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ORDINANCE NO. XXXVIII OF 1981

[29th December, 1981]

An Ordinance to provide for constituting and re-organizing the Pakistan Agricultural Research Council.

WHEREAS it is expedient to provide for constituting and re-organising the Pakistan Agricultural Research Council and for matters connected therewith or ancillary thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

Now, THEREFORE, in pursuance of the Proclamation of the 6th day of July, 1977, read with the Provisional Constitution Order, 1981, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1.—(1) This Ordinance may be called the Pakistan Agricultural Research Council Ordinance, 1981.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) "agriculture" means crops, livestock including poultry, fisheries, forestry, range management, soil science, socio-economic institutional and engineering aspects connected therewith and such other activities and subjects as the Federal Government may, by notification in the official Gazette, declare to be agriculture within the meaning of this clause ;
- (b) "Board" means the Board of Governors of the Council ;
- (c) "Chairman" means the Chairman of the Council ;
- (d) "Council" means the Pakistan Agricultural Research Council established under section 3 ;
- (e) "Executive Committee" means the Executive Committee of the Board.
- (f) "Prescribed" means prescribed by rules or regulations ;
- (g) "President" means the President of the Board
- (h) "research establishment" includes agricultural experiment stations, field stations, institutes, centres, sub-centres, laboratories and other units of the Council howsoever designated ;
- (i) "regulations" means regulations made under this Ordinance ; and
- (j) "rules" means rules made under this Ordinance.

CHAPTER II

ESTABLISHMENT OF THE COUNCIL

3.—(1) There shall be established a Council to be called the Pakistan Agricultural Research Council.

(2) The Council shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, movable and immovable, and shall by the said name sue and be sued.

(3) Unless the Federal Government, by notification in the official Gazette, otherwise directs, the headquarters of the Council shall be at Islamabad.

(4) The Council may from time to time establish regional offices, local offices, sub-offices and research establishments at such places as it may deem fit.

CHAPTER III

FUNCTIONS AND POWERS OF THE COUNCIL

4. The functions of the Council shall be—

- (a) to undertake, aid, promote and coordinate agricultural research ;
- (b) to arrange the expeditious utilization of the research results ;
- (c) to establish research establishments mainly to fill in the gaps in existing programme of agricultural research ;
- (d) to arrange the training of high-level scientific manpower in agricultural sciences ;
- (e) to generate, acquire and disseminate information relating to agricultural ;
- (f) to establish and maintain a reference and research library ; and
- (g) to perform any other functions related to the matters aforesaid.

Functions and powers of the Council.

5. In discharging its functions, the Council shall be bound by such directives and orders, if any, as may be given to it on any questions of policy by the Federal Government which shall be the sole judge as to whether a question is a question of policy.

Directions from the Government.

CHAPTER IV

MANAGEMENT

6.—(1) The overall control, direction and superintendence of the affairs of the Council shall vest in a Board of Governors consisting of the following members, namely :—

Board of Governors.

- (i) the President ;
- (ii) the Chairman ;
- (iii) not more than five whole-time members ; and
- (iv) such other members as the Federal Government may appoint on the recommendations of the Chairman from time to time.

(2) The appointment of the Chairman and other members shall be made by notification in the official Gazette.

7. The Federal Minister incharge of the Ministry dealing with Agriculture shall be the President of the Board.

President.

(1) There shall be an Executive Committee consisting of the Chairman and the whole-time members of the Board.

Executive Committee

Short title, extent and commencement.

Definitions.

Establishment of the Council.

(2) Subject to the provisions of this Ordinance and the rules and regulations and the general or special directions of the Board, the Executive Committee shall be the principal administrative body of the Council responsible for executing all policies and discharging all functions of the Council under this Ordinance.

(3) Notwithstanding anything contained in sub-section (2), the Executive Committee shall—

- (i) undertake regular review of the evaluation of the accomplishments and progress of the research projects and the programmes of the research organizations; and
- (ii) exercise control over the research activities of the Council.

Chairman.

9.—(1) The Chairman shall be the chief executive of the Council.

(2) The President of Pakistan shall appoint an eminent scientist connected with agriculture to be the Chairman on such terms and conditions as he may determine.

(3) The Chairman shall hold office during the pleasure of the President of Pakistan.

(4) The Chairman shall have such powers and perform such functions as are assigned to him by or under this Ordinance.

(5) The Chairman may, from time to time, for the purpose of ensuring efficient functioning of the Council and facilitating its day to day functions, delegate to members, officers and employees of the Council such of his functions, powers or duties as may be considered necessary by him.

Whole-time members.

