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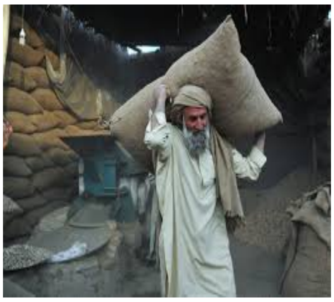

Federal Ombudsman's Report on the Working of Employees Old-age Benefits Institution (EOBI) and its Recommendations to Re-structure it for Excellence in its Services for 6.5 million workforce

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President of Asia Region

M. SALMAN FARUQUI
Nishan-e-Imtiaz

Islamabad,
28th January 2016

Employees Old Age Benefit Institution (EOBI) was established under an Act of Parliament in 1976. Its basic aim being, "***to provide financial benefits in terms of Pension and Grant to old age and invalid insured persons employed in industrial, commercial and other organizations and to their families after their death.***" It includes all such persons employed whether directly or indirectly, for wages or other-wise, to do any skilled, supervisory, clerical or other work, or in connection with the affairs of, an industry or establishment, under a contract of service or apprenticeship, whether written or oral, express, or implied, and includes such persons when laid off.

Its fund is formed from statutory collection of contribution from employers and employees at 5% and 1% of the wages as per Minimum Wages for Unskilled Workers' Ordinance 1969. Other sources of income that contribute to the fund include investment income of the collected contributions after defraying the management expenses. It was astonishing to note that so far EOBI has only registered 105,976 employers out of which 72,404 are active, 29,685 are closed while 3,887 have been deregistered throughout Pakistan. It is worth mentioning that the total labour force in Pakistan in commercial and industrial sector is 12.5 million. Out of this, the number of insured persons in EOBI is 6.5 million only. The active pensioners from these is merely 0.54 million (544,438) which is barely 50%. This figure appears further dismal when seen in the context of a country having a population of 200 million.

Analysis of 5 years record revealed that in various regions of Wafaqi Mohtasib a total of 1011 complaints were received pertaining to registration under the Act, insurable employment, old age pensioners, old age grants, survivors pension etc. Since the issue was very critical and required immediate attention, a committee under chairmanship of Malik Asif Hayat, former Secretary to the President, former Chairman Federal Public Service Commission and former Secretary Labour & Manpower Division was formed.

Other members included Mr. Abdul Khaliq, former Secretary Finance; Mr. Nayyar Hussain former Secretary Labour & Manpower Division; Mr. Jaweed Akhter former Federal Secretary; Mr. Asif Usman Controller General of Accounts; Mr. Muhammad Sualeh Farooqi Chairman EOBI; Mr. Shujaat Siddiqui Senior Actuary; Syed Iqbal Haider Zaidi Director General B&C III EOBI; Mr. Saboor Ghayoor Economist; Mr. Karamat Ali Employees Representative of Pakistan Institute of Labour and Economic Research; Khawaja Muhammad Nauman President Employers' Federation; Mr. Muhammad Zahoor Awan General Secretary Pakistan Workers Federation and Member Governing Body of ILO; Mr. Farooq Awan former Secretary in charge IT Division former Chairman PTA and DG Investment EOBI; Raja Faiz ul Hasan former Central Labour / Social Security Advisor Ministry of Labour and Manpower and former Deputy DG (Law) EOBI; Mr. Riaz-ud-Din Qureshi DG Investment and Operation EOBI; Chaudhry Latif Director EOBI; and Mrs. Farah Ayub Tarin former Controller General and Senior Advisor in Wafaqi Mohtasib who was Member/Secretary of the Committee. It may be noted that the eminent committee members represented civil society, stakeholders (representatives of employees and workers) and senior civil servants. The committee has finalized its report which is enclosed. It is hoped that issues highlighted in the report will be implemented by the management of EOBI and the Federal Government as the EOBI was represented on the Committee.

The most significant issue for the Government to take up is the resolution of issues that have cropped up after the 18th Amendment. Mater being crucial needs to be taken up in Council of Common Interest (CCI) on urgent basis.

I hope this report will go a long way in bringing about improvement in the institution. The committee members are particularly grateful to the Honorable Wafaqi Mohtasib for giving valuable guidance to the committee whenever needed.

In the end I express my gratitude to the Chairman and the members of the Committee who worked hard to complete this report.

Salman Farooqui

OMBUDSMAN

Federal Ombudsman's Expert Committee Report

On the Working of

Employees' Old-age Benefits Institution (EOBI)

And its

Recommendations to restructure it for Excellence in its Services for 6.5 million Workforce

Government of Pakistan

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Executive Summary

Welfare is a term encompassing many facets of human life. The concept of welfare builds upon providing opportunities to all human beings for attaining health facilities, quality education, prestigious jobs with job security and a regular income, and a strong asset base.

Workers' welfare is an essential element for efficient productivity. Factory workers form the backbone of the whole productive system and this makes their welfare a crucial part of an industrial setup. Workers' relations with their employers and their working environment are basic levels at which their well-being can be maintained. Numerous government institutions channeling social security benefits to workers also include the Employees Old Age Benefit Institution (EOBI).

Objective of Employees Old-Age Benefits Scheme administered by the Employees Old-Age Benefits Institution (EOBI) is to provide subsistence pensions to Pakistani workers, employee/insured persons from the private sector who retires after completing a minimum number of years of insurable employment.

The scheme was introduced in the year 1976. Coverage was restricted to employees drawing wages up to Rs.1000/- per month in establishments with at least 10 employees. The limit of wages was gradually increased to Rs.1500/, Rs.3000/- and Rs.6000/- and thereafter the rate on minimum wages was adopted for the purpose of computation of contribution. Now the Act is applicable to the establishments having five or more persons in insurable employment and there is no limit of wage for registration under the law, however for the purpose of

contribution and payment of pension, the rate of minimum wages is used. At present the minimum pension has been increased to Rs.5250/ per month.

As per provision of the Employees' Old-age Benefits Act, 1976 (as amended up to 2008) the Institution has to register the industry and establishment having five or more persons in its employment. As per the report presented by the management before the Committee the Institution has registered only 105,976 employers (72,404 active 29,685 closed and 3,887 de-registered) throughout Pakistan, which reflects a very dismal position despite the statutory provisions under section 1 (4) of EOB Act, which requires the industries and establishments having five or more persons in its employment to register their employees as insured persons. This state of affairs is very alarming, which requires special attention by the management of the institutions to accelerate the pace of registration of industries and establishments.

The EOB Act is not applicable to the Civil Servants, Agriculture sector, persons in the service of statutory bodies, self employed persons, and members of employers family. Even then keeping in view the labour force in the country the registration of insured persons is also very low, counted to only 6.5 million, which is also a misnomer. Out of 6.5 million employees only 544,438 are active pensioners. Keeping in view the above, it clearly manifests that the Institution, as it exists today, has many institutional weaknesses which can be classified into four segments, i.e. Operational, Legal, Investment and Constitutional. The study was carried out within these four parameters:

1. Operational Weaknesses:

- Less registration of establishments
- Less registration of insured persons
- Absence of proper data

- Linkage between contribution receipts with names of insured persons
- Callous attitude of staff
- Absence of meaningful inspection of establishments
- Low quality of IT based infrastructure
- Posting of irrelevant officers in operational offices
- No pre induction and on job training
- Poor posting plan of field officers to different cities

2. Legal Weaknesses:

- Non compliance of and disparity between main law and rules/regulations made thereunder
- Increase in pension without considering findings of actuarial study
- Increase in pension without equitable increase in contribution or investment
- Low profile Board of Trustees
- Decisions of High Court regarding amendments in the law through Finance Acts

3. Investment Weaknesses

- Loss to the fund through non-prudent financial decisions
- Low yield from investment portfolio resulting in mismatch with pension payouts
- Non availability of investment professionals
- Depletion of funds due to heavy investments in Government Securities
- Weak Investment Committee of the Board
- Non availability of professional staff in Investment Department and Pakistan Real Estate Investment and Management Company (Pvt) Limited (PRIMACO)

- No diversification of investment

4. Impact of 18th Constitutional Amendment

- Devolution of subject of labour to the provinces
- Consolidation of insurable employment for the purpose of pension
- Promulgation of EOB Act by Sindh Government
- Resolution passed by the KPK Assembly

To put the Institution on the track again, it is high time that the Act may be amended to give legal cover to the minimum pension and life pension to unmarried daughters and disabled children. The enactment should be amended by giving a legal protection to self-contribution scheme, which was initiated but dropped due to non-availability of any rule in entire legislation. The enactment restricts an ensured employee to get pension in case he resides abroad, which is against the norms of natural justice. Therefore law should be amended by allowing the pensioner to continue his right of pension while even residing abroad. In addition to all those amendments, which were made under various Finance Acts, (later on declared ultra-vires by the Sindh High Court) and are necessary for effective application of the pension scheme, should immediately be legislated through EOB amendment bill. However after the devolution, it is a question as to which law-making forum, Parliament or the Provincial Assembly, is competent to amend the law.

After eighteenth amendment in the Constitution of the Islamic Republic of Pakistan, the subject of Labourhas now becomea Provincial subject; as such the responsibility of administering the labour laws falls upon the Provinces. However the Federal Government is still administering the Companies Profits (Worker's Participation) Act, 1968, Workers Welfare Fund Ordinance, 1969 and Employees' Old-age Benefits Act, 1976. Devolution of Employees' Old-age Benefits Institution is a complex issue. A number of decisions are to be taken for smooth transfers and subsequent smooth functioning of the Institution.

There are a number of financial/administrative issues which need to be examined in detail so that the workers are not deprived of their pension. Major issues are highlighted below:

- Registration of establishments having trans-provincial presence
- Registration of insured persons already registered in one province moving to another province
- Linkage between contribution received in respect of an insured person in different provinces
- Posting of officers in various provinces
- Disparity between main law and rules/regulations made thereunder by different provinces
- Different rate of minimum wages in provinces for the purpose of computation of contribution
- Different rate of minimum pension in different provinces
- Accumulation of individual's contribution collected in different provinces
- Distribution of existing movable and immovable assets of the EOBI
- What will be the additional recurrent expenditure requirement of the provincial governments to perform these functions?
- How will the provinces finance these additional recurrent expenditures for smooth running of the provincial institutions?
- Do the provinces have the resource surpluses to finance these pensionary expenditures?

