

THE BANKING COMPANIES ORDINANCE, 1962
(LVII of 1962)

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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.¹
- (3) It shall come into force at once.

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 Ordinance, 1984 (XLVII of 1984), and any other law for the time being in force.

¹ The territories of Pakistan have been defined in Article 1, clause (2) of the constitution of the Islamic Republic of Pakistan as under and extended to A.J. & K by AJ&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. 1 of 1975, Section 2 and the Schedule.

3. Limited application of Ordinance to Co-operative Banks.
(Omitted).¹

3A.² Limited application of Ordinance to certain financial institutions.³ (1) The provisions of sections 6, 13, 25, 25A, 25AA, 29, 31, 32, 33, 40, 41, 41A, 41B, 41C, 41D, 42, 47, 48, 49, 51, 58, 83, 84 and 94 shall, with such modification as the State Bank may determine from time to time in relation to activities which have implications for the monetary or credit policies of the State Bank, apply to the Bankers Equity Limited, the Pak-Libya Holding Company Limited, the Saudi-Pak Industrial and Agricultural Investment Company Limited, the Pak-Oman Investment Company (Pvt) Limited, the Pakistan Kuwait Investment Company Limited the Pak-Brunei Investment Company Limited, the PAIR Investment Company Limited, the House Building Finance Company Limited, the Pak-China Investment Company Limited, and such other companies, corporations or institutions or class of companies, corporations or institutions, 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.

¹ “Omitted” vide section 48 of the Establishment of the Federal Bank for Co-operatives and Regulation of Co-operative 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).

² Substituted vide the banking companies amendment Act 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

³ Sub-section (1) of Section 3A substituted vide the Banking Companies (Amendment) Ordinance, 2002.

4. Power to suspend operation of Ordinance.— (1) The¹ 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.

The Federal Government may, by 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 the² 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 (2) 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

¹ 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.

² The words” shares of the Bankers Equity Limited or” Omitted vide the Banking Companies (Amendment) Ordinance, 2002 (Ordinance No. CXI of 2002), dated 4-11-2002.

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 sub-section;¹

- (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;
- (c) “banking company” means any company which transacts the business of banking in Pakistan and includes their branches and subsidiaries functioning outside Pakistan of banking companies incorporated in Pakistan²;

Explanation.— Any company which is engaged in the manufacture of goods or carries on any trade and which accepts deposits of money from the public 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

¹ 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).

² The text “and includes their branches and subsidiaries functioning outside Pakistan of banking companies incorporated in Pakistan” inserted vide Finance Act, 2007.

participation in profit and loss, mark-up in price, hire-purchase, lease, or otherwise;¹

- (e) “company” means any company which may be wound up under the Companies Ordinance, 1984 (XLVII of 1984)² and includes a branch of a foreign banking company doing banking business in Pakistan under a licence issued by the State Bank in this behalf³;
- (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;⁴
- (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;⁵
- (ffa)⁶ “foreign banking company” means a banking company, not incorporated in Pakistan, which has a branch or branches doing banking business in Pakistan under a licence issued by State Bank in this behalf;
- (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;⁷

¹ 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).

² The text “Companies Act, 1913 (VII of 1913)” wherever occurring, substituted with “Companies Ordinance, 1984 (XLVII of 1984)” vide Finance Act, 2007.

³ The text “and includes a branch of a foreign banking company doing banking business in Pakistan under a licence issued by the State Bank in this behalf” inserted vide Finance Act, 2007

⁴ 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 Pages 681 to 695.

⁵ 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.

⁶ New clause (ffa) inserted vide Finance Act, 2007.

⁷ 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.

- (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 Ordinance, 1984 (XLVII of 1984);
- (k) “registrar” has the same meaning as in, the Companies Ordinance, 1984 (XLVII of 1984);
- (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;¹
- (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;

¹ 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.)

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.¹

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,

¹ 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)¹ 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 species; 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;

¹ 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.

- (aa) the providing of finance as defined in the Banking Tribunals Ordinance, 1984;¹
- (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);²
- (c) contracting for public and private loans and negotiating 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)³ 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 hire-purchase or on deferred payment basis with mark-up or for leasing or licensing or for rent-sharing or for any other mode of financing;⁴

¹ 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.

² 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).

³ 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.

⁴ 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 Pages 681 to 695.

- (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;
- (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 State Bank by circular¹, specify as a form of business in which it is lawful for a banking company to engage.

¹ Substituted vide Finance Act, 2007

(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 - ¹ 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).²

³Provided 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 company⁴ 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.

¹ 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.

² 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 the banking companies amendment Act 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

³ 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, 1975, Page 491—(Effective date of amendment is 29-8-1975).

⁴ 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.

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 7.¹

10. Disposal of non-banking assets.—Notwithstanding anything contained in section 7, no banking company shall, (except as may be permitted by the State Bank from time to time or as is required by it for its own use), hold any immovable property howsoever acquired², 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

¹ 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.

² 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.

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—

- (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; or
- (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 Ordinance, 1984 (XLVII of 1984), 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 by any tribunal or other authority (other than a criminal court) to have contravened the 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 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.

¹13. Requirement as to minimum paid-up capital and reserves.— (1) Subject to sub-section (2) no banking company shall—

- (a) commence business unless it has a minimum paid-up capital as may be determined by the State Bank; or
- (b) carry on business unless the aggregate of its capital and unencumbered general reserves is of such minimum value within such period as may be determined and notified by the State Bank from time to time for banking companies in general or for a banking company in particular.

(2) No banking company incorporated outside Pakistan shall be deemed to have complied with the provisions of sub-section (1) unless it deposits, and keeps deposits, with the State Bank an amount by transfer of funds from outside Pakistan or in the form of assets acquired out of remittable profits made by it from deposits in Pakistan which is not less than what is required to be maintained under sub-section (1), 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.

(3) 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 and notified under that clause to deposit with the State Bank such amount not exceeding the amount by which aggregate value of the capital and unencumbered general reserves of such banking company falls short of the minimum amount of the aggregate of the capital and unencumbered general reserves required to be maintained by such banking company pursuant to clause (b) of sub-section (1) 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.

¹ Section 13 substituted vide Banking Companies (Amendment) Ordinance (Ordinance No. XLVIII of 2000). The Gazette of Pakistan Extra, Part I, of 12th September, 2000 Page 661.

(4) Any amount deposited and kept deposited with the State Bank under sub-section (2) 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 banking company on which the claims of all the creditors of the banking company in Pakistan shall be a first charge.

(5) If any dispute arises in computing the aggregate value of the capital and unencumbered general reserves of any banking company, a determination thereof by the State Bank shall be final.

Explanation.— For the purposes of this section, (a) the expression “value” means the real or exchangeable value or, if the real or exchangeable value exceeds the nominal value, the nominal value; and (b) the expression “capital and unencumbered general reserves” means paid-up capital and such other items as may be notified in this regard by the State Bank from time to time.

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 the 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 and perpetual non-cumulative preference shares only¹;
- (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.

¹ The text “and perpetual non-cumulative preference shares” inserted vide Finance Act, 2007.

(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.

(4)¹ The State Bank, if satisfied, may require any banking company, by an order in writing stating reasons, to increase its paid up capital by such amount and within such period as may be specified in the order and the State Bank shall exercise the power reasonably, fairly and justly.

(5) Notwithstanding any provisions contained in any other law for the time being in force:

- (a) if the State Bank has determined that a person is holding or is a beneficial owner of five percent or more shares of a banking company without prior approval of the State Bank or a person that acquired shareholding with prior approval of the State Bank

¹ Subsection 4 and 5 added vide banking Companies (Amendment) Act, 2011 published in the Gazette of Pakistan, Extra., Part-I, Notification dated April 02, 2011 page 52.

subsequently fails to meet the fit and proper test as the State Bank may, by an order in writing stating reasons, require such person to reduce, divest or transfer to a fit and proper person, his shareholding in the banking company within such reasonable period and in such manner as may be specified in the order;

- (b) where a person holding five percent or more shares of a banking company is or is likely to be detrimental to the interest of the banking company or its depositors, the State Bank may, by an order in writing stating reasons, require such person to divest his shareholding to a fit and proper person. The State Bank shall exercise the power reasonably, fairly and justly; and
- (c) no order under clause (a) or clause (b) shall be made unless the person concerned has been given reasonable opportunity of making a representation to the State Bank against the proposed order;

If the State Bank is of opinion that 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, may make an appropriate interim order, and conduct the proceedings in a reasonably expeditious manner.

