

# THE EMPLOYEES' OLD-AGE BENEFITS ACT, 1976

<sup>1</sup>ACT No. XIV OF 1976

[ April 15, 1976 ]

## **An Act to repeal and re-enact the Law relating of Old-Age benefits for the persons employed in industrial, commercial and other organizations.**

WHEREAS it is expedient to repeal and re-enact the law relating to old-age benefits for the persons employed in industrial, commercial and other organizations and matters connected therewith:

It is hereby enacted as follows: —

### CHAPTER I

#### PRELIMINARY

**1. Short Title, Extent, Commencement and Application.** — (1) This Act may be called the Employees' Old-Age Benefits Act, 1976.

(2) It extends to the whole of Pakistan .

(3) It shall come into force at once.

<sup>2</sup>[(4) It applies to every industry or establishment—

- (i) wherein <sup>3</sup>[five] or more persons are employed by the employer, directly or through any other person, whether on behalf of himself or any other person, or were so employed on any day during the preceding twelve months, and shall continue to apply to every such industry or establishment even if the number of persons employed therein is, at any time after this Act becomes applicable to it, reduced to less than <sup>3</sup>[five]; <sup>4</sup>\*

<sup>4</sup>[Provided that for the industry or establishment set up on or after first day of July, 2006 the number of persons shall be enhanced from “ten” to “twenty”.]

- <sup>5</sup>[(ia) wherein less than ten persons are employed if such industry or establishment voluntarily applies for application of this Act and this Act shall apply to such industry or establishment for the date of submission of an application by such industry or establishment:]

- (ii) which the Federal Government may, by notification in the official Gazette, specify in this behalf.]

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<sup>1</sup>For Statement of Objects and Reasons, see Gaz., of P., 1976, Ext., Pt. III, p.146.

<sup>2</sup>Subs. by the Employees' Old-age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 3, (w.e.f. 1-7-83).

<sup>3</sup>Ins. by Ord. 53 of 2001, s. 2 and Sch.

<sup>4</sup>Omitted, added and subs. by Act III of 06, s. 13.

<sup>5</sup>Subs and omitted by Act I of 08, s. 9 (w.e.f. 1-07-08).

**2. Definitions.** In this Act, unless the context otherwise requires,—

<sup>1</sup>[(a) "benefits" mean old-age pension, invalidity pension, <sup>2</sup>[survivor's] pension, old-age grant and such other payments as may be determined by the Federal Government from time to time;]

<sup>1</sup>[(aa) "Board" means the Board of Trustees constituted under section 7 ;]

(b) "Contribution" means the sum of money payable to the Institution by the employer <sup>3</sup>[or by the Federal Government] in respect of an insured person under the provisions of the Act.

<sup>1</sup>[(bb) "employee" means any person employed, whether directly or through any other person, for wages or otherwise, to do any skilled or unskilled, supervisory, clerical, manual or other work in, or in connection with the affairs of, an industry or establishment, under a contract of service or apprenticeship, whether written or oral, express or implied, and includes such person when laid off] <sup>4</sup>[:]

<sup>5</sup>\* \* \* \* \*

Provided <sup>6</sup>\* that a director of a limited company or of a corporation set up under any law shall not be treated as an employee under this Act, irrespective of his wages or emoluments ;

<sup>7</sup>[(c) "employer", in relation to an industry or establishment, mean any person who employee, either directly or through any other person, any employee, and includes—

- (i) in the case of an individual, an heir, successor, administrator or assign;
- (ii) a person who has ultimate control over the affairs of an industry or establishment, or where the affairs of an industry or establishment are entrusted to any other person (whether called a managing agent, managing director, manager, superintendent, secretary or by any other name), such other person ;and

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<sup>1</sup>Re-numbered and ins. by the Employees' Old Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 4 (*w.e.f.* 1-7-83).

<sup>2</sup>Subs. by Ord. 46 of 02, s. 2.

<sup>3</sup>Ins. by the Finance Act, 1986 (1 of 1986), s. 11.

<sup>4</sup>Added, *ibid.*

<sup>5</sup>Proviso omitted by the Maritime Security Agency Act 1994 (11 of 1994), s. 8 and fourth Sch.

<sup>6</sup>The word "further" omitted *ibid.*

<sup>7</sup>Subs. by Ord. 17 of 1983, s. 4, (*w.e.f.* 1-7-83).

(d) "employment injury" means a personal injury to an insured person caused by an accident, or by such occupational disease as may be specified in the regulations, arising out of and in the course of his employment;

<sup>2</sup>[(e) "establishment" means-

(i) an establishment to which the West of Pakistan and Establishments Ordinance, 1969 (West Pakistan Ordinance No. VIII of 1969) for the time being applies, and notwithstanding anything contained in section 5 thereof, includes clubs, hostels, organisations and messes not maintained for profit or gain and establishment, including hospitals, for the treatment or care of sick, infirm, destitute or mentally unfit persons;

(ii) a construction industry as defined in the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (West Pakistan Ordinance No. VI of 1968);

(iii) a factory as defined in the Factories Act, 1934 (XXV of 1934);

(iv) a mine as defined in the Mines Act, 1923 (IV of 1923) ;

(v) a road transport service as defined in the Road Transport Workers Ordinance, 1961 (XXVIII of 1961) ; and includes any class of industries or establishments which the Federal Government may, by notification in the official Gazette, declare to be establishments for the purposes of this Act];

(f) "fund" means the Employees' Old-Age Benefits Fund set up under section 17 ;

