

Removal of
difficulties.

34. If any difficulty arises in giving effect to any provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purposes of removing the difficulty :

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

Repeal.

35. The Marketing of Petroleum Products (Federal Control) Ordinance, 1974 is hereby repealed. H.O. 1974.

THE SCHEDULE

(See section 14)

Principles and the manner for payment of compensation in respect of the shares of a marketing company acquired by the Federal Government.

1. Where the whole or a portion of the shares of such marketing company is acquired by the Federal Government, the value of the compensation for the shares so acquired shall be assessed at the break-up value.

2. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of 15 years carrying a rate of interest one per cent above the bank rate notified by the State Bank of Pakistan from time to time. The Bonds shall be negotiable and eligible as security for advances.

3. In this Schedule—

"Break up Value" shall mean the value of the shares of a company as determined by the auditors of such company on the basis of its latest audited annual Balance Sheet, in accordance with clause (c) of rule 8 of the Wealth-Tax Rules.

THE PAKISTAN MARITIME SHIPPING (REGULATION AND CONTROL) ACT, 1974.

CONTENTS

SECTIONS

1. Short title, extent, application and Commencement
2. Definitions
3. Declaration
4. Act to override other laws
5. Power to take over management or acquire shares or business of an establishment
6. Appointment of Managing Directors
7. Board of Management
8. Functions of Board
9. Funds of the Board
10. Officers, etc., of the Board
11. Adoption of balance sheet
12. Regulations
13. Delegation of powers, etc.
14. Acquisition of shares
15. Reorganisation of establishment
16. Continuation in service
17. Prohibition to obstruct
18. Debtor
19. Creditor
20. Power to revoke Contract, etc.
21. Right of shareholders
22. Continuance in service of employees on transfer to a corporation
23. General effect of vesting of establishment
24. Duty to deliver possession of property and documents relating thereto

SECTIONS

25. Provident, superannuation and other like funds
26. Minimum return
27. Bar of jurisdiction
28. Indemnity
29. Penalties
30. Composite enterprises and organisations
31. Saving
32. Power to make rules
33. Removal of difficulties
34. Repeal

THE SCHEDULE.

ACT No. XVIII of 1974

[7th March, 1974]

An Act to regulate the operation and future development of the maritime shipping.

WHEREAS it is expedient to provide for regulating the management, operation and future development of maritime shipping, so as to maintain services essential to the life of the community and to promote foreign trade, and to provide for matters connected therewith or incidental thereto ;

It is hereby enacted as follows :—

1.—(1) This Act may be called the Pakistan Maritime Shipping (Regulation and Control) Act, 1974.

Short title,
extent,
application
and com-
mencement.

(2) It extends to the whole of Pakistan and applies to all ships and vessels registered in Pakistan or owned exclusively by persons domiciled, or bodies corporate registered, in Pakistan.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

XXX-
III
of
1956.

- (a) "bank rate" means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 ;
- (b) "Board" means a Board of Management set up under section 7 ;
- (c) "company" includes a corporation set up by or under any law ;
- (d) "corporation" means a corporation to which an establishment is transferred under section 13 ;
- (e) "creditor" means any person to whom a managed establishment owes any amount of money ;
- (f) "debtor" means a person who owes any amount of money to a managed establishment ;
- (g) "establishment" means any company, firm, concern, institution or enterprise the whole or any part of the undertaking of which pertains to the industry and includes any related office, shop, factory, godown, yard, stocks and stores, wherever they may be ;
- (h) "industry" means the maritime shipping industry ;

¹ For Statement of Objects and Reasons, see Gaz. of P., 1974, Ext., Pt. III, p. 136.

126

- (i) "Managing Director" in relation to an establishment means the Managing Director appointed under section 6 in respect of such establishment;
- (j) "managed establishment" means an establishment in respect of which a Managing Director has been appointed;
- (k) "previous management" in relation to an establishment means the person, board of directors or other body or authority in whom or in which the management of the establishment vested immediately before the appointment of a Managing Director in respect thereof;
- (l) "shareholder" means a shareholder in the share capital of an establishment, and includes a stockholder;
- (m) "person" includes an individual, a Hindu undivided family, a partnership firm and an association of persons or a body of individuals, Government of a Province and a local authority;
- (n) words and expressions used but not defined in this Act shall have the same meaning as in the Companies Act, 1913.