In view of the above EOBI being a pension fund having trans-provincial ramification can operate smoothly at federal level to ensure that workers are not deprived of their hard earned pension and employers are saved from increased cost of doing business as in case of provincial institutions they have to pay contribution at different rates in different provinces. Therefore the committee is of considered view that the issue of EOBI may either be placed before CCI for early resolution so that the employers and the workers are not placed at a disadvantage.

Chapter -1

1.1 The Wafaqi Mohtasib (Federal Ombudsman), taking cognizance under Article 2(2) of the Establishment of the Office of Wafaqi Mohtasib (Federal Ombudsman)'s Order, 1983, of large number of complaints being filed in the Head Office and the Regional Offices of Wafaqi Mohtasib Secretariat against the Employees Old Age Benefit Institution (EOBI) {Table 1 below}was pleased to constitute a Committee under Article 9 (1) read with Articles 18 and 19 of the said Order on 4th August, 2015 comprising the following:***(Annex-1)***

1	Mr. Asif Hayat, Former Chairman, Federal Public Service Commission and former Secretary, Manpower &Labour Division.	Chairman
2	Mr. Abdul Khaliq, Former Secretary Finance.	Member
3	Mr. Nayyar Hasnain, Former Secretary, Manpower & Labour Division.	Member
4	Mr. Jaweed Akhter, Former Secretary Minorities Affairs & Member Federal Service Tribunal/Senior Advisor.	Member
5	Mr. Asif Usman, Former Controller General of Accounts.	Member
6	Mr. Muhammad Sualeh Farooqi, Chairman, Employees' Old Age Benefits Institution	Member
7	Mr. Shujat Siddiqui, Senior Actuary	Member
8	Mr. Karamat Ali, Employees Representative of Pakistan Institute of Labour & Economic Research (PILER)	Member
9	Dr. Sabur Ghayoor, Economist worked as Consultant on labour issues.	Member
10	Syed Iqbal Haider Zaidi, Director General, B&C III, EOBI House, Islamabad.	Member
11	Khawaja Muhammad Nauman, President, Employers' Federation of Pakistan	Member

12	Muhammad Zahoor Awan, General Secretary, Pakistan Workers, Federation and Member Governing Body of I.L.O.	Member
13	Mr. Farooq Awan, Former Secretary In charge, I.T. Division, Former Chairman, PTA and DG Investment EOBI.	Member
14	Raja Faizul Hassan Faiz, Former Central Labour/Social Security Advisor, Ministry of Labour and Manpower and Former Deputy D.G (Law), EOBI.	Member
15	Mr. Riaz-ud-din Qureshi Director General Investment and Operation, EOBI.	Member
16	Chaudhry Latif, Director EOBI.	Member
17	Mrs. Farah Ayub Tarin Former Controller General of Accounts, Senior Adviser Wafaqi Mohtasib	Member/ Secretary

1.2 Mr. Abdul Khaliq, Mr.Muhammad SualehFarooqi, Mr.Karamat Ali,Dr.SaburGhayoor, and Khawaja Muhammad Nauman could not attend meetings due to pre-occupations. However, they were consulted through email for their input and comments on draft report were duly considered by the committee.

TABLE - 1

S.No.	Region	2012	2013	2014	2015	Total
1.	H.O.Islamabad	51	79	100	87	317
2.	R.O.D.I.Khan	02	10	13	05	13
3.	R.O.Faisalabad	10	48	60	67	185
4.	R.O.Hyderabad			04	10	14
5.	R.O.Karachi	20	49	46	40	155
6.	R.O.Lahore	08	78	65	49	200
7.	R.O.Multan	05	15	23	18	61
8.	R.O.Peshawar	03	06	17	07	33
9.	R.O.Quetta			02	01	03
10.	R.O.Sukkur	01	03	06	03	13
	Grand Total:	100	288	336	287	1011

Based on the 1,011 complaints filed with the WafaqiMohtasib Secretariat during the period 2012 to 2015 it was observed that *majority of complaints filed in various regions pertained to registration under the Act, Insurable Employment, Old-age pensions, Old-age Grants, Survivors' Pension, incorrect demand of contributions from employers, and othermiscellaneous issues.*

Provision of Establishment of the Office of Wafaqi Mohtasib (Federal Ombudsman)'s Order 1983 and the Notification

1.3 Article 9 (1) provides that "The Mohtasib may on a complaint by an aggrieved person, on a reference by the President, the Federal Council or the National Assembly, as the case may be, or on a motion of the Supreme Court or a High Court made during the course of any proceedings before it or of his own motion, undertake any investigation into any allegation of maladministration on the part of the Agency or any of its officers or employees".

1.4 Article 9 (3) provides that "For carrying out the objectives of this Order and, in particular for ascertaining the root causes of corrupt practices and injustice, the Mohtasib may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication."

1.5 Article 18 provides that "The Mohtasib may, whenever he thinks fit, establish standing or advisory committees at specified places with specific jurisdiction for performing such functions of the Mohtasib as are assigned to them from time to time and every report of such committee shall first be submitted to the Mohtasib with its recommendations for appropriate action."

1.6 Article 19 provides that "The Mohtasib may, by order in writing, delegate such of his powers as may be specified in the order to any member of his staff or to a standing or advisory committee, to be exercised subject to such conditions as may be specified and every report of such member or committee shall first be submitted to the Mohtasib with his or its recommendations for appropriate action."

Under Article 2 (2) 'Maladministration' includes:

(i) a decision, process, recommendation. Act of omission or commission which-

(a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bonafide and for valid reasons; or

(b) isperverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or

(c) is based on irrelevant grounds; or

(d) involves the exercise of powers, or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and

(ii) neglect, inattention, delay, incompetence, inefficiency and inaptitude, in the administration or discharge of duties and responsibilities.

Terms of Reference for the Study

1.7 The Terms of Reference of the Committee are stated below:

(a) To conduct thorough study of the organizational set up of Employees' Old-age Benefits Institution (EOBI);

(b) To identify procedural, legal, institutional, administrative, investment and constitutional weaknesses which hinder the efficient delivery of service to employers and insured persons;

(c) To look into the causes of mal-administration and mal-functioning within the Institution;

(d) To make recommendations for smooth, effective and efficient functioning of the institution in accordance with its objective and to improve its service delivery; and

(e) Any other matter having direct bearing on the working of EOBI.

Chapter-2

Methodology

2.1 The Committee held its meetings on **27th August and 21st December 2015.** The Committee through its Secretary kept all members on board through emails. All drafts were shared with members for their comments through email on various dates (21/09/2015, 30/09/2015, 08/10/2015, 01/12/2015, 9/12/2015, 06/01/2016, 07/01/2016 1nd 15/01/2016). Sub-committees held their meetings to thoroughly deliberate on the issues/subject entrusted to them.

2.2 In the first meeting of the Committee, the management of the EOBI gave detailed presentation to the members on the law, rules, regulations, functioning and achievements of the EOBI regarding registration of employers, insured persons and payment of various benefits to the insured persons and their survivors. The participants were told that since inception of EOBI in 1976, till June 2015 the number of employers registered with EOBI was 105,976 while insured persons were 6.5 million. Similarly the active beneficiaries of EOBI were 544,438. The critical issues highlighted are given below:

i. The latest actuarial valuation report of EOB fund as per section 21 of EOBI Act was carried out as on June 30th 2012. The valuation reflected that the EOB fund would start depleting in the year 2021 and would deplete by year 2027. They termed the situation alarming and suggested increase in rates of contribution besides some structural changes.

ii. Increase in pension from Rs. 3600 to Rs. 5250 had an impact of Rs. 1.667 billion for the year 2014-15 for which, one time matching grant was given by the Federal Government.

iii. The existing EOB Act 1976 states minimum wages of Rs. 6000. At the moment contribution made by the employer is 5% and 1% by the employee at a minimum wage of Rs. 8000. The law needs to be amended and the minimum wage also requires revision. Similarly other laws also need to be amended.

iv. The Federal Government also needs to clarify the issue of devolution, which has cropped up after the 18th amendment. Sindh Province has already made an EOB Act, which has also been approved. It maybe mentioned that the Employers Federation of Pakistan and Pakistan Workers Federation along with other companies and workers unions have challenged the Sindh Employees Old Age Benefit Act 2014 in the Honorable High Court of Sindh. In principle EOB should remain a Federal subject.

2.3 The Committee also visited the Head Office and Regional Offices of the EOBI, without prior intimation to see the procedures being adopted by the management of EOBI in their day to day affairs. During the visits the members had detailed meetings with the persons on the helm of affairs to gain insight into functioning of the EOBI, constraints within which it is performing, operational environment and potential causes of public complaints. The members also met with the insured persons and representatives of the employers present in the office for their different cases.

2.4 The Committee also had a chance to look at earlier studies regarding labour welfare and social security issues, including EOBI, as listed hereunder:

1. Report of the Labour Commission, 1979headed by Justice (R) Attaullah Sajjad.
2. Report of the National Labour Welfare Commission, 1987
3. Report of the Task Force of Labour Welfare Levies, 2000 headed by Justice (R) Muhammad Afzal Lone
4. Report of Labour Commission, 2000 headed by Justice (R) Shafiur Rehman

Framing of Issues

2.5 After the presentation, participants also raised issues faced by the complainants such as verification of service, transfer of previous service history in case of change in employment, reluctance of employer in paying contribution of their employees to EOBI, problems due to closure of formations etc.

2.6 **S**ubsequent to due deliberations the Committee *inter-alia* identified the following issue:

1. Compliance issues

a) Non-observance of rules/regulations by the officers of the Institution regarding:
   i. Registration of employers
   ii. Registration of insured persons
   iii. Submission of returns under the rules
   iv. Maintenance of record of contribution in respect of individual worker

b) Violation of law in assessment of contribution

c) Violation of law in levy of increased contribution

d) Violation of law in recovery of assessed contribution under Land Revenue Act (LRA)
   i. Issuance of demand notice u/s 79 and 81 of LRA.
   ii. Attachment u/s 83 of LRA
   iii. No further action was taken after attachment unmovable property

e) The management seems to be reluctant to take action under penal clause to safe guard the interest of the Institution

2. **Legal Issues**

a) Impact of the decisions of the Sindh High Court regarding amendments made in the EOB Act, 1976 through the Finance Acts.
b) Inconsistency in the law and rules/regulations made thereunder.
c) Absence of important rules and regulations to be framed under section 8A and 45(vi) of the EOB Act, 1976
d) Non-updating of Rules and Regulations framed under the law.

