



THE PAKISTAN TOBACCO BOARD ORDINANCE, 1968



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THE PAKISTAN TOBACCO BOARD ORDINANCE, 1968

¹ORDINANCE NO. I OF 1968

[8th February, 1968]

An Ordinance to provide for the establishment of Tobacco Board for the promotion of the cultivation, manufacture and export of tobacco and tobacco products.

WHEREAS it is expedient to provide for the establishment of a Tobacco Board for the promotion of the cultivation, manufacture and export of tobacco and tobacco products and for matters ancillary thereto;

AND WHEREAS the national interest of Pakistan in relation to economic and financial stability of Pakistan within the meaning of clause (2) of Article 131 of the Constitution requires Central legislation in the matter ;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render immediate legislation necessary ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 29 of the Constitution and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Pakistan Tobacco Board Ordinance, 1968.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

¹ Approved by the National Assembly of Pakistan on the 14th May, 1968 and received the assent of the President on the 17th May, 1968, see Gaz. of P., 1968, Ext. (Rawalpindi), dated the 20th May, 1968, p. 323.

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

- (a) “Board” means the Pakistan Tobacco Board constituted under section 3 ;
- (b) “Committee” means the Tobacco Development Committee constituted under section 12 ;
- (c) “export” means to take out of Pakistan by any means to any place outside Pakistan ;
- (d) “owner” includes any agent of an owner ;
- (e) “prescribed” means prescribed by rules made under this Ordinance ;
- (f) “tobacco” means the commodity which is made from the leaves of the plant “*nicotiana tobaccum*”¹[or *nicotiana rustica*]” and is commonly known as tobacco and includes adjacent tender stalks or green tobacco but does not include tobacco waste ;
- (g) “tobacco seed” includes seeds, roots, stumps, cuttings, buds and any living portion of the plant *nicotiana tobaccum* which may be used to propagate that plant or to manufacture cigarettes, cigars, cheroots, pipe tobacco, or chewing tobacco.

3. Constitution of the Pakistan Tobacco Board.—(1) As soon as may be after the commencement of this Ordinance, the ²[Federal Government] shall constitute a Board to be called the Pakistan Tobacco Board consisting of the following members, namely:—

- ³[(a) one members from the North-West Frontier Province or the Punjab to be elected by the Cigarette Manufacturers Association of Pakistan;
- (b)⁴[six] members, ⁵[three] each from the North-West Frontier Province and the Punjab, to be nominated by the Provincial Government concerned from amongst the tobacco growers;
- (c) one members to be nominated by the Federal Government on the recommendation of the Federation of Pakistan Chambers of Commerce and Industry;]

¹ Ins. by the Pakistan Tobacco Board (Amdt.) Act, 1973 (4 of 1973), s. 2.

² Subs. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 2, for “Central Government”.

³ Subs. *ibid.*, s. 3, for cls. (a), (b) and (c) which were previously amended by various enactments.

⁴ Subs. by the Pakistan Tobacco Board (Amdt.) Ordinance, 1979 (11 of 1979), s. 2, for “four”.

⁵ Subs. *ibid.*, for “two”.

(d)¹[four] members, one to be nominated by each Provincial Government;

(e) one member, being an officer serving under the ²[Federal Government] in the Ministry of Industries, to be nominated by the ²[Federal Government] ;

(f) two members to be nominated by the ²[Federal Government] ³[;]

⁴[(g) one member, being an officer serving under the ²[Federal Government] in the Ministry of Agriculture and Works (Food and Agriculture Division), to be nominated by the ²[Federal Government] [;]⁵

⁶[(h) such other members as the Federal Government may nominate.]

(2) The ²[Federal Government] shall publish in the official Gazette the ⁷[designations of the officers of the Federal Government or a Provincial Government nominated to be members of the Board and the names of the other persons elected or nominated to be such members] and the Board shall be deemed to be constituted upon such publication.

(3) The ²[Federal Government] shall appoint one of the members nominated by it under clause (f) of sub-section (1) to be the Chairman of the Board.

(4) The Board constituted under sub-section (1) shall be a body corporate by the name of the Pakistan Tobacco Board, having perpetual succession and a common seal, with power to acquire, own and dispose of any property and shall, by the said name, sue and be sued.

4. Terms of members, etc.—(1) A member of the Board shall, subject to the provisions of this section, hold office for two years and shall be eligible for re-election or re-nomination.