(g) "industry" means any business, trade, undertaking, manufacture or calling of employers, and includes any calling, service, employment, handicraft industrial occupation or avocation of workmen ;

(h) "institution" means the Employees' Old-Age Benefits Institution established or nominated under section 4 <sup>3</sup>[or section 5;]

(i) "insured person" means <sup>4</sup>[an employee] who is or was in insurable employment;

(j) "insurable employment" means employment of a person under a contract of service or apprenticeship, whether written or oral, express or implied and in respect of which contributions are payable under this Act;

(k) "invalidity" means a condition, other than that caused by an employment injury, as a result of which an insured person is permanently incapacitated to such an extent as to earn from his usual or other occupation more than one third of the normal rates of earning in his usual occupation ;

(l) "member" means a member of the Board ;

(m) "prescribed" means prescribed by rules ;

(n) "regulations" means regulations made by the Board ;

(o) "rules" means rules made under this Act;

<sup>5</sup>[(oa) "self-assessment scheme" means a self-assessment scheme for which the employer has opted and applied to the Institution on such form as prescribed.]

<sup>6</sup>[(p) "wages" means the rates of wages as declared under the Minimum Wages for Unskilled Worker Ordinance, 1969 (W.P. Ordinance XX of 1969)].

<sup>1</sup>Omitted by the Finance Act, 1986 (1 of 1986), s.11.

<sup>2</sup>Subs. by the Employees' Old Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 4, (w.e.f. 1-7-83).

<sup>3</sup>Added by the Employees' Old Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 4, (w.e.f. 1-7-83).

<sup>4</sup>Subs. by the Finance Act, 1986 (1 of 1986), s. 11.

<sup>5</sup>Subs. by the Ord. 46 of 02, s. 2.

<sup>6</sup>Omitted and subs. by Act 7 of 05, s. 5.

<sup>1</sup>[(q) “year”, with respect to insurable employment means, a total of three hundred and sixty-five days for which contribution are payable, or, in the case of insured persons who are not paid for weekly holidays, a minimum of three hundred and twelve days.]

## CHAPTER II INSURED PERSONS

<sup>2</sup>[**3. Compulsory Insurance.** All employees in an industry or establishment shall be insured in the manner prescribed by or under this Act.]

**4. Administration.**—(1) As soon as may be, after the commencement of this Act, the Federal Government shall establish or nominate by notification an Institution to be called the Employees' Old-Age Benefits Institution.

(2) The Institution shall be a body corporate having perpetual succession and a common seal, with powers, subject to the provisions of the Act, to acquire, hold and dispose of property, both movable and immovable, and shall by the aforesaid name sue or be sued.

**5. Nomination of a Body Corporate Pending Establishment of An Institution.**— (1) Notwithstanding anything contained in section 4, the Federal Government may, pending the establishment of an Institution, by notification in the official Gazette, nominate a body corporate to exercise and perform all the powers and functions of the Institution under this Act and appoint the head of such body corporate, by whatever name called, to be the <sup>3</sup>[Chairman] of the Institution.

(2) The nomination of a body corporate under sub-section (1) shall be subject to such terms and conditions as the Federal Government may, from time to time, determine.

**6. Management.**—(1) The general direction and superintendence of the affairs of the Institution shall vest in Board which may, with the assistance of the <sup>4</sup>[Chairman] of the Institution, exercise all powers and do all acts and things which may be exercised or done by the Institution.

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

**7. Board of Trustees.**—(1) The Board of Trustees shall consist of the following members to be appointed by the Federal Government, by notification, namely:—

- (a) the Secretary of Additional Secretary in the Labour Division, who shall also be the <sup>5</sup>[President] of the Board of Trustees ;
- (b) <sup>6</sup>[two] persons to represent the Federal Government, one each from the Ministries of Finance, <sup>6\*</sup> \* and Labour;
- (c) four persons to represent the Provincial Governments, one to be nominated by each <sup>6</sup>[of] the Provincial Government ;
- (d) four persons to represent employers ;
- (e) four persons to represent insured persons ; and

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<sup>1</sup>Subs. by the Employees' Old Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 4, (w.e.f. 1-7-83).

<sup>2</sup>Subs. by the Finance Act, 1986 (1 of 1986), s. 11.

<sup>3</sup>Subs. by the Employees' Old Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 4, (w.e.f. 1-7-83).

<sup>4</sup>Subs. *ibid.*, s. 6 (w.e.f. 1-7-83).

<sup>5</sup>Subs. by the Finance Act, 1986 (1 of 1986), s. 11.

<sup>6</sup>Subs. and Omitted by Act VII of 05, s. 5.

(f) <sup>1</sup>[one] persons to represent the Institution.

(2) Members to be appointed under clauses (d) and (e) of sub-section (1) shall respectively be chosen from a list of names submitted in the prescribed manner by the organisations of employers and employees recognised by the Federal Government for that purpose:

Provided that, pending the making of rules in this behalf, the first members to be so appointed shall be chosen from such persons as the Federal Government may deem fit.

**8. Powers and Functions of the Board of Trustees.** In addition to the powers conferred on, and the functions entrusted to it by the other provisions of this Act or by the rules, the Board shall have powers—

- (a) to approve the budget estimates, the audited accounts and the annual report of the Institution for submission to the Federal Government in accordance with the provisions of this Act; <sup>2\*</sup>
- (b) to call for any information or direct any research to be made for the furtherance of the objects of the Act <sup>2</sup>[; and]
- <sup>2</sup>[(c) to co-opt any other technical person by name as member on the Board for the specific purpose and such limited period as decided by the Board.]

