



THE ESTABLISHMENT OF THE FEDERAL BANK FOR COOPERATIVES AND REGULATION OF COOPERATIVE BANKING ACT, 1977

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**THE ESTABLISHMENT OF THE FEDERAL BANK FOR COOPERATIVES AND
REGULATION OF COOPERATIVE BANKING ACT, 1977,**

¹ACT NO. IX OF 1977

[9th January, 1977]

**An Act to provide for the establishment of a Federal Bank for Cooperatives and regulation of
Cooperative Banking.**

Whereas it is expedient to provide for the establishment of a Federal Bank for Cooperatives and Regulation of Cooperative Banking, and for matters ancillary thereto;

AND WHEREAS the Provincial Assemblies of the Northwest Frontier Province, the Punjab and Sindh and Parliament, exercising the powers of the Provincial Assembly of Baluchistan under, Article 234 of the Constitution of the Islamic Republic of Pakistan, have passed resolutions under Article 144 of the Constitution to the effect that Parliament may by law regulate the matter of cooperative banking ;

It is hereby enacted as follows :—

***1. Short title, extent and commencement.**—(1) This Act may be called the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Act, 1977.

(2) It extends to the whole of Pakistan and also applies to the business of the Bank transacted outside Pakistan and to persons conducting such business.

(3) It shall come into force at once and shall be deemed to have taken effect on the 9th day of October, 1976.

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

- (a) "approved securities" means securities in which a trustee may invest money under clause (a), clause (b), clause (bb), clause (c) or clause (d) of section 20 of the Trusts Act, 1882 II of 1882), and such other securities as the Federal Government. may, by notification in the, official Gazette, declare to be approved securities for purposes of this Act;
- (b) "Bank" means the Federal Bank for Cooperatives established under section 5;
- (c) "Board" means the Board of Directors constituted under section 9;
- (d) "Chairman" means the Chairman of the Board;
- (e) "cooperative bank" means a 'banking society as defined in the Explanation to sub-section (2) of section 7 of the Cooperative Societies Act, 1925 (VII of 1925) other than a Provincial Cooperative Bank.

¹For Statement of objects and Reasons, see Gaz.of P, 1976, Ext pt. P- III 1527.

This Act has been amended in its application to the extent of Islamabad, Capital Territory, See Ordinance No. XXVII of 1981, s. 5 and 4th Sch.

*under section 41 of the Federal Bank of Cooperative & Regulation of Cooperative Banking Act 1977 (IX of 1977) has been liquidated vide SRO 717 (I)/2002 dt, 16-10-02.

- (f) "cooperative society" means a society registered in Pakistan under any law for the time being in force relating to registration of cooperative societies and a "primary cooperative society" means such a society of which no other society is a member;
- (g) "borrower" means a person who has obtained a loan from the Bank or a Provincial Cooperative Bank and includes a surety or an indemnifier, but does not include the Federal Government or a Provincial Government;
- (h) "demand liabilities" means liabilities which are to be met on demand and "time liabilities" means liabilities which are not demand liabilities;
- (i) "Director" means a Director for the time being of the Board;
- (j) "District judge" includes, in respect of areas where a District Judge does not have unlimited pecuniary jurisdiction in original civil suits, a High Court exercising original civil jurisdiction;
- (k) "family members" in relation to a person means his spouse, dependent lineal ascendants and descendants and dependent brothers and sisters;
- ¹[(l) 'loans advances and credit' includes finance as defined in the Banking Tribunals Ordinance, 1984, and all cognate expressions shall be construed accordingly;]
- (m) "Managing Director" means Managing Director of the Bank and includes any person for the time being discharging the functions of the Managing Director;
- (n) "multi-unit cooperative society" means a cooperative society to which the Multi-Unit Cooperative Societies Act, 1942 (VI of 1942) applies and which—
- (i) is not a banking society as defined in the Explanation to sub-section (2) of section 7 of the Cooperative Societies Act, 1925 (VII of 1925); and
- (ii) does not use as a-, part of its name the word "Bank" or "Banking" or any of its derivatives ;
- (o) "prescribed" means prescribed by rules;
- (p) "Provincial Cooperative Bank" means a cooperative society the primary object of which is to make loans to the cooperative societies which are its members and which is notified, for the purposes of this Act, to the Bank by the Provincial Government of the Province within which the cooperative society is registered or, until a cooperative society is so notified, any one of the following, namely:—
- (i) the Baluchistan Provincial Cooperative Bank Ltd;
- (ii) the Frontier Provincial Cooperative Bank Ltd;
- (iii) the Punjab Provincial Cooperative Bank Ltd; and

¹Subs. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.,

(iv) the Sind Provincial Cooperative Bank Ltd;

(q) "regulation" means a regulation made under this Act;

(r) "rule" means a rule made under this Act;

(s) "scheduled bank" has the same meaning as in the State Bank of Pakistan Act, 1956 (XXXIII OF 1956);

(t) "State Bank" means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956.

3. Act of override other laws.—(1) Except as provided in sub-section (2), this Act. shall have effect notwithstanding anything contained in the Banks (Nationalization) Act, 1974 (XIX of 1974), or any other law, excepting the State Bank of Pakistan Act, 1956 (XXXIII of 1956), and the Banking Companies Ordinance, 1962 (LVII of 1962), as amended by this Act, for the time being in force or any instrument having effect by virtue of any law or any agreement, contract, award or memorandum or articles of association or other instrument.

(2) Nothing in—

(a) section 36 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), shall apply to the Chairman or a Director, other than the Managing Director;

(b) clause (iv) of sub-section (1) of section 14 of the Banking Companies Ordinance, 1962 (LVII of 1962), shall apply to shares of the Bank held by the State Bank;

(c) section 27, section 28, clause (b) of sub-section (6) of section 40, clause (c) of sub-section (1) of section 42, Parts III and IV, or section 89 of the Banking Companies Ordinance, 1962 (LVII of 1962), shall apply to the Bank;

(d) clause (c) of sub-section (1), or sub-sections (2), (3), (4) and (5) of section 11, sub-section (3) of section 14, sections 15, 15-A, 15-B, 15-C, or 20 sub-section (3) or (6) Of section 25, sub-section (4) or (5) or section 40, or section 41-A, 41-B, 41-C, or '83 of the Banking Companies Ordinance, 1962 (LVII of 1962), shall apply to the Chairman or a Director other than the Managing ' Director.

4. Power to exempt, and suspend operation of Act, in certain cases. The Federal Government may, by notification in the official Gazette, and subject to such conditions as may be specified in the notification, exempt the Bank from, or suspend the application to the Bank of, all or any of the provisions of this Act, either generally or for such period as may be so specified.

5. Establishment of the Bank.—(1) As soon as may be after the coming into force of this Act, the Federal Government shall take steps to establish, in accordance with the provisions of this Act, a bank to be called "The Federal Bank for Cooperatives" to carry out the purposes of this Act.