(2) When a member ceases to reside in Pakistan or becomes otherwise incapable of acting as such, the ²[Federal Government] shall declare the seat of the member to be vacant.

¹ Subs. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 3, for "five", which was previously amended.

² Subs. *ibid.*, s. 2, for "Central Government".

³ Subs. by the Tobacco Board (Amdt.) Ordinance, 1971 (5 of 1971), s. 2, for full-stop.

⁴ Added *ibid.*

⁵ Subs. by the Pakistan Tobacco Board (Amdt.) Ordinance, 1982 (21 of 1982), s. 2, for full stop.

⁶ Added *ibid.*

⁷ Subs. by Act 19 of 1975, s. 3, for "names of all the members of the Board".

¹[(2A) If a member elected or nominated under clause (a), clause (b) or clause (c) of sub-section (1) of section 3 absents himself from three consecutive meetings of the Board without the leave of the Chairman thereof, his seat shall become vacant.]

(3) When the seat of a member becomes vacant under sub-section (2) ¹[or sub-section (2A)], or by reason of resignation or death, the vacancy shall be filled for the remainder of the terms of such member by election or nomination of another person in his place in the same manner as such member was elected or nominated.

(4) Where any authority or body entitled to do so fails to elect or nominate a member within the prescribed time, the ²[Federal Government] may nominate a person to fill the seat of such member, and the person so nominated shall be deemed to have been elected or nominated by such authority or body.

5. Vacancy, etc., not to invalidate the proceedings of the board. No act or proceedings of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

6. Functions of the Board. The functions of the Board shall be—

- (a) to regulate, control and promote the export of tobacco and tobacco products and to fix grading standards,
- (b) to undertake and assist research connected with tobacco industry, impart training in tobacco testing and generally to take measures in the interest of the tobacco industry,
- (c) to render assistance for the development of the existing and new tobacco growing areas and establishment of model farms, to organise and assist special research connected with tobacco cultivation and generally to render assistance for improving tobacco production.
- (d) to collect statistics on any matter relating to tobacco and tobacco industry, and
- (e) to perform such other function as the ²[Federal Government] may, from time to time, direct.

7. Control of the Board.—(1) The Board shall be subject to the superintendence and control of the ²[Federal Government] and shall be guided, in the discharge of its functions, by such general or special instructions as may, from time to time, be given to it by the ²[Federal Government].

(2) The records of the Board shall be open to inspection by any officer authorised in this behalf by the ²[Federal Government].

(3) The ²[Federal Government] may cancel, suspend or modify, as it thinks fit, any act of the Board.

¹ *Ins. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 4.*

² *Subs. ibid., s. 2, for "Central Government".*

8. Fixation of prices.—(1) The ¹[Federal Government] may, by notification in the official Gazette, fix the minimum prices below which, and the maximum prices above which, tobacco of various grades shall not be bought or sold for consumption within Pakistan or for export ; and different prices may be fixed in respect of different areas.

(2) No person shall buy or offer to buy or sell or offer to sell tobacco at any price below the minimum or above the maximum fixed under sub-section (1).

9. Levy of cess.—(1) For the purposes of this Ordinance, there shall be levied and collected in such manner as may be prescribed a cess on tobacco produced in Pakistan at such rate or rates, not exceeding three per cent *ad valorem*, as the ¹[Federal Government] may by notification in the official Gazette, specify in this behalf ; and the proceeds of the cess, after deducting the cost of collection, if any, shall be paid to the Board.

²[(1A) The ¹[Federal Government] may, from time to time, by notification in official Gazette, fix, for the purpose of levying a cess under sub-section (1), tariff values of tobacco produced in Pakistan and may ther tariff values for the time being in force.

(1B) Different tariff values may be fixed for different classes or descriptions of tobacco.]

(2) The Board shall apply the proceeds of the cess paid to it under sub-section (1) for meeting the expenses which may be necessary for the performance of its functions under this Ordinance including expenses for contributing towards a contributory provident fund constituted and maintained in such manner as may be prescribed for the benefit of the employees of the Board.

10. Power to borrow. The Board may, subject to any rules made in this behalf, borrow money for any purpose for which it is authorised under section 9 to expend the proceeds of the cess.

11. Keeping of accounts and audit and annual reports.—(1) The Board shall keep regular accounts of all moneys received, borrowed and expended by it.