The interim order may include prohibition of-

- (i) transfer of, or the carrying out of the agreement or arrangement to transfer such shares;
 - (ii) the exercise of voting rights in respect of such shares;
 - (iii) the payment of cash or stock dividends in respect of such shares; and
 - (iv) the issue of further shares to the concerned shareholder;
- (d) Where direction given under clause (a) or clause (b) is not complied with, the State Bank may dispose of such shares either through stock exchange or public auction. The sale proceeds of such shares, after deduction of any expenses incurred by the State Bank, shall be paid to the respective shareholders within a

period of three months. If necessary, the State Bank may require--

- (i) issuance of duplicate shares in place of the original shares; and
 - (ii) the Central Depository Company to make appropriate changes in their records; and
- (e) any person aggrieved by the decision of the State Bank under clauses (a), (b) and (d), may prefer appeal to the Central Board of Directors of the State Bank but pending decision of the proceedings, the shareholder shall not derive any benefit including dividends, right shares, voting rights, etc. from his shareholding without express permission of the Central Board.

Explanation.---The expression “beneficial ownership” shall include the explanation given in section 224 of the Companies Ordinance, 1984 (XLVII of 1984).

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 Ordinance, 1984 (XLVII of 1984), 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.¹

¹ Section 15A, 15B and 15C inserted vide Banking 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).

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.¹

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:

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 Ordinance, 1984 (XLVII of 1984), 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

¹ The application of provisions of section 15B on privatized banking companies and on the private banks was exempted by the Federal Government vide S.R.O No.569(I)/2000 subject to the condition that exemption under said notification shall apply to such directors of the private banks only who are not in default on account of dues owed to any bank or Financial Institution or on account of default in payment of any taxes as per affidavit prescribed by the State Bank for the purpose (The Gazette of Pakistan, August 17, 2000).

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 any 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 sub-section (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 Federal 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 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) have been completely written off.

(2) Notwithstanding anything to the contrary contained in sub-section (1) or in the Companies Ordinance, 1984 (XLVII of 1984), 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 (other 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 has been made to the satisfaction of the auditor of the banking company.

(3)¹ Notwithstanding anything in sub-section (1) or in the Companies Ordinance, 1984 (XLVII of 1984), if a banking company meets the minimum capital requirement and capital adequacy ratio as specified by State Bank from time to time, and has also accounted for the portion of capitalized expenses, goodwill etc., for the year to the satisfaction of the auditor of the banking company, it shall also be eligible for payment of dividend out of profits of the banking company for the said year.

(4)² If the State Bank is satisfied that conditions are not favourable for such payment, or the financial position of a banking company so warrants, it may, by order in writing stating reasons, restrict or prohibit any banking company from paying dividends to its shareholders for such period as may be specified in the order and the State Bank shall exercise the power reasonably, fairly and justly.

(5) No order shall be made unless the banking company concerned has been given an opportunity of making a representation to the State Bank and where the State Bank is of the opinion that 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, make an appropriate interim order.

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

¹ New sub-section (3) added vide Finance Act, 2007.

² Subsection 4 & 5 added vide Banking Companies (Amendment) Act, 2011 published in the Gazette of Pakistan, Extra., Part-I, Notification dated April 02, 2011 page 54.

- (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.

¹(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 ²
- (b) a person in the service of Pakistan who is not appointed or nominated by Government as a director by virtue of his office.

(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 shareholders of the banking company 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

¹ 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).

² 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).

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.¹

(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.

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 Thursday² of each week of the preceding month with particulars of its time and demand liabilities in Pakistan on each such Thursday² or if any such Thursday² 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,

¹ 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.

² 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.

- ¹ “(aa) the carrying on of banking business strictly in conformity with the Injunctions of Islam as laid down in the Holy Quran and Sunnah;”.
- (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 (XXXI of 1980).²
 - (c) the providing of safe deposit vaults,
 - (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 from of business permitted by section 7; or³
 - (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 paid-up 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

¹ In sub-section (1) of section 23, new clause (aa) inserted vide The Banking Companies (Amendment) Ordinance, 2002 (Ordinance No. CXI of 2002), dated 4-11-2002.

² (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.

³ 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.

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 advances.—(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
 - (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.¹

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.

¹ 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.

(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.¹

(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 default shall, by order of the State Bank, be liable to a penalty of an amount which may extend to ²twenty 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.³

¹ For Sub-section (2) of section 25, substituted vide The Banking Companies (Third Amendment) Ordinance, 1980. The Gazette of Pakistan Extra, Part I, dated 24-12-1980 Page 550.

² In sub-section (3) of section 25 for the words “two” and five hundred” the words “ twenty” and “one thousand” substituted vide the Banking Companies (Amendment) Act, 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

³ Substituted vide the Banking Companies (Amendment) Act 1972 (Act No. XXX of 1972) –The Gazette of Pakistan, Extra Part I dated Oct. 16, 1972 Page 241.

(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.¹

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.

(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.

¹ 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.

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.¹

25AA. ²**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 gain on any constituent or such departure has caused wrongful loss to the bank or conferred wrongful

¹ 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.

² Inserted vide, The Gazette of Pakistan, Extra Part-I dated 30-6-1990, Page-29, (Ord. III of 1989).

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. ¹Recovery 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”² 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.³

26. ⁴Power 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

¹ The words “and other” inserted after the word ‘agricultural’ vide the Banking Companies (Amendment) Act, 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

² Inserted vide Banking Companies (Amendment) Ordinance No. XXIX of 1993, dated 5-10-1993.

³ Inserted Sections 25A and 25B after Section 25 vide the Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of Pakistan Part I Extra, dated Oct.16, 1972—Page 241.

⁴ 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 the Banking Companies (Amendment) Act, 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

notification 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.

¹26A. 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

(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 of the profit

¹ 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.

² No. SRO. 658(I)/85 in the Gazette of Pakistan, Extra, Part-II, dated 3-7-1985, Page 1217.

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.¹

- (5)² Where the State Bank has determined that a banking company,-
- (a) is carrying on its business in a manner detrimental to the interest of its depositors; or
 - (b) is materially unable to discharge its financial obligations or continue its operations; or
 - (c) has failed to meet prescribed capital requirements or cash and liquidity requirements or provisioning requirements or any condition specified in the license or any preventive or remedial measure prescribed by the State Bank,

the State Bank, by an order in writing stating reasons, may impose conditions or restrictions on the banking company on accepting deposits from any class of depositors or type of deposits for such period as may be specified in the order and the State Bank shall exercise the power reasonably, fairly and justly.

(6) No order shall be made unless the banking company concerned has been given an opportunity of making a representation to the State Bank and if the State Bank is of the opinion that 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, may make an appropriate interim order.

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

¹ 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.

² Subsection 5 & 6 added vide Banking Companies (Amendment) Act 2011 published in the Gazette of Pakistan Notification dated April 02, 2011

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.

(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 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 sub-section 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) ¹Any 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) ²The decision of the State Bank subject to the result of review under sub-section (5), if any, shall be final.

³ **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 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.

¹ The words "appeal to the Federal Government" were substituted by the words "apply for revision to the Central Board of the State Bank" vide the Banking Companies (Amendment) Act, 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

² Sub-Section 6 was substituted vide Ordinance No. IX of 1997 dated 21-1-1997.

³ Substituted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-1990, Page 29 to 30.

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 on which the money is so called, invited, collected or received.

¹27B. 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 the provisions 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 places 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 or 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:

¹ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

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

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”¹ shall maintain in Pakistan in cash, gold or unencumbered approved securities valued at a price not exceeding “the lower of the cost or”¹ the current market price an amount which shall not at the close of business on any day be less than “such percentage”¹ of the total of its time and demand liabilities in Pakistan, as may be notified by the State Bank from time to time².

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”³ shall include its approved securities lodged with another institution for an advance

¹ Inserted / Substituted vide Banking Companies (Amendment) Ordinance No. XXIX of 1993, dated 5-10-93.

² 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.

³ Inserted / Substituted vide Banking Companies (Amendment) Ordinance No. XXIX of 1993, dated 5-10-93.

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’¹

(2) In computing the amount provided for in sub-section (1), any deposit required under the proviso to sub-section (2) 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,}¹ including in the case of a scheduled bank the balance required 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 Thursday² during the month, or if any Thursday³ is a public holiday under the Negotiable Instruments Act, 1881 (XXVI of 1881), at the close of business on the preceding working day.