<sup>3</sup>**[8A. Appointment, powers and functions of Chairman.**—(1) The Chairman of the Institution shall be appointed by the Federal Government for such term and on such terms and conditions as it may determine.

(2) The Chairman of the Institution shall exercise such powers and perform such functions as may be prescribed.]

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### CHAPTER III

#### CONTRIBUTIONS

**9. Rates and assessment.** —(1) On and from the first day of July, 1976, Contributions' shall be payable every month by the employer to the Institution in respect of every person in his insurable employment, at the rate of <sup>4</sup>[six] percent of his wages in the prescribed manner <sup>5</sup>[:]

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<sup>1</sup>Subs. by Act VII of 05, s. 5.

<sup>2</sup>Omitted, subs. and added by Ord. 46 of 02, s. 3.

<sup>3</sup>Ins. by the Employees' Old Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 7 (*w.e.f.* 1-7-83).

<sup>4</sup>Subs. by Act I of 08, s. 9 (*w.e.f.* 1-7-08).

<sup>5</sup>Subs. *ibid.*, s. 8 (*w.e.f.* 1-7-83).

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<sup>2</sup>[Provided further that no contribution shall be payable in/ respect of an insured person who is in receipt of <sup>3</sup>[Old age pension ] under this Act or has attained the age of sixty years, or fifty-five years in the case of a woman <sup>4</sup>[:]

<sup>3</sup>[Provided also that in case an employer opts for self-assessment scheme, he shall be liable to pay fixed amount of one hundred and fifty rupees in respect of every person in his insurable employment irrespective of his wages or emoluments, and the wages for the purpose of calculation of benefits shall be treated as three thousand rupees per month.]

(2) Where an insured person does not receive any wages from the employer for any period, the Institution shall, subject to regulations, determine the amount of wages with reference to which the contributions shall be computed.

(3) Notwithstanding any agreement to the contrary, the employer shall not deduct from the wages of an insured person or otherwise recover from him any portion of <sup>3</sup>[employer's share of contribution].

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<sup>5</sup>**[9A. Contribution by Government.** The Federal Government may make such contribution to the Institution as it may determine from time to time.]

<sup>4</sup>**[9B. Contribution by insured person.** On and from the 1st day of July, 2001 the contribution shall be payable every month by an insured person at the rate of twenty rupees in the prescribed manner.]

**10. Records and Returns by Employers.** Every employer shall keep such records and shall submit to the Institution such returns, at such times, in such form and containing such particulars relating to persons employed by him, as may be provided in regulations.

**11. Registration of establishments, etc.—**(1) Every employer shall, before the expiration of thirty days from the day on which this Act becomes applicable to the industry or establishment in respect of which he is the employer, communicate to the Institution the name and other prescribed particulars of the industry or establishment and of every insured person employed in the industry or establishment.

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

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

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<sup>1</sup>Subs. by Act VII of 05, s. 6.

<sup>2</sup>Subs. by the Finance Act, 1986. (1 of 1986), s. II.

<sup>3</sup>Subs. by Ord. 46 of 02, s. 4.

<sup>4</sup>Subs., added and ins. by Ord. 53 of 2001, s. 2 and Sch.

<sup>5</sup>Subs. by the Finance Act, 1995, (1 of 1995) s 8 for section 9A. which was previously ins. by Act I of 1986, s. 11.

**11A. Cancellation of registration of establishments, etc.** The Board may, on the basis of such evidence as the Board may find satisfactory for the purpose, cancel the registration of any establishment or industry which has ceased to exist:

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

**12. Officials of Institution to check employer's books.**—(1) Any official of the Institution, duly authorised by a certificate in a form specified in the regulations, may, for the purpose of inquiring into the correctness of any of the particulars stated in the records or returns referred to in section 10 or for the purpose of ascertaining whether any of the provisions of this Act have been complied with—

- (a) require an employer to furnish to him such information as he may consider necessary; or
- (b) at any reasonable time, enter any establishment or other premises occupied by such employer and require any person found in charge thereof to produce and allow him to examine such accounts books and other documents relating to the employment of persons and payment of wages, or to furnish to him such information, as he may consider necessary; or
- (c) examine, with respect to any matter relevant to the purposes aforesaid, the employer, his agent or any other person found in such establishment or other premises, or any other person whom the said official has reasonable cause to believe to be or to have been an insured persons.

<sup>1</sup>\* \* \* \* \*

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

<sup>1</sup>\* \* \* \* \*

**13. Increase of Unpaid Contribution and Recovery of Contribution, etc., as arrears of land revenue.**-(1) If any employer fails to pay, on the due date, the contribution payable by him under sub-section (1) of section 9, the amount so payable by him shall be increased by such percentage or amount as may be prescribed :

Provided that in no case shall such increase exceed fifty per cent of the amount due.

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

<sup>2</sup>[**14. Safeguard of Insured Person's Right in Default of Payment of Contributions by Employers.** Notwithstanding anything contained in this Act, if an insured person has communicated his name and other prescribed particulars to the Institution under sub-section (2) of section 11 and has been issued by the Institution a registration card under sub-section (3) thereof and,

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<sup>1</sup>Ins. by the Employees' Old Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983 ), s. 7 (w.e.f. 1-7-83).

<sup>2</sup>Omitted, subs. and added by Ord. 46 of 02, s. 5.

in case of changing employment from one industry or establishment to another industry or establishment, has also informed the Institution about such change of employment, then, in the event of default in payment of contributions by the employer in respect of such insured person, such insured person shall have and enjoy the same rights under this Act as if no such default had occurred.]