VII
of
1913.

Declaration.

3. It is hereby declared that the industry shall be carried on and owned by the Federal Government or by a corporation controlled by it, to the exclusion of all other persons, except a foreign investor.

Act to
override
other laws.

4. The provisions of this Act shall have effect notwithstanding anything contained in the Companies Act, 1913, or the Companies (Managing Agency and Election of Directors) Order, 1972, or any other law for the time being in force or in any agreement, contract, memorandum or articles of association of a company.

VII
of
1913.
P.O.
No. 2
of
1972.

Power to
take over
manage-
ment or
acquire
shares or
business of
an estab-
lishment.

5.—(1) The Federal Government may, if it considers necessary in the public interest so to do, by an order in writing,—

- (a) take over the management of any establishment and, as from the date of such order, the previous management shall stand divested of such management;
- (b) in the case of an establishment which is a company or an establishment owned by a company,—
- (i) acquire the whole or a portion of the shares from all or any of the shareholders of such company and, as from the date of such order, the shares so acquired shall vest in the Federal Government; or
- (ii) acquire the whole or a portion of the proprietary interests of such company in such establishment and, as from the date of such order, the interests so acquired shall vest in the Federal Government; and

- (c) in the case of an establishment owned by a person, acquire the whole or a portion of the proprietary interests of such person, and as from the date of the order the interests so acquired shall vest in the Federal Government;

Provided that no order shall be made under this section for the acquisition of the shares held in an establishment by an institution owned or controlled by the Federal Government, including the National Investment Trust and the Investment Corporation of Pakistan, or the shares held by a foreign investor:

Provided further that in the case of an establishment which is a company or an establishment owned by a company, the Federal Government may, by notification in the official Gazette, exempt from acquisition shareholdings of any shareholder up to such maximum amount as may be specified in the notification.

(2) Where the Federal Government makes an order under sub-section (1) in respect of an establishment which is a company or is owned or controlled by a company, no dealings or business relating to the shares of such company shall be transacted on any stock exchange and no transfer of such shares shall be registered in the share register of the company for a period of ninety days from the date of such order or such shorter period as may be notified by Government.

6.—(1) Where the Federal Government has made an order under section 5 in respect of an establishment, it may appoint a Managing Director in respect of such establishment.

Appoint-
ment of
Managing
Directors.

(2) Upon the appointment of a Managing Director in respect of an establishment, the administration and management of the affairs of the establishment shall vest in the Managing Director, and any company or person or authority exercising or having the right to exercise, immediately before such appointment, any power or function in relation to the establishment shall cease to exercise or to have the right to exercise such power or function.

(3) The Managing Director shall—

- (a) hold office during the pleasure of the Federal Government;
- (b) in the discharge of his functions, be subject to such orders and directions as the Federal Government or the Board may from time to time give in writing; and
- (c) receive such remuneration and be subject to such other terms and conditions of appointment and service as the Federal Government may determine.

(4) The Managing Director appointed in respect of an establishment shall exercise and perform—

(a) if such establishment is a company or is owned or controlled by a company, all the powers and functions of the Board of Directors ; and

(b) if such establishment is owned or controlled by a person, all the powers and functions of that person.

Board of
Management.

7.—(1) The Federal Government may, by notification in the official Gazette, set up a Board of Management to control, manage and direct the affairs of establishments in respect of which Managing Directors have been appointed and, where it sets up more than one Board, shall specify in the notification the establishment or class of establishments in respect of which each Board shall exercise its powers and perform its functions under this Act.

(2) A Board shall consist of a Chairman and such number of members, not exceeding nine, as the Federal Government may appoint.

(3) A Board shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property, and shall by the name assigned to it by the notification issued under sub-section (1) sue and be sued.

(4) The Chairman and members of a Board shall hold office during the pleasure of the Federal Government on such terms and conditions as it may determine.

(5) At any time when the office of Chairman is vacant or the Chairman is absent or is unable to perform the functions of his office due to any other cause, the Federal Government may appoint any member of the Board to act as Chairman until a Chairman is appointed or, as the case may be, the Chairman resumes his functions.]