(2) The Bank shall be a body corporate having perpetual succession and a common seal, with powers to acquire, own, hold and dispose of any property, and shall by the name assigned to it by sub-section (1) sue and be sued.

(3) The Bank shall be deemed to be a banking company for the purposes of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), the Banking Companies Ordinance, 1962 (LVII of 1962), and any other law for the time being in force relating to banking companies, excepting the Banks (Nationalization) Act, 1974 (XIX of 1974).

6. Share capital.—(1) The initial share capital of the Bank shall be twenty crores of rupees divided into two thousand fully paid up shares of the nominal value of one hundred thousand rupees each and shall be fully subscribed by the Federal Government, the Provincial Governments and the State Bank of Pakistan in the following manner:—

(a) Federal Government.	Rs. 2.00 crores.
(b) State Bank.	Rs. 15.00 crores.
(c) Government of the Punjab.	Rs. 1.00 crores.
(d) Government of Sind.	Rs. 1.00 crores.
(e) Government of N.W.F.P.	Rs. 0.50 crores.
(f) Government of Baluchistan.	Rs. 0.50 crores.

(2) The share capital may be increased from time to time by a resolution of the Board with the approval of the Federal Government, and the capital so increased shall be fully subscribed by the Federal Government, the Provincial Governments and the State Bank of Pakistan.

7. Offices and branches.—(1) The head office of the Bank shall be at Islamabad.

(2) The Bank shall establish one Regional Office in each Province and may establish Offices, Branches and Agencies at such places as the Board may think fit.

8. Direction and superintendence. The general direction and superintendence of the affairs and business of the Bank shall vest in a Board of Directors constituted in accordance with section 9, which may exercise all such powers and do all such acts and things as may be exercised or done by the Bank, subject to the provisions of this Act.

9. Board.—(1) The Board shall consist of—

- (a) the Chairman;
- (b) all the directors for the time being of the Central Board of Directors of the State Bank;
- (c) the Managing Director;
- (d) two directors to be nominated by the Federal Government of whom one shall be an officer of the Ministry of the Government of Pakistan concerned with the subject of cooperatives and the other a non-official; and

(e) two directors from each Province to be nominated by the Federal Government on the recommendation of each Provincial Government, of whom one shall be a non-official.

(2) The Governor for the time being of the State Bank shall be the Chairman of the Board.

(3) Unless the Federal Government otherwise directs in any case, a non-official Director referred to in clause (d) or clause (e) of sub-section (1) shall hold office for a period of three years and shall, subject to the provisions of this Act be eligible for reappointment :

Provided that such a Director shall not hold office for more than six consecutive years, and in computing the period of six years, any break of less than three years in continuity of office shall be disregarded.

(4) A Director referred to in clause (b) of sub-section (1) and an officer who is nominated Director under clause (d) or clause (e) of that sub-section, shall hold office during the pleasure of the Federal Government.

(5) No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy in, or defect in the constitution of the Board.

10. Managing Director.—(1) The Managing Director shall be appointed by the Federal Government on such terms and conditions as the Federal Government may determine and shall hold office during the pleasure of the Federal Government.

(2) Subject to sub-section (1), the Managing Director may, by writing under his hand addressed to the Federal Government, resign his office.

(3) The Managing Director shall be the whole-time Chief executive of the Bank and shall perform such functions as are assigned to him by or under this Act.

(4) If at any time the Managing Director is absent or is unable to perform his functions due to any cause, the Federal Government may authorise any other person not disqualified under section 11 to discharge for the time being the functions of the Managing Director on such terms and conditions as the Federal Government may think fit.

11. Disqualifications of Managing Director and Directors. No person shall be or shall continue to be the Managing Director or a Director who—

(a) is or becomes a member of Parliament or a Provincial Assembly; or

(b) is or at any time has been adjudicated an insolvent or suspends or has suspended payment or compounds or has compounded with his creditors; or

(c) is a minor; or

(d) is or is found to be a lunatic or becomes of unsound mind; or

(e) is or has at any time been convicted for any offence "which in the opinion of the Federal Government is an offence involving moral turpitude; or

(f) was at any time in the service of the Federal Government or a Provincial Government or a Corporation or body owned or controlled by any such Government or in the service of any bank and was dismissed or disqualified for employment; or

(g) is not a citizen of Pakistan or ceases to be a citizen of Pakistan; or

(h) is a person against whom action has been taken or any proceedings are pending under section 235 of the companies Act, 1913 (VII of 1913), or section 83 of the Banking Companies Ordinance, 1962 (LVII of 1962).

12. Meetings of the Board.—(1) Seven Directors shall form a quorum for a meeting of the Board.

(2) Subject to sub-section (1), the meetings of the Board shall be held in such a manner as may be prescribed:

Provided that until rules are made in this behalf, such meetings shall be convened by the Chairman.

(3) At the meetings of the Board, each Director shall have one vote and, in the event of equality of votes, the Chairman shall have a second or casting vote.

(4) All meetings of the Board shall be presided at by the Chairman and, in his absence, by a Director chosen for the purpose by the directors present from amongst their number. .

13. Fees for attending meeting. A non-official Director shall be paid such fees, travel costs and other expenses for attending the meetings of the Board as the Board may determine.

14. Indemnity of Directors.—(1) A Director shall not be personally responsible for the acts of any other Director or of any other officer or servant of the Bank or for any loss or expense resulting to the Bank by reason of insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Bank, or by wrongful act of any person under a liability to the Bank, or for anything done by him in good faith in the discharge of his duties.

(2) Every Director shall be indemnified by the Bank against all losses and expenses reasonably incurred by him in the discharge of his duties except such as are caused by his wilful act or default.

15. Advisory Committee.—(1) The Bank may constitute an Advisory Committee consisting of—

(a) the Managing Director, who shall be the Chairman thereof;

(b) one representative each of the Ministries of the Government of Pakistan concerned with the subjects of finance and cooperatives;

- (c) two representatives each of the Provincial Governments, of whom one shall be a non-official;
- (d) the chief executive of each of the Provincial Cooperative Banks; and
- (e) the Executive Director incharge of the Agricultural Credit Department in the State Bank.

(2) All meetings of the Advisory Committee shall be presided at by the Chairman thereof and, in his absence, by a Member chosen for the purpose by the Members present from amongst their number.

(3) The Advisory Committee shall advise the Bank on such matters as may be referred to it by the Board from time to time and may make recommendations on its own motion to identify areas of improvement in service, facilities to customers of co-operative societies, including measures for meeting regional credit requirements.

(4) The meetings of the Advisory Committee shall be convened by the Chairman thereof at such time and place as he may deem fit, and the non-official members of the Advisory Committee shall be paid such fees, travel cost and other expenses for attending the meetings as may be determined by the Board.

