

# The Public Debt Act, 1944

## 1. Short title, extent and commencement. -

- (1) This Act may be called the Public Debt Act, 1944.
- (2) It extends to the whole of Pakistan.
- (3) It shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint in this behalf.

## 2. Definitions. -

In this Act, unless there is anything repugnant in the subject or extent, --

- (1) **“the Bank”** means the State Bank of Pakistan;
- (1A) **“Government”**, in relation to Government security means the Federal or Provincial Government by whom the security is created and issued; Added vide Ex. Ordinance Gazette dated 3-5-61 Ordinance No.VII of 1961.
- (2) **“Government security”** means—
  - (a) a security, created and issued, whether before or after the commencement of this Act, by the Government for the purpose of raising a public loan, and having one of the following forms, namely: -
    - (i) stock transferable by registration in the books of the Bank; or
    - (ii) a promissory note payable to order ; or
    - (iii) a bearer bond payable to bearer; or
    - (iv) a form prescribed in this behalf; or notified by Government from time to time.
  - (b) any other security created and issued by the Government in such form and for such of the purposes of this Act as may be prescribed;
- (3) **“prescribed”** means prescribed by rules made under this Act;
- (4) **“promissory note”** includes a treasury bill.

**3. Transfer of Government securities.---**

- (1) Subject to the provision of section 5, a transfer of a Government security shall be made only in the manner prescribed for the making of transfer of securities of the class to which it belongs, and no transfer of a Government security @ [which, in the case of a security issued by the Federal Government is made after the thirtieth day of April, 1946 and in the case of a security issued by a Provisional Government, is made after the commencement of the Public Debt (Federal Government) (Amendment) Ordinance, 1961] shall be valid if:---added vide Ex. Ord. Gazette dated 3-3-61.
  - (a) it does not purpose to convey the full title to the security, or
  - (b) it is of such a nature as to affect the manner in which the security was expressed by the Government to be held.
- (2) Nothing in this section shall affect any order made by the Bank under this Act or any order made by a Court upon the Bank.

**4 Transfer of Government securities not liable for amount thereof. —**

Notwithstanding anything contained in the Negotiable Instrument Act, 1881 (XXVI of 1881), a person shall not, by reason only of his having transferred a Government security, be liable to pay any money due either as principal or as interest thereunder.

**5. Holding of Government securities by holders of public offices. ---**

- (1) In the case of any public to which the Federal Government may, by notification in the official Gazette, declare this sub section to apply, a Government security in the form of stock or of a promissory note may be held in the name of the office.
- (2) When a Government security is so held, it shall be deemed to be transferred without any or further endorsement or transfer deed from each holder of the office to the succeeding holder of the office on and from the date on which the latter takes charge of the office.
- (3) When the holder of the office transfers to a party not being his successor in the office a Government security so held, the transfer

shall be made by the signature of the holder of the office and the name of the office in the manner and subject to the conditions laid down in section 3.

- (4) This section applies as well to an office of which there are two or more joint holders as to an office of which there is a single holder.

**6. Notice of trust not receivable. ---**

- (1) No notice of any trust in respect of any Government security shall be receivable by the Federal Government, be bound by any such notice even though expressly given, nor shall the Government be regarded as a trustee in respect of any Government security.
- (2) Without prejudice to the provisions of sub –section (1), the Bank may, as an act of grace and without any liability to the Bank or to the Federal Government record in the books such directions by the holder of the stock for the payment of interest on, or of the maturity value of, or the transfer of, or such other matters relating to the stock as the Bank thinks fit.

**7. Persons whose title to a Government security of a deceased sole holder may be recognized by the Bank.---**

Subject to the provisions of section 9 the executors or administrators of a deceased sole holder of Government security and the holder of a succession certificate issued under Part X of the succession Act, 1925 (XXXIX of 1925) shall be the only person who may be recognized by the Bank as having any title to the Government security.

Provided that nothing in this section shall bar the recognition by the Bank of the manager or the sole surviving male member of a Hindu undivided family governed by the Mitakshara Law as having a title to a Government security when the security appears to the Bank to stand in the name of a deceased member of the family and an application is made by such manager or sole surviving member for recognition of his title and is supported by a certificate signed by such authority and after such inquiry as may be prescribed to the effect that the deceased belong to a Hindu undivided family governed by the Mitakshara law, that the Government security formed part of the joint property of the family, and that the applicant is the managing or sole surviving male member of the family.