(2) The accounts of the Board shall be audited every year by auditors approved in this behalf by the ³* * * Auditor-General of Pakistan.

¹ Subs. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 2., for "Central Government".

² Sub-sections (1A) and (1B) ins. by the Pakistan Tobacco Board (Amdt.) Ordinance, 1971 (5 of 1971), s. 3.

³ The words "Comptroller and" Omitted by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch., II.

(3) The auditors shall submit to the Board and to the ¹[Federal Government] a statement of the accounts audited by them together with a report stating therein any irregularity noticed in the accounts or any objection to any expenditure.

(4) The Board shall, as soon as may be after the close of a financial year, publish an annual report of its activities during that year together with a statement of its accounts.

12. Constitutions of the Tobacco Development Committee.—(1) The ¹[Federal Government] may set up a Committee of the Board, to be called the Tobacco Development Committee, consisting of—

(a) the Chairman of the Board ;

(b) One member to be appointed by the ¹[Federal Government] from amongst the members elected to the Board under clause (a) of subsection (1) of section 3;

²[(c) one members to be appointed by the Federal Government from amongst the persons nominated to the Board under clause (b) of sub-section (1) of section 3;

(d) one member to be appointed by the Federal Government from amongst the persons nominated to the Board under clause (d) of sub-section (1) of section 3.]

(2) A member of the Committee shall cease to be so when he ceases to be a member of the Board.

(3) The Board may, with the previous approval of the ¹[Federal Government], grant such allowances to a member of the Committee, not being a Government Servant, as it may think fit.

13. Functions of the Committee. The Committee shall execute the policies of the Board in the matter of rendering assistance in the development the existing and of new tobacco growing areas and establishment of model tobacco farms in accordance with such schemes as may be approved by the ¹[Federal Government], render assistance to cultivators to improve their production, and perform such other functions as the Board may, with approval of the ¹[Federal Government], direct.

14. Grants and loans by Government to the Board.—(1) The ¹[Federal Government] may make grants or give loans to the Board to be placed at the disposal of the Committee for carrying out the functions of the Committee.

(2) The ¹[Federal Government] may, subject to such conditions as it may impose, authorise the Committee to give, out of the funds placed at its disposal, loans to any person for the improvement and expansion of tobacco farms.

¹ Subs. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 2, for "Central Government".

² Subs. *ibid.*, s. 5, for cls. (c) and (d).

15. Keeping of accounts.—(1) The Committee shall keep accounts of all moneys received and expended by it.

(2) The accounts maintained by the Committee shall be audited by the auditors appointed for the purpose by the Board with the previous approval of the ¹[Federal Government].

(3) A statement of the accounts audited shall be furnished by the Committee to the Board and to the ¹[Federal Government] as soon as may be after the end of each financial year.

16. Appointment of officers, etc. The Board may, subject to the approval of the ¹[Federal Government], appoint such officers, advisers and other employees as may be necessary for the efficient performance of the functions of the Board and of the Committee.

17. Export allotment and its distribution.—(1) The ¹[Federal Government] may, after consultation with the Board, by notification in the official Gazette, fix for each year the export allotment of tobacco and tobacco products and shall distribute the export allotment so fixed in such manner as it may deem fit.

(2) Every person shall export the full amount of his share of the export allotment during the year to which the allotment relates.

18. Control of export of tobacco and tobacco seeds.—(1) No tobacco or tobacco product shall be exported except under a licence issued by or on behalf of the Board in such manner and subject to such conditions as may be prescribed.

(2) No tobacco seed shall be exported except under a permit issued by or on behalf of the ¹[Federal Government].

19. Registration of contracts. The ¹[Federal Government] may, by general or special order, require any contract or class of contracts for sale of tobacco for export to be registered with such organisation and in such manner as may be specified in the order.

20. Power to prohibit transportation, storage or sale. The ¹[Federal Government] may, by general or special order, prohibit any exporter or class of exporters from transporting, storing, buying, selling or otherwise disposing of any tobacco except in such manner and under such conditions as may be specified in the order.

²**[20A. Power to direct purchase.** In such circumstances, and subject to such conditions, as may be prescribed, and with a view to relieving distress amongst growers of tobacco or saving the market of a vital agricultural commodity from violent fluctuations, the ¹[Federal Government] may, by general or special order in writing, direct any manufacturer of, or dealer in, tobacco or any class of such manufacturer or dealers, to purchase, during such period or periods and from such area or areas, such quantity of tobacco, and to hold such minimum stock, as may be specified in the order.].