3. **Issues in Investment Portfolio:**

a) To review the status of Assets and Liabilities of the Fund
b) To analyze the asset liabilities mismatch in the light of latest actuarial evaluation and consider the factors creating this mismatch.
c) To look into the impact of assets liability mismatch and its impact on the fund projections and pension security of insured persons.
d) To consider the actuarial returns trend and its impact on the fund size.
e) To review the laws and regulations which govern the fund investment and consider ways and means to strengthen fund governance.

4. **Constitutional issues:**

a) Impact of 18^{th} Amendment in the Constitution

Constitution of Sub-Committees

2.7 The Chairman, on recommendation of the members of the Committee, constituted following four sub-committees to thoroughly examine the above issues and submit recommendations to the Committee for adoption or otherwise.

i. Committee on Operational Issues

ii. Committee on Legal Issues

iii. Committee on Investment Portfolio

iv. Core and Drafting Committee

Chapter -3

Role of EOBI

3.1 Welfare is a term encompassing many facets of human life. The concept of welfare builds upon providing opportunities to all human beings for attaining health facilities, quality education, prestigious jobs with job security and a regular income, and a strong asset base.

3.2 Workers' welfare is an essential element for efficient productivity. Factory workers form the backbone of the whole productive system and this makes their welfare a crucial part of an industrial setup. Workers' relations with their employers and their working environment are basic levels at which their well-being can be maintained.

3.3 Numerous government institutions channeling social security benefits to workers are:

- Employees Old Age Benefit Institution (EOBI);
- Employees Social Security Institute (ESSI);
- Workers' Welfare Fund (WWF); and
- Workers Welfare Board (WWB).
- Mines Labour Welfare Fund Act, 1972

3.4 To provide old-age subsistence to the workers the Government in 1972, issued an Ordinance with the title of the Employees' Old-Age Pension Ordinance (Ordinance X of 1972) on 23rd April, 1972. Under this legislation the Federal Government indicated its desire to introduce Old-age Pension scheme for the betterment of employees of the private sectors by the Provincial Governments. In this Ordinance the Old Age Pension scheme was introduced and a pension @ Rs. 60/- was suggested on completion of 20 years of serviceand retirement age was fixed at 55 years (50 years for female). This legislation intended to apply only to those establishments, which employed 100 or more workers, and wages for coverage under this scheme were proposed to be fixed at Rs. 500/ per month, while the rate of the contribution was fixed 5%, to be paid by the employer. The Provincial Governments were incapable to implement this scheme due to weak industrial base in some provinces, continuous flow of migrant workers to large cities from weaker industrial base areas,and the size of fund which would have been established seemed to be small to generate enough investment for payouts of pension, therefore the Federal Government introduced the new scheme.

3.5 This scheme was promulgated on 23rd December 1975, whereby the Federal Government, in the place of the Provincial Governments, notified the Employees Old-Age Benefits Ordinance (Ordinance XXVI of 1975). This law relates to Old-Age Benefits for persons employed in industrial, commercial and other organizations, employing at least ten persons.

3.6 Later on the Employees' Old-Age Benefits Ordinance, 1975, was substituted by the better enactment, the Employees' Old-Age Benefits Act, 1976, (Act No XIV of 1976) which was passed by the National Assembly on 5th April 1976. The President of the Islamic Republic of Pakistan gave assent on 15th April 1976, and then the Act was published in the Official Gazette of Pakistan on 19th April 1976. Although it came into force at oncebut as per section 9 thereof the contribution was payable from 1st day of July 1976. This Act was implemented from 1st day of July 1976.

3.7 The Institution was established in 1976, with the core objective of providing monetary benefits as pension to the workers of private industrial and commercial establishments across the country.

3.8 The scheme was introduced in the year 1976 with a modest benefit as old age allowance of Rs.75/- per month from the year 1983. The monthly contribution was equal to 5% of wages up-to Rs.1000/-. Coverage was restricted to employees drawing wages up to Rs.1000/- per month in establishments with at least 10 employees. The registered employee would be excluded from the scheme, if his wages exceeded Rs.1000/-. The limit of wages was gradually increased to Rs.1500/, Rs.3000/- and Rs.6000/- and thereafter the rate on minimum wages was adopted for the purpose of computation of contribution. Now there is no limit of wage for registration under the law, however for the purpose of contribution and payment of pension, the rate of minimum wages is used.At present the minimum pension has been increased to Rs.5250/ per month.

Chapter-4

Institutional Weaknesses

Poor Registration of Employer/Insured Persons

4.1 The EOBI is a nationwide agency of Federal Government with a very clear mandate, however so far it has succeeded to register only 105,976 employers (72,404 active 29,685 closed and 3,887 de-registered) throughout Pakistan which reflects a very dismal position despite statutory provisions under section 1 (4) of EOBI Act:

"It applies to every industry or establishment. (i) wherein five or more persons are employed by the employer, directly or through any other person, whether on behalf of himself or any other person, or were so employed on any day during the preceding twelve months, and shall continue to apply to every such industry or establishment even if the number of persons employed therein is, at any time after this Act becomes applicable to it, reduced to less than five"

4.2 The EOB Act is not applicable to the Civil Servants, Agriculture sector, persons in the service of statutory bodies, self employed persons, and members of employers family. Even then keeping in view the labour force in the country the registration of insured persons is also very low, counted to only 6.5 million, which is also a misnomer. Out of 6.5 million employees only 544,438 are active pensioners.

Causes of Maladministration:

4.3 Keeping in view the above, it clearly manifests that the Institution, as it exists today, has many institutional weaknesses which can be classified into four segments, i.e. Operational, Legal, Investment and Constitutional.

1. **Operational Weaknesses:**

- Less registration of establishments
- Less registration of insured persons
- Absence of proper data
- Linkage between contribution receipts with names of insured persons
- Callous attitude of staff
- Absence of meaningful inspection of establishments
- Low quality of IT based infrastructure
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- Low profile Board of Trustees
- Decisions of High Court regarding amendments in the law through Finance Acts

3. **Investment Weaknesses**

- Loss to the fund through non-prudent financial decisions
- Low yield from investment portfolio resulting in mismatch with pension payouts

- Non availability of investment professionals
- Depletion of funds due to heavy investments in Government Securities
- Weak Investment Committee of the Board
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4. Impact of 18th Constitutional Amendment

- Devolution of subject of labour to the provinces
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Chapter 5

Operational issues

➢ Less Registration of Establishments

5.1 Presently, the EOBI is performing its function in limited areas of Pakistan, employees are responsible for registering employers and their employees throughout the country. Many of the registered employees are still suffering while majority of the workers are unable to adopt this scheme for one reason or the other. The employees are not conversant to their rights of pension, resultantly they do not bother to perform their role towards the registration nor make any effort to update their contribution in their account.

5.2 As per provision of the Employees' Old-age Benefits Act, 1976 as amended in 2008 the Institution has to register the industry and establishment having five or more persons in its employment. As per the report presented by the management before the Committee the Institution has registered only 105,976 employers (72,404 active 29,685 closed and 3,887 de-registered) throughout Pakistan, which reflects a very dismal position despite the statutory provisions under section 1 (4) of EOB Act, which requires the industries and establishments having five or more persons in its employment to register their employees as insured persons. This state of affairs is very alarming, which requires special attention by the management of the institutions to accelerate the pace of registration of industries and establishments.

➢ Less Registration of Insured Persons

5.3 The management of the EOBI informed the Committee that the Institution has registered only 6.5 million insured persons. Taking in view the

Labour Force Survey and the legal provisions of the Act, which provides no wages limit for compulsory insurance this is a dismal figure of insured persons of the formal sector in the country.

5.4 The Beat Officers and the Regional Heads responsible for registration of the establishment should be given specific period, say about 3 months, to register each and every industry/establishment and their insured persons in their allocated area and submit a certificate that no industry/establishment and/or insured person is left unregistered. If any such establishment/insured person is found unregistered strict disciplinary action should be taken against them.

i. EOBI management to aggressively pursue and ensure that employers register all their employees and pay their contributions regularly.
ii. Maximum efforts should be made for the registration of all employees working in all register-able Institutions.
iii. The EOBI should increase the scope of register-able establishments by eliminating various exclusions (Particularly provided in section 47).
iv. Employers resisting to get themselves registered under the EOBI Act should be prosecuted under the Act (Section 37 & 38). A system should be devised ensuring that each employer is registered.
v. Tampered record should be got cleared at the very outset so as to avoid any ambiguity at the time of processing the pension claim.
vi. EOBI should establish the technical infrastructure to integrate with commercial banks for automated collection of contributions from employers and its prompt transmission to EOBI.
vii. Presently the Act restricts an employee for further entitlement in case of his residing abroad; however it seems to be a harsh rule that discredits an employee from his natural and mandatory right of pension even in unavoidable circumstances.

- **Non availability of Contribution Data**

5.5 As per provision of the law the old-age pension is payable when an insured person completes at least 15 years of insurable employment and attains age of 60 years (55 years in case of woman). There is no condition of continuity of employment in one industry/establishment. Thus the up to date data of each and every insured person regarding registration as well as payment of contribution is very vital. It is however noted with great concern that at present the Institution has no such data, despite availability of an IT Division.

5.6 As reported to the Committee, the Institution has record of only few insured persons and that two having from zero to four years on insurable employment. In view of this there are many cases where the insured persons having genuine insurable employment could not get the benefit while on the contrary a person with the fake record succeeds to have his pension thus causing loss to the Fund.

- **Absence of Complete Computerized Data of Employer and Employee**

5.7 Various complaints were registered, wherein the complainants objected the delay involved on the part of Agency and they also reported the mis-calculation of their service for pension. The agency does not properly maintain the record of establishment regarding their business and closing in some reported cases. The problem does not simply relate to absence of complete service record but incomplete/reconciled computerized data of employers/employees registration, contribution, employees service records, change of service, date of birth at the time of joining service and other vital information required for finalization of pension/old-age grant have compounded the problem. This mainly revolves around inattention on the part of EOBI management to fully computerize the record of employer and the employees and data migration from one system to another.