Explanation. --- The expression “Hindu undivided family governed by the Mitakshara Law” shall, for the purposes of this section be deemed to include a Malabar tarwad.

**8. Right of survivors of joint holders or several payees. ---**

Notwithstanding anything contained in section 45 of the Contract Act, 1872 (IX of 1872), ---

- (a) when a Government security is held by two or more persons jointly and either or any of them dies, the title to the security shall vest in the survivor or survivors of those persons, and
- (b) when a Government security is payable to Two or more persons severally and either or any of them dies, the security shall be payable to the survivor or survivors of these persons or to the representative of the deceased or to any of them:

Provided that nothing contained in this section shall affect any claim, which any representative of a deceased person may have against the survivor or survivors under or in respect of any security to which this section applies.

**Explanation. ---**

For the purposes of this section a body incorporated under the Indian Companies Act, 1913 (VII of 1913), or the Cooperative Societies Act, 1912 (II of 1912), or any other enactment for the time being in force whether within or without Pakistan, relating to the incorporation of associations of individuals, shall be deemed to die when it is dissolved.

**9. Summary procedure on death of holder of Government securities not exceeding five thousand rupees face value.---**

Notwithstanding anything contained in section 7, if within six months of the death of a person who was the holder of a Government security or securities the face value of which does not in the aggregate exceed five thousand rupees probate of his will or letters of administration of his estate or a succession certificate

issued under Part X of the Succession Act, 1925 (XXXIX) of 1925), is not produced to the Bank, or proof to the satisfaction of the Bank that proceedings have been instituted to obtain one of these is not furnished, the Bank may determine who is the person entitled to the security or securities, or to administrator the estate of the deceased and may make an order vesting the security or securities in the person so determined..

**10. Government securities not exceeding five thousand rupees face value belonging to minor or insane person. ---**

When a Government security or securities belong to a minor or a person who is insane and incapable of managing his affairs and the face value of the security or securities does not in the aggregate exceed five thousand rupees, the Bank may make such order as it thinks fit for the vesting of such security or securities in such person as it considers represents the minor or insane person.

**11. Issue of duplicate securities and of new securities on conversion, consolidation, sub-division or renewal. ---**

- (1) If the person entitled to a Government security applies [not being security in a form notified in pursuance of paragraph (iv) of sub clause (a) of clause (2) (of section 2] to the Bank alleging that the security has been lost, stolen or destroyed, or has been defaced or mutilated, the Bank may, on proof to its satisfaction of the loss, theft, destruction, defacement or mutilation of the security, subject to such conditions and on payment of such fees as may be prescribed, order the issue of a duplicate security payable to the applicant.

[“(I-A) If a Government Security in any of the forms notified in pursuance of paragraph (iv) of sub-clause (a) of clause (2) of section 2 has been defaced or mutilated, the holder thereof may, in such manner, and subject to such conditions and on payment of such fees, if any, as may be notified by Government, apply for the issue of a duplicate security, or for the refund of its value]: -

(Provided that, where such Government security is in the form of Prize Bond, the holder thereof may apply only for the refund of its value.”)

- (2) If the person entitled to a Government security applies to the Bank to have the security converted into a security of another form, or into a security issued in connection with another loan or to have it consolidated with other like securities or to have it sub-divided, or to have it renewed, the Bank may, subject to such conditions and on payment of such fees as may be prescribed, cancel the security and order the issue of a new security or securities.
- (3) The person to whom a duplicate security or a new security is issued under this section shall be deemed for the purposes of section 19 to have been recognized by the Bank as the holder of the security and a duplicate security or new security so issued to any person shall be deemed to constitute a new contract between the Federal Government and such person and all persons deriving title thereafter through him.

