

= Cash must not include balances at other banks or any item other than currency notes, rupee coin

(including one rupee notes) and subsidiary coin.

**Item 3, substituted and item 4 added vide Notification SRO 285 (1)/70 dated 21-11-1970 Gazette of

Pakistan, Extra.

STATUTORY RULES AND ORDERS: 1962: Ord. LVII

(Under Section 92.—Banking Companies Rules)

THE BANKING COMPANIES ORDINANCE, 1962

From IV (See rule 10)

(Section 27)

Form of application for a license to commence banking business by a company incorporated in

Pakistan and desiring to commence banking business.

Address.....

Date.....

The Director

Banking Control Department,

State Bank of Pakistan,

Central Directorate,

Karachi.

Dear Sir,

Application for a licence to commence banking business.

We hereby apply for a licence to commence banking business in terms of Section 27 of the Banking

Companies Ordinance, 1962. We give below the necessary information for the purpose.

Yours faithfully,

Signature.....

1. Name of the company

2. Place of location of the registered
of the company.

3. State whether the company is public
or private.

4. Date of incorporation.

.....

5. Previous application

Given particulars of any application

previously made to the State Bank

in this connection

126

1962: Ord. LVII} STATUTORY RULES AND ORDERS

(Under Section 92.— Banking Companies Rules.)

6. Management:

(a) Give names, business and addresses of directors, the amount of shares held by each and the names of the bankers of each of them.

(b) Give the name of the proposed Chief executive officer, his Qualifications, experience, age And the proposed remuneration

7. State detailed reasons for the floatation of the company and give statistical and other data, as under, which may have been collected in respect of the area which the company intends to serve.

(i) The population of the area of operation of the proposed place of business

(ii) The volume and value of agricultural, Mineral and industrial production and

Imports and exports of the area of operation
of the proposed place of business as under:—

Commodity	Production	Imports	Exports
Volume	Value	Volume	Value

1 2 3 4 5 6 7

(iii) If there are any schemes for agricultural, mineral or industrial development give details of the same and their probable effects on the volume and value of the present production, imports and exports

(iv) If the existing banking facilities are considered inadequate, give reason

STATUTORY RULES AND ORDERS {1962: Ord, LVII

(Under Section 92. Banking Companies Rules.)

(v) Prospects. Give as under an estimate of the minimum business which the company expects to attract at the proposed place of business within 12 month.

1. Deposits Amount in thousands of rupees Rates proposed to be allowed on various types of deposits

Minimum Maximum

ii. Advances Amount in thousands of rupees Rates proposed to be charged on various types of advances

Minimum Maximum

8. Forward an up-to-date copy of the Memorandum and Articles of Association and a copy of the prospectus (with certified translation in English if not in that language.)

9. State whether the company fulfils the conditions laid down in sub-section (2) of Section 13 of the Ordinance, and whether it is agreeable to permit the State Bank

to satisfy itself by an inspection
of the books of the company or
otherwise that the prescribed
conditions are being fulfilled by
the company.

10. Any additional facts which the
company may wish to adduce in
support of its application.

N.B. (1) If an application is for commencing banking business at Karachi
or Lahore the details asked for
under item 7 (i) , (ii) and (iii) need not be supplied.

(2) If a company is unable or unwilling to supply full details in respect
of any of the items, reasons
for the omission may be given.

(3) If an application has been submitted to the State Bank in the past, in
formation under items
2,3,4,6,7 and 8 need not be supplied unless there is any change since the
last application.

128

1962: Ord. LVII} STATUTORY RULES AND ORDERS

(Under Section 92. Banking Companies Rules.)

THE BANKING COMPANIES ORDINANCE, 1962

Form V (See rule 10)

(Section 27)

Form of application for a licence to carry you banking by a company incorporated
in

Pakistan and in existence on the commencement of the Ordinance.

Address.....

Date

The Director,

Banking Control Department,

State Bank of Pakistan,

Central Directorate,

Karachi.

Dear Sir,

Application for a licence to carry on a banking business

We hereby apply for a licence to carry on banking business in terms of Section 27 of the Banking Ordinance, 1962. We give below the necessary information for the

purpose.

Yours faithfully,

Signature

1. Name of the banking company

2. Place of location of the registered office of the banking company and of its head office.

3.State whether the banking company is public or private.

4. Date of incorporation.

5. Date of commencement of business

6. Previous applications:

Give particulars of any application

Previously made to the State Bank

in this connection.

7. Management:

(a) Give names, business and

addresses of directors.

129

STATUTORY RULES AND ORDERS {1962: Ord. LVII

(Under Section 92.— Banking Companies Rules.)

(b) Give the name of the chief

executive officer, his qualifications,

age and the remuneration paid

8. Existing Offices *:

Give the number of offices* in

Pakistan and a brief description

of the system of supervision and

control over the branches.

9. Give details regarding the authorised,

subscribed and paid-up capital and

reserves of the banking company as on

the date of the application.

10. Forward an up-to-date copy of the

Memorandum and Articles of Association
and copies of the Balance-sheets together
with profit and loss account statements
for the last five years (with certified
translations in English, if not in that
language.)

12. Any additional facts which the banking
company may wish to adduce in support
of its application.

N.B—(1) If a banking company is unable or unwilling to supply full details
in respect of any of the

items, reasons for the omission may be given.

(2) If an application has been submitted to the State Bank in the past, information
under items

2,3,4,5,7,8,9 and 10 need not be supplied unless there is any change since
the last application.

*Includes the registered office and all places of business at which deposits
are received, cheques

cash or moneys lent.

130

1962 : Ord. LVII] STATUTORY RULES AND ORDERS

(Under Section 92.—Banking Companies Rules.)

THE BANKING COMPANIES ORDINANCE, 1962

Form VI (See rule 10)

(Section 27)

Form of application for a licence to * commence / carry on banking business in Pakistan

by a banking company incorporated outside Pakistan.

Address

Date

The Director,

Banking Control Department,

State Bank of Pakistan,

Central Directorate,

Karachi.

Dear Sir.

Application to *commence / carry on banking business in Pakistan.

We hereby apply for a licence to *commence / carry on banking business in terms of

Section 27 of the Banking Companies Ordinance, 1962. We give below the necessary information for the purpose.

Yours faithfully.