(4)⁴ The cash deposited by a banking company or financial institution under sub-section (1) and by a scheduled bank under the State Bank of Pakistan Act, 1956 (XXXIII of 1956) shall be deemed to be part of the assets of the banking company but shall not be subject to any

¹ A colon 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.

² 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.

³ 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.

⁴ Subsection 4 added vide Banking Companies (Amendment) Act, 2011 published in the Gazette of Pakistan Extra., Notification dated April 02, 2011

encumbrance, nor shall it be available for the discharge of any liability of the banking company or financial institution other than the order of liquidation made by the High Court under this Ordinance, nor shall the said cash deposit be available to attachments in execution of any decree or recoverable under Order of any authority under any law for the time being in force, except any claim of the State Bank.

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 on every Thursday¹ or if any Thursday² 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.

¹ 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.

² 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 or any other currency¹ 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 company² 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 or any other currency³ has been issued, certified or accepted by a banking company at a branch of the banking company⁴ 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

¹ The words “or any other currency” inserted vide The Banking Companies (Amendment) Ordinance, 2002. (Ordinance No. CXI of 2002), dated 4-11-2002.

² The words “in Pakistan” omitted vide The Banking Companies (Amendment) Ordinance, 2002 (Ordinance No. CXI of 2002), dated 4-11-2002.

³ The words “or any other currency” inserted vide The Banking Companies (Amendment) Ordinance, 2002. (Ordinance No. CXI of 2002), dated 4-11-2002.

⁴ The words “in Pakistan” omitted vide The Banking Companies (Amendment) Ordinance, 2002 (Ordinance No. CXI of 2002), dated 4-11-2002.

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;

the banking company shall give forthwith a three months' notice in writing by registered post 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, 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 to 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]¹ 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).

¹ 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.

(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.

(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 other-wise 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 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 bill of exchange or the person in whose name any article stands, or in sub-section (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 sub-section (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 of 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.¹

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 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.

²33A. Fidelity and secrecy.—(1) Subject to sub-section (4), every bank and financial institution shall, except as otherwise required by law,

¹ 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.

² The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

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, adviser, 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 rupees 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 names 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.

¹33B Guidelines by the State Bank.—The State Bank may at any time either on the request of any one or more banking companies or the Federal Government or *sue 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

¹ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

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 rehabilitation 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 sub-section (1) required to be prepared in a form other than the form marked 'F' in the Third Schedule to the Companies Ordinance, 1984 (XLVII of 1984), 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 or profit and loss account, as the case may be, of a banking company.

(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.¹

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

¹ 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.

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. The State Bank shall classify the panel of auditors, so maintained, in different categories for different banking companies keeping in view the scope and size of such banking companies¹.

(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)² If the State Bank is not satisfied with the performance of the auditor of a banking company or the auditor has not fulfilled any of the requirements laid down in this section the State Bank after giving the auditor an opportunity of being heard may,-

- (a) revoke the appointment of external auditors of the banking company;
- (b) downgrade the category of the auditor in the panel of the auditors; and
- (c) remove the auditor from the panel of the auditors for a maximum period of five years.

(4) The auditors shall report all the matters of material significance to State Bank and reporting of such information and material shall not constitute breach of confidentiality under any law for the time being in force.

(5) 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.

(6) Subject to the provisions of sub-section (3), the auditor shall have the powers of, exercise the functions vested in, and discharge the duties

¹ The text "The State Bank shall classify the panel of auditors, so maintained, in different categories for different banking companies keeping in view the scope and size of such banking companies" inserted vide Finance Act, 2007.

² New sub-sections (3) and (4) inserted and existing sub-section (3), (4) & (5) renumbered as (5), (6) & (7) vide Finance Act, 2007.

and be subject to the liabilities and penalties imposed on, auditors of companies by section 145 of the Companies Ordinance, 1984 (XLVII of 1984).

(7) 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
- (e) any other matter which he considers should be brought to the notice of the shareholders of the banking company.¹

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 published in the prescribed manner, and three copies thereof 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,

¹ Substituted vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of Pakistan, Extra, Part I dated Oct. 16, 1972 Page. 246.

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 Ordinance, 1984 (XLVII of 1984), 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 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 Ordinance, 1984 (XLVII of 1984), 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 27A¹ to produce to any officer, hereafter in this section called the inspecting officer, making an inspection under this section, all such books, accounts and other documents in his 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 27A¹ 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 company in relation to its business and may administer an oath accordingly.

(6) ²The 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.

(7) ²Omitted

³**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

¹ 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.

² Sub-section 6 substituted and sub-section 7 omitted vide The Banking Companies (Amendment) Act 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

³ The Banking Companies (Amendment) Act 1997 dated 31-5-1997

management to the Federal Government 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)¹ The State Bank may, from time to time, issue direction, guidelines and instructions with respect to activities and operations of banks and the institutions mentioned in section 3A as may be deemed necessary by it for carrying out purposes of this Ordinance and matters ancillary thereto.

(3) The State Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (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

¹ New sub-section (2) inserted and existing sub-section (2) renumbered as (3) vide Finance Act, 2007.

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 any person authorised by the State Bank in this behalf shall act as such chairman or director or chief executive of the banking company.

(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 or for such extended period as may be specified by the Governor, State Bank of Pakistan.¹

(4) ²Any person appointed as chairman or director or chief executive under sub-section (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 may specify or for such extended period as may be specified by the Governor, State Bank of Pakistan;³ 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 sub-section (1) shall be entitled to claim any compensation for the loss or termination of office.⁴

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.

¹ After the word “order”, at the end, the words and comma inserted. vide The Banking Companies (Amendment) Ordinance, 2002. (Ordinance No. CXI of 2002) dated 4-11-2002.

² In clause (a) for the word “months” the word “years” substituted vide the Banking Companies (Amendment) Act 1997 dated 31-5-1997 (Ordinance No IX of 1997 dated 21-1-1997).

³ After the word “specify”, at the end, the words and comma inserted vide The Banking Companies (Amendment) Ordinance, 2002. dated (Ordinance No. CXI of 2002) 4-11-2002.

⁴ 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.

(2) The period of super session 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 super session does not exceed three years¹ or for such extended period as may be specified by the Governor, State Bank of Pakistan.²

(3) All powers and duties of the Board of Directors shall, during the period of super session, be exercised and performed by such person as the State Bank may from time to time appoint in this behalf.

(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 subsection (2) shall be called in question by or before any court, tribunal or other authority.³

41D. ⁴Prosecution 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 a manner causing loss of depositors' money or of the income of the banking company.

¹ In clause (a) for the word "months" the word "years" substituted vide Ordinance No IX of 1997 dated 21-1-1997.

² After the word "year", at the end, the words and comma inserted vide The Banking Companies (Amendment) Ordinance, 2002. (Ordinance No. CXI of 2002) dated 4-11-2002.

³ Sections; 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.

⁴ Inserted vide the Banking Companies (Amendment) Act 1997 dated 31-5-1997 (Ordinance No.IX of 1997 dated 21-1-1997).

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 State 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 banking 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;
- (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;
- (e)¹ without prejudice to the generality of this section or any provision of this Ordinance-
- (1) if the State Bank is satisfied that one or more of the circumstances exist under which a banking company, –
 - i. has become or is likely to become insolvent;
 - ii. has suspended or is likely to suspend payments as these fall due;
 - iii. has defaulted or is likely to default in making payments to depositors;
 - iv. is carrying on its business in a manner detrimental to the interests of its depositors, creditors or other stakeholders;
 - v. has contravened any provisions or any restrictions or condition imposed on its license;

¹ Subsection 1, sub-clause “e” added vide Banking Companies (Amendment) Act 2011 published in the Gazette of Pakistan Notification dated April 02, 2011

- vi. has engaged any director, chief executive or an officer of a banking company who is or is likely to be detrimental to the interests of the banking company or its depositors or otherwise undesirable;
- vii. has created hindrance, delay or obstruction for the State Bank in performance of its supervisory functions;
- viii. has willfully destroyed, concealed or moved outside of Pakistan all or part of its assets, the administration, operation and books or records;
- ix. has failed to meet capital adequacy or minimum capital requirements prescribed by the State Bank;
- x. has defrauded its depositors and creditors;
- xi. is willfully engaged in or is being used for criminal activities;
- xii. is part of a financial group which is under liquidation, or in respect of which a custodian, receiver, administrator or liquidator has been appointed;
- xiii. is a branch or subsidiary of a banking company whose license to carry on banking business in the country of its origin has been cancelled;
- xiv. has breached requirements under, any document of commitment to the State Bank; or
- xv. is otherwise in a situation or circumstance which in the opinion of the State Bank may materially impair the ability of the banking company to make payments, meet its obligations or otherwise continue its operations,

the State Bank may, keeping in view the gravity of the situation and compliance behavior of the banking company, from time to time, invoke any one or more of the following actions, namely: -