- **Low Quality of IT Based Infrastructure**

5.8 An employer is required to deposit contribution each month of the insured persons it has in its employment without giving names or any other details of the insured persons. The names and other details are to be submitted once every year on Form PR-02A. Any change in employment (new joining or existing leaving) is to be reported through Form PR-02B. This clause in self has the biggest issue of reconciliation. As 12 (at least) PR-03 slips of each employer are to be reconciled with the one PR-02A (which contains details of each insured person) with names and other particulars of employees for whom contribution was paid during the year.

5.9 To overcome this issue, EOBI introduced its on line Facilitation System for generating payment voucher PR-03 where an employer has to first submit details of its employees for whom contribution is to be deposited, after which Form PR-03 is generated.

5.10 There are two issues with the present online system of EOBI; one is that it is not mandatory for every employer to use this system and two it is not protected through required amendments in the Contribution Regulations. Coupled with frequent technical problems, the system is not delivering what it was expected to at its start in January 2012.

5.11 The data that has been collected and stored in various eras as mentioned above has been continuously migrated into newer systems. EOBI has managed to achieve a count of more than 6.5 million registered insured persons. Since

2012, CNIC is mandatory for getting registered as an insured person. A unique EOBI number is also issued as it forms the basis of all of our current and previous databases/tables. Of the 6.5 million registered insured persons only data for 2.9 million insured persons could be matched. A frequency distribution of records with insured employment history is given below:

Frequency Distribution of 2,918,121 records	
Employment Years	**Number of Insured Persons**
More than 15	2,812
Equal to 15	1200
10 to 14	34,417
5 to 9	384,132
3 to 4	838,835
0 to 2	1,656,725
Total	**2,918,121**

i- A system to maintain the record of different establishments should be properly developed and its monthly record regularly updated EOBI should carry out this exercise regularly.

ii- A time frame must be given to the applicant in case the verification is required to be carried out for further processing of the claim.

iii- Penalty in case of non-contribution of employee by the employer must be initiated under the relevant provision of law without any delay.

iv- The computer system needs to be updated and the data should be matched with the registered insured persons. The purification of data inter-alia to include updated employers record, contributions made in respect of insured employee, change of service recordetc should be a regular feature.

- **NEXUS OF REGISTERED AND UNREGISTERED ESTABLISHMENTS**

5.12 It was observed through various complaints that the institution does not have any mechanism/law to account for the service with unregistered employer to provide relief to employees having less than six months service with un-registered employer.

i- Firstly the institution should try its level best for registration of the entire establishments without delay, however in other situation the service of employee should be counted in his pensionable service with retrospective effect by registering the establishment immediately.

ii- The employee should be given remedy in case of non-verification of employee record.

iii- Delegation of powers to the Relief Claim Committee in writing.

- **CHECK AND BALANCE**

5.13 There seems to be no effective check and balance system over the establishments, employer and the employees in case they fail to perform their legal duty i.e. registration of employers, employees and their regular contribution as a consequence of which insured employees suffer even on being eligible due to deficient formalities.

i- Employers who are registered with the Institution but fail to pay contributions regularly and timely must be held accountable.

ii- A significant number of employers who understate the number of insured persons in their employment, thereby paying lower contributions must be inquired into through regular monitoring.

iii- Providing an online platform in order to enable speedy facilitation services to the key stakeholders for the Institution: employers, employees/insured persons and pensioners. The pensioners to be provided annually a statement showing contribution made by their employers.

iv- Linking information flow across EOBI's core business activities: submission of employees' details, voucher generation and payment of contribution.

v- EOBI while receiving contribution of an employee by name and CNIC from other employer, different from last one should inform the individual to get the verified record from the last employer.

- **Posting of Irrelevant Officers in Field Offices**

5.14 As per need of the dayto day official assignments, the Institution has employed officers with different/specific qualifications in different cadres like Operational, Office, Finance, EDP and Law Cadres. However it was observed that officers from Office, Finance and even Law cadres were posted on posts of Operational cadres. These irrelevant postings result in decay in the operational activities of the Institution. These type of postings also have adverse impact on the office activities of the institution in specialized departments e.g. finance, law, investment and IT etc.

- **Non availability of pre induction and on job training**

5.15 Although the Institution is engaged in specialized activities from identification and registration of industries/establishment and insured persons, collection of contribution, assessment of unpaid contribution, recovery from the defaulters under the Land Revenue Act, timely investment of the Fund in diversified schemes and maintenance of record of employers, insured persons and contributions, there is no pre-induction and/or on-job training facility in the

Institution. This has resulted in decay of human resources of the Institution. The Institution must establish its own training facility or engage a reputable institution for specialized training for each and every cadre keeping in view theon job requirements.

- **No regular posting of operational cadre officers to different cities**

5.16 The officers and staff posted at the Regional and Field Offices of the Institution are performing such jobs where they have direct public contact. Long time spent in a particular office can result in collusion with the employer and thus manipulation in payment of contribution as well as payment of benefits. As is the practice in other government departments dealing with the public revenue, it should be mandatory practice in the institution to post out the officers dealing with operational activities to other stations (Cites, not other beat/office in that very city) after a particular period e.g. 3 years.

Chapter-6

Legal Issues

➢ Disparity between main law and rules/regulations

6.1 Under section 44 of the Act, the Federal Government has framed various rules, while under the powers vested by section 45 the Board of Trustees have also framed regulations. These instruments have been notified in the Gazette of Pakistan. It is however noted that the in many cases these rules and regulations have not been updated in accordance with the amendments in the main statute i.e. Employees' Old-age Benefits Act 1976.

6.2 The Institution is adhering to SOPs, which do not match with the statutory system. This self styled system, though some time approved by the Board, had never been notified in terms of amendments in the regulation thus the stakeholders i.e. employers and insured persons are not aware of it. These processes if challenged by any establishment or insured person in Court of Law will cause financial loss to the institution.

➢ Non compliance of rules/regulations

6.3 Due to discontinuation of certain formats like PR-02, the correct information of insured persons as well as contribution cannot be ascertained. The forms notified under the Rules are not being used. No Pass Book, notified under the Rules is being issued to the insured persons, thus they face difficulty at the time of claiming pension under the law.

6.4 Generally the officers of the Institution are not observing the procedure provided in verification regulations 2007.No distinction in amount assessed and amount due is being observed. The time period provided in regulation for the next step for recovery of arrears is not being observed particularly regarding regulation 10 and 11, causing financial loss to the institution.

6.5 Rule 3 (4) of the Employees' Old-age Benefits (Contributions) Rules, 1976provides that the employer shall deduct every month the amount of insured persons contribution payable under section 9B of the Act from his wages. Section 9B provides that the insured person himself shall pay contribution in the prescribed manner. Moreover for the purpose of deduction from the wages, the special law is the Payment of Wages Act, 1936. Section 7 of the said Act provides an enumerated list of the kinds of deductions. The deduction of the EOB Contributions from the wages of the insured persons by the employers, thus leads to illegal deduction which is not only against the EOB Act, but also against the Payment of Wages Act.

6.6 Apart from above Rule 4 which provides that if an employer fails to deduct the employee's contribution or pay contribution on due date, the amount payable, shall be increased by two percent of the said amount each month or part of a month for which the amount is in arrears. Section 13 of the EOB Act, 1976 deals with the subject of increase of contribution, in which it is provided that if an employer fails to pay on the due date, the contribution payable by him under sub-section (1) of section 9, the amount so payable shall be increased by such percentage or amount as may be prescribed. In view of section 13 increases is only leviable on the contributions payable under section 9 and cannot be charged on the amount payable under section 9B.

6.7 The Act is applicable to the establishment. It has been held by the Supreme Court of Pakistan in a reported case as 2001-SCMR-1599, Service Sales Corporation v/s EOBI, that cluster of commercial establishments as spread throughout the country cannot be considered as independent units as they are owned and controlled by the same establishment through its Head office. As per the Act, it is the establishment and inured persons who are to be got registered by the employer under section 11. The employer is liable to pay contribution under section 9 for all persons in his insurable employment to the

Institution. Therefore, demand of separate payment of contribution, for each of the branch office, by the employer is against the spirit of the Act of 1976, as well as the principal laid down by the Honorable Supreme Court.

- **Increase in pension without actuarial study**

6.8 It has been clearly provided in section 21 of the Employees' Old-age Benefits Act, 1976 that no change in rate of contribution or benefits under the Act shall be made without proper actuarial valuation. The Institution has increased the minimum pension without proper actuarial valuation and even without any amendment in the law due to which existing Pension Fund is likely to be depleted bythe year 2027.

- **Increase in pension without equitable increase in contribution**

6.9 The minimum pension in 2009 was Rs. 2,000 per month when minimum wage was Rs.6000/. Over a period of the next five years this amount has increased to Rs 5,250having increase of 163%. The current rate of Employer's contribution is 5% of wages, which was last changed on 1st July 2008. Before that the employer contribution rate was 6%,whereas the employee contribution has remained at 1%. Due to increase in the minimum wage to Rs.8000/- the amount of contribution in respect of an Insured Person increased from Rs. 420 to Rs. 480 per month resulting in an increase of 14.3%. Thus this disparity in contribution and pension payout has increased the risk of depletion of the fund even before 2027.

- **Low Profile Board of Trustees**

6.10 The EOBI functions under the Ministry of Overseas Pakistanis & Human Resource Development and has a Board of Trustees comprising the following:-

• Secretary, Ministry of OP & HRD	President/Member
• Chairman, EOBI	Member
• Financial Advisor, Ministry of OP & HRD	Member
• Joint Secretary Ministry of OP & HRD	Member
• Provincial Secretary/Labour (04)	Member
• Employers Representative (04)	Member
• Employees Representative (04)	Member

6.11 The main contributors to the EOB Fund are the employers with some contribution being paid by the insured persons,while there is no contribution from the Government. Presently the Board has 8 members from the Government side, while 4 from the employers and 4 from the insured persons. To ensure proper representation of stakeholders i.e. employers and insured persons, it is essential to augment the Board by enhancing the number of members from employers and insured person to 8 each (2 from every province). To ensure proper representation of employer and insured persons necessary amendments be made in the BOT Rules, 1977 as under:

a. The employer representative must be having at least 100 insured persons in their insurable employment for last five years;
b. One name of employer from each province would be given by the Employer's Federation of Pakistan (EFP) and one name from each province would be given from respective Chamber of Commerce and Industry.
c. The insured person's representative should be from industry wise trade union registered with National Industrial Relation Commission (NIRC) having member ship of at least 20,000 workers.
d. Board should incorporate other technical members on case to case basis from institutions like State Life Insurance, Federal Board of Revenue (FBR) National Investment Trust (NIT) etc.