Signature

1. Name of the banking company

2. Place of location of the registered office of the banking company and of its head office.

3. State whether the banking company is public or private.

4. Date of incorporation.

5. Country or State in which the banking company is incorporated.

*The portion not applicable to be struck off.

131

STATUTOY RULES AND ORDERS [1962: Ord. LVII

(Under Section 92.---Banking Companies Rules.)

6. Pervious applications:

Give particulars of any application

previously made to the State Bank

in this connection.

7. Management:

(a) Give names, business and addresses

of Directors in Pakistan

(b) Give the name of the chief

executive officer or the proposed chief

executive officer in Pakistan, his

qualifications, experience, age, and

the remuneration paid or proposed

to be paid.

8. (a) For a banking company already

carrying on banking business in

Pakistan:

Existing Offices:*

Give the number of offices* in
Pakistan and a brief description
of the system of supervision
and control over the offices *

(b) For a company desiring to
commence banking business in
Pakistan:

State detail reasons for office* in
Pakistan give statistical and other data,
as under, which may have been
collected in respect of the area
which the company intends to
serve.

(i) The population of the area
of operation of the proposed
place of business.

(ii) The volume and value of
agricultural, mineral and industrial,
production and imports and exports of

* Includes all places of business at which deposits are received, cheques
cashied or moneys lent.

(Under Section 92.—Banking Companies Rules.)

the area of operation of

the proposed place of

business as under:—

Production Imports Exports

Commodity _____

Volume Value Volume Value Volume Value

1 2 3 4 5 6 7

(iii) If there are any schemes

for agricultural, mineral or

industrial development give

details of the same on the

volume and value of and

their probable effects the

present production, imports

and exports.

(iv) If the existing banking

facilities are considered

inadequate, give reasons.

(v)Prospects: Give as under

an estimate of the minimum

business which the company
expects to attract at the proposed
place of business within 12
months.

1. Deposits Amount in thousands of rupees Rates proposed to be allowed on
various types of deposits

Minimum Maximum

ii. Advances Amount in thousands of rupees Rates proposed to be charged on
various types of advances

Minimum Maximum

iii. Exports and Amount in thousands of rupees
Imports Bills.

9. State what arrangements have been
made to ensure compliance with the
provisions of sub-section (3) of
Section 13 of the Ordinance.

133

STATUTORY RULES AND ORDERS [1962: ORD. LVII

(Under Section 92.--- Banking Companies Rules.)

10. Forward an upto-to-date copy of the
Memorandum and Articles of

Association and copies of the
Balance-sheets together with profit
and loss account statements for
the last five years (with certified
translations in English, if not in
that language).

11. State whether the banking company
fulfils the conditions laid down in
sub-section (3) of Section 27 of the
Ordinance, and whether it is agreeable
to permit the State Bank to satisfy
itself by an inspection of the books
of the company or otherwise that the
prescribed conditions are being
fulfilled by the company.

13 Any additional facts which the
banking company may wish to
adduce in support of its
application.

N.B.—(1) If an application is for commencing banking business at Karachi
or Lahore the details asked for
under item 8 (b) (i), (ii) and (iii) need not be supplied.

(2) If a company is unable or unwilling to supply full details in respect
of any of the items, reasons for the
omission may be given.

(3) If an application has been submitted to the State Bank in the past, information under items 2,3,4,5,7,8,

and 10 need not be supplied unless there is any change since the last application.

THE BANKING COMPANIES ORDINANCE, 1962

Form VII (See rule II)

(Section 28)

Form of application for permission to open a new place of business or change the location

(otherwise than within the same city, town or village) of an existing place of business

under Section 28 of the Ordinance.

Address

Dated

Banking Control Department,

State Bank of Pakistan,

Karachi.

Dear Sir,

134

We hereby apply for permission to open a new place of business/change the location of an existing place of business in terms of Section 28

1962 : Ord. LVII] STATUTORY RULES AND ORDERS

(Under Section 92.– Banking Companies Rules.)

of the Banking Companies Ordinance, 1962. We give below the necessary information for

the purpose.

Yours faithfully,

Signature.....

1. Name of the banking company

2. Place of location of the registered
office of the banking company and
of its head office.

3. State whether the banking com-
pany is public or private

4. Date of incorporation

5. Date of commencement of business

6. Previous applications:
Give particulars of any application
previously made to the State
Bank in this connection

7. Management:
(a) Give names, business and ad-
Dresses of directors.

(b) Give the name of the officer-
in-charge of the proposed
office, his qualifications, ex-
perience, age, and remunera-
tion and also particulars about
the local Advisory Board (or

local directors), if any,

8. Existing offices:

(a) Give the number of offices

in Pakistan. In the case of offices

losses, also give details as in

Table 'A'

135

STATUTORY RULES AND ORDERS [1962. : Ord. LVII]

(Under Section 92.— Banking Companies Rules.)

(b) In the case of offices which

have been in existence for

less than three years on the

date of application also give

details as in Table 'B'.

9. Proposed office:

(a) Give the location of the pro-

posed office

(b) Reasons for the proposed office

State detailed reasons for the

proposed office and give statisti-

cal and other data, as under ,

which may have been collected

for the proposed office.

(i) The population of the

area of operation of the
proposed office.

(ii) The volume and value
of agricultural, mineral and
imports and exports of the
area of operation of the
proposed office as under:

	Production	Imports	Exports
Commodity _____			

Volume Value Volume Value Volume Value

(iii) If there are any schemes
for agricultural, mineral or
industrial development give
details of the same and
their probable effects on the
volume and value of the
Present production, imports
and exports.

(iv) If the existing banking
facilities are considered in-
adequate, give reasons.

(Under Section 92.– Banking Companies Rules.)

(v) Prospects:

Give as under an estimate
of the minimum business
which the banking comp-
pany expects to attract at
the proposed office within
12 months.

I. Deposits Amount in thousands of rupees Rates proposed to be allowed
on various types of deposits.

Minimum Maximum

II. Advances Amount in thousands of rupees Rates proposed to be charged on
various types of advances

Minimum Maximum

10. Change of location of an existing office:

Give the exact location of the
office which is proposed to be
closed and of the place to

which it is proposed to shift
it, giving particulars of the new
location as in No .9 (b).

11. System of supervision and control

over the proposed office:

Give a brief description of the
system of supervision and
control which will be exercised
over the proposed office and
the authority of the officials at
the proposed office regarding
advances (including bills purchased
and discounted).