Functions
of Board.

8.—(1) The functions of the Board shall be to ensure that the establishments in respect of which it is to exercise and perform its powers and functions under this Act are managed efficiently and in accordance with sound business principles and, in respect of any such establishment, the Board may, from time to time,—

(a) exercise such of the powers of the Managing Director and issue such directions to him as it may consider necessary ;

(b) require the Managing Director to furnish it with such information relating to the affairs of the establishment in respect of which he is the Managing Director as the Board may require in connection with the performance of its functions ; and

X of
1961.

(c) remove from office its auditor and appoint another person, who is a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961, to hold that office for such period and on such remuneration payable by the establishment as the Board may determine.

(2) The exercise by the Board under sub-section (1) of the powers of a Managing Director shall have effect as if it were the exercise of those powers by the Managing Director himself.

(3) It shall be the duty of a Managing Director to comply with all directions issued to him by the Board under sub-section (1) and to furnish the Board with the information required by it.

9.—(1) There shall be constituted for a Board a fund to which shall be credited all sums received by the Board under sub-section (2) and out of which shall be defrayed all expenditure incurred by the Board, including expenditure on the emoluments of the Chairman, members and officers, servants, experts and consultants of the Board.

Funds of
the Board.

(2) The Managing Director in respect of every managed establishment shall make to the Board each year such payment to enable it to defray its expenses as the Board may, with the prior approval of the Federal Government in writing, demand of him :

Provided that the aggregate amount of payments so demanded of the Managing Directors in any year shall not exceed by more than ten per cent the amount of the estimated expenditure of the Board in that year.

10.—(1) A Board may from time to time appoint such officers, servants, experts and consultants as it may deem fit.

Officers, etc.,
of the
Board.

(2) A Board may appoint one or more committees of the Board with such composition and functions as it may determine.

11. In the case of a managed establishment owned or controlled by a company, the general meeting of the company before which a balance sheet is laid shall not, if the Federal Government by order in writing so directs, have the authority to refuse to adopt the balance sheet, but nothing in this section shall be construed to prevent any share-holder from expressing his views on the financial affairs of the establishment and a record of the proceedings of such meeting shall be forwarded to the Federal Government not later than fifteen days of the meeting.

Adoption
of balance
sheet.

12.—(1) A Board may, with the prior approval in writing of the Federal Government, make such regulations as appear to it to be necessary for carrying out the purposes of this Act.

Regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for the manner of payment and collection of the payments required to be made by the Managing Directors under sub-section (2) of section 9.

Delegation
of powers,
etc.

13.—(1) The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Act shall, in such circumstances and subject to such conditions, if any, as may be specified in the notification, be exercisable also by a Board or its Chairman.

(2) A Board may, with the previous approval in writing of the Federal Government, direct that all or any of its powers under this Act shall, in such circumstances and subject to such conditions, if any, as may be specified by the Board, be exercisable also by the Chairman or a member of the Board or a committee of the Board.

(3) Where the Federal Government has taken over the management of an establishment under section 5, it may transfer the management of the establishment to a corporation wholly owned or controlled by Government or a corporation set up for the purpose, on such terms and conditions as the Federal Government may specify.

129
(4) Where the Federal Government has acquired the shares or proprietary interests of an establishment under section 5, it may transfer the shares or proprietary interests to a corporation wholly owned or controlled by the Government or a corporation set up for the purpose, on such terms and conditions as the Federal Government may specify.

(5) The Federal Government may, from time to time, issue such directions to, and call for such information or report from, a Board as it may deem necessary.

Acquisition
of shares.

14. Where, under section 5, the Federal Government orders acquisition of the whole or a portion of the shares of the share-holders of any company or of the proprietary interests of a company or other person in an establishment it shall acquire the shares or interests within a period of ninety days on payment of such compensation as may be determined by the Federal Government on the basis of the principles set out in the Schedule.

Reorga-
nisation of
establish-
ment.