16. Officers and Servants.—(1) The Bank may appoint or employ such officers and servants as it considers necessary for the efficient performance of its functions on such terms and conditions as may be laid down by regulations:

Provided that, until regulations are made in this behalf, the conditions may be determined by the Board or by the Managing Director, to the extent he is authorised by the Board.

(2) The Managing Director and every officer and employee of the Bank shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

(3) For the purpose of section 124 of the Evidence Act, 1872 (I of 1872), the provisions of Part IV of the Code of Civil Procedure, 1908 and the provisions of rule 27 of Order V, and rule 52 of Order XXI of the said Code (Act V of 1908), the Bank and any officer and employee of the Bank acting in his official capacity as such shall be deemed to be a public officer.

(4) The provisions of section 123-of the Evidence Act, 1872 (I of 1872), shall apply to the unpublished records relating to the affairs of the bank and the Managing Director shall be deemed to be the officer or head of the department concerned.

17. Business and functions—(1) The Bank shall be the principal financing institution for meeting the credit needs of Provincial Cooperative Banks and multi-unit cooperative societies.

(2) The Bank may carry on, transact or do the several kinds of business and acts hereinafter specified, namely:—

- (i) accept money on deposit;

- (ii)** borrow funds from the Federal Government, financial institutions as defined in clause (f) of Section 2 of the National Development Finance Corporation Act, 1973 (XIII of 1973) and such other financing institutions in or outside Pakistan as are approved in this behalf by the Federal Government, against the security of its assets or otherwise;
- (iii)** raise funds for the purpose of the Bank's operation through issue and sale of bonds and debentures;
- ¹**[(iii)a)** obtain or raise funds on the basis of participation in profit and loss, mark-up and mark-down in price, hire-purchase, lease, rent-sharing, licensing, charge or fee of any description, participation term certificates, modaraba certificates and such other instruments as may be approved by the State Bank of Pakistan, purchase or sale of any property, including commodities, patents, designs, trade marks and copyright, with or without buy-back arrangements with the seller or on condition of payment of its price in one or more installments at a stated future date or dates or any other mode not based on interest;]
- (iv)** make secured loans and advances to Provincial Co-operative Banks, multi-unit cooperative societies and, subject, to the regulations framed for the purpose, to the officers and staff of the Bank;
- (v)** for the purpose of securing its loans and advances, accept pledge, mortgage, hypothecation or assignment Of any kind of movable or immovable property or documents of title or guarantee of the Federal Government or a Provincial Government and such other securities as the Bank may deem fit;
- (vi)** draw, accept, discount, buy or sell or rediscount bills of exchange or promissory notes bearing two or more good signatures, one of which shall be that of a scheduled bank or a Provincial Cooperative Bank;
- (vii)** issue guarantees and give indemnities in relation to its business;
- (viii)** subscribe to the debentures, ¹[participation term certificates, term finance certificates musharika certificates, modaraba certificates and such other instruments as may be approved by the State Bank;] repayable within a period not exceeding ten years, of any body corporate specially established for the promotion of business of cooperative societies;
- (ix)** deliver, receive, collect and remit any securities;
- ¹**[(x)** purchase on otherwise acquire in the normal course of its banking business any movable or immovable property, residential or commercial, including commodities, patents, designs, trade marks and copyrights, with or without buy-back arrangements by the seller, or for outright sale or sale in the form of hire-purchase or on deferred payment basis with mark-up or for leasing or licensing or for rent-sharing or for any other mode of financing other than one based on interest and, until so disposed of, deal with, and maintain, the same;];

¹Ins. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.

- (xi) open accounts or enter into any agency arrangement with any bank or financial institution in or outside Pakistan.
- (xii) invest its funds in Government Securities and other approved securities and if so directed by the Board and with the approval of the Federal Government, in the share capital of—
 - (a) a Provincial Cooperative Bank ¹[so that the amount so invested is not less than] twenty-five per cent of the fresh capital contributed by the Provincial Government of the Province within which that Provincial Cooperative Bank is registered; and
 - (b) a multi-unit cooperative society up to an amount not exceeding twenty-five per cent of its paid-up capital;
- (xiii) sell and realise property, movable or immovable, ²[commercial or residential including commodities, patents, designs, trade marks and copyrights,] which may in any way come into the ownership, possession or control of the Bank in the satisfaction or part satisfaction of any of its claims and the acquisition and the holding of, and generally the dealing with, any right, title or interest in any property, movable or immovable, ²[commercial or residential, including commodities, patents, designs, trade marks and copyrights,] which may be the Bank's security for any advance or loan or connected with any such security;
- (xiv) assist the Federal Government and the Provincial Governments in formulating schemes for the development and revitalisation of the cooperative movement in the country in general and the Provincial Cooperative Banks in particular;
- (xv) assist Provincial Cooperative Banks in preparing their seasonal and developmental loaning programmes and conduct appraisal and undertake feasibility study of projects covered by such loaning programmes;
- (xvi) encourage the development of special cooperative projects the objects or area of operation of which may extend to more than one Province;
- ³[(xvii) establish independent subsidiaries, whether as cooperative societies or companies or in any other convenient form, for operating model projects to improve agricultural marketing and storage and for this purpose to contribute wholly or partially to their share-capital, provide management, grant loans and advances and perform such other functions and duties as may be deemed necessary by the Bank;]
- (xviii) organise training in cooperation and cooperative banking for the employees of the Provincial Cooperative Banks and other cooperative societies;
- (xix) ensure proper utilisation of loans obtained from the Bank;
- (xx) carry out research on problems of rural credit and on such other matters as have a bearing on the development of the cooperative movement in the country;

¹Subs. By the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Bank (Amdt.) Ordinance, 1979 (67 of 1979), S. 2.

²Ins. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.

³Ins. by the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking (Amdt.) Ordinance, 1980 (15 of 1980), s. 2.

- (xx) lend money in the inter-bank call money, market;
- (xxi) issue letters of credit;
- (xxii) appoint attorneys and agents;
- (xxiii) subject to regulations framed for the purpose, maintain and operate the provident fund and other funds created for the benefit of its employee;
- (xxiv) perform such functions and exercise such powers as may be entrusted to or conferred upon it by or under any law; and
- (xxv) generally do all such matters and things as may be necessary, incidental to or consequential upon exercise of its powers or the discharge of its duties or functions under this Act or any other law.

18. Prohibited business. The Bank shall not undertake any kind of business other than that authorised by or under this Act, and in particular it shall not—

- (i) engage in any trade or otherwise have a direct interest in any commercial, industrial or other undertaking except such interest as it may any way acquire in the course of satisfaction of any of its claims, but all such interest shall be disposed of at the earliest possible moment;
- (ii) purchase its own shares or purchase or subscribe to the shares of any bank other than a Provincial Cooperative Bank or of any company or make any advance or loan or open any credit or give any financial accommodation upon the securities of its own shares or allow any debtor to set off his debts or part of his debts to the Bank against such shares;
- (iii) accept, buy, discount or advance, lend or open any credit or give accommodation or rediscount a bill of exchange or promissory note bearing two or more good signatures, one of which is not that of a scheduled bank or of a Provincial Cooperative Bank; or
- (iv) make unsecured advances and loans.