12. Capital and Reserves:

Give details regarding the autho-
rised, subscribed and paid-up
capital and reserves of the
banking company as on the
date of the application.

STATUTORY RULES AND ORDERS [1962. : Ord. LVII]

(Under Section 92.— Banking Companies Rules.)

13. Expenditure:

State the amount already spent or proposed to
be spent on staff, premises, furniture,

stationery, advertising, etc., in connection with the proposed office. Also state the minimum income which the banking company expects to earn at the proposed office in 12 months.

14. Forward an up-to-date copy of the Memorandum and Articles of Association and copies of balance-sheets together with profit and loss account statements for the last five years (with certified translations in English, if not in that language).

15. Other particulars:

Any additional facts which the banking company may wish to adduce in support of its application.

N.B.—(1) The words 'office' and 'offices' wherever they occur in this form include a place or places of

business at which deposits are received, cheques cashed or moneys lent.

(2) No.9 (a) and (b) . To be replied to if the application is for opening a new office. If an application is

for opening a place of business at Karachi or Lahore, the details asked for under item 9 (b) (i), (ii) and

(iii) need not be supplied.

(3) No. 10. To be replied to if the application is for changing the location of an existing place of

business.

(4) If a banking company is unable or unwilling to supply full details in respect of any of the items

reasons for the omission may be given.

(5) If an application has been submitted to the State Bank in the past, information under items

2,3,4,5,7,8,11,12, and 14 need not be supplied unless there is any change since the last application.

(6) The information asked for in items 7 (b), 9,10 and 13 is to be given separately for each office where

the application relates to the opening of or changing the location of more than one office.

[1962: Ord. LVII] STATUTORY RULES AND ORDERS

(Under Section 92.—Banking Companies Rules.)

THE BANKING COMPANIES ORDINANCE, 1962

From VIII (See rule 12)

(Section 28)

(To be submitted within one month after the end of the quarter to which it relates.)

Name of the banking company.....

Name and designation of the officer submitting the return.....

.....

(a) Statement of offices* in Pakistan as on the last day of the quarter ended.....

Name of place where the banking company District and Province

has an office (may be arranged in

alphabetical order)

1 2

(b) Statement of offices* opened in Pakistan during the quarter ended.....

Name of the place District and Province Date of opening the office

1 2 3

(c) Statement of office* in Pakistan closed during the quarter ended.....

Name of the place District and Province Date of closing the office

1 2 3

Date..... Signature.....

*Includes the registered office and all places of business at which deposits are received, cheques cashed or moneys lent.

STATUTORY RULES AND ORDERS [1962 : Ord. LVII]

(Under Section 92.—Banking Companies Rules.)

THE BANKING COMPANIES ORDINANCE, 1962

Form IX (See rule 17)

(Section 29)

Name of the banking company.....

Name and designation of the officer submitting the return.....

.....

Statement of demand and time liabilities and cash, gold and unencumbered approved securities for the month of

(To be sent to the State Bank of Pakistan before the close of the month succeeding that to

which it relates).

(Rounded off to the nearest thousand)

As at the close of business on

1st 2nd 3rd 4th 5th

Thurs- Thurs- Thurs- Thurs- Thurs-

Day day day day day

(a) (a) (a) (a) (a)

A. Liabilities in Pakistan:

1. Demand Liabilities:

(a) Demand Liabilities (General)

(b) Deposits from banks.

(c) Borrowings from banks.

2. Time Liabilities:

(a) Time liabilities (General)

(b) Deposits from banks.

(c) Borrowings from banks.

3. Total Demand and Time Liabilities

in Pakistan.

.....

B. Liquid Assets:

1. Cash in hand
2. Balances with the State Bank.
3. Balances with the agent of the
State Bank.
4. Gold (valued at a price not exceeding
current market price).

(a) Give date (where Thursday is a holiday under the Negotiable Instruments Act, the preceding working day).

1962 : Ord. LVII] STATUTORY RULES AND ORDERS

(Under Section 92.—Banking Companies Rules.)

5. Unencumbered approved securities
(valued at a price not exceeding
current market price)

6. Deposit with the State Bank under sub-
section (3) of Section 13 of the
Ordinance—

(i) Cash.

(ii) Unencumbered approved
securities (valued at a price
not exceeding current
market price).

*(iii) Foreign currency deposits
held abroad on account of
the State Bank.

.....
(Name of the Currency)

.....
7. Total of the above assets.

.....
C. Minimum amount of assets
Required to be held under Section
29 of the Ordinance.
[20 per cent of A (3)]

.....
Signature.....
Designation.....
Address.....

Certified that the minimum percentage of liquid assets as required under Section
29 of
the Banking Companies Ordinance, 1962, was maintained on all days of the above
mentioned

month except on the dates mentioned below:

[Defaults (if any)]

Amount of default Reasons

Date Signature.....

THE BANKING COMPANIES ORDINANCE, 1962

From X (See rule 17)

(Section 30)

Name of the banking company.....

Name and designation of the officer submitting the return.....

.....

Statement of assets and liabilities in Pakistan for the month of

*In entry 6 in Form IX a new clause (iii) inserted. Reference Finance Division Notification S.R.O 41(1)/82

dated 16-1-1982 Gazette of Pakistan Extra ordinary, Part II, dated 19 -1-1982 Page 64.

STATUTORY RULES AND ORDERS [1962 : Ord. LVII]

(Under Section 92.—Banking Companies Rules.)

(To be sent to the State Bank of Pakistan before the close of the month succeeding that to

which it relates).

(Rounded off to the nearest thousand)

As at the close of business on

1st 2nd 3rd 4th 5th

Thurs- Thurs- Thrus- Thrus- Thrus-

day day day day day

(a) (a) (a) (a) (a)

A. Liabilities in Pakistan:

1. Demand Liabilities

(a) Demand Liabilities (General)

(b) Deposits from banks.

(c) Borrowings from banks.

2. Time Liabilities:

(a) Time Liabilities (General)

(b) Deposits from banks.

(c) Borrowings from banks.