15.—(1) Where, in respect of any managed establishment which is a company or is owned or controlled by a company, the Federal Government holds or has acquired the whole or a majority portion of the shares in the company carrying the controlling voting rights, or where the Federal Government has acquired the whole or a controlling portion of the proprietary interests in an establishment, the Board may prepare a plan for the reorganisation of such establishment with a view to increasing its efficiency and rationalising its operation, hereafter in this section referred to as the reorganisation plan.

(2) The reorganisation plan may include provision for amalgamation of managed establishments and, in the case of

establishments which are companies or are owned or controlled by companies, may provide for a scheme for the reconstruction of any such company or companies, or amalgamation of any such two or more companies and such a scheme may provide for all or any of the matters contained in section 153 or section 153B of the Companies Act, 1913, or for alteration of share capital or loan structure and alteration of existing, or adoption of fresh memorandum or articles of association of such companies

VII of
1913.

(3) The reorganisation plan shall be submitted to the Federal Government for approval and shall be simultaneously published in the official Gazette accompanied by a certified statement showing the value of the holdings of the shares or proprietary interests of the Federal Government in the establishment covered by the plan, on the date of the submission of the plan, and from the date of such publication dealings in shares of companies covered by the plan in any stock exchange shall remain suspended until the Federal Government has approved the reorganisation plan.

(4) The reorganisation plan shall be implemented and take effect in such manner and at such time and with such modification as may be approved by the Federal Government.

Explanation.—For the purposes of this section and section 26, the Federal Government shall be deemed to have a majority portion of the shares in a company carrying controlling voting rights or the controlling proprietary interests in an establishment if the aggregate face value of the shares or proprietary interests in such establishment owned by the Federal Government and by an institution owned or controlled by the Federal Government exceeds fifty per cent of the total voting rights in the issued and paid up share capital of the company or fifty per cent of the proprietary interests of that establishment.

16. In the case of a managed establishment, all persons employed in, or for the purpose of the business of the establishment, by whomsoever appointed or engaged, shall continue in their respective employments on the same remuneration and other conditions of service as were applicable to them immediately before the appointment of the Managing Director in respect of that establishment, unless the Managing Director directs otherwise in a particular case or their terms and conditions of service are altered in accordance with the law or any rules applicable to such establishment.

Continua-
tion in
service.

17. No person, other than a Board, shall, except under the authority of the Federal Government, give any instructions to a Managing Director, nor shall any person in any manner obstruct him in the discharge of his functions.

Prohibition

18.—(1) The Federal Government may, by notice in writing, call upon a debtor to pay to the Federal Government, or to the managed establishment specified in such notice, the amount of money due from him to the establishment, within a period of thirty days commencing from the date of receipt of such notice by the debtor.

Debtor.

(2) Where a debtor fails to pay the amount due within the time specified in the notice, the Managing Director of the managed establishment to which such amount is due shall have the same powers of effecting recovery of such amount as the Industrial Development Bank of Pakistan has under sections 39, 40 and 41 of the Industrial Development Bank of Pakistan Ordinance, 1961 in respect of sums due to the said Bank.

XXXI
of
1961.

Creditor.

19.—(1) A creditor of a managed establishment may apply to the Federal Government for payment to him of the amount due to him from the establishment.

(2) The Federal Government may, on receipt of an application under sub-section (1) and after such enquiry as it may deem fit, direct the managed establishment—

- (a) to repay the amount due to the creditor in such instalments and within such period as may be specified in the direction ; or
- (b) if such managed establishment be a company, to convert the amount due to the creditor into share capital of the establishment.

(3) If a managed establishment fails to comply with a direction issued to it under sub-section (2), the Federal Government may order that the amount specified in the direction be recovered from it as an arrear of land revenue and paid to the creditor.

Power to
revoke con-
tract, etc.

20. If any contract or agreement entered into, or any obligation undertaken, by any previous management of a managed establishment is declared by the Federal Government, after such inquiry as it may deem fit and giving an opportunity to the person or persons with whom such contract or agreement was entered into or to whom such obligation was undertaken to show cause why such declaration shall not be made, to be against the interest of the establishment, such contract, agreement or obligation shall stand revoked and the establishment shall not be liable for any loss or damage suffered by the previous management by reason of such revocation :

Provided that this section shall not be construed as preventing any party to a contract, agreement or obligation so revoked from initiating action in a court of law against the previous management.