¹ Subs. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 2, for "Central Government".

² Ins. by the Pakistan Tobacco Board (Amdt.) Ordinance, 1972 (8 of 1972), s. 2.

21. Power to call for information, etc.—(1) The ¹[Federal Government] may, at any time, by order, direct any person or class of persons to maintain such accounts and to furnish to the Board and to any officer or authority subordinate to the ¹[Federal Government] such returns or other information relating to the cultivation, production, manufacture, sale or purchase of tobacco by such person or class within such time and giving such particulars as may be specified in the order ; and every such order shall be published in the official Gazette.

(2) Any person authorised in this behalf by the ¹[Federal Government] or by the Board or any member of the Board authorised by the Chairman of the Board may, at all reasonable times, enter any tobacco curing yard or any place or premises where tobacco or tobacco waste is manufactured, stored, kept or exposed for sale and may require the production for his inspection of any book, register, record or other paper kept therein and ask for any information relating to the cultivation, production, manufacture, storage or keeping for sale of tobacco or tobacco waste.

22. Delegation of powers. The ¹[Federal Government] may, by notification in the official Gazette, direct that any power conferred upon it by or under this Ordinance shall, in relation to such matters and subject to such conditions, if any, as may be specified therein, be exercisable also by the Board.

23. Power to exempt. The ¹[Federal Government] may, by notification in the official Gazette, exempt any tobacco or tobacco products or any class thereof from the operation of all or any of the provisions of this Ordinance.

24. Penalties.—(1) Any contravention of the provisions of section 18 shall be punishable as if it were an offence under item No. ²[9 of the table below sub-section (1) of section 156 of the Customs Act, 1969 (IV of 1969) and the provisions of section ³[157 and Chapters XVIII and XIX] of that Act shall apply accordingly.

(2) Save as provided in subsection (1), any person who contravenes or fails to comply with any provision of this Ordinance or any order or direction issued thereunder shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(3) Where any person contravening the provisions of this Ordinance is a company or a body corporate, every director, manager secretary, or other officer, and every agent and servant thereof and, in the case of an unlimited company or a company limited by guarantee, also every member thereof shall be punishable as if he had contravened the provisions of this Ordinance :

¹ Subs. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 2., for “Central Government”.

² Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), s. 3 and Sch. II, for “8 of section 167 of the Sea Customs Act, 1878”.

³ Subs. *ibid.*, for “168 and Chapter XVI”.

Provided that no such director, manager, secretary or other officer and no such agent, servant, or member shall be prosecuted under this Ordinance except with the previous approval of the ¹[Federal Government] ; and the ¹[Federal Government] shall not give such approval if it is satisfied after giving such director, manager, secretary, officer, agent, servant or member an opportunity of showing cause against prosecution that the offence was committed without his knowledge or that he used due diligence to prevent its commission.

25. False statement. A person shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, if he,—

- (a) when required by any order made under this Ordinance to make any statement or furnish any information makes a statement or furnishes information which he knows or has reasonable cause to believe to be false or does not believe to be true, or
- (b) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish, or
- (c) maintains double sets of books, accounts or any other records, in which the entries are not identical.

26. Protection of action taken in good faith. No suit, prosecution or other legal proceedings shall lie against the Board or any member thereof or any other person for anything which is in good faith done or intended to be done under this Ordinance or any rules or orders made thereunder.

27. Cognizance of offences. No court shall take cognizance of an offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by the Board or a person authorised by it in this behalf.

28. Special provision regarding fines. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), any Magistrate of the first class specially empowered by the Provincial Government in this behalf may pass a sentence of fine exceeding one thousand rupees on any person convicted under this Ordinance.

29. Presumption as to orders. Where an order purports to have been made and signed by any authority in exercise of any power conferred by or under this Ordinance, a court shall presume that such order was so made by that authority.

30. Power to make rules. The ¹[Federal Government] may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

31. Power to make bye-laws. The Board may, with the previous approval of the ¹[Federal Government], make bye-laws, not inconsistent with this Ordinance and the rules made thereunder, for the efficient performance of its functions under this Ordinance.

¹ Subs. by the Pakistan Tobacco Board (Amdt.) Act, 1975 (19 of 1975), s. 2, for "Central Government".