3. Total Demand and Time Liabilities

in Pakistan

B. Assets in Pakistan:

1. Cash in hand

2. Balances with the State Bank.

3. Balances with the agent of the
State Bank.

4. Balances with other banking companies
in current account and money at call and
short notice.

5. Inland bills purchased.

6. Inland bills discounted.

7. Export bills drawn in Pakistan
(in approved currencies).

8. Import bills drawn on and payable
in Pakistan (expressed in
approved currencies).

RP—I/82

a. Give dates (where Thursday is a holiday under the negotiable Instruments Act, the preceding

working day).

[1962 : Ord. LVII] STATUTORY RULES AND ORDERS

(Under Section 92.– Banking Companies Rules)

9. Investments:

(a) Federal and Provincial Go-

vernments Securities includ-

ing Treasury Bills.

(b) Other securities, shares de-

bentures, etc.

(c) Other investments.

10. Loans, advances, cash credits and

overdrafts (excluding those referred

to in items II).

11. Due from banking companies.

12. Securities approved by the State

Bank under Section 30 (3) (a) of

the Ordinance and not included in

any of the above items.

13. Premises, Furniture, Fixtures and

other fixed assets.

14. Other assets.

Total :

C. Minimum amount of assets required

to be held in Pakistan under Section

30 of the Ordinance.

Signature.....

Designation.....

Address.....

Certified that the minimum percentage of assets in Pakistan as required under Section 30 of the Banking Companies Ordinance, 1962 was maintained on all days of the above mentioned month except on the dates mentioned below:

[Defaults (if any)]

Date Amount of Default Reasons

Date.....

Signature.....

1962: Ord. LVII] STATUTORY RULES AND ORDERS

(Under Section 92. -- Banking Companies Rules.)

THE BANKING COMPANIES ORDINANCE, 1962

FORM XII (See rule 17)

(Section 32)

Name of the banking company

Name and designation of the officer submitting the return

Statement showing the assets and liabilities in Pakistan as at the close of business

On 30th June/31st December, 19

(To be submitted to the State Bank before the close of the month succeeding that to

which the return relates).

(Rounded off to the nearest thousand)

\ A. Liabilities in Pakistan: B Assets in Pakistan:

1. Paid-up capital.* 1. Cash in hand

2. Balances with the State Bank

2. Reserve Fund and other 3. Balance with the Agent of the

State Bank

3. Demand Deposits and contingency 4. Balance with other bank

(unadjusted) accounts: ing companies in current account.

5. Money at call and short notice.

.....

6. Bills discounted

(a) Demand Deposits from banking 7. Bills discounted

companies

(b) Demand Deposits from others (1) In Government securi

and contingency (unadjusted) ties (including Treasury

accounts. Bills)–.

..... (I) Government Securities—

(a) Central Government.

(b) Provincial

Governments

4. Time Deposits:

(a) From others. (ii) Treasury Bills

(a) General Government

(b) Provincial

Government

(b) From others.

(2) Other Investments

(a) Securities of

local authorities

(e.g. municipalities,

port trust, etc.)

6. Bills payable. (b) Shares, debentures, etc.

7. Branch Adjustments. (c) Others.

* In the case of banking companies incorporated outside Pakistan the amount of deposit kept

with the State Bank under sub-section (3) of Section 13 of the Ordinance should be shown under this

head but excluded from the total.

STATUTORY RULES AND ORDERS [1962: Ord. LVII

(Under Section 92.—Banking Companies Rules.)

8. Other liabilities* (give 9. Loans, advances, cash credits

details). And overdraft (excluding

due from banks)

10. Due from banking companies

- 11. Premises, furniture, fixture
and other fixed assets.
- 12. Branch Adjustments.
- 13. Capitalised expenses, including
preliminary expenses,
organisation expenses, share
selling commission, brokerage
amounts of losses incurred and any
other item of expenditure not
represented by tangible assets*.....
- 14. Other tangible assets (give
details)

Total . . Total . .

Date..... Signature.....

*The balance of Profit and Loss Account, if any, should be included in items A8 and B13 as the case

may be.

145

STATUTORY RULES AND ORDES [1962 : Ord. LVII

(Under Section 93.—Order.)

EXEMPTION OF CERTAIN SCHEDULED BANKS FROM THE

OPERATION OF SECTION 8.

S.R.O. 125 (K)/64, dated the 11th February, 1964.—In exercise of the powers

conferred by Section 93 of the Banking Companies Ordinance, 1962 (LVII of 1962), and on

the recommendation of the State Bank, the Central Government is pleased to declare that the

provisions of Section 8 of the said Ordinance shall not apply to the following scheduled

banks, namely:—

(1) Netherlands Trading Society, and

(2) American Express Company, Inc.

[See Gazette of Pakistan, 1964, Extra., page 139].

EXEMPTION OF THE NATIONAL BANK FROM THE OPERATION OF SECTION 23.

S.R.O. 282 (K)/65, dated the 26th April, 1965.—In exercise of the Powers conferred

by Section 93 of the Banking Companies Ordinance, 1962 (LVII of 1962), and on the

recommendation of the State Bank of Pakistan, the Central Government is pleased to declare

that the provisions of sub-section (2) of Section 23 of the said Ordinance, shall not apply to

the National Bank of Pakistan, Karachi in so far as they relate to the purchase of shares of the

Bank of Bahawalpur Limited by the National Bank of Pakistan, Karachi.

[See Gazette of Pakistan , 1965, Extra., p. 155, dated 27 the April, 1965].

DATE OF ENFORCEMENT OF THE RULES

No. 6 (7) IFIV/62, dated the 5th August, 1963.—In exercise of the powers conferred

by sub-rule (3) of rule I of the Banking Companies Rules, 1963, the Central Government is

pleased to specify the first day of September, 1963, as the date on which the said Rules shall

come into force.

[See Gazette of Pakistan, 1963, Extra., page 614a]

NON-APPLICABILITY OF SECTION 36 TO BANKING COMPANIES

INCORPORATED OUTSIDE PAKISTAN

S.R.O. 35 (R) , dated the 27th August, 1963.—In exercise of the powers conferred

by Section 93 of the Banking Companies Ordinance, 1962 (LVII of 1962), the Central

Government, on the recommendation of the State Bank is pleased to declare that the

provisions of Section 36 of the said Ordinance shall not apply to banking companies

incorporated outside Pakistan In so far as the said provisions require banking companies to

get their accounts and balance-sheets passed in the Annual General Meeting.

(See Gazette of Pakistan, 1963, Extra., page 640c)

1962 : Ord. LVII] STATUTORY RULES AND ORDERS

(Under Section 93.—Order.)