- **Decision of High Court regarding amendments in the law through Finance Acts**

6.12 After promulgation of the “Employees’ Old-Age Benefits Act, 1976”, many amendments were made therein and the last amendment was made in June 2008 through Finance Act, 2008. Till June 2008 this law has been amended through various statutes as below:-

1. Employees’ Old-Age Benefits (Amendment) Ordinance, 1983. (Ordinance No. XVII of 1983),

2. **Finance Act, 1986. (Act 1 of 1986)**,

3. Labour Laws (Amendments) Ordinance, 1993 (Ordinance XXIII of 1993),

4. **Finance Act, 1995, (Act 1 of 1995),**

5. Employees Old-Age Benefits (Amendment) Ordinance, 2000. (Ordinance IX of 2000),

6. Labour Laws (Amendment) Ordinance, 2001. (Ordinance LIII of 2001),

7. Employees’ Old-Age Benefits (Amendment) Ordinance, 2002. (Ordinance I of 2002),

8. Employees' Old-age Benefits (Amendment) Ordinance, 2002. (Ordinance XLVI of 2002),

9. **Finance Act, 2005, (Act 1 of 2005),**

10. **Finance Act, 2006 (Act 1 of 2006),**

11. **Finance Act, 2007, (Act 1 of 2007)** and

12. **Finance Act, 2008, (Act 1 0f 2008)**

6.13 The Honorable Sindh High Court in the matter of Soneri Bank and others versus EOBI and others decided that the contribution is in the nature of fee and not a tax therefore, amendments brought in the Act of 1976 by the Finance Act, 2008 are without law full authority and are of no legal effect. The decision has a vital impact on whole of the scheme as by the said order amendments made in the Act through the following Acts have become ultra-vires w.e.f.3/10/2012, when the said order was passed.

i. Finance Act 1986
ii. Finance Act 1995
iii. Finance Act, 2005
iv. Finance Act, 2006
v. Finance Act, 2007 and
vi. Finance Act, 2008

6.14 After taking out the amendments made by the above mentioned laws, the whole scheme of the EOBI has now become questionable raising doubts on its sustainability and viability. A comparative statement is at ***Annex-II.***

Chapter-7

Investment Issues

General

7.1 The EOB Fund investment portfolio at present is Rs. 390 billion out of which 68% is in Fixed Income, 54% in Real Estate and 13% has been invested in Equity Market.

7.2 The Committee was shocked to note that the Institution has stopped investment in Equity Market and Real Estate since the last one year. This decision of institution is further eroding the portfolio of EOBI and will further deplete the fund earlier than as stated in the actuarial report.

- **Non availability of investment professional**

7.3 The investment department and in Pakistan Real Estate Investment and Management Company (Pvt) Ltd (PRIMACO) is staffed with non professionals who are incompetent of taking prudent financial decisions and at times are scared to take decisions at the right time for correct investment. The non-professional attitude of the management is causing massive loss to the fund and the institution will not be able to meet its obligations of insured persons.

- **Low yield in investment portfolio**

7.4 The management due to non professional staff is playing safe by heavily investing in Fixed Income, about 68% of the portfolio. Due to decreasing interest rate the returns on these investments is decreasing each year thus reducing life of the fund.

- **Weak Investment Committee of the Board**

7.5 It is suggested that a strong investment committee be formed consisting of Board Members and technical professionals to take sound and prudent decisions while investing the fund.

- **Non availability of professional staff in Pakistan Real Estate Investment and Management Company (Pvt) Ltd (PRIMACO), a subsidiary of EOBI**

7.6 After the induction of new management in the PRIMACO, the experienced professional staff has either resigned, or has been terminated.

- **Violation of rules and regulations**

7.7 In most of the cases, particularly relating to the real estate decisions have been taken in violation of the rules of the Institution as well as PPRA thus resulting in huge loss to the fund. The investment committee and BOT should follow investment rules.

- **No diversification of investment**

7.8 Due to non-availability of technically qualified professionals in various fields on investment like equity market, real estate and commercial investment the Institution has failed to diversify its investment to have maximum yield from the market. In view of the depleting fund the institution has to explore other avenues of investment i.e Domestic Real Estate Investment Trust (REIT), Green Field Projects like Power Generation and Separately Managed Accounts (SMAs) offered by Asset Management Companies, etc which are within the financial investment rules approved by the Ministry of Finance.

- **Depletion of Fund**

7.9 Presently the Institution is completely stagnant and is not increasing its fund. It is not making any efforts to enhance registration of Insured Persons to increasecontributions; it is also investing in low yield portfolios and not diversifying its investments. The old properties being used as offices have by now reached its maximum market value. The value of all these properties need to be reassessed and sold through open auction and the amount realized to be reinvested in new property, which could give better dividends in future. These properties were purchased from Investment Fund and not from non development expenditure.

- **Property used by the Institution**

7.10 Number of properties have been purchased from the EOB Fund and is being used by the institution for purpose of offices. The rent of these properties should be deposited by the institution in the fund on monthly basis after assessing the market rental value of these properties.

Chapter-8

Constitutional Issues

➢ Devolution of Subject of Labour to the Provinces

8.1 The 18th Amendment has resulted in the redistribution of functional responsibilities of federal and provincial governments. The federal government devolved 17 ministries – mostly relating to social sector. However, eight new ministries were created by the federal government.

8.2 The objective is to continue with retained functions and services after 18th amendment, particularly those functions which are either national in character or due to international obligations.

8.3 Several institutions involved in service delivery have been retained by the federal government, including the Employees' Old-Age Benefits Institution (EOBI) and Workers Welfare Fund (WWF), which have been transferred to the newly formed Federal Ministry of Overseas Pakistanis Human Resource Development.

8.4 The Provinces of Punjab and Sindh have raised concerns and desire that EOBI be devolved to the provinces, while the province of Khyber Pakhtunkhwa does not desire for the same and province of Balochistan is quiet on the issue. However certain anomalies have been created which have to be resolved by the federal and provincial governments in the interest of workers and future of EOBI.

➢ Promulgation of EOB Act by Sindh Government

8.5 The Government of Sindh has promulgated the Sindh Employees Old-age Benefits Act, 2014, thereby repealing the EOB Act, 1976to the extent of its applicability to the province of Sindh. It has created an anomaly for the employers and insured persons regarding registration, payment of contribution and claiming the benefits.

- **Resolution passed by the KPK Assembly**

8.6 Apart from the promulgation of law by the Sindh Province, yet another development has taken place, where the Provincial Assembly of Khyber Paktunkhwa has passed a resolution that the Federal Government should retain the EOBI as a federal subject.

Case of Employees' Old-age Benefits Institution

- **Consolidation of insurable employment for the purpose of pension**

8.7 Traditionally Pakistan has internal migration of the workers from North to South and the workers work in different provinces, travelling from less industrialized provinces to the industrialized provinces. It would not be possible to consolidate/integrate the insurable employment of any worker undertaken in different provinces, thus creating problems for his pensionary benefits.

8.8 The abolition of the Concurrent List in the Constitution following the 18th Amendment has resulted in the devolution of the labour and manpower to the provinces.

8.9Issuessuch as collection and distribution of funds,division of financial and physical assets need to be deliberated by the concerned Ministry. More critical would be assessing the capacity of the Provinces for taking up this important task.

8.10 The Workers with domicile of one province work in another province and after retirement go to their home province, the issue for EOBI then will be cross-border migration and distribution of pensions.

8.11 The EOBI is dealing with the trans-provincial establishments having presence in more than one province. The employer and the employees, through the employer, have to contribute. It would be difficult rather impossible for the employer to pay the contribution to more than one institution and keep the record for long fifteen years to ensure eligibility of its employees for old age pension.

8.12 In view of the aforementioned factors it appears logical that EOBI be retained by the Federal Government..Without addressing these critical issues it is likely that employees will suffer which will impact their final payment of old-age pension. The right to pension is in fact right to livelihood, which has been determined as right to life by the Honorable Supreme Court of Pakistan.

8.13 The devolution of EOBI can also be attributed as restriction on the freedom of movement, which is a constitutional right of the citizen. The workers, with fear of their pension at the superannuation age, would be forced to be confined to one province only.

8.14 After the devolution of subject of labour different provinces have promulgated different minimum wages for workers. This will create an anomaly as the contributions are to be paid on said wages and the pension is also to be calculated on the last wage drawn. If an insured person has served in different provinces with different wages, it will also create anomaly for calculating the pension

8.15 As already stated hereinabove in 1972 the provinces were required to promulgate provincial legislation for payment of pension to the workers. Due to weak industrial base and continuous flow of migrant workers from non industrial areas to the industrial provinces, none of the province had promulgated the law till 1975. Thereafter the federal government had to introduce the pension scheme through Employees' Old-age Benefits Ordinance 1975 repealed and re-enacted by Employees' Old-age Benefits Act, 1976.

8.16 Even presently the industrial/commercial base in Khyber Paktunkhwa and Balochistan is very weak where the Social Security Scheme under the Provincial Employees' Social Security Ordinance, 1965 is also very poor as compared to the other two provinces, Punjab and Sindh.

8.17 Where the law in its application is required to travel beyond the territorial boundaries of a province, it goes beyond the legislative competence of the provincial legislature. By any matter or activity of a trans-provincial nature a peculiar situation arises, and the federation as a necessity, has to retain the same in order to protect, preserve and regulate the rights of the beneficiaries, being a matter related to federation. Thus retention of the EOBI at the federal level cannot be termed as usurpation of provincial autonomy.

