

**THE BALOCHISTAN CO-OPERATIVE SOCIETIES AND
CO-OPERATIVE BANKS (RE-PAYMENT OF LOANS)
ORDINANCE, 1966**

(W. P. Ord. XIV of 1966)

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**¹THE ²[BALOCHISTAN³] CO-OPERATIVE SOCIETIES AND
CO-OPERATIVE BANKS (RE-PAYMENT OF LOANS)
ORDINANCE, 1966**

(West Pakistan Ordinance XIV of 1966)

[27th April, 1966]

An Ordinance to provide for the repayment of unsecured loans or loan insufficiently secured.

Preamble.

WHEREAS it is expedient to provide for the securing and repayment of such loans taken from the co-operative banks and other co-operative societies as are not secured or are insufficiently secured;

AND WHEREAS the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan is satisfied that immediate legislation is necessary;

Now, THEREFORE, in pursuance of the powers conferred on him by clause (1) of Article 79 of the Constitution⁴, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance, namely:—

Short title extent
and
commencemen
t.

1. (1) This Ordinance may be called the ²[Balochistan] Co-operative Societies and Co-operative Banks (Repayment of Loans) Ordinance, 1966.

(2) It extends to the whole of the Province of ²[Balochistan], except the Tribal Areas.

(3) It shall come into force at once.

Definitions.

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

(a) "Act" means the Co-operative Societies Act, 1925 (Sind VII of 1925);

(b) "Assistant Registrar" means an Assistant Registrar of Co-operative Societies appointed or deemed to have been appointed under the Act to

¹ This Ordinance was promulgated by the Governor of West Pakistan on 24th April, 1966; approved by the Provincial Assembly of West Pakistan on 10th June, 1966, under clause (3) of Article 79 of the Constitution of the Islamic Republic of Pakistan 1962; and, published in the West Pakistan Gazette (Extraordinary), dated 10th June, 1966, pages 1677-A to 1677-J. For continuance of the law see Article 268 of the Constitution of Islamic Republic of Pakistan, 1973.

² Substituted by Balochistan Laws (Adaptation) Order of 1975, for the words "West Pakistan".

³ Spelling of the word "Baluchistan", wherever it appears in this regulation, is corrected by insertion of letter "o" instead of "u"; as per Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18th June, 1989.

⁴ That is the constitution of Islamic Republic of Pakistan, 1962.

assist the Registrar;

- ¹[(bb) "benami loan" means a loan the real beneficiary or recipient whereof is a person other than the person in whose name the loan is advanced or granted;]
- ¹[(bbb) "borrower" includes in case of a *benami* loan, the real beneficiary or recipient of the loan;]
- (c) "co-operative bank" means a co-operative society established for carrying on banking business and having as its principal object the financing of other co-operative societies registered or deemed to be registered under the Act;
- (d) "co-operative society" means a society which having as its object the promotion of economic interest of its members in accordance with co-operative principles, is registered or deemed to be registered under the Act;
- (e) "Government" means the Government of ²[Balochistan];
- (f) "loan" means a loan including ³[a *benami* loan or] any transaction which in the opinion of the Registrar is in substance a loan), whether of money or in kind, which is not secured or is insufficiently secured, and taken from a co-operative society by any person, whether a member of such society or not, or from a co-operative bank by any person but not a co-operative society, and includes—
 - ⁴[(i) finance as defined in the Banking Tribunals Ordinance, 1984⁵, and all cognate expressions shall be construed accordingly.]
 - ⁶[(ii)] any amount which is due from any such

¹ Added by West Pakistan Ordinance XXV of 1966.

² Substituted by Balochistan Laws (Adaptation) Order, 1975, for the words "West Pakistan".

³ Inserted by West Pakistan Ordinance XXV of 1966.

⁴ New Clause (i) inserted by Balochistan Ordinance IV of 1985; came into force w.e.f 1st January, 1985.

⁵ That is Ordinance LVIII of 1984; published in the Gazette of Pakistan, Extraordinary, Part I, dated 31st December, 1984.

⁶ Existing sub-clauses (i), (ii) and (iii), re-numbered as (ii), (iii) and (iv) by Balochistan Ordinance IV of 1985; came into force w.e.f. 1st January, 1985

person to a co-operative society or a co-operative bank, whether taken as a loan or not;

³[(iii)] any amount due from any such person to a co-operative society or a co-operative bank under a decree passed by a Civil Court or an award given by an arbitrator or a decision of the Registrar, whether in exercise of his original or appellate jurisdiction; *and*

³[(iv)] any loan due from any such person to a co-operative society or a co-operative bank which is the subject matter of any pending suit, arbitration proceedings, appeal or revision, whether under the Act or before any Court.

Explanation. — A loan is "insufficiently secured" if it is not secured by mortgage, pledge, hypothecation or assignment of such property of the borrower or of his surety or of both, as in the case of a loan not exceeding thirty thousand rupees, the Assistant Registrar, and in the case a loan exceeding thirty thousand rupees, the Registrar may think adequate; *and*

(g) "Registrar" means a Registrar of Co-operative Societies appointed or deemed to have been appointed under the Act, and includes a person upon whom all the powers of a Registrar have been conferred under the Act.