- (i) require the banking company to submit a plan of action to redress any discrepancies;
- (ii) require the banking company or Board of Director of the banking company to furnish documents of commitment for

compliance with the measures prescribed by the State Bank and to secure the interests of its depositors;

- (iii) where the banking company or the Board of Directors fail to provide documents of commitment or fulfill its obligation under the same pursuant to clause (ii), the State Bank may--
 - (a) take any action under sections 41A, 41B or section 47; and
 - (b) carry out any capital reduction and cancel any portion of shares of the banking company which is depleted or unrepresented by available assets or dilute the participation of the existing shareholders by issuing shares to such persons and at such consideration as may be determined by the State Bank. Any order passed by the State Bank under this sub-clause shall have effect notwithstanding the provisions contained in sections 96 to 107 of Companies Ordinance, 1984 (XLVII of 1984) or any other law for the time being in force. The State Bank shall exercise the power reasonably, fairly and justly;

(1A) The State Bank shall provide an opportunity of being heard to the banking company or aggrieved person before making the order and if the State Bank is of the opinion that 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, make an appropriate interim order.

The banking company or the aggrieved person shall have the right to appeal to the Central Board of Directors of the State Bank; and

(1B) Nothing contained in this section shall be read to dilute or affect powers of the State Bank otherwise conferred in the Ordinance.

(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 provisions of the Ordinance not to apply to 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-IIA¹
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, firm² or any other person is transacting in any manner or form whatsoever the business of banking in contravention of sub-section (1) of section 27³ or is receiving or has received deposits of money in contravention of section 27A the State Bank may—

¹ Part IIA inserted vide Banking Companies (Amendment) Ordinance, 1979 (Ordinance No. LVI of 1979). The Gazette of Pakistan, Extra, Part I dated October 8, 1979- Page. 499.

² 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.

³ 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.

- (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 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.

¹43AA. 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 persons from whom the

¹ Inserted the new section 43AA vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page 30 to 31.

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 proceedings 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 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, books 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 claiming to have acquired the property or assets 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, firm¹ or a 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,

¹ 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.

firm or such person an opportunity of showing cause against the proposed action being taken, make a declaration to that effect:

¹ Provided that, in a case in which the State Bank has made an order under sub-section (1) of section 43AA in respect of a 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(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 company or partners, managers, officers, employees or agents of the firm, or such person, or any other person referred to in sub-sections (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 ³or other person in respect of which or whom a declaration 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.

¹ Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-32.

² Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-32.

³ 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-I, dated 30-6-90, Page-32.

(2) The provisions of sub-section (1) and sections 43D, 43E and 43F shall, as far as may be, apply to a company or undertaking which is an associated undertaking of a company, firm¹ 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, firm² 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, firm¹ 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).

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

¹ 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.

² 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.

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, including 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 company, or a partner, 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.¹

(4) Every person who is, or becomes, indebted in any manner to a company, firm² 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 it 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.

³**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,

¹ Following have been made vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-33:-

² 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.

³ Following have been made vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-33:-

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 company, firm or such person so far as may be known to him.¹

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 Ordinance, 1984 (XLVII of 1984).

(2) Where the person in respect of which a declaration has been made under sub-section (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

¹ Section 43E shall be substituted vide Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-33.

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.

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) When 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 High Court may deem fit to confer on him, having regard to 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 sub-section.

(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 Ordinance, 1984 (XLVII of 1984), 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 on 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 or in the interests 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, weather 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)],¹ 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:

¹ The words, comma and figure “Industrial Disputes Ordinance, 1959” substituted by the words, comma, figure and brackets “Industrial Relations Ordinance, 1969 (XXIII of 1969) vide Federal Laws (Revision and Declaration) Ordinance 1981 (Ordinance No. XXVII of 1981). Gazette of Pakistan Extra, Part I. dated July 8, 1981.

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 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 the 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 shall come into force on such date as 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 banking¹

¹ 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.

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.

(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}¹ 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.²

(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 in force.

(16) ³In this section, “banking institution” and “banking company” mean any banking company and includes the National Bank of Pakistan, the Agricultural Development Bank of Pakistan, the Industrial Development Bank, the House Building Finance Corporation, investment finance companies, venture capital companies, housing finance companies, leasing companies and any other financial institution covered under section 3A

48. Procedure for amalgamation of banking companies.—(1) Notwithstanding anything contained in any law for the time being in force,

¹ 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.

² After sub-section 14 amended as aforesaid new sub-section (14A) 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.

³ Substituted vide The Banking Companies (Amendment) Ordinance, 2002. The Gazette of Pakistan, Extra, Part I, dated 4-11-2002.

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 companies concerned and also on all the shareholders thereof;

Provided¹ that in case of foreign banking companies, notwithstanding the fact that the scheme of the amalgamation is not approved by the requisite majority of shareholders, such sanction may be granted by the State Bank, upon a certificate issued by their respective head offices, approving the scheme.

¹ Proviso inserted vide Finance Act, 2007.

(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 the 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 of amalgamation is to acquire the business of the amalgamated banking company, subject in all cases to the terms of the order sanctioning the scheme.

“(7) ¹In this section, “banking company” means any banking company and includes the National Bank of Pakistan, the Agricultural Development Bank of Pakistan, the Industrial Development Bank of Pakistan, the House Building Finance Corporation, investment finance companies, venture capital companies, housing finance companies, leasing companies, branch of a foreign banking company doing business in Pakistan² and any other financial institution covered under section 3A.”

49. Winding up by High Court.—(1) Notwithstanding anything contained in section 153, section 162 and section 271 of the Companies Ordinance, 1984 (XLVII of 1984), 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.

¹ Substituted vide The Banking Companies (Amendment) Ordinance, 2002 (Ordinance No. CXI of 2002) dated 4-11-2002.

² The text “branch of a foreign banking company doing business in Pakistan” inserted vide Finance Act, 2007.

(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 by reason 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 without 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 Ordinance, 1984 (XLVII of 1984), 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 the banking company is unable to pay its debts.

(5) A copy of every application made by the State Bank under subsection (1) shall be sent by the State Bank to the registrar.

(6) Notwithstanding anything contained in the Companies Ordinance, 1984 (XLVII of 1984), 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, for the Province or at a place in the 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 Ordinance, 1984 (XLVII of 1984), 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 to the High Court, whichever is later, then, notwithstanding anything contained in section 176 of the Companies Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), 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 or section 51.

(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 Ordinance, 1984 (XLVII of 1984), 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 the official liquidator.—

Notwithstanding anything to the contrary contained in section 329 of the Companies Ordinance, 1984 (XLVII of 1984), where a winding-up order has been made in respect of a banking company, the official liquidator shall submit a preliminary report to the High Court within ninety days from the date of the winding-up order or where the winding-up order has been made before the 1st day of August 2001, within ninety days there from, giving the information required by section 329 *ibid* so far as it is available to the official liquidator 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 ninety days in order that such assets may be applied speedily towards making priority payments under section 58 and in the discharge, as far as possible, of the liabilities and obligations of the banking company in accordance with the provisions of the section 58, 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 deems fit in any particular case, extend the period of ninety days, referred to in this section, for a further period of sixty days.

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 Ordinance, 1984 (XLVII of 1984), 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 the Companies Ordinance, 1984 (XLVII of 1984),

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 sub-section (1), his claim will not be entitled to be paid under section 230 of the Companies Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), 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. Priority payments to depositors.—(1) In every proceeding for winding-up of a banking company where a winding-up order has been made, within ninety days from the date of the winding-up order or where the winding-up order has been made before 1st day of August 2001, within ninety days therefrom, the payments referred to in sub-section (2) shall be made by the official liquidator or adequate provision for such payments shall be made by him.

(2) Subject to sub-section (3), there shall be paid within the period of ninety days as specified in sub-section (1), in the first place, to every depositor of the banking company a sum of one hundred thousand rupees or the balance at his credit whichever is less

(3) The total amount paid under sub-section (2) shall not exceed a sum of one hundred thousand rupees –

- (i) where a depositor is maintaining more than one account with a banking company; and
- (ii) in the case of joint account holders of an account

(4) Where within the period of ninety days as specified in sub-section (1), full payments cannot be made of the amounts required to be paid under sub-section (2) with the assets in cash, the official liquidator shall pay within that period to every depositor on a pro rata basis so much of the amount due to every depositor as the official liquidator is able to pay with those assets, and shall pay the rest of that amount to every depositor as and when sufficient assets are collected by the official liquidator in cash.