NON-APPLICABILITY OF PROVISIONS OF SECTION 26

S.R.O. 40 (R) 65, dated the 8th May, 1965.—In exercise of the Powers conferred by

Section 93 of the Banking Companies Ordinance, 1962 (LVII of 1962), the Central

Government is pleased, on the recommendation of the State Bank of Pakistan, to declare

that the provisions of Section 26 of the said Ordinance shall not apply to banking companies

incorporated outside Pakistan.

(See Gazette of Pakistan, 1965, Extra., Page 221-222)

EXEMPTION OF BANKING COMPANIES

S.R.O. 92 (R) /65, dated the 22nd July, 1965.—In exercise of the powers conferred

by Section 93 of the Banking Companies Ordinance, 1962 (LVII of 1962), the Central

Government is pleased, on the recommendation of the State Bank of Pakistan to exempt the

banking companies which were under liquidation prior to the 7th June, 1962 from the

operation of Section 54,55, 57 and 58 of the said Ordinance

(See Gazette of Pakistan, 1965, Extraordinary, page 606).

NON-APPLICABILITY OF SECTION 14 TO THE BANK OF BAHAWALPUR

S.R.O.104 (R)/65, dated the 17th August, 1965.—In exercise of the powers

conferred by Section 93 of the Banking Companies Ordinance, 1962 (LVII of 1962), the

Central Government is pleased, on the recommendation of the State Bank of Pakistan to

declare that the provisions of clause (iv) of sub-section (I) of Section 14 of the said Ordinance

shall not apply to the Bank of Bahawalpur Limited so far as they relate to the exercise of

voting rights by the National Bank of Pakistan in respect of its shareholding of the Bank of

Bahawalpur Limited.

(See Gazette of Pakistan, 1965, Extra., p.754)

MAINTENANCE OF LIQUID ASSETS

S.RO. 141 (R) /67.— In exercise of the powers conferred by the proviso to subsection

(1) of Section 29 of the Banking Companies Ordinance, 1962, (LVII of 1962), the

Central Government is pleased to direct that with effect on and from the 1st September, 1967,

the amount which a banking company shall maintain in Pakistan shall be not less than

twenty-five per cent of the total of its time and demand liabilities in Pakistan.

(See Gazette of Pakistan, 1967, Extra., page, 786)

STATE BANK OF PAKISTAN

(Central Directorate)

Karachi, the 3rd October, 1966.

Notification

No. ED.13.— In exercise of the powers conferred by section 84 of the Banking

Companies Ordinance, 1962 the Central Board at its meeting held in the 22nd August 1966

has been pleased to authorize the incumbents of the posts of Chief Officer, Senior Deputy

Chief Officers, Assistant Chief Officers, and Banking Officers of the Banking Control

Department and Managers of the Offices of the State Bank of Pakistan to file complaints in

courts of competent jurisdiction for trial of offences punishable under section 83 of the said

Ordinance.

Sd./-

(Abdul Latif)

Deputy Governor

(Ref: The Gazette of Pakistan, Part V dated 14-10-1966.)

STATE BANK OF PAKISTAN

(Central Directorate)

Karachi, the 4th November, 1969.

Notification

No. BCD 2/69.— In exercise of the powers conferred by sub-section 4 of Section 34

of the Banking Companies Ordinance, 1962 (LVII of 1962), the State Bank of Pakistan, on

the expiry of three months' notice provided in Notification No. BCD 1/69 dated the 28th July,

1969, is pleased to direct that the following amendments shall be made in Form 'A' (Form

of Balance Sheet) and Form 'B' (Form of Profit & Loss Account) of the Second Schedule to

the said Ordinance:-

In the aforesaid Second Schedule,

I. in Form 'A' (Form of Balance Sheet)

(a) for the existing Note (C) (ii) of the Notes to Form 'A' the following shall be

substituted, namely:-

“(C) (ii) (A) Money for which the banking company is contingently liable showing

separately the amount of any guarantee given by the banking company on behalf of directors or officers.

(B) Money for which the banking company is contingently liable showing separately the amount of guarantees given by the banking company favouring:-

(I) Government

(2) Banks and other financial institutions.

(3) Others”;

(b) for the existing Note (g) of the Notes to Form 'A' the following shall be substituted,

namely:-

`(g). These should be classified under the following categories:

(i) Investment in shares of subsidiary companies.

(ii) Stationery and stamps on hand.

(iii) Interest accrued on investment but not collected, commission and brokerage on shares

and debentures and other income receivable.

(iv) Advance deposit and advance rent.

(v) Preliminary, formation and organisation expenses, renovation/ development expenses,

and prepaid expenses.

(vi) Branch Adjustments.

(vii) Suspense Account.

(viii) Others,”;

(2) in Form 'B' (Form of Profit & Loss Account)

(a) Item No. 5 under the head Income reading as:

“5. Net Profit on revaluation of investments, gold and silver, land, premises and other

assets (not credited to Reserve or any particular Fund or Account)", shall be omitted;

the existing items Nos. 5, 6, 7, & 8 under the head Income after the deletion of item

No. 5 as aforesaid, shall be numbered as item Nos. 5, 6 and 7 respectively.

Sd/-

(S.A. MEENAI)

Deputy Governor.

Ref:— Gazette of Pakistan, Part V dated 14-11-1969, Page 564— BCD

Circular No. 26 dated 27-11-1969.

AMENDMENTS IN BANKING COMPANIES

RULES, 1963—FORM II.

Notification

Islamabad, the 21st November, 1970.

S.R.O. 285(I) 70.—In exercise of the powers conferred by Section 92 of the Banking

Companies Ordinance, 1962 (LVII of 1962), the Central Government, after consultation with

the State Bank of Pakistan, is pleased to direct that following further amendments shall be

made in the Banking Companies Rules, 1963, the same having been previously published as

required by sub-section (3) of that section namely:-

In the aforesaid Rules, in Form II, under the heading "C. Cash reserve",

(1) for item 3 the following shall be substituted, namely:-

"3. Balances with the agent of the State Bank"; and

(2) after item 3 amended as aforesaid, the following new item shall be added namely:-

"4. Total of C (I), C (2) and C (3)".