¹[**19. Borrowing Powers.** Power to borrow or obtain finance.—

(1) The Bank may, for the purpose of its business, borrow or obtain finance from all or any of the persons and in the manner mentioned in clause (ii) or clause (iiia) of sub-section (2) of section 17 and raise funds by issue and sale of bonds, debentures, modaraba certificates, participation term certificates, musharika certificates, term finance certificates and such other instruments as may be approved by the State Bank:

¹*Subs. by the Banking and Financial Services (Amendment of Laws) Ordinance. 1984 (57 of 1984), s. 2 and Sch.*

Provided that the aggregate of the sums due on such bonds, debentures, modaraba certificates, participation term certificates, musharika certificates, terms finance certificates and such other instruments as aforesaid issued and outstanding and the contingent liabilities of the Bank in respect of guarantees shall not, at any time, exceed ten times the aggregate of the amount of the paid-up share capital and reserves of the Bank.

(2) The bonds, debentures, modaraba certificates, participation term certificates, musharika certificates, term finance certificates and such other instruments as aforesaid may be guaranteed by the Federal Government as to repayment of the principal and return, if any, having regard to the terms thereof.]

20. Power to impose conditions. For the purpose of transacting any business under this Act with any Provincial Cooperative Bank or a multi-unit cooperative society, the Bank may impose such conditions as it may consider necessary or expedient for protecting its interest and securing that its guarantee, advance, loan or other assistance is put to such use by the Provincial Cooperative Bank or the multi-unit cooperative society as it has agreed to and any condition so imposed shall, notwithstanding anything contained in any other law for the time being in force, be valid and enforceable.

21. Power to call for payment before agreed period. Notwithstanding any agreement to the contrary, the Bank may, by notice, require any borrower to which it has granted any loan or any person liable for payment of such loan, forthwith to repay the loan in full if—

- (a) it appears to the Board that information false or misleading in any material particular has been given in the application for advance, loan, credit or any financial accommodation; or
 - (b) the borrower has failed to comply with the terms of any agreement with the Bank in the matter of the advance, loan, credit or financial accommodation; or
 - (c) there is reasonable apprehension in the opinion of the Managing Director that the borrower is unable to pay its debts or may go into liquidation; or
 - (d) the property pledged, mortgaged, hypothecated or assigned to the Bank as security for the advance, loan or credit or financial accommodation is not in proper condition to the satisfaction of the Bank or its value as estimated by the Bank has depreciated by more than twenty per cent, and further security to the satisfaction of the Bank is not given within the time specified by the Bank; or
 - (e) without the permission of the Bank, any property pledged, mortgaged, hypothecated or assigned to the Bank is leased or rented to third parties or is in any way charged, disposed of or removed from the place where it was at the time when the loan, advance, credit or financial accommodation was granted; or
 - (f) for any other reason it is necessary in the opinion of the Board to protect its interest.
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22. Special provision for enforcement of claims by the Bank.—(1) Where the Bank becomes entitled to require the immediate payment of any loan before the due date by reason of breach of any condition of any agreement between the Bank and a borrower to whom an advance, loan or credit has been granted or any person liable for payment of that advance, loan, or credit, or where a borrower to whom any advance, loan, or credit has been granted or any person liable for payment of that advance, loan or credit fails to repay it by the due date or in compliance of a notice under section 21, an officer of the Bank generally or specially authorised by the Board in this behalf may apply to the District judge within the local limits of whose jurisdiction the borrower carries on the whole or a substantial part of his business or the office or branch of the Bank from which the loan was disbursed is situated, for any one or more of the following reliefs, namely:—

- (a) an order for the sale of the property pledged, mortgaged, hypothecated or assigned to the Bank as security for the advance, loan or credit; or
- (b) an injunction *ad interim* where there is apprehension that the property pledged, mortgaged, hypothecated or assigned to the Bank may be leased or rented to a third party or in any way charged, disposed of or removed from the place where it was at the time the advance, loan, or credit was granted, without the permission of the Board.

(2) An application under sub-section (1) shall state the nature and extent of the liability of the borrower to the Bank, the ground on which it is made and such other particulars as may be prescribed by rules.

(3) When the application is for the relief mentioned in clause (a) or (b) of sub-section (1), the District Judge shall pass an order *ad interim* attaching the property referred to in clause (a) of sub-section (1) or such other property of the borrower or of the persons liable for payment of the advance, loan or credit or of both as is likely in his estimation to fetch, on being sold, an amount equivalent to the outstanding liability of the borrower to the Bank together with costs of the proceedings taken under this section with or without an injunction *ad interim* restraining the borrower from leasing or renting the property or in any way charging, disposing of or transferring or removing any property without the consent of the Board.

(4) Before passing an order under sub-section (3), the District Judge may, if he thinks fit, examine the person making the application.

(5) At the time of passing an order under sub-section (3), the District Judge shall issue to the borrower a notice accompanied by a copy of the order, the application and evidence, if any, recorded by him and calling upon him to show cause on a date to be specified in the notice why the order of attachment *ad interim* should not be made absolute or the injunction be not confirmed.

(6) If no cause is shown on or before the date specified in the notice under sub-section (5), the District Judge shall forthwith make the order *ad interim* absolute, and direct the sale of the attached property or confirm the injunction.

(7) If cause is shown, the District Judge shall proceed to investigate the claim of the Bank and the provisions of the Code of Civil Procedure, 1908 (Act V of 1908), shall as far as practicable, apply to such proceedings.

(8) On completing an investigation under sub-section (7), the District Judge shall pass an order—

- (a) confirming the order of attachment or directing the sale of the attached property; or
- (b) varying the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property; or
- (c) releasing the property from attachment, if he is satisfied that it is not necessary in the interest of the Bank to retain it under attachment; or
- (d) confirming or vacating the injunction:

Provided that when making an order under clause (c), the District Judge may make such further orders as he thinks necessary to protect the interest of the Bank and may apportion the costs of the proceedings in such manner as he thinks fit:

Provided further that, unless the Bank intimates to the District Judge that it will not appeal against the order releasing any property from attachment, such order shall not be executed until the expiry of the period mentioned in sub-section (10), or if an appeal is preferred, unless the High Court otherwise directs, until the appeal is disposed of.

(9) An order under this section for the attachment or sale of the property shall be carried into effect as far as may be in the matter provided in the Code of Civil Procedure, 1908 (Act V of 1908), for attachment or sale of property in execution of a decree as if the Bank were the decree-holder.

(10) Any party aggrieved by an order under sub-section (6) or sub-section (8) may, within thirty days from the date of the order, appeal to the High Court or, where the order is of a Judge of a High Court exercising original civil jurisdiction, to the Court to which an appeal from the judgment of such Judge lies, and upon such appeal the appellate court may, after hearing the parties, pass such orders as it thinks fit.