(5) After payments have been made first to depositors in accordance with the foregoing provisions, the remaining assets of the banking company available for payment shall be utilised according to the following order of priority, namely:-

- (a) firstly, for payment of balance due to depositors in accordance with a scheme to be prepared by the State Bank;
- (b) after payments have been made to depositors in accordance with clause (a), secondly, for payment on a pro rata basis to every claimant entitled to preferential payment under section 405 of the Companies Ordinance, 1984 (XLVII of 1984); and after payments have been made in full in accordance with

clauses (a) and (b), thirdly, for payment on a pro rata basis of the debts of the general creditors.

(6) For the purposes of this section, banking companies, financial institutions specified in sub-section (1) of section 3A, leasing companies and modaraba companies shall be treated as general creditors and not depositors.

(7) Subject to sub-section (8), in order to enable the official liquidator to have in his custody or under his control in cash as much of the assets of a banking company as possible, the securities given to every secured creditor may be redeemed by the official liquidator—

- (a) where the amount due to a 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:

(8) 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.

(9) When any depositor, claimant or creditor to whom any payment is to be made in accordance with the foregoing provisions, cannot be found or is not readily traceable, adequate measures shall be taken by the official liquidator for such payment.

(10) 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 depositors pursuant to sub-sections (2) and (4);
- (b) payments to depositors pursuant to clause (a) of sub-section (5);
- (c) payments to preferential claimants pursuant to clause (b) of sub-section (5); and
- (d) payments to the general creditors pursuant to clause (c) of sub-section (5).

(11) The payments to persons in each different class specified in sub-section (10) 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 Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), or the code of Civil Procedure, 1908 (Act V of 1908), or the Code of 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 Ordinance, 1984 (XLVII of 1984), 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 the 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 to 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 of 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 installments.

(9) In any case in which any such lists, settled ex-parte as against any person, 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 a 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 not been settled under section 184 of the Companies Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), 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 proceedings 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 that 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 to 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 any 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 Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), 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.

(3) For the purposes of this section and section 70 of this Ordinance and section 235 of the Companies Ordinance, 1984 (XLVII of 1984), property” includes property transferred or otherwise disposed of by the person 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 Ordinance, 1984 (XLVII of 1984), 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.¹

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 Ordinance, 1984 (XLVII of 1984), 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 that section may be

¹ 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.

applicable; 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 Ordinance, 1984 (XLVII of 1984), and which are not tried in a summary way under sub-section (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 Ordinance, 1984 (XLVII of 1984), or where such sanction has been given and the High Court is of opinion, 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 Ordinance, 1984 (XLVII of 1984), 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 Ordinance, 1984 (XLVII of 1984), 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.

¹(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 or” wherever occurring were omitted; and
- (b) for the words “Federal Government”² wherever occurring the words “State Bank” were substituted.

¹ 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.

² 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.

¹(6) The provisions of sub-sections (3) and (4) shall apply to a banking company other than a banking company in relation to which provision has been made in the preceding sub-sections and, in 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”² 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 compromise or arrangement sanctioned in respect of a banking company under section 153 of the Companies Ordinance, 1984 (XLVII of 1984), 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—

¹ 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.

² 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.

- (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 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 subject-matter 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 persons 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 Ordinance, 1984 (XLVII of 1984), 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 to 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 unenforced 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 references 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

¹**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, and 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;
- (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.

²**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.

¹ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

² The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

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;
- (c)¹ to receive evidence on affidavit;
- (d) to issue commission for the examination of witnesses; and
- (e) in the event that complaints cannot be resolved by consent, to give finding which shall be acted upon in the manner set out herein.

(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 interpretation of any regulations, directions or guidelines, the same shall be referred to the State Bank for clarification.

¹ New clauses (c) & (d) inserted and existing clause (c) renumbered as (e) vide Finance Act, 2007.

- (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; and
- (c)¹ The Banking Mohtasib shall not entertain any complaint or application which has already been disposed of by the State Bank, or any court in Pakistan.

²**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

¹ New clause (c) added vide Finance Act, 2007.

² The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

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.

¹82D. 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 forty-five days¹, the complainant may file a complaint at any time thereafter within a further period of forty-five days:

Provided that the Banking Mohtasib may, if satisfied that there were grounds for the delay in filing the complaint, condone the delay and entertain the complaints.

(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.

¹ The words “three months” occurring twice substituted with “forty-five days” vide Finance Act, 2007.

¹82E. Recommendations for implementation.— (1) In the event the Banking Mohtasib comes to the conclusion that the complaint 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 complainant 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.

¹ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

(4)¹ Any bank, or official of a bank, or a complainant aggrieved by any order passed by the Banking Mohtasib may, within thirty days of the order, prefer an appeal to the Governor State Bank, who shall decide the appeal within sixty days.

(5)² The findings of Banking Mohtasib shall be implemented by the concerned bank or financial institution within forty days and compliance thereof shall be submitted accordingly. In case an appeal against the decision of the Banking Mohtasib is preferred to the Governor State Bank the aforesaid period of forty days shall be reckoned from the date of decision of appeal.

(6) Any order passed by the Banking Mohtasib which has not been appealed against within a period of thirty days³ from the date of order, 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.

(7) Nothing contained herein shall prevent a complainant from filing a suit against a bank in the event his complaint is rejected.

⁴82F. 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:

¹ Sub-section (4) substituted vide Finance Act, 2007.

² New sub-section (5) added and existing sub-section (5) & (6) renumbered as (6) & (7) vide Finance Act, 2007.

³ The text “within a period of thirty days” inserted vide Finance Act, 2007.

⁴ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

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 incases where the Banking Mohtasib is investigating 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.

¹82G. 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.

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 not exceeding five hundred thousand rupees².

¹ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

² The text "not exceeding five hundred thousand rupees" inserted Vide Finance Act, 2007.

¹(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 not exceeding ten million rupees², 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.

³(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 not exceeding the amount of loan, advance or financing facility so extended⁴, or with both, in addition to such other action which may be taken against him in accordance with law;

⁵(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, and the individual and every member of the association or body of individuals, shall be deemed to be

¹ 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.

² The text “not exceeding ten million rupees” inserted vide Finance Act, 2007.

³ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

⁴ The text “not exceeding the amount of loan, advance or financing facility so extended” inserted vide Finance Act, 2007.

⁵ Sub-Section (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.

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.

¹(1C) Whoever contravenes, or attempts to contravene, or abets the contravention of, the provisions of section ¹ [27A or section 43A] or section 43C or sub-section (1) or sub-section (3) or sub-section (4) of section 43D², or section 43E² [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 not exceeding five million rupees³, and, where the contravention is a continuing one, with a further fine which may extend to one hundred⁴ thousand rupees for every day during which such contravention continues.

⁵(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 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.

(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

¹ Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page 33 to 34.

² 43B corrected as 43D Ref. corrigendum published in the Gazette of Pakistan, Extra, Part I, dated March 20,1980, page 39.

³ The text “not exceeding five million rupees” inserted vide Finance Act, 2007.

⁴ The word “ten” substituted with the words “one hundred” vide Finance Act, 2007.

⁵ Substituted sub-sections vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-34. The Banking Companies (Amendment) Act, 1997, dated 31-5-1997

contravention shall be punishable with imprisonment which may extend to three years and with a fine which may extend to the amount of loan so extended and with a further fine which may extend to one hundred thousand rupees for every day during which such contravention continues¹.

(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 hundred² thousand rupees in respect of each offence, and if he persists in such refusal, to further fine which may extend to twenty thousand³ 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.

(5) ⁴If 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 two hundred⁵ thousand rupees, and where a

¹ The text "not exceeding twenty thousand rupees" substituted with the text "which may extend to the amount of loan so extended and with a further fine which may extend to one hundred thousand rupees for every day during which such contravention continues" vide Finance Act, 2007.

² The words "two thousand" substituted with the words "two hundred thousand" vide Finance Act, 2007.

³ The words "one hundred" substituted with the words "twenty thousand" vide Finance Act, 2007.

⁴ Following Substitution was made vide the Banking Companies (Amendment) Act, 1997, dated 31-5-1997 (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".

⁵ The words "twenty" substituted with the words "two hundred" vide Finance Act, 2007.

contravention or default is a continuing one, with a further fine which may extend to ten¹ 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 minimum²

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.²

³(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 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.