(F.I (5)—IFI /70)

S. A. A. SHAH, TQA, CSS,

Deputy Secretary

(See Gazette of Pakistan, Extra., dated 29-11-1970 BCD Circular No. I3
dated 21-6-1971)

STATE BANK OF PAKISTAN

(Central Directorate)

(ADMINISTRATION DEPARTMENT)

Karachi the 20th January 1972

No. A.D. 2.— The Central Board at its meeting held on the 30th December 1971 was

pleased to approve the change to approve the changes in designations of Officers Class II and

above as per Annexure 'A'.

The Central Board further decided that the above Officers with the new designations

will continue to exercise the same signing powers as hitherto been exercised by them under

the old designations.

S.A. MEENAI,

Deputy Governor.

ANNEXURE 'A'

CHANGE IN DESIGNATION OF OFFICERS CLASS II

AND ABOVE

SI. Department Existing Designation Proposed

No. Designation

1 2 3 4

i. Administration Deptt. Deputy Director of Personnel Deputy Director.

(Old Personnel Deptt.)

Asstt. Director of Personnel Asstt. Director.

Staff Officer (Staff Section) Administrative

Officer.

Personnel Officer Administrative

Officer.

Accounts Officer (General/ Administrative

Medical Sections). Officer.

Asstt. Personnel Officer, Asstt. Asstt. Adminis

Staff Officer, Asstt. Accounts trative Officer.

Officer(General/Medical Sec.)

and Duty Officer.

2. Accounts Department Senior Deputy Chief Senior Deputy

(Old Chief Accountant's Accountant Director.

Department).

Deputy Chief Accountant Deputy Director.

Asstt. Chief Accountant Assistant Director.

Senior Auditor Deputy Director.

Audit Officer Assistant

Accounts Officer.

3. Exchange Control Deputy Controller Senior Deputy

Department Director.

Senior Assistant Controller Deputy Director.

Asstt. Controller Asstt. Director.

4. Banking Control Senior Deputy Chief Officer Senior Deputy

Department Director.

Deputy Chief Officer Deputy

Director.Asstt. Chief Officer Asstt. Director.

1 2 3 4

5. Agricultural Credit Senior Deputy Chief Officer Senior Deputy

Department Director.

Deputy Chief Officer Deputy Director.

Assit. Chief Officer Asstt. Director.

6. Audit Department Inspecting Officer Audit Officer.

Old Inspection

Department)

Assistant Inspecting Officer Assistant Audit

Officer.

Note.— The designations of Officers working at other Officers will also be

changed wherever necessary to fall in line with the above changes.

Ref: The Gazette of Pakistan, Part VII dated 18-2-1972 Page.—17.

STATE BANK OF PAKISTAN

(Central Directorate)

(ADMINISTRATION DEPARTMENT)

Karachi, the 2nd October, 1972

A.D. 15.— In terms of Regulation 35 of State Bank of Pakistan, General Regulations,

the Central Board at its meeting held in 25th January 1972. Has been pleased to authorize the

incumbent of the post of Director, Banking Inspection Department to exercise following

signing powers on behalf of the Bank with effect from 5th November 1971:—

“ To endorse and transfer promissory notes, stock receipts, stock debentures, shares,

securities and documents of title to goods, standing in the name of or held by the

Bank, and to draw, accept and endorse bills of exchange and other instruments in

the current and authorized business of the Bank and to sign all other accounts,

receipts and documents connected with such business.”

No. AD. 16.— The Central Board at its meeting held on the 30th December 1971,

was pleased to approve of the changes designations of the Heads of Departments in Central

Directorate, and additional heads as Annexure 'A' with effect from 5th November 1971.

The Central Board further decided that the above Officers with the new designations

will continue to exercise the same signing powers as hitherto exercised by them under the old

designations.

S.A. MEENAI,

Deputy Governor.

ANNEXURE 'A'

S1. Old designation Changed designation

No.

1. Chief Accountant Director, Accounts Department

2. Controller of Foreign Exchange Director, Exchange Control Department.

3. Chief Officer, Banking Control Director, Banking Control Department.

Department

4. Director of Inspection Director, Audit Department.

5. Director of Personnel Director, Administration Department.

6. Chief Officer, Agricultural Director, Agricultural Credit Department

Credit.

7. Director of Research Director, Research Department.

8. Director of Statistics Director, Statistics Department.

9. Director of Training, Department Director, Training Department.

of Banking Education and Training.

10. Director of Public Relations and Director, Public Relations Department.

Bank's Archives

11. Additional Chief Accountant Additional Director, Accounts Department
(Central Directorate) Department (Central Directorate).

12. Additional Controller of Foreign Additional Director, Exchange Control
Exchange Department.

13. Additional Chief Officer, Banking Additional Director, Banking Control
Control Department Department.

14. Additional Chief Officer, Agricultural Additional Director, Agricultural Credit

Department Credit Department.

Ref: The Gazette of Pakistan, Part VI dated 20-10-1972.

(Finance Division)

INTERNAL FINANCE WING

Islamabad, the 15th August, 1973

S.R.O. 1205(1)/73.—In exercise of the powers conferred by the proviso to subsection

(I) of section 29 of the Banking Companies Ordinance, 1962 (LVII of I962), and in

supersession of this Division's Notification No. S.R.O. 353(I)/72, dated the 6th June, 1972,

the Federal Government is pleased to direct that, on and from the 16th day of August, 1973,

the amount which a banking company shall maintain in Pakistan in cash, gold or

unencumbered approved securities shall not be less than thirty five per cent of the total of its

time and demand liabilities in Pakistan at the close of business on any day.

(F. No. I (29)-IFI/72).

S.A.A. SHAH,

Deputy Secretary.

Ref: The Gazette of Pakistan, Extra., Part II dated 16-8-1973—Page 1748.

FINANCE DIVISION

Islamabad, the 4th April, 1974

S.R.O. 431(I)/74.— In exercise of the powers conferred by clause (a) of section 5 of

the Banking Companies Ordinance, 1962 (LVII of 1962), the Federal Government is pleased

to rescind its Notifications No S.R.O. 310 (R) /65, dated the 4th December, 1965, and S.R.O.

8 (R) /66, dated the 1ST February, 1966.