Right of
sharehol-
ders.

21. Any person having a share or a proprietary interest in a managed establishment shall be entitled to complain to a Board or the Federal Government in respect of any action taken by the Managing Director in relation to the affairs of the establishment.

Continuance
in service of
employees
on transfer
to a corpo-
ration.

22.—(1) Where the management of a managed establishment is transferred to a corporation under section 13, every whole-time employee of the establishment who was employed by the establishment immediately before the date of such transfer shall, on and from the date of such transfer, become an employee of

the corporation and shall hold his office therein on the same terms and conditions, including remuneration, tenure of office, rights and privileges as to pension and gratuity and other matters, as were applicable to him immediately before the date of transfer, until his employment in the corporation is terminated or his terms and conditions of service are altered in accordance with law or any rules applicable to such corporation.

(2) Where any employees of a managed establishment have, under the provisions of sub-section (1), become the employees of a corporation, the corporation may, for the purpose of rationalising the pay scales of such employees or for any other good and adequate reason, alter the terms and conditions of service of the employees as to their remuneration in such manner as it thinks fit and, if the alteration is not acceptable to any employee, the corporation may terminate his employment by giving him compensation equivalent to his remuneration for three months or, if his contract of service provides for a shorter notice for termination of employment, for the period so provided.

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to, and not in derogation of, any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) If any question arises as to whether any person was a whole-time employee of an establishment immediately before its management was transferred to a corporation under section 13, the question shall be referred to the Federal Government whose decision shall be final.

(4) The transfer of the services of any employee of an establishment to a corporation shall not, except as provided in this section, entitle any such employee to any compensation and no such claim shall be entertained by any court, tribunal or other authority.

23.—(1) Where the management of a managed establishment has been transferred to a corporation under section 13, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the date of transfer, to which such establishment was a party or which were in favour of such establishment shall, subject to the provisions of section 20, have full force and effect against or in favour of the corporation, and may be enforced or acted upon as fully and effectively, as if, instead of the establishment the corporation had been a party thereto or as if they had been entered into or issued in favour of the corporation.

General
effect of
vesting of
establish-
ment.

(2) If, on the date of transfer of the management of a managed establishment to a corporation any suit, appeal or other legal proceeding of whatever nature is pending by or against such establishment, it shall not abate, be discontinued or be in any way prejudicially affected by reason of such transfer or anything done under this Act, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the corporation.

Day to deliver possession of property and documents relating thereto.

24.—(1) Where the management of managed establishment has been transferred to a corporation under section 13,—

- (a) every person in whose possession, custody, or control there is any property of such establishment shall forthwith deliver the property to the corporation; and
- (b) any person who, on the date of transfer of the establishment to the corporation, has in his possession, custody or control any books, documents or other papers relating to such establishment shall be liable to account for the said books, documents and papers to the corporation, and shall deliver them to such person as the corporation may direct.

(2) Without prejudice to the provisions of sub-section (1), it shall be lawful for the corporation to take all necessary steps for acquiring possession of all properties which have been transferred to and vested in it under this Act.

Provident, superannuation and other like funds.

25.—(1) Where an establishment the management of which has been transferred to a corporation under section 13 has established a provident or superannuation fund or any other like fund for the benefit of its employees and has constituted a trust in respect thereof, hereafter in this section referred to as an existing trust, the moneys standing to the credit of any such fund on the date of such transfer, together with any other assets belonging to such fund, shall, subject to the provisions of sub-section (2), stand transferred to and vest in the corporation on the date the management of the establishment is transferred to it, free from any such trust.

(2) Where all the employees of any such establishment do not become employees of the corporation under section 22, the moneys and other assets belonging to any such fund as is referred to in sub-section (1) shall be apportioned between the persons responsible for the fund and the corporation in such manner as may be prescribed by rules and, in the case of any dispute regarding such apportionment, the decision of the Federal Government shall be final.

(3) A corporation shall, as soon as may be after the management of an establishment is transferred to it under section 13, constitute in respect of the moneys and other assets which are transferred to and vested in it under this section one or more trusts having objects as similar to the objects of the existing trust as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are transferred to and vested in a corporation under this section, the persons responsible for such trust shall, as from the date of such transfer, be discharged from the trust, except as respects things done or omitted to be done before the date of transfer of the management of the establishment.