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

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

**16. Extinguishment of claims to contributions.** Any claims of the Institution for unpaid contributions shall be extinguished in the manner provided in the regulations.

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## CHAPTER IV

### FINANCE AND AUDIT

**17. Extinguishment of claims to contributions.**—(1) The Institution shall have its own fund, to be called the Employees' Old-Age Benefits fund and may incur out of the Fund such expenditure as may be necessary for the purposes of this Act.

(2) All contributions paid under this Act and all other moneys received by or on behalf of the Institution shall be paid into the Fund.

(3) The Institution shall derive its revenues from the following sources—

- (a) contributions payable under this Act and the rules;
- (b) all other payments made by the employers under this Act and the regulations;
- (c) income from investment of the moneys of the Institution; and
- (d) donations and bequests for the purposes of this Act.

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

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



**18. Investment and loans.**—(1) Subject to rules, the Institution may, from time to time, invest any moneys which are not immediately required for expenses under this Act, and may reinvest or realise such investment.

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

**19. Budget, accounts and audit.**—(1) The Institution shall draw up annually a budget showing, the anticipated receipts and expenditure during the following year and shall submit it to the Board for the approval of the Federal Government.

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

(3) The books of account of the Institution shall be balanced on the thirtieth of June each year and its accounts shall be audited by auditors approved by the Federal Government at such time and in such manner as may be prescribed.

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

(5) The auditors shall forward to the Federal Government their report together with an audited copy of the accounts of the Institution.

**20. Annual Report.** The Institution shall submit to the Federal Government an annual report of its work and activities.

<sup>1</sup>[21. The Institution shall, at intervals of not more than three years, ' have an actuarial valuation made in the prescribed manner of its assets and liabilities and no change in rate of contribution or benefit under this Act shall be made without proper actuarial valuation.]

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<sup>1</sup>Subs. by Ord. 46 of 02, s. 7.

**22. Old age pension.**—<sup>1</sup>[An insured person shall be entitled to a monthly old-age pension at the rate specified in the Schedule:

Provided that—

- (a) he is over <sup>2</sup>[sixty] years of age, or <sup>2</sup>[fifty-five] years in the case of a women; and
- (b) contribution in respect of him were <sup>3</sup>[paid] for not less than fifteen years <sup>2</sup>[:] ]

<sup>4</sup>[Provided further that the age specified in clause (a) will be reduced by five years in the case of an insured person employed in the occupation of mining for at least ten years immediately preceding retirement <sup>3</sup>[:] ]

<sup>3</sup>[Provided also that where the employee was insured under the provisions of this Act on or before 30th June 2002, and contributions payable under the Act by the employer prior to 30th June, 2002, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted:

Provided further that where the contribution under section 9B is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement, to the benefit shall not be affected by default in payment of employer's share of contribution under section 9.]

(2) If an insured person was on the first day of July, 1976, or is on any day thereafter on which this Act becomes applicable to an industry or establishment,—

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

<sup>5</sup>[Provided that nothing in this section shall apply to an employee insured under this Act on or after 1<sup>st</sup> day of July, 2008.]

<sup>6</sup>[(2A) Notwithstanding anything contained in sub-section (1), an insured person (a) who was insured under the provisions of this Act on or before the 30th June, 1986, and will attain the age of fifty-five years (fifty years in the case of a woman) on or before the 30th June, 1991, and

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<sup>1</sup>Subs. by the Employees' Old-Age Benefits (Amdt) Ordinance, 1983 (17 of 1983). s. 10, (*w.e.f.* 1-7-83),

<sup>2</sup>Subs. by the Finance Act, 1986 (I of 1986), s. 11.

<sup>3</sup>Subs. and added by Ord. 46 of 02, s. 8.

<sup>4</sup>Added, *ibid.*

<sup>5</sup> Subs. and added by Act I of 08, s. 9 (*w.e.f.* 1-07-08).

<sup>6</sup>Ins. *ibid.*

- (b) in respect of whom contributions were payable to the Institution for the period required under the provisions of this Act,

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

(2B) An insured person already in receipt of an old-age or invalidity pension, or entitled to an old-age pension under the provisions of sub-section (2A), shall be entitled to a minimum pension at the rate specified in the Schedule.

(2C) An insured person who retires from insurable employment before attaining the age of sixty years (fifty-five years in the case of a woman) but after attaining the age of fifty-five years (fifty years in the case of a woman) shall be entitled to a reduced old-age pension on fulfilling the following conditions, namely:—

- (a) the Institution is satisfied through documentary evidence that the employer has a definite established retirement age of less than sixty years (fifty-five years in the case of a woman);
- (b) the employer certifies that the insured person has been retired by him on attaining the age of superannuation;
- (c) the contributions in respect of him were <sup>1</sup>[paid]for the period required under the provisions of this Act.

(2D) The old age pension shall be reduced by one-half per cent of the old-age pension specified in the Schedule for each completed month by which the age falls short of sixty years (fifty-five years in the case of a woman) and the minimum old age pension shall also be reduced in the aforesaid manner in the case of retirement from insurable employment before attaining the age of sixty years (fifty-five years in the case of a woman).

(2E) The reduction in old-age pension specified in sub-section (2D) shall be for life and shall not be restored on the insured person's attaining the normal pension age.]

(3) Subject to regulations, the <sup>2</sup>[old-age pension] shall commence as from the month following that in which the insured

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<sup>1</sup>Subs. by Ord. 46 of 02, s. 8.