8.18 It has already been held by the superior courts, in the matter relating to promulgation of the Industrial Relation Act, 2012 by the federation after 18th amendment, that in the wake of Entry No. 58 of the Federal Legislative List the federation can legislate on the matter related to the Federation.

Chapter-9

RECOMMENDATIONS

1. BOARD OF TRUSTEES

9.1 In order to ensure a high powered, well constituted Board of Trustees which can safeguard the pension fund and ensure optimal utilization of available resources, following composition is recommended:-

- Secretary, Ministry of OP & HRD
  Precedent/Member
- Chairman, EOBI — Member
- Representative of Ministry of OP&HRD — Member
- Financial Advisor, Ministry of OP & HRD — Member
- Provincial Secretary/Labour (04) — Member
- Employers Representative (08) — Member
- Employees Representative (08) — Member

9.2 The rules for nomination of employers and employee representatives to the Board of Trustees should be well drafted and should inter-alia include the following criteria:-

i. Employer Representation

- Twoeach from Sindh, Punjab, Khyber Paktunkhwa and Balochistan, one to be nominated by Employer Federation of Pakistan and one by the Provincial Chamber of Commerce and Industry from amongst the employers having at least 100 persons duly insured under the EOB Act and contributions paid to the Institution for at least last five years

ii. Employee Representative

- Two each from Sindh, Punjab, Khyber Paktunkhwaand Balochistanby the labour federation registered with the National Industrial Relation Commission (NIRC) as industry wise federation having at least membership of 20,000 workers and presence in all the four provinces.
- Must be a graduate.

2. EXTENSION OF COVERAGE

- EOBI management to aggressively pursue and ensure that employers register all their employees and pay their contribution regularly.
- Maximum efforts should be made for the registration of all employees working in all register-able Institutions.
- The EOBI should increase the scope of register-able establishments by eliminating the various exclusions.
- Employers resisting to get themselves registered under the EOBI Act and as a consequence the registration of their employees are not registered should be prosecuted under the Act (Section 37 & 38).A system should be devised to ensure that employees are registered by their employers.
- Tampered record should be got cleared at the very outset so as to avoid any ambiguity at the time of processing the pension claim.
- EOBI should establish the technical infrastructure to integrate with commercial banks for automated collection of contributions from employers and its prompt transmission to EOBI.

- Presently the Act restricts an employee for further entitlement in case of his residing abroad; however it seems to be a harsh rule that discredits an employee from his natural and mandatory right of pension even in unavoidable circumstances.

3. CHECK AND BALANCE

- Employers who are registered with the Institution but fail to pay contributions regularly and timely must be held accountable.
- A significant number of employers who understate the number of insured persons in their employment, thereby paying lower contributions must be inquired into through proper monitoring.
- Providing an online platform in order to enable speedy facilitation services to the key stakeholders for the institution: employers, employees/insured persons and pensioners. The insured persons to be provided annually a statement showing contribution made by their employers.
- Linking information flow across EOBI's core business activities: submission of employees' details, voucher generation and payment of contribution.
- The institution while receiving contribution of an employee by name and CNIC from other employee, different from last one should inform the individual to get the verified record from the last employer.

4. LACK OF TRAINED STAFF

- A well conversant EOBI official should be deputed as information officer on the reception of office, so as to facilitate the employees and employers with regard to their queries. This may minimize the complaints especially illiterate employees.

- A detailed criterion for registration of employer, employee and benefits to be placed at focal points of all establishment for general awareness.
- Detailed guidelines with regard to mandatory documents should be placed at entrance area of each EOBI office for information of the workers and employers.
- The complaints against the staff with regard to misbehavior should be given weightage and investigated at district level by the district in-charge, in this connection his contact and address should be available at every regional office.
- The EOBI should initiate campaign, and visit establishments for creating awareness amongst employees about their rights and duties for Pension eligibility; this will help to self-motivate the employees to provide their data and contribution well in time.

5. SERVICE VERIFICATION

- A system to maintain the record of different establishments be properly developed and it should be quarterly updated by the agency.
- A time frame must be given to the applicant in case the verification is required to be carried out for further processing of the claim.
- Penalty in case of non-contribution of employee by the employer must be initiated under the relevant provision of law without any delay.
- The IT system is not upto date. There are many issues with the present online system of EOBI; e.g. it is not mandatory for every employer to use this system and it is not protected through required

amendments in the Contribution Regulations. Coupled with frequent technical problems, the system is not delivering what it was expected to at its start in January 2012. There is a dire need to up-grade the same and the core activities may be made paperless.

6. NEXUS OF REGISTERED AND UNREGISTERED ESTABLISHMENTS

- Firstly the institution should try its level best for registration of all establishments without delay, however in other situation the service of employee should be counted in his pensionable service with retrospective effect by registering the establishment immediately.
- The employee should be given remedy in case of non-verification of employee record.
- Delegation of powers to the Relief Claim Committee in writing.

7. LINKAGE OF INSTITUTIONS WORKING FOR EMPLOYEES

- There should be a well-connected data base between the EOBI and Social Security Department/Labour Department, Security &Exchange Commission of Pakistan either to check the genuineness of any documents or to confirm the business of establishment; this may minimize the time period for issuance of delayed cases.
- The same treatment should also be in practice with regards to contribution.
- Till the time the system is not upgraded, these cases should be given priority by making verification process through a special messenger.

8. TIME FRAME IN APPEAL CASES

- The officer designated for the job should be well conversant with EOBI laws / SOP, preferably an officer having law background may be assigned such jobs.
- The claimed data should be spelt out while undertaking spot verification and thrust of investigation should be relevant with the facts and law.
- The cases so referred or claimed for review or appeal should clearly be marked with time frame under intimation to the claimant / citizen. In this connection necessary instruction should also be issued by the Regional Head of EOBI to be adhered in future cases and all pending cases must be brought to the notice of Chairman for their early disposal.
- The maximum time limit to dispose of appeal filed under Section 35 should be 90 days.

9. LEGISLATIVE MEASURES

- All those amendments, which were made under various Finance Acts and are necessary for effective application of the pension scheme, should immediately be legislated through EOB amendment bill to be passed by both the houses of the parliament.
- Act may be amended to give legal cover to the minimum pension and life pension to unmarried daughters and disabled children.
- The enactment should be amended by giving a legal protection to self-contribution scheme, which was initiated but dropped due to non-availability of any rule in entire legislation.

- The enactment restricts an insured employee to get pension in case he resides abroad, which is against the norms of natural justice. Therefore law should be amended by allowing the pensioner to continue his right of pension while even residing abroad.

10.INVESTMENT MEASURES

- The institution has a very week investment team due to which the institution is not able to derive maximum investment advantage from various available opportunities in the country.
- According to actuarial report the pension fund will start depleting from year 2021and wiped out by year 2027. Therefore it is essential that the contribution be increased from the employers or as per law the government should contribute to guarantee the minimum pension.
- For better returns to the investors, it is critical to design asset allocation strategy for ten years cycle with asset classes of fixed income, equity, real estate with percentage allocation within framework of Investment Rules.
- An Investment Committee with representative from Ministry of Finance, representative from State Bank, three representatives from amongst Investment Professionals and with the Director General Investment EOBI may be appointed with Chairman as head of the Committee.
- The Committee shall be responsible for asset allocation, investment execution through appropriate professional institutional framework.
- The Board shall also be responsible for investment decisions. It will be empowered to setup sub-committees.

11. MISCELLANEOUS

DISSEMINATION OF INFORMATION/ PUBLICITY: DISTRIBUTION OF REGISTRATION CARD

9.3 It should be responsibility of Beat Officer/Regional Head to personally distribute the EOBI Registration Card to the insured Persons at the premises of the employer in presence of other workers.

AWARENESS REGARDINGWAFAQI MOHTASIB'S OFFICE AMONGST EMPLOYEES

9.4 It should be made mandatory for every industry or establishment to display a board at the entrance for general information of the public specially the employees that in case any employee is not registered with EOBI or has not been issued a Registration Card, he can file a complaint with the nearest office of the Wafaqi Mohtasib.

(Annex-I)

(6)

WAFAQI MOHTASIB (OMBUDSMAN)'S SECRETARIAT
36-Constitution Avenue, G-5/2, Islamabad
Phone No: 051-9217213
General Phone: - Fax: 051-9217224

FEDERAL OMBUDSMAN

No.PS/Sr.Advisor/2015

Islamabad, the 4th August, 2015

NOTIFICATION

In pursuance of Article 18 & 19 of P.O.No.1 of 1983 regarding large number of complaints appearing in the print media against Employment Old Age Benefit Institution and those being filed in the Head Office and the Regional Offices of Wafaqi Mohtasib Secretariat, the Honourable Wafaqi Mohtasib (Federal Ombudsman) has been pleased to constitute a committee under Article 9(1) read with Articles 18 and 19 of the above mentioned law, comprising the following to conduct study of the working of the Employment Old Age Benefit Institution (EOBI).

1.	Mr. Asif Hayat, Former Chairman, Federal Public Service Commission and former Secretary, Manpower & Labour Division.	Chairman
2.	Mr. Abdul Khaliq, Former Secretary Finance.	Member
3.	Mr. Nayyar Hasnain, Former Secretary, Manpower & Labour Division.	Member
4.	Mr. Javeed Akhtar, Former Secretary Minorities Affairs & Member Federal Service Tribunal/Senior Advisor.	Member
5.	Mr. Asif Usman, Former Controller General of Accounts.	Member.
6.	Mr.Muhammad Sualeh Farooqi,Chairman, Employees Old Age Benefits Institution.	Member
7.	Mr. Shujat Siddiqui, Senior Actuary	Member
8.	Mr.Karamat Ali, Employees Representative of Pakistan Institute of Labour & Economic Research (PILER)	Member
9.	Dr. Sabur Ghayoor, Economist worked as Consultant on labour issues.	Member
10.	Syed Iqbal Haider Zaidi, Director Operation, EOBI House ex-Awami Markaz, Shahrah-e-Faisal, Karachi	Member
11.	Ms. Farah Ayub Tarin, Former Controller General of Accounts / Senior Advisor.	Member / Secretary

2. The Committee shall constitute its own Terms of Reference and will communicate the same to this Secretariat which will then be notified separately.

3. The engagement of the Members of the Committee is on honorary basis, however, office of the EOBI will extend the necessary facilitation to the honourable Members, as and when, the Committee holds its meeting/s.

