

BRIEF ON AMENDMENTS FROM 1976 TO 2005

ISLAMABAD (August 28 2002) President General Pervez Musharraf has promulgated Employees' Old-age Benefits (Amendment) Ordinance, 2002 to further amend Employees' Old-age Benefits Act, 1976.

The Ordinance will come into force at once.

Following is the text of the Ordinance"

ORDINANCE NO. XLVI OF 2002.

AN ORDINANCE further to amend the Employees' Old-age Benefits Act, 1976

WHEREAS it is expedient further to amend the Employees' Old-age Benefits Act, 1976 (XIV of 1976), for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No 1 of 1999, read with the Provisional Constitutional (Amendment) Order No 9 of 1999 and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

1. Short title and commencement (1) This Ordinance may be called the Employees' Old-age Benefits (Amendment) Ordinance, 2002.

(2) It shall come into force at once.

2. Amendment of section 2, Act XIV of 1976.- In the Employees' Old-age Benefits Act, 1976 (XIV of 1976), hereinafter referred to as the said Act, in section 2,-

(a) in clause (a) for the word "widow's" the word "Survivor's" shall be substituted; and

(b) for clause (oa) the following shall be substituted, namely;

"(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."

3. Amendment of section 8, Act XIV of 1976.- In the said Act, in section

(a) in clause (a), the word "and" at the end shall be omitted;

(b) in clause (b), for the it'll stop the semicolon and the word"; and shall be substituted; and

(c) after clause (b), amended as aforesaid, following new clause shall be added, namely;-

"(c) to co-opt any other technical person by name as member on the Board for a specific purpose and for such limited period as decided by the Board."

4. Amendment of section 9, Act XIV of 1976.- In the said Act, in section 9-(a) in sub-section (1),-

(i) in the second proviso, for the word "pension" the words "old-age pension" shall he substituted; and

(ii) for the third proviso, the following shall be substituted, namely:- "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 this 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."; and

(b) in sub-section (3) for the word "contribution" the words "employer's share of contribution" shall be substituted.

5. Amendment of section 12, Act XIV of 1976.- In the said Act, in section 12,

(a) in sub-section (1), in clause (c), for the colon a full stop shall be substituted and the provision shall be omitted; and

(b) for sub-section (2) the following shall be substituted, namely: -

"(2) The official referred to in section (1) shall not ordinarily demand production of account books and other documents referred to in clause (b) of sub-section (1) for more than two years and shall be bound to secrecy as regards all matters with which he becomes acquainted in the performance of his duties and which do not relate to matters provided for in this Act:

Provided that checking of record in case of those employers who have not opted for Self-Assessment Scheme shall only be done once in a year, with fifteen day's prior notice, by an officer not below the rank of Assistant Director."

6. Insertion of new section 12A, Act XIV of 1976.- In the said Act, after section 12, the following new section 12A shall be inserted, namely:-

"12A, Self Assessment Scheme, (1) Any employers may opt and apply for registration under the self-assessment scheme to the Institution by declaring the number of employees and their required particulars on the prescribed form. The declaration so made shall be accepted without any question provided no demand of contributions previously created remains outstanding against such empl

(2) Any employers who is already registered under normal pension scheme and opts for registration under self assessment scheme shall not decrease the total amount of contributions and number of insured persons already registered immediately prior to exercising his option for self assessment scheme.

(3) The employer shall ensure that the amount of contribution and number of registered insured workers declared by him shall not decrease during the period of two years of self-assessment scheme.

(4) The officials of the Institution shall not enquire into or inspect any establishment which has opted for self-assessment scheme for a period of two years from the date of submission of application for ascertaining the amount of the contribution and number of insured persons.

(5) At expiry of two years period, if the employer wishes to continue on self-assessment scheme, one time checking of the record shall be done, as provided in sub-section (1) of section 12, by an officer not below the rank of Deputy Director and no question will be asked about the previous years."

7. Amendment of section 21, Act XIV of 1976.- in the said Act, for section 21 the following shall be substituted, namely:-

"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."

8. Amendment of section 22, Act XIV of 1976.- In the said Acts, in section 22.-

(a) in sub-section (1),-

(i) In the first proviso, in clause (b) for the word "payable" the word "paid" shall be substituted;

(ii) in second proviso, for the semicolon, at the end, a colon shall be substituted; and

(iii) after the second proviso, amend as aforesaid, the following shall be added, namely;-

"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."; and

(b) in sub-section (2C), in clause (c), for the word "payable" the word "paid" shall be substituted,

9. Amendment of section 22-A, Act XIV of 1976.- In the said Act, in section 22A,

(a) for the word "payable" occurring twice the word "paid" shall be substituted; and

(b) for the full stop, at the end, a colon shall be substituted and thereafter the following provisos shall be added, namely:-

"Provided that where the employee was insured under the provision 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."

10. Amendment of section 23, Act XIV of 1976.- In the said Act, in section 23,-

(a) for the word "payable" wherever occurring the word "paid" shall be substituted; and

(b) in sub-section (1), for the full stop, at the end, the colon shall be substituted and thereafter the following provisos shall be added, namely;-

"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."

11. Amendment of section 37, Act XIV of 1976.- In the said Act, in section 37 in clause (c), for the word "contribution" the words "employer's share of contribution" shall be substituted.

12. Amendment of section 44, Act XIV of 1976.- in the said Act, in section 44, in sub-section (2), in clause (1), for the word "Chairman" the word "President" shall be substituted.-APP