<sup>2</sup>Subs by Employees\* Old-Age Benefits (Amdt) Ordinance. 1983 (17 of 1983), s. 2. (w.e.f. 1-7-83).

person satisfies the condition for entitlement thereto, provided that no allowance shall be payable retroactively for more than six months preceding the month in which an application for <sup>1</sup>[old-age pension] is submitted.

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

(5) The <sup>1</sup>[old-age pension] payable to an insured person shall be terminated at the end of the month in which the death of such person occurs.

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<sup>3</sup>**22A. Old-age grant.** If an insured person, not otherwise entitled to old-age pension, retires from insurable employment after attaining the age of sixty years, or fifty-five years in the case of a woman and a mine workers, and contributions in respect of him were <sup>4</sup>[paid] for less than fifteen years, but not less <sup>5</sup>[than two] years, he shall be entitled to an old-age grant <sup>4</sup>[paid] in a lump sum equal to his one month's average monthly wages for every completed year of insurable employment or part thereof in excess of six months <sup>4</sup>[:]

<sup>4</sup>[Provided that where the employee was insured under the provisions of this Act on or before 30th June, 2002, and contributions payable under the Act by the employer prior to 30th June, 2002, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted:

Provided further that where the contribution under section 9B is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement to the benefit shall not be affected by default in payment of employer's share of contribution under section 9.]

**22B. Survivors' Pension.**— (1) In the case of the death of an insured person while in insurable employment but after he had completed not less than thirty six months insurable employment, the surviving spouse, if any, shall be entitled to a life pension <sup>6</sup>[at the rate specified in the Schedule.]

<sup>7</sup>[(1A) In case of death of an insured person, while not in insurable employment but after h had completed five years insurable employment, the surviving spouse, if any, shall be entitled to a life pension <sup>6</sup>[at the rate specified in the Schedule.]

(2) In the case of the death of an insured person who had become entitled to old-age pension, before his death, the surviving spouse, shall, if the spouse had married the deceased person before

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<sup>1</sup>Subs. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 2 (*w.e.f.* 1-7-83).

<sup>2</sup>Omitted by the Finance Act, 1986 (1 of 1986), s. 11.

<sup>3</sup>Subs. *ibid.*

<sup>4</sup>Subs. and added by Ord. 46 of 02, s.9.

<sup>5</sup>Subs. by the Labour Laws (Amdt.) Act 1994. (11 of 1994) s. 8 and Sch., for "than five".

<sup>6</sup>Subs. by Act IV of 07, s. 12 (*w.e.f.* 1-7-07)

<sup>7</sup>New sub-section (1A) ins. *ibid.*

he had attained the minimum age prescribed for old-age pension <sup>1</sup>[or invalidity pension], receive a life pension <sup>2</sup>[equal to] the pension of such person.

<sup>3</sup>[(3) In the case of death of the surviving spouse in receipt of survivor's pension, the minor children of the deceased insured person, if any, shall be entitled to the survivors' pension, in the following equal shares, namely :

- (i) in case of a male child, until he attains eighteen years of age, and
- (ii) in case of a female child, until she attains eighteen years of age or until marriage, whichever is earlier.

(3A) In the case of cessation of survivor's pension of any of the children of the deceased insured person on his attaining the age of eighteen years or marriage in case of female, or death, as the case may be the share of survivor's pension received by such child shall be distributed equally among the rest of the minor children of the deceased insured person.

(3B) In the case of death of the surviving spouse in receipt of a survivor's pension within five years after the death of the insured person and not survived by any minor child of the deceased insured person, the survivor's pension shall be paid to the surviving parents of the deceased insured person, if any, for a period of five years from the death of the said spouse.]

<sup>4</sup>[(4) In the case of death of an insured person who is not survived by a spouse, the survivors' pension shall be paid to the minor children of the deceased insured person referred to in sub-section (3) and sub-section (3A), and in the case of the insured person not surviving by any minor child, the survivor's pension shall be paid to the surviving parents of the deceased insured person, if any, for a period of five years from the death of the insured person.]

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<sup>1</sup>The certain words ins. by the Labour Laws (Amdt.) Act 1994, (II of 1994) s. 8 and Sch.

<sup>2</sup>Subs. *ibid.*, for "of sixty per cent of".

<sup>3</sup>Subs. *ibid.*, for sub-section (3).

<sup>4</sup>Subs. *ibid.*, for sub-section (4).

**23. Invalidity Pension.**— (1) An insured person who sustains invalidity shall be entitled to an <sup>1</sup>[invalidity pension] at the rate <sup>2</sup>[to be calculated according to the formula set out in the schedule] provided that-

- (a) contribution in respect of him were <sup>3</sup>[paid] for not less than fifteen years ; or
- (b) contributions in respect of him were <sup>3</sup>[paid] for not less than five years since his entry into insurable employment and for not less than three years during the period of five years preceding the month in which he sustains invalidity ; and
- (c) in either case, he is under <sup>4</sup>[sixty] years of age, or <sup>4</sup>[fifty-five] years in the case of woman.

<sup>3</sup>[Provided that where the employee was insured under the provision of this Act on or before 30th June 2002, and the contribution payable under the Act by the employer prior to 30th June 2002, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted in clause (a) and (b):

Provided further that where the contribution under section 9B is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement to the benefit shall not be affected by default in payment of employer's share of contribution under section 9.]