10. The whole-time members shall be appointed by the President of Pakistan for a period of three years and shall perform such functions and exercise such powers as are assigned to them by or under this Ordinance and shall be eligible for re-appointment.

Term of office of non-official members.

11.—(1) The members of the Board who are not officials of the Federal Government, hereinafter referred to as non-official members, shall, unless otherwise directed by the Federal Government, hold office for a term of three years and shall be eligible for re-appointment.

(2) A non-official member may, by writing under his hand addressed to the Federal Government, resign his office.

(3) A casual vacancy in the office of a non-official member shall be filled by the appointment of another member for the residue of the term of his predecessor.

Meetings

12.—(1) The meetings of the Board shall be held at least twice a year and shall be presided over by the President or, in his absence, by a member nominated by him for the purpose.

(2) Subject to the provisions of sub-section (1), the meetings of the Board and of the Executive Committee or of other

committees shall be held at such times and at such places and in such manner as may be prescribed by regulations;

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

(3) Unless otherwise prescribed, one-third of the total members in the case of the Board and one-half of the total members in the case of the Executive Committee shall form a quorum at any meeting of the Board or the Executive Committee, as the case may be:

Provided that no quorum shall be necessary for an adjourned meeting.

13. The Board may from time to time delegate to the Executive Committee such of its functions and powers as it may consider necessary:

Delegation of powers by the Board.

Provided that the Executive Committee may, in an emergency which in its opinion requires immediate action, take such action as it considers necessary and shall report it for approval to the Board in the next meeting.

14. No act, proceeding, decision or order of the Council, Board or Executive Committee shall be invalid by reason only of the existence of a vacancy in, or any defect in the constitution of the Council, Board or Executive Committee.

Validity of proceedings.

CHAPTER V

ESTABLISHMENT

15.—(1) The Council may appoint such officers and staff as it may consider necessary for the efficient performance of its functions on such terms and conditions as may be prescribed.

Appointment of officers, etc.

(2) The Council may engage on contract experts and consultants for a period not exceeding two years at a time on such terms and conditions as it may determine and subject to such directions as the Board may from time to time give in this behalf.

(3) Notwithstanding anything contained in any contract or agreement or in the conditions of service, every person serving in or under the Agricultural Research Council constituted under the Agricultural Produce Cess Act, 1940 immediately before the commencement of this Ordinance, including persons on deputation to other organizations or abroad, shall stand transferred to the Council and become an employee of the Council on the same terms and conditions, including remuneration, tenure of service, rights and privileges as to pension and gratuity and other matters, as were applicable to him immediately before the commencement of this Ordinance, until his employment in the Council is terminated in accordance with his conditions of service or his terms and conditions are altered by regulations, which shall not be less favourable than those by which he was governed immediately before his transfer to the Council.

XXV.
II
of
1940.

Transfer of
existing civil
servants to
the Council.

16.—(1) Notwithstanding anything, contained in any law, contract or agreement or in the conditions of service, every civil servant employed in the Attached Department portion of the Directorate-General of the Pakistan Agricultural Research Council and serving in or under the Council immediately before the commencement of this Ordinance, including persons on deputation to other organizations or abroad, shall, save as hereinafter provided, cease to be a civil servant and stand transferred to, and become an employee of, the Council on the same terms and conditions, including remuneration, tenure of service, rights and privileges as to pension and gratuity and other matters, as were applicable to him immediately before the commencement of this Ordinance, until his employment in the Council is terminated in accordance with his conditions of service or his terms and conditions are altered by regulations, which shall not be less favourable than those by which he was governed immediately before his transfer to the Council.

(2) Any person referred to in sub-section (1) who is on deputation with the Attached Department portion of the Directorate-General of the Pakistan Agricultural Research Council shall continue in the employment of the Council on deputation in accordance with the terms of his deputation.

(3) Any person referred to in sub-section (1) may, within three months from the commencement of this Ordinance, opt not to be transferred to the service of the Council and the option so exercised shall be final.

(4) An employee who opts under sub-section (3) not to be transferred to the service of the Council may, as far as possible, be provided a suitable posting elsewhere by the Federal Government.

(5) If an employee does not accept the appointment offered to him under sub-section (4), within the time allowed to him, or if it is not possible for the Federal Government to provide a suitable posting to him under that sub-section, his service shall stand terminated on the date on which he declines the offer or the time allowed to him expires or, as the case may be, on which the Federal Government informs him that it is not possible to provide a suitable posting to him, and he shall be entitled to be paid by the Federal Government compensation equivalent to three months' remuneration.