23. Recovery of Bank's dues. Without prejudice to the provisions of sections 21 and 22, all sums due to the Bank shall be recoverable as an arrear of land revenue:

Provided that no such shall be so recovered unless not less than fifteen days' notice has been given by the Bank to the borrower that the sum will be so recovered:

Provided further that, in so giving notice, the Bank shall notify the borrower that he may pay Bank such instalments as may be fixed in the notice and that upon his so paying every instalment on or before the due date the recovery will be suspended but that it will otherwise proceed as to the entire sum outstanding in case of any default in any instalment including the first.

24. General lien and preferential treatment to the dues of the bank. Where a Provincial Cooperative Bank or a multi-unit cooperative society to which an advance, loan or credit or any financial accommodation has been made is wound up, any sum due to the Bank in respect of such advance, loan, credit or financial accommodation shall, subject to any claim of the Federal Government, be the first charge on the assets of the Provincial Cooperative Bank or multi-unit cooperative society.

25. Power to inspect.—(1) Notwithstanding any law to the contrary, the Bank may at any time and, on being directed so to do by the State Bank, shall inspect any Provincial Cooperative Bank or multi-unit cooperative society, including its branches and offices, and its books, accounts and documents.

(2) The inspection shall be carried out by such officers of the Bank as the Bank may direct.

(3) It shall be the duty of every Director or other officer or employee of the Provincial Cooperative Bank or multi-unit cooperative society to produce to any officer, hereafter in this section called Inspecting Officer, making an inspection, under this section, all such books, accounts and other documents in his custody or power and to furnish him with such information, statement and documents and copies thereof, relating to the affairs of the Provincial Cooperative Bank or, as the case may be, multi-unit cooperative society and within such time as the Inspecting Officer may require.

(4) The Inspecting Officer may examine on oath any Director or other officer or employee of the Provincial Cooperative Bank or multi-unit cooperative society in relation to its business and may administer an oath accordingly.

(5) The Bank shall supply to the Provincial Government concerned, the State Bank and the Provincial Cooperative Bank or, as the case may be, the multi-unit cooperative society a copy of its report on the inspection made under this society.

(6) The property in the report supplied to the Provincial Cooperative Bank or multi-unit cooperative society under subsection (5) shall always lie in the Bank and the provisions of section 34 shall apply with equal force to the Bank, the State Bank, the Provincial Government and the Provincial Cooperative Bank or, as the case may be, the multi-unit cooperative society and the officers and servants of the Bank, the State Bank, the Provincial Government and the Provincial Cooperative Bank or, as the case may be, the multi-unit cooperative society.

26. Power to prohibit acceptance of deposits. If the State Bank, after considering the recommendation of the Bank on the report referred to in section 25 or otherwise, at any time is of the opinion that the affairs of a Provincial Cooperative Bank or multi-unit cooperative society are being conducted against the public interest or to the detriment of the interest of its depositors, or in a manner detrimental to the interest of the Provincial Cooperative Bank or multi-unit cooperative society, it may, after giving such opportunity to the Provincial Cooperative Bank or, as the case may be, multi-unit cooperative society to

make a representation in connection with the report as in the opinion of the State Bank seems reasonable, by order in writing—

- (a) prohibit the Provincial Cooperative Bank or multi-unit cooperative society from accepting deposits; or
- (b) restrict the acceptance of such deposits only upon such terms and conditions as may be specified in the order:

Provided that—

- (i) no such order shall be passed without the prior approval in writing of the Federal Government; and
- (ii) the State Bank may defer for such period as it may think fit the passing of an order under this section, or cancel or modify any such order, upon such terms and conditions as it may think fit to impose.

27. Power to call meeting and depute observers, etc. The Bank may, by order in writing,—

- (i) require a Provincial Cooperative Bank or multi-unit cooperative society to call a meeting of its Board of Directors for the purpose of considering any matter relating to its affairs, or require any of its officers to discuss any such matter with an officer of the Bank;
- (ii) depute one or more of its officers to which the proceedings of any meeting of the Board of Directors of a Provincial Cooperative Bank or multi-unit cooperative society or of any of its committees or of any body constituted by it and require it to give an opportunity to the officer or officers so deputed to be heard at such meeting;
- (iii) require the Board of Directors of a Provincial Cooperative Bank or multi-unit cooperative society or any of its committees or any other body constituted by it to give in writing to any officer specified by the Bank in this behalf at his usual address all notices and other communications relating to any meeting of the aforesaid Board, committee or other body; and
- (iv) appoint one or more of its officers to observe the manner in which the affairs of a Provincial Cooperative Bank or multi-unit cooperative society or of its offices or branches are being conducted and make a report thereon.

28. Power of the Bank to lay down policy guide-lines and give directives in regard to business.—(1) The Bank may from time to time lay down policy guide-line in relation to the business of Provincial Cooperative Banks or multi-unit cooperative societies generally, or any Provincial Cooperative Bank or multi-unit cooperative society in particular, and the banks and societies or, as the case may be, the bank or society shall be bound to follow the policy guide-lines so determined.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the Bank may, and if so required by the State Bank shall, give directions to Provincial Cooperative Banks generally or to any Provincial Cooperative Bank in particular as to the

credit ceiling to be maintained, the credit targets to be achieved for different purposes, the type, extent and purposes of, and the security against which, advances may or may not be made, margins to be maintained in respect of secured advances and rate of interest to be charged on advances or, as the case may be, given on deposits ¹[charges or mark-up to be applied on advances or the maximum or minimum profit-sharing ratios to be derived therefrom, and return to be given on deposits] and the Provincial Cooperative Banks or Bank shall be bound to comply with any directions to given.

(3) Where the Bank is satisfied that—

- (a) in the public interest; or
- (b) to prevent the affairs of a Provincial Cooperative Bank from being conducted in a manner detrimental to the interest of its depositors or in a manner prejudicial to the interest of any Provincial Cooperative Bank; or
- (c) to secure the proper management of any Provincial Cooperative Bank;

it is necessary to issue directions to a Provincial Cooperative Bank, it may, from time to time, issue such directions as it may deem fit and the Provincial Cooperative Bank shall be bound to comply with it within such time as may be specified in it.

29. Maintenance of liquid assets. Every Provincial Cooperative Bank shall maintain in Pakistan in cash, gold or unencumbered approved securities or balances with the Bank or the State Bank valued at a price not exceeding current market price, an amount which shall not at the close of business on any day be less than twenty per cent of the total of its time and demand liabilities in Pakistan, excluding paid-up capital, reserves, unappropriated profits and its borrowings from the Bank and any International Agency:

Provided that a Provincial Cooperative Bank existing on the commencement of this Act may be allowed by the Bank to comply with this requirement within such period as it may deem fit:

Provided further that the Bank shall when directed by the State Bank vary the percentage of liquid assets required to be maintained under this section.