S.R.O. 432(I)/74.— In exercise of the powers conferred by section 92 of the Banking

Companies Ordinance, 1962 (LVII of 1962), the Federal Government, after consultation with

the State Bank of Pakistan, is pleased to direct that the following further amendments shall be

made in the Banking Companies Rules, 1963, the same having been previously published as

required by sub-section (3) of the said section, namely:-

In the aforesaid Rules,—

(a) for rule 5 the following shall be substituted, namely:-

“5. Deposits.— (1) The deposit specified in sub-section (3) of section 13 of the

Ordinance shall be maintained at the principal office of the State Bank.

(2) The value of each security deposited under sub-rule (I) shall be estimated at its market rate, ex-dividend.

(3) Securities shall be duly transferred to the State Bank by the banking company.

(4) Upon receipt of a deposit under sub-rule (I) the principal office of the State Bank shall, as soon as possible, send to the principal office of the banking

company a certificate in Form I.”; and

(b) for rule 9 the following shall be substituted, namely:

“9. Interest on deposits.— (I) No interest shall be payable on cash deposits.

(2) The principal office of the State Bank shall credit, as soon as possible, the

current account of the banking company maintained with it with the interest released

in securities subject to the usual charges.”

(F. No.I (5)IFI/70). IHSANUL HAQ.

DEPUTY SECRETARY.

Ref: Gazette of Pakistan, Extra., Part II dated 4-4-1974 Page. 572 BCD

circular No. 8 dated 30-5-1974.

MINISTRY OF INTERIOR, STATES AND FRONTIER REGIONS

(Interior Division)

Islamabad, the 24th May, 1977

S.R.O. 449(I)/77.— In pursuance of the Explanation to section 25 of the Negotiable

Instruments Act, 1881 (XXVI of 1881), as amended, the Federal Government is pleased to

declare Friday instead of Sunday as a weekly closed holiday with effect from 1st July, 1977.

MOHAMMAD AKBER

Deputy Secretary.

Ref: The Gazette of Pakistan, Extra, Part II, dated 24-5-1977 page. 863

STATE BANK OF PAKISTAN

Central Directorate

Karachi

No. AD. 9 30TH December, 1979

Notification

In exercise of the powers conferred by Section 84 of Banking Companies Ordinance, 1962, the Central Board at its meeting held on the 3rd December, 1979 has been pleased to

authorize the incumbents of the posts of Director, Senior Deputy Director, Deputy Directors,

Assistant Directors and Inspecting Officers of the Banking Inspection Department of the

State Bank of Pakistan to file complaints in courts of competent jurisdiction for trial of

offences punishable under Section 83 of the said Ordinance.

(I.H. QARNI)

EXECUTIVE DIRECTOR.

GOVERNMENT OF PAKISTAN

MINISTRY OF FINANCE

Notifications

Islamabad, the 27th September, 1980

S.R.O 980(I)/80.— In exercise of the powers conferred by section 92 of the Banking

Companies Ordinance, 1962(LVII of 1962), the Federal Government, after consultation with

the State Bank of Pakistan, is pleased to direct that the following further amendments shall be

made in the Banking Companies Rules, 1963, the same having been previously published as

required by sub-section (3) of that section, namely:-

In the aforesaid Rules, in rule 3, for sub-rule (I) the following shall be substituted

namely:-

“(I) A banking company having its principal office in any area specified below

shall submit all the returns required under the Ordinance or these rules to the

office of the State Bank shown against that area in the form prescribed for

such returns or as nearly in that form as the circumstances in the particular

case admit, namely:-

Area Name of office of the State Bank

1 2

1. Province of Punjab: State Bank of Pakistan, Post Box No. 40

Lahore.

2. Province of Sind: State Bank of Pakistan, Post Box No.

4713, Karachi.

3. North West Frontier Province. State Bank of Pakistan, Post Box No. 28,

Peshawar.

4. Province of Balochistan. State Bank of Pakistan, Kimberly Road,

Quetta.

5. Islamabad Capital Territory. State Bank of Pakistan, Post Box

No. 1062, Islamabad.

(No. F.1 (31)— BKG. IV/79— 1500.)

Ref: The Gazette of Pakistan, Extraordinary, Part II, September 28, 1980

Page 1739. BCD, circular No.1 dated 7-1-1981.

FINANCE DIVISION

(Internal Finance and Banking Wing)

Islamabad, the 24th December, 1980

S.R.O 1285(I)/80.— In exercise of the powers conferred by sub-clause (ii) of clause

(a) of section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962), the Federal

Government is pleased to declare that, on and from the 1st day of January, 1981, the

following shall constitute approved securities for the purpose of sub-section (I) of section 29

of the said Ordinance to the extent of thirty per cent of the profit and loss sharing liabilities

of the banking company concerned:—

(i) Pakistan rupee obligations of the Federal Government or a Provincial Government to a banking company on account of their commodity operations.

(ii) Pakistan rupee obligations guaranteed by the Federal Government of the following Corporations to a banking company on account of commodity operations:—

(1) Rice Export Corporation of Pakistan

(2) Trading Corporation of Pakistan.

(3) Pakistan Agricultural Storage and Services Corporation.

(4) Sindh Agricultural Supplies Organisation.

(5) Punjab Seeds Corporation.

(6) Punjab Agricultural Development and Supplies Corporation.

(7) Federal Directorate of Fertilizer Imports.

(iii) Pakistan rupee obligations guaranteed by the Federal

Government of the Rice Export Corporation of Pakistan,

Cotton Export Corporation and Trading Corporation of

Pakistan to a banking company on account of their trading

operations:

Provided that the amount of counter-finance or refinance, if any, obtained by the

banking company from State Bank of Pakistan against such obligations shall be deducted

from the amount of such obligations for the purpose of computing the amount of approved

security.

Provided further that any obligation where interest is payable by the obliger shall not

constitute approved security.

(No.F2 IFCRGS/80-81-I060).

S. FAROGH NAVEED,

Deputy

Secretary.

Ref: The Gazette of Pakistan, Extra., Part II, dated 24-12-1980 Page 2516.

GOVERNMENT OF PAKISTAN

FINANCE DIVISION

(Internal Finance Wing)

NOTIFICATIONS

Islamabad, the 30th May 1981

S.R.O. 498(I) 81. – The following draft of certain further amendments in the

Banking Companies Rules, 1963, which the Federal Government, after consultation with the

State Bank of Pakistan, proposes to make in exercise of the powers conferred by section 92

of the Banking Companies Ordinance, 1962, (LVII of 1962), is hereby published, as required

by sub-section (3) of the said section, for the information of all persons likely to be affected

thereby, and notice is hereby given that the said draft will be taken into consideration on or

after the 31st day of December, 1981.

