

**THE UNDESIRABLE COMPANIES (SECOND)
ORDINANCE, 1958**

CONTENTS

SECTIONS

1. Short title, extent and commencement
 2. Definitions
 3. Registration of undesirable companies prohibited
 4. Existing undesirable companies to cease functioning
 5. Deposit of cash and preservation of assets, etc.
 6. Statement of assets, etc., to be submitted to Registrar
 7. Winding up of undesirable companies
 8. Dissolution of undesirable companies
 9. Power to call for certain information, etc.
 10. Offences to be cognizable and non-bailable
 11. Cognizance by Court with consent of Registrar
 12. Summary trial
 13. Power to make rules
 14. [Repealed]
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**THE UNDESIRABLE COMPANIES (SECOND)
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ORDINANCE NO. XLIX OF 1958

[21st July, 1958]

* WHEREAS by a Proclamation dated the 25th June, 1958 under Article 193 of the Constitution of the Islamic Republic of Pakistan, the President has assumed to himself all the powers vested in, or exercisable by, the Governor of East Pakistan;

AND WHEREAS the President has, in pursuance of sub-clause (i) of clause (c) of the said Proclamation, been pleased to direct by notification No. 22/11/58-Poll. (I), dated the 4th July, 1958 published in the *Extraordinary Gazette of Pakistan*, dated the 4th July, 1958 that the power vested in, or exercisable by, the Governor under the Constitution shall be exercisable by the Governor;

AND WHEREAS it is expedient to prohibit the registration of companies for carrying on business in East Pakistan for certain undesirable purposes and for the winding up and dissolution of such companies;

AND WHEREAS the National Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Article 102 of the Constitution of the Islamic Republic of Pakistan and of all other powers enabling him in that behalf, the Governor is pleased to make and promulgate the following Ordinance, namely:-

1. (1) This Ordinance may be called the ¹[* * *] Short title,
Undesirable Companies (Second) Ordinance, 1958. extent and
commencement

* The words, comma, brackets and figures "Companies Act, 1994 (Act No. 18 of 1994)" were substituted for the words, comma, brackets and figures "Companies Act, 1913 (VII of 1913)" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The words "East Pakistan" were omitted by Article 6 of the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972).

(2) It extends to the whole of ¹[Bangladesh].

(3) It shall come into force at once.

Definitions

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

- (a) “specified purpose” means the promotion or the carrying on of any scheme or business (except the business authorised and carried on under the provisions of the Insurance Act, 1938) howsoever described or called, whereby, in consideration for a deposit or contribution, whether periodically or otherwise, of a sum of money in cash or by means of coupons, certificates, tickets or other documents, a payment of money or grant of property, right or benefit, directly or indirectly, and whether with or without any other right or benefit, to be determined by chance or lottery or any other like manner of the nature of a wager, is assured or promised to be made at a future date;
- (b) “undesirable company” means a company which ²[* * *] is registered under the Companies Act, 1994 (Act No. 18 of 1994), and carries on business for a specified purpose or for purposes which include or are calculated to include a specified purpose; and
- (c) all other words and expressions have the same meanings as assigned to them under the Companies Act, 1994 (Act No. 18 of 1994).

Registration of undesirable companies prohibited

3. (1) Notwithstanding anything in the Companies Act, 1994 (Act No. 18 of 1994), or in any other law for the time being in force, no association or other body of individuals which ³[* * *] carries or intends to carry on business for a

¹ The word “Bangladesh” was substituted for the words “East Pakistan” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The comma and words “,with objects and business confined to the Province of East Pakistan” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The commas and words “, with objects and business confined to the Province of East Pakistan,” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

specified purpose or for purposes which include or are calculated to include a specified purpose, shall, on and after the commencement of this Ordinance, be registered under the Companies Act, 1994 (Act No. 18 of 1994).

(2) Registration in contravention of sub-section (1) shall be void.

4. (1) Every undesirable company existing immediately before the commencement of this Ordinance shall, on such commencement, cease to function and, notwithstanding anything in the Companies Act, 1994 (Act No. 18 of 1994), or in any other law for the time being in force, shall be wound up and dissolved in the manner provided in this Ordinance.

Existing undesirable companies to cease functioning

(2) Any transaction with an undesirable company or with any officer or agent acting for or on behalf of such company shall be void.