30. Power to remove Directors, of other managerial persons from Office and to supersede Board of Directors of a Provincial Cooperative Bank. The Bank, in relation to removal of a Director or other managerial person or, as the case may be, the supersession of the Board of Directors, of a Provincial Cooperative Bank, shall have the same powers as are conferred on the State Bank, in relation to removal of the Directors or other managerial persons from office or, as the case may be, the supersession of the Board of Directors of a banking company, under sections 41 A, 41B and 41C of the Banking Companies Ordinance, 1962, (LVII of 1962) subject to the same limitations and procedure as are provided for in the aforesaid sections with the modification that—

- (i) references to the State Bank were references to the Bank; and

¹Ins. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.

(ii) in section 41C,—

(a) in sub-section (1), reference to Governor of the State Bank were reference to the Managing Director and the words "on a report by a standing committee set up by the State Bank for the purpose" were omitted; and

(b) in sub-section (2), reference to the Central Board of Directors of the State Bank were reference to the Board.

31. Power of the Bank to call for statements, returns, etc., and to publish information.—(1) Every Provincial Cooperative Bank or multi-unit cooperative society including its official liquidator or receiver, if it is being wound up, shall at its cost, furnish to the Bank at such time such information, statement, returns and documents as the Bank may from time to time determine.

(2) The Bank may, if it considers it in the public interest so to do, publish any information obtained by it under this Act in such consolidated form as it thinks fit.

32. Duty of the officers and servants to maintain secrecy.—(1) Except in the performance of his duties under this Act or, subject to section 34, when required by law, every officer or servant of the Bank shall observe, and aid in preserving, secrecy in all matters relating to the affairs of the Bank not published by it and with regard to all matters relating to the financial and monetary affairs of any Provincial Cooperative Bank or cooperative society affiliated to it or any multi-unit cooperative society or any institution, person or body or persons or any Government or authority in or outside Pakistan that may come to his knowledge in the performance of his duties.

(2) Every such officer or servant who communicates any such matter except, save as otherwise provided in section 34, when required by law to do so or in the discharge of his duties as such shall be punishable with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

33. Delegation of powers.—(1) The Board may, for the purpose of efficient functioning of the Bank and facilitating transactions of its daily business, by a resolution published in the official Gazette, delegate to the Managing Director or any other officer of the Bank, subject to such conditions and limitations as may be specified therein, such of its powers and duties under this Act as it may deem necessary. '

(2) The Managing Director may, for the purpose of facilitating transaction of the Bank's business, delegate to officers of the Bank, subject to such conditions and limitations, if any, as may be specified therein, such of the powers and duties assigned to him by or under this Act as he may deem necessary..

34. Prohibition against production and giving of evidence from unpublished record.—(1) No Court, tribunal or authority shall have authority to compel the Bank or any of its officers or servants to produce or, as the case may be, give any evidence derived from any unpublished records of the Bank.

(2) No Court, tribunal or authority shall take notice of, or permit any one to produce or give any evidence derived from, unpublished records of the Bank except with the prior written permission of the Managing Director who may give or withhold such permission.

35. Reserves. The Bank shall establish a fund to be called the General Reserve Fund and create from time to time such other reserves as it may deem necessary.

36. Disposal of profits. After making adequate provision for bad and doubtful debts depreciation in assets, contribution to staff and superannuation funds, and such other matters and contingencies as are usually provided for by bankers, the net annual profit shall be disposed of as follows, that is to say,—

- (a) a percentage of the net profit to be determined every year by the Board shall be transferred to the General Reserve Fund until that Fund is equal to the paid-up share capital of the Bank;
- (b) any surplus remaining thereafter, may be disposed of in such manner as may be decided by the Board.

37. Accounts and audit.—(1) Subject to sub-section (2), the Bank shall maintain its accounts in such manner as may be prescribed.

(2) The year of the account shall be the year commencing the first day of July and ending the thirtieth day of June.

(3) The accounts of the Bank shall be audited by one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the Board on such remuneration as the Board may determine.

(4) Every auditor appointed under sub-section (3) shall be supplied with a copy of the annual balance sheet of the Bank, and it shall be his duty to examine it together with the accounts and vouchers relating thereto; and every auditor shall have a list delivered to him of all books kept by the Bank, and shall, at all reasonable times, have access to the Books, accounts and other documents of the Bank, and may, in relation to such accounts, examine any Director or officer of the Bank.

(5) The audit of the Bank shall be conducted at the office or branch of the Bank where the books and documents to be audited are ordinarily kept.

(6) The auditors shall send, as soon as possible, to the Board and the State Bank a report upon the accounts of the Bank, the annual balance sheet and the statement, of profit and loss and, in every such report, they shall state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the affairs of the Bank, and, in case they have called for any explanation or information from the Bank or from any officer of the Bank, whether it has been given and whether it is satisfactory.

38. Exemption of the Bank from certain taxes. Notwithstanding anything contained in the ¹[Income Tax Ordinance, 1979 (XXXI of 1979)] ¹* * * the Gift-tax Act, 1963 (XIV of 1963), the Wealth-tax Act, 1963 (XV of 1963), or any other law in force relating to income-tax, super-tax,

¹Subs, and omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981) s. 5 and Sch. (only to the extent of Islamabad Capital Territory).

wealth-tax, gift-tax or business profits tax, the Bank shall not be liable to pay any such tax on its income, profits, gains, wealth or gifts.

39. Exemption from stamp duty, etc. The Bank shall not be liable to the payment of any stamp duty, court fee or registration fee payable under any law for the time being in force relating to stamp duty, court fees or registration of documents.

40. Exemption from compulsory registration of ¹[certain instruments] of the Bank. Nothing contained in clause (b) of sub-section (1) of section 17 of the Registration Act, 1908 (XVI of 1908), shall apply to—

(1) any ¹[bond debenture, participation term certificate, term finance certificate, musharika certificate, modaraba certificate or such other instrument as may be approved by the State Bank] issued by the Bank and not creating, declaring, assigning, limiting or extinguishing any right* title or interest to or in any immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the Bank has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such ¹ [instruments];

(2) or any endorsement upon or transfer of any ¹[such instrument] issued by the Bank.

41. Liquidation of the Bank. No provision of law relating to the winding up of companies or banks shall apply to the Bank and the Bank shall not be wound up save by order of the Federal Government on the recommendation of the State Bank; and in such an event, the surplus, of assets over liabilities of the Bank shall revert to shareholders in proportion to their shares in the paid-up capital.

42. Reorganisation of cooperative structure.—(1) There shall be one Provincial Cooperative Bank in each Province.

(2) The Provincial Cooperative Bank shall have branches at such places as it may deem fit.

(3) Each Provincial Cooperative Bank shall have and maintain paid-up capital and reserves of such minimum value as may be determined by the Bank from time to time.