**12. Summary determination by the Bank of title to Government security in case of dispute.---**

- (1) If the Bank is of opinion that a debt exists as to the title to a Government security, it may proceed to determine the person who shall for the purposes of the Bank be deemed to be the person entitled thereto.
- (2) The Bank shall give notice in writing to each claimant of whom it has knowledge, stating the names of all other claimants and the time when and the officer of the Bank by whom determination of the Bank will be made.
- (3) The Bank shall give notice in writing to each claimant of the result of the determination so made.
- (4) On the expiry of six months from the issue of notices referred to in sub-section (3), the Bank may make order vesting in the person, found by the Bank to be entitled to the security, the security and any unpaid interest thereon.

**13. Law applicable in regard to Government securities. ---**

Notwithstanding that as a matter of convenience the Federal Government may have arranged for payments on a Government security to be made elsewhere than in Pakistan, the rights of all persons in relation to Government securities shall be determined in

connection with all such questions as are dealt with by this Act by the law and in the courts of Pakistan.

**14. Recording of evidence. ---**

- (1) For the purpose of making any order which it is empowered to make under this Act, the Bank may request a District Magistrate or in a State that has acceded to Pakistan the Political Agent to record or to have recorded the whole or any part of such evidence as any person whose evidence the Bank requires may produce. A District Magistrate so requested may himself record, or may direct any Execution Magistrate and empowered in this behalf by general or special order of the Provincial Government to record the evidence, and shall forward a copy thereof to the Bank.
- (2) For the purpose of making a vesting order under this Act this Bank may direct one of its officers to record the evidence of any person whose evidence the Bank requires or may receive evidence upon affidavit.
- (3) A Magistrate or an officer of the Bank acting in pursuance of this section may administer an oath to any witness examined by him.

**15. Postponement of payments and registration of transfers pending the making of a vesting order.---**

Where the Bank contemplates making an order under this Act to vest a Government security in any person, the Bank may suspend payment of interest on or the maturity value of the security or postpone the making of any order under section 11 or the registration of any transfer of the security until the vesting order has been made.

**16. Power of Bank to require bonds. ---**

- (1) Before making any order, which it is empowered to make under this Act, the Bank may require the person in whose favour the order is to be made to execute a bond with one or more sureties in such form as may be prescribed or to furnish security not exceeding twice the value of the subject matter of the order, to be held at the disposal of the Bank, to pay to the Bank or any person to whom the Bank may assign the bond or security in furtherance of sub-section (2) the amount thereof.

- (2) Court before which a claim in respect of the subject matter of any such order is established may order the bond or security to be assigned to the successful claimant who shall thereupon be entitled to enforce the bond or realise the security to the extent of such claim.

**17. Publication of notices in official Gazette.---**

Any notice required to be given by the Bank under this Act may be served by post, but every such notice shall also be published by the Bank in the Gazette of Pakistan or the official gazette of a Province, according as the notice relates to a security issued by the Federal Government, or a Provincial Government and on such Publication shall be deemed to have been delivered to all persons for whom it is intended.

**18. Scope of vesting order. ---**

An order made by the Bank under this Act may confer the full title to a Government security or may confer a title only to the accrued and accruing interest on the security pending a further order vesting the full title.

**19. Legal effect of orders made by the Bank. ---**

No recognition by the Bank of a person as the holder of a Government security, and no order made by the Bank under this Act shall be called in question by any Court so far as such recognition or order affects the relations of the Federal Government or the Bank with the person recognized by the Bank as the holder of a Government security or with any person claiming an interest in such security and any such recognition by the Bank of any person or any order by the Bank vesting a Government security in any person shall operate to confer on that person a title to the security subject only to a personal liability to the rightful owner of the security for money had and received on his account.

**20. Stay of proceedings on order of Court.---**

Where the Bank contemplates making with reference to any Government security any order which it is empowered to make under this Act, and before the order is made the Bank receives from a Court in Pakistan an order to stay the making of such order the Bank shall either---

- (a) hold the security together with any interest unpaid or accruing thereon until the further orders of the Court are received, or
- (b) apply to the Court to have the security transferred to the Official Trustees appointed for the Province in which such Court is situated, ending the disposal of the proceedings before the Court.

**21. Cancellation by the Bank of vesting proceedings. ---**

Where the Bank contemplates making an order under this Act vesting a Government security in any person the Bank may, at any time before the order is made, cancel any proceedings already taken for that purpose and may, on such cancellation, proceed anew to the making of such order.