(3) Any officer or agent acting for or on behalf of any such company who, on or after the commencement of this Ordinance, carried on or, attempts to carry on the business of the company shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

5. (1) Any officer or agent acting for or on behalf of an undesirable company who has in his possession or under his control any cash belonging to the company shall, immediately after the commencement of this Ordinance, deposit or cause to be deposited such cash with the company's bankers.

Deposit of cash and preservation of assets, etc.

(2) Until such time as the official liquidator appointed under section 7 takes into his custody or under his control all the books, documents and assets of the company, including actionable claims to which the company is or appears to be entitled, every officer and agent acting for or on behalf of the company shall preserve all such books, documents, assets, property, effects and claims, and shall be jointly and severally liable for any loss or damage.

(3) Any person who, with intent to evade the provisions of this Ordinance, conceals, destroys, mutilates or defaces any books, documents, assets, property, effects or claims, or knowingly allows such concealment, destruction, mutilation or defacement to be caused, shall, without prejudice to any liability

to which he may be subject under sub-section (2), be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Statement of assets, etc., to be submitted to Registrar

6. (1) Within three days of the commencement of this Ordinance, or within such period as the Registrar may allow, the manager of an undesirable company shall submit to the Registrar a statement showing the assets and liabilities of the company.

(2) Any one who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Winding up of undesirable companies

7. (1) As soon as may be after receipt of the statement submitted under sub-section (1) of section 6, the Registrar shall make a petition to the Court for winding up the company, and thereupon the Court shall make an order for the winding up of the company and, unless the Registrar nominates an officer for the purpose, shall appoint the Registrar as the official liquidator for such winding up.

(2) If the Registrar is unable to act as official liquidator and nominates an officer to act as such liquidator, the Court shall appoint that officer as the official liquidator for the winding up of the company.

(3) After the official liquidator has been appointed under this section, the provisions of the Companies Act, 1994 (Act No. 18 of 1994) relating to the winding up by Court of a registered company shall *mutatis mutandis* apply in relation to the winding up of the company in respect of which the petition has been made under sub-section (1).

Dissolution of undesirable companies

8. When the affairs of an undesirable company have been completely wound up, the company shall be deemed to have been dissolved under ¹[sub-section (1) of section 277] of the Companies Act, 1994 (Act No. 18 of 1994).

¹ The words, brackets and figures “sub-section (1) of section 277” were substituted for the words, brackets and figures “sub-section (1) of section 194” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

9. (1) Where the Registrar has reason to believe that a company is an undesirable company or that an undesirable company is carrying on business in contravention of section 4, he or any officer authorised by him in this behalf may-

Power to call for certain information, etc.

- (a) direct any person to give such information in his possession with respect to any business carried on by that company as he may demand;
- (b) inspect or cause to be inspected any book or other document belonging to or under the control of the company or any officer thereof;
- (c) enter and search or authorise any person to enter and search any premises, and seize or authorise any person to seize any book or other document belonging to or under the control of the company or any officer thereof.

(2) If the Registrar is satisfied that a company is an undesirable company or that an undesirable company is carrying on business in contravention of section 4, he shall by order in writing, direct the manager of the company to hand over the management of the company to a person to be appointed by the Registrar for the purpose, and the manager shall forthwith hand over the management of the company to such person.

(3) The person to whom management is handed over in pursuance of sub-section (2) shall be deemed to be the manager of the company, and the other provisions of this Ordinance shall apply accordingly.

(4) Whoever fails to comply with any direction given under sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.

10. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under this Ordinance shall be cognizable and non-bailable.

Offences to be cognizable and non-bailable

11. No Court shall take cognizance of any offence under this Ordinance except with the previous consent of the Registrar in writing.

Cognizance by Court with consent of Registrar

Summary trial

12. Any Magistrate or bench of Magistrates empowered for the time being to try in a summary way the offences specified in sub-section (1) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Ordinance.

Power to make rules

13. The ¹[Government] may make rules to carry out the purposes of this Ordinance, and such rules may provide that the breach of any of them shall be punishable with imprisonment for a term not exceeding one year or with fine not exceeding one thousand ²[taka] or with both.

14. *[Repeal and savings.- Repealed by section 2 and the Schedule of the East Pakistan Repealing and Amending Ordinance, 1966 (East Pakistan Ordinance No. XIII of 1966).]*

¹ The word "Government" was substituted for the words "Provincial Government" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The word "taka" was substituted for the word "rupees" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).