4. The committee shall submit its report to the Honourable Wafaqi Mohtasib within a reasonable time period.

(ARSHAD FAROOQ FAHEEM)
ADDITIONAL SECRETARY (ICW/R&A)

Distribution:

1. SPS to Federal Ombudsman of Pakistan.
2. SPS to Secretary, WMS.
3. PS to Senior Advisor (Law), WMS.
4. Office copy

FEDERAL OMBUDSMAN

WAFAQI MOHTASIB (OMBUDSMAN)'S SECRETARIAT
36-Constitution Avenue, G-5/2, Islamabad
Phone No: 051-9217213
General Phone: - Fax: 051-9217224

No.PS/Sr.Advisor/2015

Dated: 21.08.2015

NOTIFICATION

In continuation of this Secretariat's earlier notification of even number dated 04.08.2015. The Competent Authority has been pleased to include the following members in the already notified committee:-

i. Khawaja Muhammad Nauman, President, Employer Federation of Pakistan.
ii. Mr. Muhammad Zahoor Awan, General Secretary, Pakistan Workers Federation and Member Governing Body of I.L.O.
iii. Mr. Farooq Awan, Former Secretary Incharge, I.T. Division, Former Secretary Health, Former Chairman, PTA and DG Investment EOBI.
iv. Raja Faiz-ul-Hassan Faiz, Former Central Labour/Social Security Advisor, Ministry of Labour and Manpower and Former Deputy D.G (Law), EOBI.

2. The Committee shall constitute its own Terms of Reference and will communicate the same to this Secretariat which will then be notified separately.

3. The engagement of the Members of the Committee is on honorary basis, however, office of the EOBI will extend the necessary facilitation to the honourable Members, as and when, the Committee holds its meeting/s.

4. The designation and address of the member at Sr.No.10 of the earlier notification dated 4th August, 2015 may be read as under instead of existing:-

Syed Iqbal Haider Zaidi, D.G. B&C III, EOBI, Islamabad
(EOBI House, Plot No.32, 33, 34, Mauve Area, G-10/4, Islamabad).

5. The committee shall submit its report to the Honourable Wafaqi Mohtasib within a reasonable time period.

(Malik Amanat Rasool)
Director General (Coord)

Distribution:
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(Annex-II)

COMPARATIVE STATEMENT OF EOB ACT:

Title/Activity	***Section***	***Implementation by the Institution on the basis of ultra- vires amendments***	***Original Act and intra-vires amendments***
Application of Law	1	Registering the establishments having **<u>5 or more persons</u>** in their employment	Applicable to establishments having **<u>10 or more persons</u>** in their employment
Contribution	2(b)	Till date money payable by the insured person is not included in the term. Requires amendment.-	'contribution' means the sum of money payable to the Institution by the employer or by the Federal Government in respect of an insured person under the provisions of this Act.
Wages	2(p)	Institution is observing the definition inserted in the Act through Finance Act, 2005, which reads as under: "(p) **"wages" means the rates of wages as declared under the Minimum Wages for Unskilled Workers Ordinance, 1969 (W.P. Ordinance XX of 1969**". As already stated the amendments in the EOB Act, 1976 have been declared ultra vires.	(p) **'wages' means remuneration for services paid or payable in cash or in kind to an insured person, not being less than the remuneration based on the minimum rates of wages declared under the Minimum Wages Ordinance, 1961 (XXXIX of 1961), without taking account**

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
			of deductions for any purpose, under a contract of service or apprenticeship, express or implied, and shall be deemed to include any dearness allowance or other addition in respect of cost of living, and any payment by the employer to an insured person in respect of any period of authorized leave, illegal lock-out or legal strike; but does not include:- (i) any payment for overtime; or (ii) any sum paid to the employee to defray special expenses entailed by the nature of his employment; or (iii) any gratuity payable on discharge; or (iv) any sum paid as bonus;
Board of Trustees	7	The provision was amended through Finance Act 2005 which reads as	As per original law there are four persons to represent the Federal

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		under: (b)**two persons to represent the Federal Government**, one each from the Ministries of Finance, and Labour;	Government: (b)**four persons to represent the Federal Government**, one each from the Ministries of Finance, **Commerce, Industries** and Labour;
Rates and assessment. Employer' Contribution	9	(1) On and from the first day of July, 1976, contributions shall be payable every month by the employer to the Institution in respect of every person in his insurable employment, at the rate of five percent of his wages in the prescribed manner. Provided that no contributions shall be payable in respect of an insured person who is in receipt of old-age pension under this Act or has	(1) On and from the first day of July, 1976, contributions shall be payable every month by the employer to the Institution in respect of every person in his insurable employment, at the rate of five percent of his wages in the prescribed manner. **Provided that no contribution shall be payable on so such of an insured person's wages as is in excess of three thousand rupees**; Provided further that no contributions shall be payable in respect of an insured person who is in receipt of old-age pension

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		attained the age of sixty years, or fifty-five years in the case of a woman. (2) Where an insured person does not receive any wages from the employer for any period, the Institution shall, subject to regulations, determine the amount of wages with reference to which the contributions shall be computed. (3) Notwithstanding any agreement to the contrary, the employer shall not deduct from the wages of an insured person or otherwise recover from him any portion of employer's	under this Act or has attained the age of sixty years, or fifty-five years in the case of a woman. Provided also that incase an employer opt for self assessment scheme, he shall be liable to pay fixed amount of one hundred and fifty rupees in respect of every person in his insurable employment irrespective of his wages or emoluments, and the wages for the purpose of calculation of benefits shall be treated as three thousand rupees per month. (2) Where an insured person does not receive any wages from the employer for any period, the Institution shall, subject to regulations, determine the amount of wages with reference to which the contributions shall be computed. (3) Notwithstanding any agreement to the contrary, the employer shall not deduct from the

Title/Activity	***Section***	***Implementation by the Institution on the basis of ultra- vires amendments***	***Original Act and intra-vires amendments***
		share of contribution.	wages of an insured person or otherwise recover from him any portion of employer's share of contribution.
Contribution by Government	9A	**The Federal Government is paying contribution to the Institution as it may determine from time to time.** **However as the amendment through Finance Acts are declared ultra-vires, the Government has to pay equal contribution.**	**On and from the first day of July, 1986, contribution shall be payable every quarter by the Federal Government to the Institution in respect of every insured person at the rate of five per cent of his wages in the prescribed manner;** Provided that no contribution shall be payable on so much of an insured person's wages as in excess of three thousand rupees; Provided further that no contribution shall be payable in respect of an insured person who is in receipt of pension under this Act or has attained the age of sixty years, or fifty-five in the case of woman.
Contribution by insured	9B	On and from the 1st day of July, 2001, the contribution shall be	On and from the 1st day of July, 2001, the contribution shall be

Title/Activity	***Section***	***Implementation by the Institution on the basis of ultra- vires amendments***	***Original Act and intra-vires amendments***
person		payable every month by an insured person **at the rate of one percent of the wages** in the prescribed manner	payable every month by an insured person **at the rate of twenty rupees** in the prescribed manner.
Self Assessment	12A	**Omitted by Finance Act 2005**. Any amendment through the Finance Act declared ultra vires.	(1) Any employers may opt and apply for registration under the self assessment scheme to the Institution by declaring the number of employees and their required particulars on the prescribed form. The declaration so made shall be accepted without any question provided no demand of contributions previously created remains outstanding against such employer. (2) Any employers who is already registered under normal pension scheme and opts for registration under self assessment scheme shall not decrease the total amount of contributions and number of insured persons already registered immediately prior to exercising his option for

Title/Activity	***Section***	***Implementation by the Institution on the basis of ultra- vires amendments***	***Original Act and intra-vires amendments***
			self assessment scheme. (3) The employer shall ensure that the amount of contribution and number of registered insured workers declared by him shall not decrease during the period of two years of self-assessment scheme. (4) The officials of the Institution shall not enquire into or inspect any establishment which has opted for self-assessment scheme for a period of two years from the date of submission of application for ascertaining the amount of the contribution and number of insured persons. (5) At expiry of two years period, if the employer wishes to continue on self-assessment scheme, one time checking of the record shall be done, as provided in sub-section

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
			(1) of section 12, by an officer not below the rank of Deputy Director and no question will be asked about the previous years.
Valuation of Assets and Liabilities:	21	The Institution shall, at intervals of not more than three years, have an actuarial valuation made in the prescribed manner of its assets and liabilities **and no change in rate of contribution or benefit under this Act shall be made without proper actuarial valuation.**	The Institution shall at intervals of not more than five years, have an actuarial valuation made in the prescribed manner of its assets and liabilities. Provided that the Federal Government may direct a valuation to be made at such other times as it may consider necessary.
Old-age Pension	22	(1) An insured person shall be entitled to a monthly old-age pension at the rate specified in the schedule. Provided that:- (a) he is over sixty years of age, or 55 years in the case of a woman; and (b) contributions in respect of him were paid for not less	(1) An insured person shall be entitled to a monthly old-age pension at the rate specified in the schedule. Provided that:- (a) he is over he is over fifty five years of age, or fifty years in the case a woman; and (b) contributions in respect of him were paid for not less than

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		than fifteen years. Provided further that the age specified in clause (a) will be reduced by five years in the case of an insured person employed in the occupation of mining for at least ten years immediately preceding retirement. Provided also that where the employee was insured under the provisions of this Act on or before 30th June 2002, and contributions payable under the Act by the employer prior to 30th June, 2002, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted: Provided further that where the contribution under section 9B is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement to the benefit shall not be affected by default in payment of	fifteen years. Provided further that the age specified in clause (a) will be reduced by five years in the case of an insured person employed in the occupation of mining for at least ten years immediately preceding retirement. Provided also that where the employee was insured under the provisions of this Act on or before 30th June 2002, and contributions payable under the Act by the employer prior to 30th June, 2002, in respect of said insured person had not been paid, the insured person shall enjoy the rights under this Act as if for the word "payable" the word "paid" were not substituted: Provided further that where the contribution under section 9B is paid regularly by the insured person himself in accordance with prescribed procedure, his entitlement to the benefit shall not be affected by

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		employer's share of contribution under section 9. (2) If an insured person was on the first day of July, 1976 or is on any day thereafter on which this Act becomes applicable to an industry or establishment:- (i) over forty years of age, or thirty-five years in the case of a woman, clause (b) of sub-section (1) shall have effect as if for the word "fifteen" therein the word "seven" were substituted; or (ii) over forty-five years of age, or forty years in the case of a woman, clause (b) of sub-section (1) shall have effect as if for the word "five" were substituted. **(2A) Notwithstanding anything contained in sub-section (1), an insured person:-** **(a) who was insured under the provisions of this Act on or before the 30th June, 1986, and will**	default in payment of employer's share of contribution under section 9. (2) If an insured person was on the first day of July, 1976 or is on any day thereafter on which this Act becomes applicable to an industry or establishment:- (i) over forty years of age, or thirty-five years in the case of a woman, clause (b) of sub-section (1) shall have effect as if for the word "fifteen" therein the word "seven" were substituted; or (ii) over forty-five years of age, or forty years in the case of a woman, clause (b) of sub-section (1) shall have effect as if for the word "five" were substituted.