Explanation.—The compensation payable to an employee under this sub-section shall be in addition to and not in derogation of his rights as to pension, gratuity, provident fund money or other benefits to which he may be entitled under his conditions of service.

(6) The termination of service of an employee under sub-section (5) shall be deemed to be discharge from service owing to abolition of a permanent post for the purpose of admissibility of compensation pension.

(7) The Federal Government shall pay pension charges and gratuity in respect of, and provident fund accumulations of, each employee transferred to the Council under sub-section (1), in such manner and to such extent as may be prescribed by Rules.

(8) No person referred to in sub-section (1) who stands transferred to the Council shall, notwithstanding anything contained in any law for the time being in force, be entitled to any compensation because of his transfer.

CHAPTER VI

FINANCE

17. The Federal Government may, from time to time, place annual grants at the disposal of the Council for the smooth discharge of its functions and the efficient conduct of its affairs.

Grants, etc.

18.—(1) There shall be constituted for the Council a fund to which shall be credited all the sums received by the Council and out of which shall be defrayed all the expenditure incurred by the Council.

Funds.

(2) The funds of the Council shall consist of—

- grants made by the Federal Government and the Provincial Governments ;
- grants, donations, endowments, contributions, aid and assistance given by other organisations ;
- foreign aid and loans obtained or raised with the approval of the Federal Government ; and
- receipts from other sources.

19.—(1) The Council shall, in respect of each financial year, submit for the approval of the Federal Government, by such date and in such form as may be prescribed by rules, a statement showing the estimated receipts and expenditure and the sums which are likely to be required from the Federal Government during the financial year.

Budget and
accounts.

(2) The Council may open accounts in any scheduled bank in Pakistan.

(3) The accounts of the Council shall be maintained in such form and manner as the Federal Government may determine in consultation with the Auditor-General of Pakistan.

(4) The accounts of the Council shall be audit by one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 and are appointed by the Federal Government in consultation with the Auditor-General of Pakistan on such remuneration, to be paid by the Council, as the Federal Government may fix.

Exemption from taxes.

20. Notwithstanding anything contained in the Business Profits Tax Act, 1947, the Gift-tax Act, 1963 the Wealth-tax Act, 1963, the Income Tax Ordinance, 1979 or any other law for the time being in force relating to income-tax, super-tax, wealth-tax, gift-tax, capital gains tax or business profits tax, the Council shall not be liable to pay any such tax on its income, capital, profits, wealth, gifts or gains.

XXI of 1947, XIV of 1963, XV of 1963, XXXI of 1979.

Investment of funds.

21. Subject to such instructions as the Federal Government may, from time to time, issue, the Council may invest its funds in any security of the Federal Government or a Provincial Government or in any of the securities enumerated in section 20 of the Trusts Act, 1882.

II of 1882.

Borrowing power.

22. The Council may, with the previous sanction of the Federal Government, and on such terms and conditions as may be approved by the Federal Government, borrow in Pakistan currency or foreign currency.

Financial assistance to Council.

23. The Council may, with the approval of the Federal Government, accept financial or any other assistance and grants of any kind in furtherance of its objects and in order to discharge its functions.

Annual report.

24. The Council shall furnish to the Federal Government, as soon as possible after the end of each financial year, but not later than the last day of December next following, a report on the conduct of its affairs for that year, and shall publish the same alongwith a Summary of the accounts for that year.

CHAPTER VII

GENERAL AND MISCELLANEOUS PROVISIONS

Power to make rules.

25. —(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

- (i) the functions and powers of the Chairman ;
- (ii) the appointment and terms and conditions of service of the whole-time members of the Council, including disciplinary matters ; and
- (iii) the conditions under which the Council may enter into arrangements with other institutions and individual organisations, whether public, private or autonomous bodies.

(Chapter. VII.—General and Miscellaneous Provisions)

26. —(1) The Council may, with the previous sanction of the Federal Government, by notification in the official Gazette, make regulations not inconsistent with this Ordinance and the rules providing for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance and the efficient conduct of the affairs of the Council.

Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing provision, the regulations may provide for—

- (i) the appointment of the officers and employees of the Council ;
- (ii) the terms and conditions of service of the officers and employees of the Council including pension and disciplinary matters ;
- (iii) the conduct of business at the meetings of the Board and the Executive Committee ;
- (iv) the duties, functions and conduct of the officers and employees of the Council ;
- (v) preparation of annual estimates of income and expenditure and supplementary estimates ;
- (vi) the forms of returns and statements for various purposes ;
- (vii) the constitution of benevolent fund, group insurance, gratuity, provident fund and welfare fund for the Council employees ;
- (viii) the manner in which payments are to be made by or on behalf of the Council and the officers by whom orders for making deposits or investments or for withdrawals or any other disposal of the income or funds of the Council shall be authenticated, made or signed ; and

(ix) the custody and use of common seal of the Council.