Minimum term.

26.—(1) Where the Federal Government takes over the management of an establishment but does not hold majority

portion of shares in a company carrying voting rights, or controlling proprietary interests, therein, it shall, on behalf of such establishment, guarantee to the shareholders or proprietors of such establishment, a minimum annual rate of return equivalent to one per cent above the bank rate.

(2) The minimum rate of return referred to in sub-section (1) shall be worked out, in the case of an establishment which is a company or is owned by a company, on the paid up capital of such company, and in the case of an establishment owned by a person other than a company, on the Net Worth Value of investment as defined in the Schedule on the basis of the figures appearing in the latest annual balance sheet of such establishment.

27.—(1) No court shall call in question or permit to be called in question any provision of this Act or of any rule or order made or anything done or any action taken thereunder.

Bar of jurisdiction.

(2) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done or intended to be done under this Act.

28. No suit, prosecution or other legal proceeding shall lie against the Federal Government, a Board, a Managing Director or any other person for anything in good faith done under this Act or any rule or order made thereunder.

Indemnity.

29. Whoever contravenes any of the provisions of section 17 or section 24 shall be punishable with imprisonment for a term, which may extend to two years, or with fine, or with both.

Penalties.

30.—(1) Where a managed establishment which is a company or is owned by a company is engaged in a business not directly related to the industry, the Managing Director shall prepare, as soon as possible, a plan for separation of business relating to industry from other business. The plan shall include provision for separation of physical assets and apportionment of assets and liabilities including the paid up capital on a *pro rata* basis between the respective business. The Managing Director in preparing the plan shall follow the provisions of the Companies Act, 1913 to the extent it is not inconsistent with provisions of this Act.

Composite enterprises and organisations.

(2) The Managing Director shall submit the plan for approval to the Federal Government which shall publish the plan in the official Gazette to ascertain the views of the shareholders of the company within a specified period.

(3) The Federal Government shall, after considering the views of the shareholders, either retain the business not directly related to the industry and the assets and liabilities of such business or dispose of the business, along with the assets and liabilities apportioned as relating thereto, in such manner as Government may deem fit.

31. Nothing contained in this Act shall affect any agreement entered into between the Federal Government and a foreign

Saving.

VII of 1913.

investor or creditor or any agreement between a foreign investor or creditor and any citizen of Pakistan which has been expressly approved by the Federal Government.

Power to
make rules.

32.—(1) The Federal Government may, by notification in the official Gazette, make rules¹ for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for, or may empower a Board to make orders providing for, all or any of the following matters, namely:—

- (a) ensuring the safety of the properties of a managed establishment;
- (b) ensuring the due performance of their duties by the persons connected with a managed establishment;
- (c) prohibiting anything likely to interfere with the proper functioning of a managed establishment;
- (d) the administration, management and disposal by way of transfer or otherwise of any property belonging to or held or managed by or on behalf of a managed establishment;
- (e) prohibiting, save with the leave of the Managing Director or any other person authorised in this behalf by the Federal Government or the Board, the departure from any area of any person connected with the administration, control or functioning of a managed establishment;
- (f) the taking over or control of any business trade, industry, firm or company which in the opinion of the Federal Government is a subsidiary of a managed establishment;
- (g) the requisitioning of any property, movable or immovable, belonging to a managed establishment;
- (h) the requisitioning of any property, movable or immovable, the requisition of which is, in the opinion of the Federal Government, required for the proper functioning of a managed establishment;
- (i) preventing the entry of any person into any place, yard, factory, mill, shop or office used for the purposes of a managed establishment or of any of its subsidiaries;
- (j) the taking of any steps for collecting, controlling and disposing of the assets, movable and immovable, of any managed establishment; and
- (k) in relation to any managed establishment to which the provisions of section 30 apply,—
 - (i) the determination of the question whether any property pertains to the business of such establishment relating to the industry or whether any

assets, rights, debts, liabilities or obligations, were acquired or incurred, or any contract, agreement or other instrument was made, in respect of or for the purposes of such business or whether any documents relate to those purposes;