(2) Subject to regulations, the <sup>1</sup>[invalidity pension] shall be payable from the month following that in which the insured person satisfies the conditions for entitlement thereto :

Provided that the <sup>1</sup>[invalidity pension] shall not be <sup>3</sup>[paid] retro-actively for more than six months preceding the month in which as application for the <sup>1</sup>[invalidity pension] is submitted.

(3) The <sup>1</sup>[invalidity pension] shall be payable so long as invalidity continues :

Provided that an insured person who has been in receipt of the <sup>1</sup>[invalidity pension] for not less than five continuous years or attains the age specified in clause (a) of sub-section (1) of section 22 shall be entitled to the <sup>1</sup>[invalidity pension] for life.

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## CHAPTER VI

### PROVISIONS COMMON TO ALL BENEFITS

**24. Calculation of Qualifying Contribution Periods.** In calculating the contribution periods for entitlement to a benefit under this Act, periods in respect of which [invalidity pension] <sup>1</sup>has been paid to an insured person prior to his reaching the age of <sup>4</sup>[sixty] years, or <sup>4</sup>[fifty-five] years in the case of woman,

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<sup>1</sup>Subs. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 2 (w.e.f. 1-7-83).

<sup>2</sup>Subs. *ibid.*, s. 12 (w.e.f. 1-7-83).

<sup>3</sup>Subs. and added by Ord. 46 of 02, s.10.

<sup>4</sup>Subs. by the Finance Act, 1986 (1 of 1986) s. 11.

or periods in respect of which maternity benefit, or sickness benefit or injury benefit or total disablement pension have been paid under the West Pakistan Employees' Social Security Ordinance, 1965, to an insured person shall be deemed to be contribution periods to such extent as may be provided by regulations.

**25. Benefit claims and payments.**—(1) All claims for <sup>1</sup>[a benefit] under this Act shall be made in writing and shall be accompanied by such documents, information and evidence as to entitlement as may be provided, by regulations.

(2) Payment of <sup>1</sup>[a benefit] shall be made in such manner, and at such times and places, as may be provided by regulations.

**26. Extinguishment of benefits.** A right to the <sup>2</sup>[any benefit] shall stand extinguished where a claim therefor is not made within twelve months of the date on which the <sup>2</sup>[benefit] becomes payable <sup>3</sup>[:]

<sup>3</sup>[Provided that the Institution may condone the delay and admit the claim if it is satisfied that the delay was caused for reasons, beyond the control of the insured person or the <sup>4</sup>[survivor].

<sup>5</sup>[**27. Suspension of old-age pension and <sup>4</sup>[survivor's pension].** Subject to regulations, payment of old-age pension and <sup>4</sup>[survivor's pension] shall be suspended when and so long as the insured person or the <sup>4</sup>[survivor] entitled to it is absent from Pakistan except where the regulations provide otherwise.]

**28. Non-duplication of allowance.**—(1) An insured person shall not be paid for the same period more than one of the <sup>6</sup>[benefits] provided for in this Act.

(2) Where an insured person is entitled to more than one allowance under this Act, he shall be given the higher of such <sup>6</sup>[benefits].

(3) Where an insured person is entitled to <sup>1</sup>[a benefit] under this Act and to a disablement pension under the West Pakistan Employees' Social Security Ordinance; 1965 he shall be given the higher of the two.

(4) The <sup>6</sup>[invalidity pension] shall not be payable to an insured person so long as he receives the sickness benefit under the West Pakistan Employees' Social Security Ordinance, 1965.

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<sup>1</sup>Subs. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 2 (w.e.f. 1-7-83).

<sup>2</sup>Subs. *ibid.*, s. 13 (w.e.f. 1-7-83).

<sup>3</sup>Subs. and added *ibid.*

<sup>4</sup>Subs. by the Finance Act, 1986 (1 of 1986) s. 11.

<sup>5</sup>Subs. by Ord. 17 of 1983, s. 14, (w.e.f. 1-7-83).

<sup>6</sup>Subs. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 2, (w.e.f. 1-7-83).

**29. Benefit not attachable, chargeable or assignable.** <sup>1</sup>[A benefit] payable under this Act shall not be liable to attachment in the execution of a decree, nor shall it be chargeable or assignable; and any agreement to charge or assign <sup>1</sup>[a benefit] shall be void, and on the bankruptcy of an insured person, the allowance payable to him shall not pass to any trustee or person acting on behalf of his creditors.

**30. Repayment of allowance improperly received.**—(1) When a person has received any allowance under this Act to which he is not lawfully entitled, he shall be liable to repay to the Institution the amount of the allowance in such manner as may be provided by regulations :

Provided that the Institution may waive repayment of <sup>1</sup>[a benefit] where payment thereof was not due to misrepresentation on the part of the insured person receiving it and the repayment would cause undue hardship to him.

(2) Sums due to the Institution by virtue of the foregoing sub-section may be recovered by deduction from <sup>1</sup>[a benefit] payable under this Act.

**31. Institution's right to be indemnified in certain-cases.** Where the contingency for which <sup>2</sup>[a benefit] is payable under this Act was caused under circumstances creating a legal liability in some person, the Institution shall be entitled to substitute itself for the insured person in bringing a suit for damages against that person.

**32. Recovery of amounts due.** Any amount recoverable under this Chapter may be recovered as an arrear of land revenue.

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## CHAPTER VII

### DETERMINATION OF QUESTIONS AND CLAIMS

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

- (a) whether a person is an insured person within the meaning of this Act;
- (b) the amount of wages of an insured person for the purposes of this Act;
- (c) the amount of contribution payable by an employer in respect of an insured person;
- (d) the person who is the employer in respect of an insured person;
- <sup>3</sup>[(e) entitlement to any benefit under this Act or as to the amount and duration thereof;]

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<sup>1</sup>Subs. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 2, (w.e.f. 1-7-83).