Explanations.—I. If any dispute arises in computing the aggregate value of the paid-up capital and reserves of a Provincial Cooperative Bank, a determination thereof by the Bank shall be final.

II. For the purposes of this sub-section, "value" means the real or exchangeable value, or, if the real or exchangeable value exceeds the nominal value, the nominal value.

¹Subs. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.

(4) Except as provided in sub-section (5), all cooperative banks, not being Provincial Cooperative Banks, by whatever name called, existing at the commencement of this Act and a cooperative bank which ceases to be a Provincial Cooperative Bank by reason of a cooperative society being notified in pursuance of clause (p) of section 2, shall stand dissolved and their undertakings shall stand transferred to, and vest in, the Provincial Cooperative Bank of the Province within which such cooperative banks are registered, hereinafter referred to as the Provincial Cooperative Bank, on such terms and conditions as the Provincial Government of that Province may by order, notified in the official Gazette, specify.

Provided that nothing in this sub-section shall be deemed to render a Provincial Cooperative Bank liable to pay to the shareholders, creditors or employees of a cooperative bank the assets of which so stand transferred to, and vested in, if any amount in excess of the amount, if any, which any of them would have been entitled to receive in the event of the winding up of such cooperative bank.

Explanations.—I. For the purpose of this sub-section, "undertaking" includes all assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, investments, actionable claims and rights in or arising out of contracts and all other rights and interests in or arising out of, such property and all books of accounts, registers, records and all other documents of whatever nature relating to such property as were, immediately before the commencement of this Act, in the possession, ownership, power or control of a cooperative bank, whether within or outside Pakistan, and also includes paid-up capital, reserve funds, deposits, borrowings and all other liabilities and obligations of whatever kind, of such cooperative bank subsisting immediately before the commencement of this Act.

II. All contracts, deeds bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever kind subsisting or having effect immediately before the commencement of this Act, to which a cooperative bank is a party or which are in favour of such cooperative bank shall be of as full force and effect against or in favour of the Provincial Cooperative Bank as they were immediately before the commencement of this Act.

III. If, on the commencement of this Act, any suit, appeal or other legal proceeding of whatever kind which is by or against a cooperative bank or to which such cooperative bank is a party is pending in any court, the same shall not abate, be discontinued or be, in any way, prejudicially affected and such suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Provincial Cooperative Bank.

IV. Save as otherwise decided by the Provincial Cooperative Bank, but subject to the order referred to in this sub-section of, the concerned Provincial Government, all officers and other employees of a cooperative bank, holding office immediately before the commencement of this Act shall become the officers and employees of the Provincial Cooperative Bank.

V. Reference in the preceding paragraph to commencement of this Act" shall, in relation to a Cooperative Bank which ceases to be a Provincial Cooperative Bank by reason of a cooperative society being notified in pursuance of clause (p) of section 2, be deemed to be a reference to the day on which the cooperative bank so ceases to be a Provincial Cooperative Bank.

(5) Nothing in sub-section. (4) shall apply to a primary cooperative society which, immediately before the commencement of this Act is not using, or ceases to use within a period of sixty days from such commencement, the word 'Bank' or any of its derivatives and does not perform whether with a member or non-member banking business as defined in clause (b) of section 5 of the Banking Companies Ordinance, 1962 (LVII of 1962).

(6) No cooperative bank shall be registered after the commencement of this Act.

43. Penalties. —(1) Whoever—

- (a) in any application for obtaining a loan, advance or credit or financial accommodation or in any balance sheet, statement of profit and loss, declaration or any other document submitted" to the Bank or a Provincial Cooperative Bank, wilfully makes any false statement or knowingly permits any false statement to be made;
- (b) uses or permits to be used any loan, advance, credit or financial accommodation for any purpose other than that for which it was granted by the Bank or, as the case may be, the Provincial Cooperative Bank; or
- (c) intentionally destroys, ¹[removes] or reduces the value of, the property on the security of which an advance, loan or credit or financial accommodation was granted to him or, without the prior approval in writing of the Bank or, as the case may be a Provincial Cooperative Bank or otherwise than in accordance with the terms of the approval transfers such property or any part thereof; or
- (d) in any return, balance sheet or other document or in any information required or furnished under or for the purpose of the provisions of this Act wilfully makes a statement which is false in any material particular, knowing it to be false, or wilfully omits to make a material statement;

shall, without prejudice to any other action which may be taken against him under this Act, be punishable with imprisonment for a term which may extend to ²[five years] and shall also be liable to fine ³[, and shall be ordered by the Court trying him to refund or deliver up, within the time to be fixed by the Court, the amount of loan, advance, credit or financial accommodation so used or permitted to be used or the property or the value of the property so destroyed, removed or reduced in value or transferred, as the case may be, the amount of finance to be paid or repaid in terms of the arrangement].

(2) Whoever, without the consent in writing of the Bank, uses its name in any prospectus or advertisement shall be punishable with imprisonment for a term which may

¹Ins. by the Banking and Financial Services (Amendment of Laws) Ordinance 1984 (57_of 1984), s. 2 and Sch.

²Subs. *ibid.*,

³Added, *ibid.*

extend to one year, or with fine, or with both.

(3) If any person, being the Chairman, Director, Chief Executive, by whatever name called or official Liquidator or an officer of a Provincial Cooperative Bank or multi-unit cooperative society mismanages the affairs of the Provincial Cooperative Bank or multi-unit cooperative society or misuses his position for gaining directly or indirectly benefit for himself or any of his family members, he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine and shall be ordered by the Court trying him to deliver up or refund within the time to be fixed by the court any property acquired or gained by him in his name or in the name of any of his family members by so mismanaging the affairs of the Provincial Cooperative Bank or multi-unit cooperative society or misusing his position or, in default, to suffer imprisonment for a term which may extend to three years.

(4) If advances are made by a Provincial Cooperative Bank in contravention of the provisions of sub-section (1) or (2) of section 28, every Director or other officer of the Provincial Cooperative Bank who is knowingly a party to the contravention shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(5) If any person fails to produce any book, account or other document or to furnish any statement or information which under sub-section (3) of section 25 it is his duty to produce or furnish or to answer any question relating to the business of the Provincial Cooperative Bank or multi-unit cooperative society, which he is asked by an officer making an inspection under that section, he shall be punishable with fine which may extend to ten thousand rupees in respect of each offence and, in the case of continuing failure, with an additional fine which may extend to one thousand rupees for each day after the first during which the failure continues.

(6) If any deposits are received by a Provincial Cooperative Bank or a multi-unit cooperative society in contravention of an order under section 26, every Director or other officer of the Provincial Cooperative Bank or multi-unit cooperative society, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent it, shall be deemed to be guilty of such contravention and shall be punishable with fine which may extend to four times the amount of deposits so received.