Repayment of loans.

3. Notwithstanding anything contained in any other law for the time being in force or in any agreement or other instrument, award or decree of any Court, every loan outstanding for more

than one year after the date when it was repayable, whether barred by limitation or not, in whole or in part, and every loan any installment whereof was outstanding for more than one year after it became due, shall, unless repaid earlier, be repaid and secured in the manner provided in section 7.

Supply of information to the Registrar.

4. Every co-operative society and co-operative bank, through its Manager or Secretary, shall—

- (a) when a loan obtained from it is not repaid by the date on which it is due for repayment, bring such fact, together with full details of the case and the particulars of the borrower ¹[(including in the case of a *benami* loan, the real beneficiary or recipient of the loan)] and the surety, to the notice of the Assistant Registrar, when the amount of the loan does not exceed thirty thousand rupees, and to the notice of the Registrar, when the amount of the loan exceeds thirty thousand rupees; *and*
- (b) when so directed by the Registrar or the Assistant Registrar, as the case may be, within thirty days of receipt of such direction, furnish to the Registrar, or the Assistant Registrar, as the case may be, full information in respect of all cases of loans falling under section 3 required to be repaid or secured under section 7.

Services of notice to the borrowers.

5. (1) On receipt of information under section 4 in respect of any loan, the Registrar or the Assistant Registrar, as the case may be, shall issue or cause to be issued a notice to the borrower and his surety requiring them to repay and secure the loan in accordance with the provisions of section 8.

- (2) A notice under sub-section (1) may be served—
 - (a) by giving or tendering it to the person named in the notice; *or*

¹ Inserted by West Pakistan Ordinance XXV of 1966.

- (b) by enclosing it in a cover and sending such cover by registered post, acknowledgment due, to the last known address of the person named in the notice; *or*
- (c) by affixing such notice on a conspicuous part of the last known residence of the person named in the notice; *or*
- (d) by publication of the notice in a newspaper.

Determination of liability when loan is not admitted.

6. Where any borrower or his surety, to whom notice under section 5 is issued, does not admit the loan or any liability arising therefrom, such borrower or surety, as the case may be, shall, within thirty days of the receipt of the notice, submit, either personally or by registered post (acknowledgment due), a written statement to that effect to the Registrar or the Assistant Registrar, by whom such notice was issued or caused to be issued, and such Registrar or Assistant Registrar, as the case may be, thereupon shall cause notice to be issued to the co-operative society, or the co-operative bank, as the case may be, and in the case of a *benami* loan, to the alleged beneficiary, and shall, after making such inquiry as he may consider necessary and giving the parties a reasonable opportunity of being heard, decide the matter.

Securing and repayment of loans.

7. Within sixty days of the service of the notice under section 5 in a case where the borrower does not deny the loan or the liability arising therefrom, and in the other case, within sixty days of the decision of the Registrar or the Assistant Registrar; as the case may be, under section 6, the borrower and his surety shall—

- (a) secure the loan or the liability arising therefrom by mortgage, pledge, hypothecation or assignment of such property of the borrower or his surety or of both as, in the case of a loan not exceeding thirty thousand rupees, the Assistant

Registrar, and in the case of a loan exceeding thirty thousand rupees, the Registrar, may think adequate; *and*

- (b) repay fifteen per cent of the loan within six months of the service of notice under section 5, when he does not deny the loan or the liability arising therefrom, and in any other case, within six months of the decision of the Registrar or the Assistant Registrar, as the case may be; *and*
- (c) repay the balance of the loan in twelve equal half-yearly instalments, the first instalment being six months after the expiry of the period specified in clause (b).

Recovery of loans.

8. ¹[(1) If the amount of any loan or any part thereof to be repaid in accordance with the provisions of section 7 is not paid within the period or the periods specified in the said section, the same may, without prejudice to the provisions of section 10, be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.]

¹[(2)] Where the borrower is a firm, partnership, company or other association of persons (not being a company registered under the Companies Act, 1913², the liability of the members whereof is limited), the loan or any part thereof due from such borrower may be recovered from the assets of such firm, partnership, company or other association of person, as the case may be, or from the members or partners thereof.]

Restrictions on registration of documents.

³8-A. (1) Notwithstanding anything contained in any other law for the time being in force, no registering officer shall register any document relating to property, which is required to be registered under the provisions of clause (a), (b), (c) or (e) of section 17 of the Registration Act, 1908⁴, or which is produced before him for voluntary registration, nor shall any Revenue Officer on the basis of any such document effect any mutation in the record of rights under the provisions of any law for the

¹ Section 8 re-numbered as sub-section (2) and sub-section (1), inserted by West Pakistan Ordinance XXV of 1966.

² That is Act VII of 1913. Now repealed and replaced by the Companies Ordinance 1984 (Ordinance XLVII of 1984).

³ New Section 8-A inserted by West Pakistan Ordinance XXV of 1966.