<sup>2</sup>Subs. by the Employees Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 2, (w.e.f. 1-7-83),

<sup>3</sup>Subs. *ibid.*, s. 15, (w.e.f. 1-7-83), for "clause (e)".



<sup>1</sup>[(ee) registration of an industry or establishment; or]

- (f) any other matter in respect of any contribution or any allowance referred to in clause (e), or dues payable or recoverable under this Act relating to contributions Or the aforesaid <sup>2</sup>[benefits]

the matter shall be decided by the Institution, in such manner, and within such time, as the regulations may provide and the Institution shall notify its decision to the person concerned in writing, stating therein the reason for its decision.

Review of decisions.

**34. Review of decisions.** The Institution may, subject to regulations, on new facts being brought to its notice, review a decision given by it under section 33:

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

**35. Appeal to Board.** Subject to rules, a person aggrieved by a decision of the Institution under section 33 or on a review under section 34, may appeal to the Board.

**36. Assessment of invalidity.** The Institution shall appoint medical boards which shall, in such manner as may be provided by regulations, assess the degree of invalidity sustained by an insured person.

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## CHAPTER VIII OFFENCES AND PENALTIES

**37. Offences.** If any person—

- (a) for the purpose of obtaining <sup>1</sup>[a benefit] or denial of any payment or allowance, under this Act, whether for himself or some other person, or for the purpose of avoiding any payment to be made by himself or any other person under this Act—
- (i) knowingly makes or causes to be made false statement or false representation ; or
- (ii) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in any material particular; or
- (b) fails to pay any contribution which under this Act he is liable to pay; or
- (c) recovers or attempts to recover from an insured if person, or deducts or attempts to deduct from his wages the whole or any part of the employers share of contribution; or

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<sup>1</sup>Subs. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 15, (w.e.f. 1-7-83).

<sup>2</sup>Subs. *ibid.*, s. 2, (w.e.f. 1-7-83).

<sup>3</sup>Subs, by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983). s. 2 (w.e.f. 1-7-83).

- (d) fails or refuses to submit any return required by this Act, or regulations or makes a false return; or
- (e) obstructs any official of the Institution in the discharge of his duties; or
- (f) is guilty of any contravention of, or non-compliance with, any of the provisions of this Act or the rules or the regulations;

he shall be punished with imprisonment for a term which may extent to two years, or with fine which may extent to ten thousand rupees, or with both.

**38. Prosecution.**—(1) No prosecution under this Act shall be instituted except with the previous sanction of the Federal Government or any officer or authority authorised in this behalf by it.

(2) No court inferior to that of a Magistrate of the first class shall try any offence under this Act.

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

## CHAPTER IX

### MISCELLANEOUS

**39. Contributions, etc.** In any proceedings of insolvency against a person or proceedings for winding up of a company, any contribution or other amount payable under this Act by such person or company shall be deemed to be included among debts to be paid in priority to all other debts.

**40. Exemption from stamp duty.** Stamp duty shall not be chargeable upon any documents used in connection with <sup>1</sup>[benefits] payable under this Act.

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

**42. Member and servants of the Institution to be public servants.** The members and employees of the Board and all officers and servants of the Institution shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

**43. Delegation of powers.** The Board may direct that all or any of its powers and functions may, in relation to such matters and subject to such conditions, if any, as may be specified, be also exercisable by any, officer or authority subordinate to the Institution.

**44. Power to make rules.**—(1) The Federal Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules <sup>2</sup>to carry out the purposes of this Act.

<sup>1</sup>Subs. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983). s. 2 (*w.e.f.* 1-7-83).

<sup>2</sup>For the Employees' Old-Age Benefit (Contributions) Rules, 1976, see S.R.O. No. 802(I)/76, dated 9-8-1976, vide Gaz., of P., 1976, Ext. (Islamabad) Pt. II, page 1642. For the Employees' Old-Age Benefits (Registration of Employees and Insured Persons) Rules, 1976, see S.R.O. No. 709(I)/76 dated 12-7-76, *ibid.*, page 1427; and for Employee's Old-Age Benefits (Board of Trustees) Rules, 1977, see S.R.O. No. 438(I)/77, dated 12-5-77. *ibid.*, Pages 849—853 ; and for the Employees' Old-Age Benefits (Audit and Accounts) Rules, 1977, see S.R.O. No. 349(I)/77, dated 19-3-77. *ibid.*

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

- (i) the tenure of office of members of the Board, other than the <sup>1</sup>[President] and other terms and conditions of appointment of the members of the Board and the manner in which the Board shall conduct its business, including the number of members required to form a quorum at the meetings thereof;
- (ii) the manner in which names of persons from whom member of the Board may be appointed shall be submitted by organisations of employers and employees recognised by the Federal Government for that purpose;
- (iii) powers and functions of the Board;
- (iv) fees and <sup>2</sup>[benefits] of the members of the Board;
- (v) times and rates at which, and conditions subject to which, contributions shall be payable;
- (vi) percentage or amount by which contributions in arrears may be increased under section 13;
- (vii) investment of surplus moneys, realisation of investments and reinvestment of proceeds;
- (viii) terms at which and the manner in which the budget of the Institution shall be prepared and submitted to the Federal Government;
- (ix) the forms and manner in which the Institution shall keep accounts of its income and expenditure and of its assets and liabilities;
- (x) the times at which, and the manner in which, the accounts of the Institution shall be audited;
- (xi) the matters which the annual report of Institution shall cover;
- (xii) the times in which claims for <sup>2</sup>[a benefit] shall be made;
- (xiii) the manner and procedure for disposal of appeals by the Board; and
- (xiv) any other matter which is required to be or may be prescribed.