(8)⁴ Without prejudice to the provisions of sub-section (5) the pecuniary fines prescribed under this Ordinance shall be imposed and recovered by State Bank:

¹ The word "one" substituted with the word "ten" vide Finance Act, 2007.

² 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 I, dated 24-12-1980, Page 551.

³ 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.

⁴ New sub-section (8) added vide Finance Act, 2007.

Provided that if a banking company fails or refuses to pay the fines or penalties imposed by State Bank under this Ordinance, the State Bank may, without notice to the banking company, debit the amount of default to any account of the banking company held with the State Bank.

¹**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.

²**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:-

¹ The Banking Companies (Amendment) Act 1997 dated 31-5-1997.

² 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.

- (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 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 generally shall not have access to, or be or remain in, the room or building used by the Court.

¹85. 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 Ordinance, 1984 (XLVII of 1984), shall not operate in favour of a private company which is a banking company.

¹ 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.

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 Ordinance, 1984 (XLVII of 1984), 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 a banking company.— Notwithstanding anything contained in the Companies Ordinance, 1984 (XLVII of 1984), 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, ¹15A, 15B, 15C, 20, ¹25, 25A, ²27, ³27A, 35, 41, 41A, 41B, 41C, 42, ²43A, ³43AA, 43B, 43C, 43D, 43E, 43F, 47, and 58 or by reason of the compliance by a banking company with any order or direction given to it under this Ordinance.

¹ 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 (Amendment) Act, 1972 (Act No. XXX of 1972). The Gazette of Pakistan, Extra, Part-I, dated Oct. 16, 1972 Page 237.

² 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.

³ Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-34.

91. Application of certain provisions to banking company incorporated by special enactments of the ¹Federal Legislature.—In the case of a banking company incorporated by a Federal Act (or an Act of Parliament)¹ and not liable to be wound up under the companies Ordinance, 1984 (XLVII of 1984), the provisions of sections 11, (15A, 15C, 16 to 19, 21, 23 to 25B), ²28 to 33, 34 (excluding sub-section (3)), 36, 39, 40, ³41, 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, 27⁴, ⁵27A, 35, 41, 41A, 41B, 41C, 42, 43A, ⁵43AA, 43B, 43C, 43D, 43E, 43F and 84 shall have effect not with-standing 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.⁶

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.⁴

¹ Substituted for the word "Central" and inserted after the word "Central Act" "or an 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.

² 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.

³ The words 41, 41A, 41B, 41C, 41D inserted vide the Banking Companies (Amendment) Act 1997 dated 31-5-1997 (Ordinance No. IX of 1997 dated 21-1-1997).

⁴ 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.

⁵ Inserted vide, The Gazette of Pakistan, Extra Part-I, dated 30-6-90, Page-34.

⁶ New section 91A inserted vide the Gazette of Pakistan, Extraordinary Part-1, dated Oct., 16, 1972, Page 237 vide Banking Companies (Amendment) Act, 1972 (Act No. XXX of 1972)- In section in 91A after the figure 42 "43A, 43B, 43C, 43D, 43E, 43F" inserted vide Banking Companies (Amendment) Ordinance 1979 (Ordinance No. LVI of 1979), the Gazette of Pakistan, Extraordinary Part-1 dated Oct. 8, 1979 Page 449. – In section 91A for the section "13, 15A, 15B, 15C, 21, 24, 25, 25A, 25B", 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-1 dated Dec. 24, 1980 Page-548

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.¹

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the details to be 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 months from the date on which the draft of the proposed rules was published:

Provided that in respect of 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

¹ For the Banking Companies Rules, 1963, see Gazette of Pakistan, Extraordinary, dated July 8, 1963. Page-4402.

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 5.¹

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.

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.²

93C. Exchange of information.—(1) Banking companies may exchange on confidential basis amongst themselves, either directly or through any other person providing credit information services, information about their respective clients.

(2) No suit or other legal proceeding shall lie against the any credit information provider³ or any banking company or any officer of the Pakistan such credit information provider³ 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.¹

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

¹ New Sections 93A, 93B, 93C, 93D and Explanation 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.

² 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.

³ The words “The Pakistan Banking Council” substituted with the words “any credit information provider” vide Finance Act, 2007.

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.¹

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".¹

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 ²[foresaid].

³95. 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.

⁴THE FIRST SCHEDULE
(See Section 95)
REPEALS

-⁵Omitted.

¹ 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.

² The word should read aforesaid.

³ 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.

⁴ 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.

⁵ 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
THE BANKING COMPANIES ORDINANCE, 1962
(See Section 34)

The Second Schedule and related forms have been circulated vide BSD Circular No. 36 dated 10th October, 2001.

THE THIRD SCHEDULE
[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) rate 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:—

STATUTORY RULES AND ORDERS

(Under Section 5-Order)

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 date¹ 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;

(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, pay-office, sub-pay-office or any place of business at which deposits are received, cheques cashed or moneys lent.

[1962 : Ord. LVII]

STATUTORY RULES AND ORDERS

(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 form as the circumstances in the particular case admit, namely:--

Area 1	Name of Office of the State Bank 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. ¹

(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 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 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

¹ 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.

company returns required under the Ordinance or these rules;
and

- (b) the names and addresses of the directors of the banking 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.

¹**[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.

(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.²

(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

(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

¹ The original Rules 5, 7 and 9 substituted by Notification No. SRO 312(R)/65, dated the 6th December 1965. Gazette of Pakistan 1965, Extraordinary Pages 1482 – 1484.

Rule 5 again substituted by Notification No. SRO 431(1)/74 dated 4th April, 1974. Gazette of Pakistan, Extra Part-II dated 4-4-1974 and BCD Circular No. 8, dated 30-5-1974.

² In rule 5 after sub-rule(1) sub-rule(1A) and (IB) 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.

(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.¹

(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.

²[**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 deposit 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 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.

² 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.

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 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 new place 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

¹ Substituted for the original Rule 7 and 9 by Notification No. SRO 312 (R) 65, dated the 6th December 1965, See Gazzette of Pakistan 1965, Extraordinary Page 1482-83

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.

(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 and XII respectively.

[1962 : Ord. LVII]

STATUTORY RULES AND ORDERS

(Under Section 92— Banking Companies Rules)

THE BANKING COMPANIES ORDINANCE, 1962

Form I (See rule 5 and 7)¹

(Section 13)

State Bank of Pakistan

No. _____

Place _____

Date _____

Certified that the State Bank of Pakistan held on behalf of _____
the under noted deposits in terms of Section 13 (3) of the Banking
Companies ordinance, 1962, as at the close of business on _____

Sr. No.	Cash	Approved securities		Market value	Amount of freely convertible approved foreign exchange deposit (Name of currency)		Total deposit under section 13(3)	Remarks
		Particulars	Face Value		Amount of foreign exchange	Parity equivalent in Pak rupees		
1	2	3	4	5	6	7	8	9

Note:- The issue of this certificate renders any previous certificate issued by
the State Bank null and void.

¹ Form 1 substituted—Referecne Finance Division Notification S.R.O. 41(1)/82 dated 16-1-1982. The
Gazette of Pakistan, Extraordinary, part II, dated 19-1-1982 Page. 64.

[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 banking 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 thousand)

1 st	2 nd	3 rd	4 th	5 th
Thursday	Thursday	Thursday	Thursday	Thursday
<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>

A. Liabilities:

1. Demand Liabilities.
2. Time Liabilities.
3. Total Demand and Time Liabilities _____

B. Minimum amount of cash reserve 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). _____

¹ Give dates.

C. Cash reserve:

1. Cash¹
 - (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 Bank²
4. Total of C(1) C(2) and C(3)²

Date.....

Signature

THE BANKING COMPANIES ORDINANCE, 1962

FORM III (See rule 17)

(Section 24)

Name of the banking Company.....

Name and designation of the officer submitting the return.....

Statement for the month of.....19.....of unsecured loans and advances (including bills purchased and discounted) granted (in Pakistan) to companies in which the banking company or any of its directors is interested as director, managing agent or guarantor.³ (To be submitted to the State Bank before the close of the month succeeding that to which the return relates.)

¹ Cash must not include balances at other banks or any item other than currency notes, rupee coin (including one rupee notes) and subsidiary coin.

² Item 3, substituted and item 4 added vide Notification SRO 285 (1)/70 dated 21-11-1970 Gazette of Pakistan, Extra.

³ The statement should include loans and advances (including bills purchased and discounted) granted during the month or previously and repaid during the month or outstanding on the last working day of the month.