27. Every official member of the Council or Board and every officer and employee of the Council shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

Officers, staff, etc. deemed to be public servants.

28. Nothing contained in the Industrial Relations Ordinance, 1969, shall apply to or in relation to the Council or its establishments or any of the officers or employees of the Council.

Ordinance XXIII of 1969 not to apply to Council.

29. —(1) No suit, prosecution or other legal proceedings shall lie against the Council or any member or any other officer of the Council for anything in good faith done or intended to be done under this Ordinance or rule, regulation or order made thereunder.

Indemnity of Council, etc.

(2) The Council shall not be responsible for any misfeasance, malfeasance or non-feasance of any officer or employee, for the time being of the Council.

Notice of
suit against
Council, etc.

30.—(1) [A suit may] be instituted against the Council or any member or any person associated with the Council or against any officer or employee of the Council or against any person acting under the direction or authority of the Council, the Chairman or of any officer or employee of the Council in respect of any act purporting to be done under this Ordinance or the rules or regulations [after] the expiration of [two months] from the delivery of a written notice at the head office of the Council or the place of abode of such member, officer, employee or person stating the cause of action, the name and address of the intending plaintiff and the nature of the relief sought.

(2) In every such suit the plaint shall contain a statement that such notice has been so delivered.

[2A] Where any such suit is instituted without delivering or leaving such notice as aforesaid or before the expiration of the said period of two months, or where the plaint does not contain a statement that such notice has been so delivered, or left, the plaintiff shall not be entitled to any costs if settlement as regards the subject-matter of the suit is reached or the Council or the member, officer, employee or person concedes the plaintiff's claim, within the period of two months from the date of the institution of the suit :

Provided that, in a suit instituted without such notice, the Court shall allow not less than three months to the Council to submit its written statement."

(3) Notwithstanding anything contained in the Limitation Act, 1908, no such suit as is described in sub-section (1) shall, unless it is a suit for the recovery of immovable property or for a declaration of title thereto, commence otherwise than within six months next after the accrual of the cause of action.

Retain
claims for
compensa-
tion to be
barred.

31. No person shall have any right, whether in contract, tort or otherwise, to any compensation for any loss incurred by reason of the operation of any of the provisions of this Ordinance or by reason of the compliance by any other organisation with any policy guidelines or directions given to it under this Ordinance or under any rules or regulations.

Winding-up.

32. No provision of law relating to the winding up of bodies corporate shall apply to the Council and the Council shall not be wound up except by the orders of the Federal Government in such manner as the Federal Government may direct.

¹ Subs. by the Pakistan Agricultural Research Council (Amtd.) Ordinance, 1985 (10 of 1985), s. 2, for "No. suit shall".

² Subs. *ibid.*, for "Until".

³ Subs. *ibid.*, for "one month".

⁴ Ins. *ibid.*

Savings.

33. Upon the commencement of this Ordinance,—

(a) all funds, properties, rights and interests of whatsoever kind issued, used, enjoyed, possessed, owned or vested in the Agricultural Research Council in existence immediately before such commencement and all liabilities legally subsisting against the said Council shall pass to the Council as established under this Ordinance ;

(b) everything done, action taken, obligations or liabilities incurred, rights and assets acquired, persons appointed or authorised, jurisdiction or powers conferred, endowments, bequests, funds or trusts created, donations or grants made, orders issued under any of the provisions of the Acts, rules or regulations, applicable to the said Council, shall remain in force and be continued and, having regard to the various matters which by this Ordinance have to be regulated or prescribed by rules or regulations, be deemed to have been respectively done, taken, incurred, acquired, appointed, authorised, conferred, created, made, or issued under this Ordinance and reference in any document to any of the provisions of the said Acts or the rules or regulations made thereunder shall, so far as may be, be deemed to be reference to the corresponding provisions of this Ordinance or the rules or regulations made or deemed to have been made thereunder ; and

(c) any rules or regulations made under the said Acts shall, in so far as they are not inconsistent with the provisions of this Ordinance or the rules and regulations made under this Ordinance having regard to the various matters which by this Ordinance have to be regulated or prescribed by rules or regulations respectively shall continue to be in force, until they are repealed, replaced, rescinded or modified in accordance with the provisions of this Ordinance.

34. If any difficulty arises in giving effect to any provisions of this Ordinance, the Federal Government may make such order, not inconsistent with the express provisions of this Ordinance, as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

Removal of
difficulties.