(7) If any other provision of this Act is contravened or if any default is made in complying with any requirement of this Act or of any order, rule or directive made or condition imposed there under, every Director, Liquidator or officer of the Provincial Cooperative Bank or multi-unit cooperative society or any other person who is knowingly a party to the contravention or default shall be punishable with fine which may extend to three thousand rupees and, in the case of a continuing contravention or default, with an additional fine which may extend to five hundred rupees for every day after the first during which such contravention or default continues.

(8) Without prejudice to the provisions of sub-section (7), a Provincial Co-operative Bank which makes default in complying with the requirement of section 29 or sub-section (3) of section 42 shall in respect of every day of default, pay to the Bank on demand a penalty at a rate not exceeding five per cent above the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

- (a) if no amount is maintained, of the minimum amount required to be maintained under section 29 or, as the case may be, sub-section (3) of section 42; and
- (b) if any amount below such minimum is maintained, of the amount by which the amount maintained falls short of the required minimum ¹ [:]

¹ [Provided that—

(1) in the case of default in complying with the requirement of section 29 relating to liabilities assumed on the basis of participation in profit and loss, the penalty shall be as determined by the Bank from time to time; and

(2) in the case of default in complying with the requirement of sub-section (3) of section 42, the penalty shall be as determined by the Bank from time to time].

(9) Without prejudice to the provisions of sub-section (7), if a Provincial Cooperative Bank fails or refuses to pay or make the whole or part of the amount referred to in sub-section (8), the Bank may, without notice to the Provincial Cooperative Bank, debit the amount of default to any of its accounts held with the Bank.

²[**43A. Application of fines.**—A court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards—

- (a) payment of costs of the proceedings; and
- (b) payment to the Bank or a Provincial Cooperative Bank of compensation for any loss caused by the offence, including loss of income.].

44. Bar of investigation. No police officer or other person or authority shall investigate or permit investigation into, or hold or permit the holding of enquiry into, any of the offences mentioned in section 32 or section 43 without a request in writing from an officer of the Bank generally or specially authorised in writing in this behalf by the Bank.

45. Cognizance of offences, etc.—(1) No court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Bank generally or specially authorised in writing in this behalf by the Bank and no court other than the High Court shall try such offence.

(2) The High Court shall have, in respect of the trial of an offence referred to in sub-section (1), all the powers which it has in relation to a trial before it under the Code of Criminal Procedure, 1898 (Act V of 1898), hereafter in this section referred to as the Code, and shall follow the procedure provided in the Code for such trial except as hereinafter provided, namely :—

- (a) section 297 of the Code shall have effect as if it required the High Court, upon the case for the defence and the prosecutor's reply, if any, being concluded, to proceed with all reasonable speed to pronounce its judgement; and
- (b) section 352 of the Code shall have effect as if it required the High Court, upon an application being submitted to it by the Bank stating that it is in the

¹Subs. and added by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.

²Ins. by the Banking and Financial Services (Amendment of Laws) Ordinance 1984 (57 of 1984), s. 2 and Sch.

interest of the Provincial Cooperative Banks or multi-unit cooperative societies in general or a Provincial Cooperative Bank or multi-unit cooperative society in particular that any proceedings are not held in open Court, to order that the public generally shall not have access to, be or remain in, the room or building used by the Court.

46. Certain claims for compensation barred. No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Act or by reason of the compliance by a Provincial Co-operative Bank or multi-unit co-operative society with any order or direction given to it under this Act.

47. Indemnity. No suit or other legal proceeding shall lie against the Bank, the State Bank, the Federal Government or a Provincial Government or any officer of the Bank, the State Bank or such Government for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules, regulations or orders made there under or for any damage caused or likely to be caused by anything done or intended to be done as aforesaid.

¹[47A. Provisions of certain sections to override other provisions.—

The provisions of sections 26, 27, 28 and 30 shall have effect notwithstanding any tiling contained in any other provision of this Act or in any contract, agreement, award, memorandum or articles of association or any other instrument.]

²[47B. **Exemption from requirement of licence.** —Any requirement of a licence or permit to import or export any commodity or article or its purchase or sale shall not apply to the Bank or a Provincial Cooperative Bank in respect of such transactions undertaken by it in the normal course of its banking business.

Explanation.—In this section, a transaction undertaken by the Bank or a Provincial Cooperative Bank shall be deemed to be in the normal course of its banking business only if it is based on an agreement for sale or purchase, lease or hire-purchase of the said commodity or article by the Bank or the Provincial Cooperative Bank with its customer to whom finance is provided by it and who is in possession of a valid licence or has otherwise complied with the requirement of law governing the import or export or sale or purchase of such commodity or article.

47C. Continuance of charge and priority. Where a charge over any property has been or is'-created by any person in favour of the Bank or a Provincial Cooperative Bank to secure any interest-based facility extended by the Bank or the Provincial Cooperative Bank to such person and such facility is at any time converted into or substituted by any facility not based on interest, such charge shall continue to remain valid and shall maintain its priority in favour of the Bank or the Provincial Cooperative Bank against all charges created by such person in favour of any other person subsequent to the original date of registration of such charge.]

¹Ins. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.

²Ins. by the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking (Amdt.) Act, 1985 (20 of 1985), s. 2.

148. Amendment of Ordinance No. LVII of 1962. In the Banking Companies Ordinance, 1962 (LVII of 1962), section 3 shall be omitted.

149. Amendment of Act XIX of 1974. In the Banks (Nationalization) Act, 1974 (XIX of 1974).

(a) section 5A shall be omitted; and

(b) in the Schedule, the entry "(8) Punjab Provincial Cooperative Bank Limited" shall be omitted.

50. Power to make rules. Subject to the approval of the Federal Government, the Board may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

51. Power to make regulations. —(1) The Board may make regulations to provide for all matters not required to be provided for by rules and provision for which is necessary or expedient for carrying out the purposes of this Act.

(2) Where any provision of a regulation is inconsistent with any provision of the rules, the provision of the rules shall prevail.

²[51A. Removal of difficulties. —If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may, by notification in the official Gazette, make such order as it thinks fit for the purpose of removing the difficulty.

51B. Exemption from certain civil and criminal liabilities. The Bank, a Provincial Cooperative Bank and the officers and employees of the Bank and the Provincial Cooperative Bank shall be exempt from criminal and civil liability of every description provided for in any law in respect of any property, movable or immovable, owned by the Bank or the Provincial Cooperative Bank, exclusively or jointly with another or others, so long as the property remains in the custody, power and control of another person or persons on account of licence, lease, hire-purchase, forward sale, rent-sharing or any other arrangement within the meaning of loans, advances and credit,].

52. Repeal. The Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Ordinance, 1976 (XL of 1976), is hereby repealed.

¹This section is not applicable to the extent of Islamabad Capital Territory see the Ord. No. 27 of 1981. s. 5 and 4th Sch.

²Ins. by the Banking and Financial Services (Amendment of Laws) Ordinance, 1984 (57 of 1984), s. 2 and Sch.