- (ii) the allocation of the paid up capital, or assets representing paid up capital, as the case may be, between such business and any other business;
- (iii) the substitution of any agreement entered into partly for the purposes of such business and partly for other purposes by a separate agreement relating solely to such business and for any apportionment of rights, obligations and indemnities consequent thereon;
- (iv) the severance of a lease comprising property of which part only is used for purposes of such business and for apportionment of right and liabilities consequent on such severance;
- (v) the apportionment and the making of financial adjustment with respect to any debts, liabilities or obligations incurred by the establishment partly for the purposes of such business and partly for other purposes and for any necessary variation of mortgages and encumbrances relating to such debts, liabilities or obligations; and
- (vi) for the apportionment of the moneys and other assets belonging to any provident or superannuation funds, or any other like fund to which the provisions of section 25 do not apply, between persons employed in connection with such business and other persons.

33. If any difficulty arises in giving effect to any provision of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty:

Removal of
difficulties.

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Act.

34. The Pakistan Maritime Shipping (Regulation and Control) Ordinance, 1974, is hereby repealed.

Repeal.

III of
1974.

THE SCHEDULE

Principles and the manner for payment of compensation in respect of the shares or proprietary interests of an establishment acquired by the Federal Government.

1. Where the whole or a portion of the shares of such an establishment is acquired by the Federal Government, the value of the compensation for the shares so acquired shall be the break up value;

¹For the Pakistan Shipping Maritime (Acquisition and Compensation, Rules 1974, see S.R.O. No. 419 (I), 74, dated 30th March, 1974. Gaz of P., 1974, Ext., Islamabad, Pt. II, pp. 555-558.

2. Where the whole or a portion of the proprietary interests in such an establishment is acquired by the Federal Government, the value of the compensation for the interests so acquired shall be assessed at the net worth value.

3. The compensation payable in accordance with the principles indicated above shall be paid by the Federal Government in cash or in the form of Government Bonds redeemable at any time at the option of the Federal Government within a period of 15 years carrying a rate of interest one per cent above the bank rate notified by the State Bank of Pakistan from time to time. The Bonds shall be negotiable and shall also be eligible as security for advances.

4. *Definitions.*—In this Schedule,—

(a) "Break Up Value" shall mean the value of the shares of a company as determined by the auditors of such company on the basis of its latest audited annual Balance Sheet, in accordance with clause (c) of rule 8 of the Wealth-tax Rules; and

133
(b) "Net Worth Value" shall mean the value of the proprietary interest of a company or other person in an establishment which is acquired under the Order, as determined by the auditors appointed by the Federal Government on the basis of the latest annual audited Balance Sheet or, where no audited Balance Sheet is available, on the basis of the latest annual Balance Sheet of such establishment to be verified by the auditors appointed by the Federal Government for the purpose. The Net Worth Value shall be determined by valuing the fixed Tangible Assets appearing in the Balance Sheet at their Written down values, and valuing the Current Assets, e.g., stocks, inventory, work in progress, advances and prepayments, cash and bank balances, at their cost or market value, whichever is lower. From the sum total of the fixed and the Current Assets so valued as aforesaid, all the outstanding liabilities appearing in the Balance Sheet shall be deducted, thereby arriving at the Net Worth Value of the proprietary interests in such establishment.

THE BANKS (NATIONALIZATION)
ACT, 1974.

CONTENTS

SECTION

1. Short title, extent and Commencement
2. Act to override other laws
3. Definitions
4. Exclusive right to establish bank
5. Transfer and vesting of ownership, etc. of banks
- 5A. [Omitted]
6. Compensation for transfer of ownership of shares in a bank
7. Assessment of Compensation
8. Removal of previous management
9. Pakistan Banking Council
10. Funds of Council
11. General provisions pertaining to management of banks
12. Fidelity and secrecy
13. Provisions regarding staff
14. Certain claims for Compensation barred
15. Schemes for reorganisation of banks, etc.,
16. Removal of doubts
17. Disposal of profits
18. Indemnity
19. Bar of jurisdictions
20. Power to make rules
21. Adaptation of laws
22. Penalty
23. Removal of difficulties
24. Repeal of Ordinance I of 1974

THE SCHEDULE