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		attain the age of fifty-five years (fifty years in the case of a woman) on or before the 30th June, 1991, and **(b) in respect of whom contribution were payable to the Institution for the period required under the provisions of this Act, shall be entitled to old-age pension at the age of fifty-five years (fifty years in the case of a woman).** **(2B) An insured person already in receipt of an old-age or invalidity pension, or entitled to an old-age pension under the provisions of sub-section (2A), shall be entitled to a minimum pension at the rate specified in the Schedule.** **(2C) An insured person who retired from insurable employment before attaining the age of sixty years (fifty-five years in the case of a woman) but after attaining the age of fifty-five years (fifty years in**	

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		the case of a woman) shall be entitled to a reduced old-age pension on fulfilling the following conditions, namely:- **(a) the Institution is satisfied through documentary evidence that the employer has a definite established retirement age of less than sixty years (fifty-five years in the case of a woman);** **(b) the employer certifies that the insured person has been retired by him on attaining the age of superannuation; and** **(c) the contributions in respect of him were payable for the period required under the provisions of this Act.** **(2D) The old-age pension shall be reduced by one-half per cent of the old-age pension specified in the Schedule for each completed month by which the age falls short of sixty years (fifty-five years in the**	(3) Subject to regulations, the old-age pension shall commence as from the month following that in which the insured person satisfies the condition for

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		case of a woman) and the minimum old-age pension shall also be reduced in the aforesaid manner in the case of retirement from insurable employment before attaining the age of sixty years (fifty-five years in the case of a woman). **(2E) The reduction in old-age pension specified in sub-section (2D) shall be for life and shall not be restored on the insured person's attaining the normal pension age.** (3) Subject to regulations, the old-age pension shall commence as from the month following that in which the insured person satisfies the condition for entitlement thereto, provided that no benefit shall be payable retro-actively for more than six months preceding the month in which an application for old-age pension is submitted. (4) Insurable employment	entitlement thereto, provided that no benefit shall be payable retro-actively for more than six months preceding the month in which an application for old-age pension is submitted. (4)Insurable employment of aperson for the purposes of this Act shall commence on the date from which the first contribution in respect of him becomes payable. (5)The old-age pensionpayable to an insured person shall be terminated at the end of the month in which the death of such person occurs. **(6) The old-age pension may, at the request of an insured person, be commuted on such grounds and in such manner as may be specified in the regulations.**

Title/Activity	***Section***	***Implementation by the Institution on the basis of ultra- vires amendments***	***Original Act and intra-vires amendments***
		of a person for the purposes of this Act shall commence on the date from which the first contribution in respect of him becomes payable. (5) The old-age pension payable to an insured person shall be terminated at the end of the month in which the death of such person occurs.	
Survivors' Pension	22B	(1) In the case of the death of an insured person while in insurable employment but after he had completed not less than thirty six months insurable employment, the surviving spouse, if any shall be entitled to a life pension **equal to hundred percent of the at the rate specified in the Schedule**. (3) In the case of death of the surviving spouse in receipt of survivor's pension the minor child of the deceased insured person, if any, shall be entitled to the survivor's pension in the following equal share (i) in case of male child, until he	(1) In the case of the death of an insured person while in insurable employment but after he had completed not less than thirty six months insurable employment, the surviving spouse, if any shall be entitled to a life pension **equal to hundred percent of the minimum pension.** (1A) In case of the death of an insured person, while not in insurable employment but after he had completed five years insurable employment, the surviving spouse, if any, shall be entitled to a life **pension equal to the minimum pension.** (2) In the case of death of

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		attains eighteen years of age and (ii) in case of female child, until she attains eighteen years of age or until marriage whichever is earlier. (3A) In the case of cessation of survivor's pension of any of the children of the deceased insured person on his attaining the age of eighteen years or marriage in case of female or death as the case may be, the share of survivor's pension received by such child shall be distributed among the rest of the minor children of the deceased insured person. (3B) In the case of death of the surviving spouse in receipt of survivor's pension within five years after the death of the insured person and not survived by any minor child of the deceased insured person, the survivor pension shall be paid to the surviving parent of the deceased insured person if any for a	an insured person who had become entitled to old-age pension or invalidity pension before his death, the surviving spouse shall, if the spouse had married the deceased person before he had attained the minimum age prescribed for old-age pension, receive life pension equal to pension of such person. (3) In the case of death of the surviving spouse in receipt of survivor's pension the minor child of the deceased insured person, if any, shall be entitled to the survivor's pension in the following equal share (i) in case of male child, until he attains eighteen years of age and (ii) in case of female child, until she attains eighteen years of age or until marriage whichever is earlier. (3A) In the case of cessation ofsurvivor's pension of any of the

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		period of five years from the death of the said spouse. (4) In the case of death of an insured person who is not survived by a spouse, the survivor pension shall be paid to the minor children of the deceased insured person referred to in sub-sec (3) and sub-sec (3A) and in the case of the insured person not surviving by	children of the deceased insured person on his attaining the age of eighteen years or marriage in case of female or death as the case may be, the share of survivor's pension received by such child shall be distributed among the rest of the minor children of the deceased insured person. (3B) In the case of death of the surviving spouse in receipt of survivor's pension within five years after the death of the insured person and not survived by any minor child of the deceased insured person, the survivor pension shall be paid to the surviving parent of the deceased insured person if any for a period of five years from the death of the said spouse. (4) In the case of death of an insured person who is not survived by a spouse, the survivor pension shall be paid to the minor children of the

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		any minor child, the survivor pension shall be paid to the surviving parents of the deceased insured person, if any, for a period of five years from the death of the insured person.	deceased insured person referred to in sub-sec (3) and sub-sec (3A) and in the case of the insured person not surviving by any minor child, the survivor pension shall be paid to the surviving parents of the deceased insured person, if any, for a period of five years from the death of the insured person.
Invalidity Pension	24	(1) An insured person who sustains invalidity shall be entitled to an invalidity pension at the rate to be calculated according to the formula set out in the schedule. Provided that:- (a) contribution in respect of him were payable for not less than fifteen years; or (b) contribution in respect of him were payable for not less than five years since his entry into insurable employment and for not	(1) An insured person who sustains invalidity shall be entitled to an invalidity pension at the rate to be calculated according to the formula set out in the schedule. Provided that:- (a) contribution in respect of him were payable for not less than fifteen years; or (b) contribution in respect of him were payable for not less than five years since his entry into insurable employment and for not

Title/Activity	*Section*	*Implementation by the Institution on the basis of ultra- vires amendments*	*Original Act and intra-vires amendments*
		less than three years during the period of five years preceding the month in which he sustains invalidity; and (c) in either case, **he is under sixty years of age, or fifty-five years in the case of a woman.** (2) Subject to regulations, the invalidity pension shall be payable from the month following that in which the insured person satisfies the conditions for entitlement thereto:- Provided that the invalidity pension shall not be payable retro-actively for more than six months preceding the month in which an application for the invalidity pension is submitted. (3) The invalidity pension shall be payable	less than three years during the period of five years preceding the month in which he sustains invalidity; and (c) in either case, **he is under fifty-five years of age, or fifty years in the case of a woman**. (2) Subject to regulations, the invalidity pension shall be payable from the month following that in which the insured person satisfies the conditions for entitlement thereto:- Provided that the invalidity pension shall not be payable retro-actively for more than six months preceding the month in which an application for the invalidity pension is submitted. (3) The invalidity pension shall be payable

Title/Activity	***Section***	***Implementation by the Institution on the basis of ultra- vires amendments***	***Original Act and intra-vires amendments***
		so long as invalidity continues: Provided that an insured person who has been in receipt of the invalidity pension for not less than five continuous years or attains the age specified in clause (a) of sub-section (1) of section 22 shall be entitled to the invalidity pension for life.	so long as invalidity continues: Provided that an insured person who has been in receipt of the invalidity pension for not less than five continuous years or attains the age specified in clause (a) of sub-section (1) of section 22 shall be entitled to the invalidity pension for life.
Calculation of qualifying contribution periods	24	In calculating the contribution periods for entitlement to As in 1983 benefit under this Act, periods in respect of which invalidity pension has been paid to an **insured person prior to his reaching the age of sixty years, or fifty-five years in the case of woman**, or periods in respect of which maternity benefit or sickness benefit or injury benefit or total disablement pension have been paid under the West Pakistan Employees' Social Security Ordinance 1965 (West Pakistan Ordinance No. X of 1965), to an insured	In calculating the contribution period for entitlement to As in 1983 benefit under this Act, periods in respect of which invalidity pension has been paid to an **insured person prior to his reaching the age of fifty-five years, or fifty years in the case of woman**, or periods in respect of which maternity benefit or sickness benefit or injury benefit or total disablement pension have been paid under West Pakistan Employees' Social Security Ordinance, 1965(West Pakistan Ordinance No. X of 1965), to an insured

Title/Activity	***Section***	***Implementation by the Institution on the basis of ultra- vires amendments***	***Original Act and intra-vires amendments***
		person shall be deemed to be contribution periods to such extent as may be provided by regulations.	person shall be deemed to be contribution periods to such extent as may be provided by regulations.
Act not to apply certain persons	47	Omitted by Finance Act 2008	**(e) persons in the service of a bank or a banking company;**