**22. Discharge in respect of interest on Government securities---**

Save as otherwise expressly provided in terms of a Government security, no person shall be entitled to claim interest on such security in respect of any period which has elapsed after the earliest date on which demand could have been made for the payment of the amount due on such security.

**23. Discharge in respect of bearer bonds.---**

The Federal Government shall be discharge from all liability on a bearer bond or on any interest coupon of such a bond on payment to the holder of such bond or coupon on presentation on or after the date when it becomes due of the amount expressed therein, unless before such payment an order of a Court of Pakistan has

been served on the Federal Government restraining it from making payment.

**24. Period of limitation of Federal Government's in respect of interest. ---**

Where no shorter period of limitation is fixed by any law for the time being in force, the liability of the Federal Government in respect of any interest payment due on a Government security shall terminate on the expiry of two years from the date on which the amount due by way of interest became payable.

**25. Inspection of documents.---**

No person shall be entitled to inspect, or to receive information derived from any Government security in the possession of custody of the Federal Government or from any book, register, or other document kept or maintained by or on behalf of the Federal Government in relation to Government securities or any Government security, save in such circumstances and manner and subject to such conditions as may be prescribed.

**26. The Bank and its officers to be deemed public officers.---**

For the purposes of section 124 of the Evidence Act, 1872 (I of 1872), the provisions of the Part IV of the Code of Civil Procedure, 1908 (V of 1908), relating to suits by or against public officers in their official capacity, and the provisions of rule 27 of order V and rule 52 of Order XXI of the said Code, the Bank and any office of the Bank acting in his capacity as such shall be deemed to be a public officer.

**27. Penalty. ---**

- (1) If any person, for the purpose of obtaining for himself or for any other person any title to a Government security, makes to any authority under this Act in any application made under this Act or in the course of any inquiry undertaken in pursuance of this Act any statement which is false and which he either knows to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to six months, or with fine or with both.

- (2) No Court shall take cognizance of any offence under sub-section (1) except on the complaint of the Bank.

**28. Power to make rules. ---**

- (1) The Federal Government may, (subject to the condition of previous publication, by notification in the official Gazette,) make rules to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:-
  - (a) the forms in which Government securities may be issued ;
  - (b) the form of the obligations referred to in clause (iv) of sub-clause (a) of clause (2) of section 2;
  - (c) Omitted.
  - (d) the manner in which different forms of Government securities may be transferred;
  - (e) the holding of Government securities in the form of stock by the holders of offices other than public offices, and the manner in which and the conditions subject to which Government securities so held may be transferred;
  - (f) the manner in which payment of interest in respect of Government securities is to be made and acknowledged;
  - (g) the conditions governing in grant of duplicate, renewed, converted, consolidated and sub-divided Government securities;
  - (h) the fees to be paid in respect of the issue of duplicate Government securities and of the renewal , conversion, consolidation and sub-division of Government securities.
  - (i) the form in which receipt of a Government security delivered for discharge, renewal, conversion, consolidation or sub-division is to be acknowledged;

- (j) the manner of attestation of documents relating to Government securities in the form of stock;
  - (k) the manner in which any document relating to a Government security or any endorsement on a promissory note issued by the Government may, on the demand of a person who from any cause is unable to write, be executed on his behalf;
  - (l) the form of the bonds referred to in sub-section (1) of section 16;
  - (m) the circumstances and the manner in which and the conditions subject to which inspection of Government securities, books, registers and other documents may allowed or information therefrom may be given under section 25;
  - (n) the procedure to be followed in making vesting orders;
  - (o) the authority by whom the certificate referred to in the proviso to section 7 is to be granted and the manner of making the inquiry therein mentioned;
- (3) A copy of all rules under this section shall be laid on the table of the legislature as soon as may be after they are made.

**29. Act X of 1920 not to apply to Government securities.---**

The Securities Act, 1920 (X of 1920), shall cease to apply to Government securities to which this Act applies, and to all matters for which provision is made by this Act.

Suggestions / feedback may reach us by **31<sup>st</sup> August, 2004**

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