⁴ That is Act IX of 1908.

time being in force, unless—

(a) the person whose right, title or interest in the property is or will be transferred, assigned, limited or extinguished under the terms of the document or on the basis of the mutation in the record of rights, as the case may be, furnishes an affidavit to the registering officer of the revenue officer, as the case may be, to the effect that he does not owe any loan, whether due immediately or on a future date, to a co-operative society or a co-operative bank; *or*

(b) where such person owes a loan to a co-operative society or a co-operative bank, whether due immediately or on a future date, it is certified by the Registrar where the loan owed by such person exceeds rupees thirty thousands, and by the Assistant Registrar where the loan owed by such person does not exceed rupees thirty thousands, that either satisfactory arrangements have been made for the repayment of the loan or that the loan has been secured in accordance with the provisions of section 7.

(2) Where an application is made to the Registrar or an Assistant Registrar, as the case may be, for issuing a certificate under the provisions of sub-section (1), he shall not refuse to issue the certificate unless he has first given the applicant an opportunity of being heard and adducing evidence to show that either satisfactory arrangements have been made for the repayment of the loan owed by the applicant or that the loan has been secured in accordance with the provisions of section 7.

(3) An order made by the Registrar or an Assistant Registrar under sub-section (2) refusing to issue a certificate, shall be final and not open to question in any manner.]

Restrictions on

¹[8-B. (1) Where any person owing a loan, whether due

¹ New section inserted by West Pakistan Ordinance XXV of 1966.

alienations.

immediately or on a future date, to a co-operative society or a co-operative bank has, on or after the twenty-seventh day of April, 1966, alienated any immovable property, by sale, exchange, gift, mortgage or will, otherwise than by or under an order or decree of a Civil, Revenue or Criminal Court, which alienation is fraudulent with intent to defeat the claim of a co-operative society or a co-operative bank, such alienation shall not operate to transfer any right, title or interest in the property of the debtor, unless —

- (a) the loan due from the debtor has been repaid; *or*
- (b) it is certified by the Registrar, where the loan exceeds rupees thirty thousands, and by the Assistant Registrar, where the loan does not exceed rupees thirty thousands, that either satisfactory arrangements have been made for the repayment of the loan or that the loan has been secured in accordance with the provisions of section 7.

(2) An alienation of immovable property shall be deemed to be fraudulent with intent to defeat the claim of a co-operative society or a co-operative bank for the purposes of sub-section (1), if the Registrar, after giving the person by whom the alienation has been made, and the person or persons in whose favour the alienation has been made an opportunity of being heard, issues a declaration to the effect that the alienation is fraudulent with intent to defeat the claim of a co-operative society or a co-operative bank.

(3) Any party aggrieved by a decision made by the Registrar under sub-section (2) may prefer an appeal to Government against such decision, and the order made by Government, on such appeal ¹[passed after giving an opportunity of being heard to the appellant] shall be final and shall not be open to question in any manner.]

Power of Registrar
when making
inquiry.

9. The Registrar or the Assistant Registrar, as the case may be, shall, for the purpose of making any inquiry under this Ordinance, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), when

¹ Inserted by Balochistan Ordinance XX of 1984; made by Governor of Balochistan on 31st December, 1984; and published in the Balochistan Gazette (Extraordinary), dated 9th January, 1985.

trying a suit, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery or production of any document;
- (c) requisitioning any public record from any Court or office;
- (d) issuing commissions for the examination of witnesses;
- (e) appointing guardians or next friends of persons who are minors or of unsound mind;
- (f) adding legal representatives of deceased borrowers or sureties;
- (g) substituting the names of rightful parties, including the beneficiaries of *benami* loans;
- (h) consolidation of cases;
- (i) any other matter which may be prescribed by rules made under section 12; *and*
- (j) enforcing any order made by him under the provisions of this Ordinance or the rules framed thereunder.

Penalty.

10. Whoever contravenes any of the provisions of this Ordinance or the rules made thereunder shall be punishable with imprisonment for a term which may extend to seven years, or with fine, which, in the case of default in the repayment of a loan, shall not be less than one-fourth of the amount of the loan outstanding against him, or with both.

Procedure.

11. No Court shall take cognizance of any offence under this Ordinance except on a complaint in writing made by the Registrar or an Assistant Registrar, or by a person duly authorised by the Registrar or Assistant Registrar.

Power to make rules.

12. Government may, by notification in the official Gazette, make rules, to carry out the purposes of this Ordinance.

Bar of jurisdiction.

13. (1) No Court or other authority shall have jurisdiction —

- (a) to entertain or adjudicate upon any matter which ¹[Government, the Registrar] or

the Assistant Registrar is empowered by or under this Ordinance or the rules framed thereunder to dispose of or determine; *or*

(b) to question the legality or validity of anything done under this Ordinance or the rules framed thereunder by ¹[Government, the Registrar] or Assistant Registrar.

(2) No Court or other authority shall be competent to grant an injunction or other order in relation to any proceedings before the Registrar or the Assistant Registrar, or anything done or to be done by or at the instance of the Registrar or the Assistant Registrar under this Ordinance or the rules framed thereunder.

¹ Substituted for the “Registrar”, by West Pakistan Ordinance XXV of 1966.