A.—Statement of unsecured loans and advances (including bills purchased and discounted) granted to public companies in which the banking company is interested as director, managing agent or guarantor and to private companies in which the banking company is interested as director or guarantor.

(Rounded off to the nearest thousand.)

Name of the company to which the advance has been made	Nature of interest in the company (whether director, managing agent, guarantor, etc.)	Date of advance	Date of repayment	Amount outstanding on the last working day of the month	Highest outstanding during the month	Lowest outstanding during the month	Rate of interest	Nature of advance (whether loan, overdraft cash Credit, purchase or discount of bills, etc.)	Remarks
1	2	3	4	5	6	7	8	9	10

Total of column 5 _____

B.— Statement of unsecured loans and advances (including bills purchased and discounted) granted to public companies in which any of directors of the banking company is interested as director, managing agent or guarantor and to private companies in which any of the directors of the banking company is interested as director.

(Rounded off to the nearest thousand)

Name of the director of the banking company who is interested	Name of the company to which the advance has been made	Relation of the director of the banking company to the company (whether director, managing agent, guarantor, etc.)	Date of advance	Date of repayment	Amount outstanding on the last working day of the month	Highest outstanding during the month	Lowest outstanding during the month	Rate of interest	Nature of advance (whether loan, overdraft, cash credit, purchase or discount of bills, etc.)	Remarks
1	2	3	4	5	6	7	8	9	10	11

Total of column 6 _____

Date-----

Signature-----

Note- In case a banking company has no loans or advances to report the fact may be reported in a letter.

THE BANKING COMPANIES ORDINANCE, 1962

Form 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 license to commence banking business.

We hereby apply for a license 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 office 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.

.....

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	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 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 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.B¹

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, information under items 2,3,4,6,7 and 8 need not be supplied unless there is any change since the last application.

THE BANKING COMPANIES ORDINANCE, 1962
FORM V (See rule 10)
(Section 27)

Form of application for a license to carry on banking business 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 license to carry on a banking business

We hereby apply for a license to 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. 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.

 - (b) Give the name of the chief
executive officer, his qualifications,
experience, age and the
remuneration paid

8. Existing Offices ¹:
Give the number of offices¹ 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.)

¹ Includes the registered office and all places of business at which deposits are received, cheques cashed or moneys lent.

11. State whether the banking company
Fulfills 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.
12. Any additional facts which the banking
company may wish to adduce in
support of its application.

N.B—¹

¹ (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.

THE BANKING COMPANIES ORDINANCE, 1962

Form VI (See rule 10)

(Section 27)

Form of application for a licence to¹ 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 to² commence / carry on banking business in Pakistan.

We hereby apply for a license to¹ 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.

¹ The portion not applicable to be struck off.

² The portion not applicable to be struck off.

4. Date of incorporation.
5. Country or State in which the banking company is incorporated.
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 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:¹
Give the number of offices¹ in Pakistan and a brief description of the system of supervision and control over the offices¹
- (b) For a company desiring to commence banking business in Pakistan:
State detailed reasons for an office¹ in Pakistan and give statistical and other data, as under, which may have been collected in respect of the area which the company intends to serve.

¹ Includes all places of business at which deposits are received, cheques cashed or moneys lent.

- (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	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. Export and Import Bills	Amount in thousands of rupees	Rates proposed to be allowed on various types of deposits	
------------------------------	-------------------------------	---	--

9. State what arrangements have been made to ensure compliance with the provisions of sub-section (3) of Section 13 of the Ordinance.
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.
12. Any additional facts which the banking company may wish to adduce in support of its application.

N.B.¹

-
- 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

Date

Banking Control Department,
State Bank of Pakistan,
Karachi.

Dear Sir,

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 of the Banking Companies Ordinance, 1962. We give below the necessary information for the purpose.

Yours faithfully,

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
- (b) Give the name of the officer-in-charge of the proposed office, his qualifications, experience, age, and remuneration 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 making losses, also give details as in Table 'A'
- (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 proposed office
- (b) Reasons for the proposed office
- State detailed reasons for the proposed office and give statistical 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 industrial production, and imports and exports of the area of operation of the proposed office as under:

Commodity	Production		Imports		Exports	
	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 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 reasons

(v) Prospects:
Give as under an estimate of the minimum business which the banking company 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 authorised, subscribed and paid-up capital and reserves of the banking company as on the date of the application.

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)

TABLE A

Name of the Banking company-----

Number of existing offices making losses -----

Name of Place	Description i.e., whether branch, sub-office, pay-office, sub-pay-office,etc.	Date of Opening	Amount of loss during the preceding year	Deposits	Advances	Remarks
				As on the date of the last balance-sheet		
1	2	3	4	5	6	7

TABLE 'B'

Particulars regarding offices which have been in existence for less than three years on the date of application.

As on the date of the last balance sheet

(Rounded off to the nearest and thousand)

Name of Place	Description i.e., whether branch, sub-Office, pay-office, sub-pay-office,etc.	Date of opening	DEPOSITS				ADVANCES				Remarks
			Current	Savings	Others	Total	Secured	Unsecured	Doubtful or bad	Total	
1	2	3	4	5	6	7	8	9	10	11	12

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 offices¹ in Pakistan as on the last day of the quarter ended.....

Name of place where the banking company has an office (may be arranged in alphabetical order)	District and Province
1	2

(b) Statement of offices¹ opened in Pakistan during the quarter ended.....

Name of the place	District and Province	Date of opening the office
1	2	3

¹ Includes the registered office and all places of business at which deposits are received, cheques cashed or moneys lent.

(c) Statement of offices¹ in Pakistan closed during the quarter ended
.....

Name of the place	District and Province	Date of closing the office
1	2	3

Date.....

Signature.....

¹ Includes the registered office and all places of business at which deposits are received, cheques cashed or moneys lent.

[1962 : Ord. LVII]

STATUTORY RULES AND ORDERS

(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

1 st	2 nd	3 rd	4 th	5 th
Thurs- Day	Thurs- day	Thurs- day	Thurs- day	Thurs- day
1	2	2	2	2

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.

¹ Give date (where Thursday is a holiday under the Negotiable Instruments Act, the preceding working day).

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).

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).

¹(iii) Foreign currency deposits held abroad on account of the State Bank.

(Name of the Currency)

7. Total of the above assets.

¹ 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.

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.....

[1962 : Ord. LVII]

STATUTORY RULES AND ORDERS

(Under Section 92— Banking Companies Rules)

THE BANKING COMPANIES ORDINANCE, 1962

Form 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

(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

1 st	2 nd	3 rd	4 th	5 th
Thurs- Day	Thurs- day	Thurs- day	Thurs- day	Thurs- day
1	1	1	1	1

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.*

¹ Give date (where Thursday is a holiday under the Negotiable Instruments Act, the preceding working day).

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).
9. *Investments:*
 - (a) Federal and Provincial Governments Securities including Treasury Bills
 - (b) Other securities, shares debentures, 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 XI (See rule 17)

(SECTION 31)

Name of the banking company.....

Name and designation of the officer submitting the return

Return of unclaimed accounts in Pakistan which have not been operated upon for 10 years or more as on the date of the return.

As on the 31st December,

(To be submitted to the State Bank within thirty days after the close of each calender year).

Name of office or branch of the banking company	Name and address of the deposit or	Balance outstanding	Nature of account (whether current, savings, fixed or other accounts of the nature of deposits)	Date of last deposit or withdrawal	Reasons, if any why not operated upon	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Balance brought forward from the previous return ¹.
Interest allowed, if any, during the year¹.
Additions since the date of the last return ².
Withdrawals since the date of the last return ².

Total: _____
Total: _____
Total: _____

Balance as at the close of the year

Date.....

Signature.....

¹ Only totals may be given under column 3.

² Particulars to be given under all columns.

N.B.- The particulars required by this form should be given to the extent to which they are available.

[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, 20

(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:

1. Paid-up capital.¹
2. Reserve Fund and other reserves
3. Demand Deposits and contingency
- (a) Demand Deposits from banking Companies
- (b) Demand Deposits from others and contingency (unadjusted) accounts.
4. Time Deposits:
 - (a) From banking companies
 - (b) From others.
5. Borrowing from other banking companies
6. Bills payable.

¹ 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.