Any objection or suggestion which may be received from any person with respect to

the said draft before the date specified will be taken into consideration by the Federal

Government.

DRAFT AMENDMENTS

In the aforesaid Rules,—

(I) in rule 5,—

(a) after sub-rule (I), the following new sub-rules shall be inserted, namely:—

“(IA) Where a banking company desires to make deposit in a freely convertible approved foreign exchange, it may, with the permission of the State Bank, make the deposit either in United States dollars or in the currency of the country of its incorporation. The deposit for each year shall be made by such banking company not later than the 31st March of the year and no substitution on that account shall be allowed during the remaining part of that year.

(IB) Any banking company desiring to make deposit in, or make changes in the currency or quantum of deposit already made in, any freely convertible approved foreign exchange may make a written application, not later than the 15th February of the year, to the State Bank for permission to make such deposit or to make such changes to the extent proposed in the application, and the State Bank may, at its discretion, grant or refuse to grant such permission,"; and

(b) after sub-rule (2) , the following new sub-rule shall be inserted, namely:—

“(2A) For the purpose of valuation of deposit made in freely convertible approved foreign exchange on any day:—

(a) United States dollar shall be valued at the parity rate of Pakistan rupee to the United States dollar ; and

(b) Other freely convertible approved foreign exchange shall be valued at the parity equivalent in Pakistan rupee of the United States dollars arrived at on the bases of closing buying rate of such freely convertible approved foreign exchange in terms of United States dollars in the New York market on the day preceding that day or, if such day is a holiday or not a business day at New York, on the first business day counted backward from such day.”,

(2) for Form I the following shall be substituted, namely:—

(Under section 92—Banking Companies Rules,

THE BANKING COMPANIES ORDINANCE, 1962

FORM I (SEE RULES 5 AND 7)

(SECTION 13)

STATE BANK OF PAKISTAN

No _____ Place _____

Date _____

RP— 1/2

STATE BANK OF PAKISTAN

CENTRAL DIRECTORATE

KARACHI

No. BCD. 2/ 81 13TH December, 1981.

NOTIFICATION

In exercise of the powers conferred by sub-Section (4) of Section 34 of the Banking

Companies Ordinance, 1962 (LVII of 1962), the State Bank of Pakistan on the expiry of

period provided for in Notification No. BCD. 1/81 dated the 17th November, 1981, published

in the Gazette of Pakistan, Extra-Ordinary Part III dated the 18th November, 1981, is pleased

to direct that the following amendments shall be made in Form 'B' (form of Profit and Loss

Account) of the Second Schedule to the said Ordinance:

(j) Item I on the "Expenditure" side may be substituted by the following:

"I. Interest on deposits, borrowings etc. and or Return".

(ii) Item I on the "Income" side may be substituted by the following:

"I. Interest and Discount and or Return".

^'Return' means income from, or as the case may, be, paid on, non-interest bearing accounts.

Sd/-

(ZIAUDDIN DAHMAD)

DEPUTY GOVERNOR

Ref: Gazette of Pakistan, Extraordinary, Part III dated December 19,1981—Page 446 and

ERRATA in Gazette of Pakistan, Extraordinary, Part III dated January 18, 1982 Page 14 and

dated Feb. 7, 1982 Page 30.

GOVERNMENT OF PAKISTAN

FINANCE DIVISION

INTERNAL FINANCE WING

Islamabad, the 16th January, 1982.

NOTIFICATION

S.R.O. 41(I) /82.—In exercise of the powers conferred by section 92 of the Banking

Companies Ordinance, 1962 (LVII of 1962), the Federal Government, after consultation

with the State Bank of Pakistan, is pleased to direct that the following further amendments

shall be made in the Banking companies Rules, 1963, the same having been previously

published as required by sub-section (3) of that section, namely:—

In the aforesaid Rules:—

(I) in rule 5 –

(a) after sub-rule (I), the following new sub-rule shall be inserted,

namely:-

“(IA) Where a banking company desires to make deposit in a freely convertible approved foreign exchange, it may, with the permission of the State Bank, make the deposit either in United States dollars or in the currency of the country of its incorporation. The deposit for each year shall be made by such banking company not later than the 31st March of the year and no substitution on that account shall be allowed during the remaining part of that year.

(IB) Any banking company desiring to make deposit in, or make changes in the currency or quantum of deposit already made in, any freely convertible approved foreign exchange may make a written application, not later than the 15th February of the year, to the State Bank for permission to make such deposit or to make such changes to the extent proposed in the application, and the State Bank may, at its discretion, grant or refuse to grant such permission.”; and

(b) after sub-rule(2), the following new sub-rule shall be inserted, namely:-

“(2A) For the purpose of valuation of deposit made in a freely convertible approved foreign exchange on any day—

(a) United States dollar shall be valued at the parity rate of Pakistan rupee to the United States dollar; and

(b) other freely convertible approved foreign exchange shall be valued at the parity equivalent in Pakistan rupee of the United States dollars arrived at on the basis of closing buying rate of

such freely convertible approved foreign exchange in terms of United States dollars in the New York market on the day preceding that day or, if such day is a holiday or not a business day at New York, on the first business day counted backward from such day.”; and

(2) for Form—I the following shall be substituted, namely:-

THE BANKING COMPANIES ORDINANCE, 1962

FORM I (SEE RULES 5 AND 7)

(SECTION 13)

STATE BANK OF PAKISTAN

No. _____ Place _____

Date _____

FINANCE DIVISION

(Internal Finance Wing)

Islamabad, the 17th July , 1984

S.R.O. 64I(I) /84.—In exercise of the powers conferred by section 3A of the

Banking Companies Ordinance, 1962 (LVII of 1962), the Federal Government is pleased to

specify the following corporations and companies for the purposes of the said section,

namely:—

1. National Development Finance Corporation.
2. The Bankers Equity Limited
3. The Pak-Libya Holding Company Limited.

4. The Pakistan Kuwait Investment Company Limited
5. The Saudi-Pak Industrial & Agricultural Investment Company Limited.
6. The Small Business Finance Corporation.

(MOHAMMAD BASHIR)

(No. F.2 (I) IF (R&S)/83). Deputy Secretary (Bkg.)