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<sup>1</sup>Subs. by Ord. 46 of 02, s. 12.

<sup>2</sup>See footnote 1 on page 802.

**45. Power to make regulations.**—(1) The Board may subject to the condition of previous publication, by ratification in the official Gazette, make regulations not inconsistent with the provision of this Act or the rules.

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

- (i) the time and places at which meetings of the Board shall be held;
- (ii) the manner in which daily wage\* shall be calculated for the purpose of determining the contribution payable;
- (iii) determination of wages for computation of contributions where the mode of payment of remuneration, in cash or kind, makes such computation difficult;
- (iv) records to be kept and returns to be submitted by employers, time at which and the form in which such returns are to be submitted, and particulars relating to be insured persons to be stated in such returns and the manner and form for registration of employers and insured persons;
- (v) the manner in which any claims of the Institution for unpaid contributions may be extinguished;
- (vi) powers and duties of internal auditors;  
1\* \* \* \* \*
- (viii) the form and manner in which claims for <sup>2</sup>[a benefit] shall be preferred, and the documents, information and evidence which shall accompany such claims:
- (ix) the manner in which and the time and places at which payment in respect of <sup>2</sup>[a benefit] shall be made;
- (x) the manner in which and the time within which complaints questions and disputes shall be decided;
- (xi) the circumstances and the manner in which, on new facts coming to light, the Institution may review decisions;
- (xii) the method of payment of contributions and liability thereof;

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<sup>1</sup>Omitted try the Finance Act. 1986 (1 of 1986 of II.

<sup>2</sup>Subs. by the Employees' Old age Benefits (Amdt) Ordinance. 1983 (17 of 1983), s. 2.

- (xiii) the manner in which invalidity shall be assessed and the procedure thereof;
- (xiv) the manner in which proof of age shall be furnished for the purposes of this Act;
- (xv) the manner in which the services of the Institution shall be organised; and
- (xvi) any other matter not provided for in this Act or the rules and necessary to give effect to the provisions of this Act.

**46. Power to exempt.** The Federal Government may, subject to such conditions as it thinks fit to impose, by notification in the official Gazette, exempt any establishment or industry from all or any of the provisions of this Act.

**47. Act not to apply to certain persons.** Nothing in this Act shall apply to—

- (a) persons in the service of the State, including members of the armed forces, police force and Railway servants;
  - (b) persons in the service of a local council, a municipal committee, a cantonment board or any other local authority;
  - (c) persons who are employed in services or installations connected with or incidental to the Armed Forces of Pakistan including an ordnance factory maintained by the Federal Government or Railway administration;
  - (d) persons in the service of Water and Power Development Authority;
- <sup>1</sup>\*   \*   \*   \*   \*   \*   \*
- (f) persons in the service of statutory bodies other than those employed in or in connection with the affairs of a factory <sup>2</sup>[as defined in] section 20) of the Factories Act, 1934 <sup>2</sup>[or a mine as defined in the] Mines Act, 1923:

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

- (g) members of the employer's family <sup>3</sup>[that is to say, the husband or wife and dependent children of the employer] living in his house, in respect of their work for him; and

<sup>4</sup>\*   \*   \*   \*   \*   \*   \*

**48. [Repeal.]** *Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (XXV/I of 1981), s. 3 and Sch II.*

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<sup>1</sup>Omitted by Act I of 08, s.9 (*w.e.f.* 1-7-08).

<sup>2</sup>Subs. by the Employee's Old-Age Benefits (Amdt.) Ordinance 1983 (17 of 1983), s. 16.

<sup>3</sup>Ins. by the Employees' Old-Age Benefits (Amdt.) Ordinance, 1983 (17 of 1983), s. 16.

<sup>4</sup>Omitted by the Finance Act, 1986 (I of 1986), s. II.

## <sup>1</sup>[SCHEDULE

(See sections 22 <sup>2</sup>[22B] and 23)

(1) The monthly rate of old-age pension or invalidity pension payable to an insured person <sup>2</sup>[and survivors's pension payable to surviving spouse] shall be calculated in accordance with the following formula, namely:—

<sup>2</sup>\*monthly wages X Number of years of insurable employment.

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

<sup>3</sup>[(2) The monthly wages of an insured person, referred to in paragraph (1) shall be calculated on the basis of wages on which contributions were paid in respect of the twelve calendar months immediately preceding the date on which the insured person fulfils the conditions for entitlement to any benefits under this Act:

Provided that the old-age pension or invalidity pension payable to an insured person and survivors' pension payable to survivors of the deceased insured person shall not be less than two thousands rupees per month for pension commencing on or after 1<sup>st</sup> day of July, 2008.]

<sup>2</sup>[(3) The monthly rate of old-age pension, invalidity pension and survivors pension being paid on or before first day of July, 2007, under paragraph (1) shall be increased by fifteen per cent.]

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<sup>1</sup>Sch. added by Ordinnnce 17 of 1983, s. 17 have been subs. by Act I of 1986.

<sup>2</sup>Added, ins. omitted and subs. by Act IV of 07, s. 12 (*w.e.f.* 1-7-07).

<sup>3</sup>Subs. by Act I of 08, s. 9 (*w.e.f.* 1-7-08).