7. Branch Adjustments.
8. Other liabilities¹ (give details).

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
5. Money at call and short notice.
6. Bills purchased
7. Bills discounted
8. *Investments:*
 - (1) In Government securities (including Treasury Bills)--
 - (i) Government Securities--
 - (a) Central Government
 - (b) Provincial Government
 - (ii) Treasury Bills
 - (a) Central Government
 - (b) Provincial Government
 - (2) Other Investments
 - (a) Securities of local authorities (e.g. municipalities, port trust, etc.)
 - (b) Shares, debentures, etc.
 - (c) Others.
9. Loans, advances, cash credits and overdrafts (excluding due from banks)
10. Due from banking companies

¹ The balance of Profit and Loss Account, if any, should be included in items A8 and B13 as the case may be.

- 11. Premises, furniture, fixture and other fixed assets.
- 12. Branch Adjustments.
- 13. Capitalised expenses, including preliminary expenses, organization expenses, share selling commission, brokerage amounts of losses incurred and any other item of expenditure not represented by tangible assets¹
- 14. Other tangible assets (give details)

Total

Date.....

Signature.....

¹ The balance of Profit and Loss Account, if any, should be included in items A8 and B13 as the case may be.

THE BANKING COMPANIES ORDINANCE, 1962

FORM XIII ¹(See rule 15)

[Section 63(2)]

In the High Court of Judicature atJurisdiction No.....of 19.....In the matter of the Companies Ordinance, 1984 And in the matter of the banking Companies Ordinance, 1962 And in the matter ofa Banking Company List of Debtors ofordered to be wound up on

1	Serial No.
2	Name and address of debtor
3	If the original debtor is dead, give names and addresses of his legal representatives. (If the original debtor dies after this list is filed in Court but before it is settled, substitute the names and addresses of his legal representatives.)
4	If the original debtor is an insolvent, give the name and address of the assignee or receiver of his estate. If the original debtor is adjudged insolvent after this list is filed in Court but before it is settled, the name of such assignee or receiver shall be added.
5	Amount of debt due.
6	Rate of interest, if any, and the date up to which such interest has been calculated.
7	Description of papers, writings and documents if any, relating to the debt.
8	Whether in respect of the debt the banking company holds personal security only or no security.
9	Whether in respect of the debt the Banking company holds security other than personal security, if so, give the nature and particulars of the security including the estimated value of the security, names and addresses of persons having interest in such security or a right of redemption therein.
10	Particulars of guarantee where debt is guaranteed including names and addresses of guarantors and extent of guarantee.
11	Description of papers, writings and documents in support of the guarantee where debt is guaranteed.
12	Relief or reliefs claimed.
13	Remarks.

Dated this.....day of19.....at
(See Gazette of Pakistan, 1963, Extraordinary, Pages 440 a-440ae).

¹ This List should be verified by means of an affidavit.

[1962 : Ord. LVII]

STATUTORY RULES AND ORDERS

(Under Section 93— Banking Companies Rules)

**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]

[1962 : Ord. LVII]

STATUTORY RULES AND ORDERS

(Under Section 93— Banking Companies Rules)

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)

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).

[1962 : Ord. LVII]

STATUTORY RULES AND ORDERS

(Under Section 93— Banking Companies Rules)

**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 sub-section (I) 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 on the 22nd August 1966 has been pleased to authorize the incumbents of the posts of Chief Officer, Senior Deputy Chief Officers, 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;
 - (c) 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 26-11-1970 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 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 DESIGNATIONS OF OFFICERS CLASS II
AND ABOVE**

SI. No.	Department	Existing Designation	Proposed Designation
1	2	3	4
1.	Administration Deptt. (Old Personnel Deptt.)	Deputy Director of Personnel Asstt. Director of Personnel Staff Officer (Staff Section) Personnel Officer Accounts Officer (General/ Medical Sections). Asstt. Personnel Officer, Asstt. Staff Officer, Asstt. Accounts Officer (General/ Medical Sec.) and Duty Officer.	Deputy Director. Asstt. Director. Administrative Officer. Administrative Officer. Administrative Officer. Asstt. Administrative Officer.
2.	Accounts Department Chief Accountant's Department).	Senior Deputy Chief Accountant Deputy Chief Accountant Asstt. Chief Accountant Senior Auditor Audit Officer Assistant Audit Officer.	Senior Deputy (Old Director). Deputy Director. Assistant Director. Deputy Director. Accounts Officer. Assistant Accounts Officer
3.	Exchange Control Department	Deputy Controller	Senior Deputy Director.

1	2	3
4. Banking Control Department	Senior Deputy Chief Officer	Senior Deputy Director.
	Senior Assistant Controller Asstt. Controller	Deputy Director. Asstt. Director.
	Deputy Chief Officer Asstt. Chief Officer	Deputy Director. Asstt. Director.
5. Agricultural Credit Department	Senior Deputy Chief Officer	Senior Deputy Director.
	Deputy Chief Officer Asstt. Chief Officer	Deputy Director. Asstt. Director.
6. Audit Department (Old Inspection Department)	Inspecting Officer	Audit Officer.
	Assistant Inspecting Officer	Assistant Audit Officer.

Note.— The designations of Officers working at other Offices 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 on 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 per 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'

Sl. No.	Old designation	Changed designation
1.	Chief Accountant	Director, Accounts Department
2.	Controller of Foreign Exchange	Director, Exchange Control Department.
3.	Chief Officer, Banking Control Department	Director, Banking Control Department.
4.	Director of Inspection	Director, Audit Department.
5.	Director of Personnel	Director, Administration Department.
6.	Chief Officer, Agricultural Credit.	Director, Agricultural Credit Department
7.	Director of Research	Director, Research Department.
8.	Director of Statistics	Director, Statistics Department.
9.	Director of Training, Department of Banking Education and Training.	Director, Training Department.
10.	Director of Public Relations and Bank's Archives	Director, Public Relations Department.
11.	Additional Chief Accountant (Central Directorate).	Additional Director, Accounts Department(Central Directorate)
12.	Additional Controller of Foreign Exchange	Additional Director, Exchange Control Department.
13.	Additional Chief Officer, Banking Control Department	Additional Director, Banking Control Department.
14.	Additional Chief Officer, Agricultural Department	Additional Director, Credit Agricultural 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 sub-section (I) of section 29 of the Banking Companies Ordinance, 1962 (LVII of 1962), 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 Nos. 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 realised 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	State Bank of Pakistan, Province. Post Box No. 28, Peshawar.
4. Province of Balochistan.	State Bank of Pakistan, Kimberly Road, Quetta.
5. Islamabad Capital Territory.	Sate 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) Sind 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 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.”,

- (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 _____

Certified that the State Bank of Pakistan held on behalf of
..... the under noted deposits in terms of section
13(3) of the Banking Companies Ordinance 1962, as at the close of business
on _____

Sr. No	Cash	Approved Securities		Market Value	Amount of freely convertible approved foreign exchange deposit (Name of currency)		Total deposit under section 13(3)	Remarks
		Particulars	Face Value		Amount of foreign exchange	Parity equivalent in Pak rupees		
1	2	3	4	5	6	7	8	9

RP— $\frac{1}{2}$

(3) in Form IX, under the heading “B. Liquid Assets”, in entry 6, after clause (ii), the following new clause shall be inserted, namely:-

“(iii) Foreign currency deposits held abroad on account of the State Bank.

(Name of the currency)

(No. F. 1(51)---BKG.IV/80-765.)

MIRZA MOHAMMAD ISHAQ,
Section Officer.

Ref: Gazette of Pakistan, Extra, Part II, dated 31-5-1981 Page, 959.

**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:

- (i) 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 AHMAD)
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:-

(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 _____

Certified that the State Bank of Pakistan held on behalf of _____ the under noted deposits in terms of section 13(3) of the Banking Companies Ordinance 1962, as at the close of business on _____

Sr. No.	Cash	Approved Securities		Market Value	Amount of freely convertible approved foreign exchange deposit (name of currency)		Total deposit under section 13(3)n	Remarks
		Particulars	Face Value		Amount of foreign exchange	Parity equivalent in Pak. rupees		
1	2	3	4	5	6	7	8	9”; and

(3) in Form IX, under the heading “B. Liquid Assets”, in entry 6, after clause (ii), the following new clause shall be inserted, namely:-

“(iii) Foreign currency deposits held abroad on account of the State Bank.

(Name of the currency)

Sd/-
MIRZA MOHAMMAD ISHAQ,
Section Officer.

(No. F. 1(51) BKG.IV/80.)

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.

No. F.2 (I) IF (R&S)/83)

Sd/-
(MOHAMMAD BASHIR)
Deputy Secretary (Bkg.)

RECORD OF AMENDMENTS

Reference of Ordinance/Act and Amendments	Brief Description of Date of Gazette