

## THE FOREIGN EXCHANGE REGULATING ACT, 1947

Act No. VII of 1947

[11<sup>th</sup> March, 1947]

**An Act** to regulate certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion.

**WHEREAS** it is expedient in the economic and financial interests of Pakistan to provide for the regulation of certain payments, dealings in foreign exchange and securities and the import and export of currency and bullion;

It is hereby enacted as follows:---

**1. Short title, extent and commencement.** (1) This Act may be called the foreign Exchange Regulation Act, 1947.

(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan and persons in the service of Government wherever they may be.

(3) it shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

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

(a) "authorised dealer" means a person for the time being authorised under section 3 to deal in foreign exchange;

(b) "currency" includes all coins, currency notes, bank notes, postal notes, money orders, cheques, drafts, traveler's cheques, letters of credit, bills of exchange and promissory notes;

(c) "foreign currency" means any currency other than Pakistan currency;

(d) "foreign exchange" means foreign currency and includes any instrument drawn, accepted, made or issued under clause (8) of section 17 of the State Bank of Pakistan Act, 1956, all deposits, credits and balances payable in any foreign currency, and any drafts, traveler's cheques, letters of credit and bill of exchange, expressed or drawn in Pakistan currency but payable in any foreign currency;

(e) "foreign security" means any security issued elsewhere than in Pakistan and any security the principal of or interest on which or payable in any foreign currency or elsewhere than in Pakistan;

(f) "gold" includes gold in the form of coin, whether legal tender or not, or in the form of bullion or ingot, whether refined or not;

(g) "Pakistan currency" means currency which is expressed or drawn in Pakistan rupees;

(h) "owner", in relation to any security, includes any person who has power to sell or transfer the security, or who has the custody thereof or how receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, and in a case where any security is held on any trust or dividends or interest thereon are paid into a trust fund, also includes any trustee or any person entitled to enforce the performance of the trust or to revoke or vary, with or without the consent of any other person, the trust or any terms thereof, or to control the investment of the trust moneys;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "State Bank" means the state Bank of Pakistan;

(k) "security" means shares, stocks, bonds, debentures, debenture stock and Government securities, as defined in the securities Act, 1920, deposit receipts in respect of deposits of securities, and units or sub-units of unit trusts, but does not include bills of exchange or promissory notes other than Government promissory notes;

(l) "Silver" means silver bullion or ingot, silver sheets and plates which have undergone no process of manufacture, but does not include bills of exchange or promissory notes other than Government promissory notes;

(m) "transfer" includes, in relation to any security, transfer by way of loan or security.

**3. Authorised dealers in foreign exchange.** (1) The State Bank may, on application made to it in this behalf, authorise any person to deal in foreign exchange.

(2) An authorisation under this section---

- (i) may authorise dealings in all foreign currencies or may be restricted to authorising dealings in specified foreign currencies only;
- (ii) may authorise transactions of all descriptions in foreign currencies or may be restricted to authorising specified transactions only;
- (iii) may be granted to be effective for a specified period, or within specified amounts, and may in all cases be revoked for reasons appearing to it sufficient by the State Bank.

(3) An Authorised dealer shall in all his dealings, in foreign exchange comply with such general or special directions or instructions as the State Bank may from time to time think fit to give, and, except with the previous permission of the State Bank, an Authorised dealer shall not engage in any transaction involving any foreign exchange which is not in conformity with the terms of his authorisation under this section.

(4) An authorised dealer shall, before undertaking any transaction in foreign exchange on behalf of any person, require that person to make such declarations and to give such information as will reasonably satisfy him that the transaction will not involve, and is not designed for the purpose of, any contravention or evasion of the provisions of this Act or of any rules, directions or orders made there under, and where the said person refuses to comply with any such requirement or makes only unsatisfactory compliance therewith, the authorised dealer shall refuse to undertake the transaction and shall, if he has reason to believe that any such contravention or evasion as aforesaid is contemplated by the person, report the matter to the State bank.

**4. Restrictions on dealing foreign exchange.** (1) Except with the previous or special permission of the State Bank, no person other than an authorised dealer shall in Pakistan and no person resident in Pakistan, other than an authorised dealer all outside Pakistan, buy or borrow from, or sell or lend to, or exchange with, any person not being an authorised dealer, any foreign exchange.

(2) Except with the previous general or special permissions of the State Bank, no person whether an authorised dealer or otherwise, shall enter into any transaction which provides for the conversion of Pakistan currency into foreign currency or foreign currency into Pakistan currency at rates of exchange other than the rates for the time being authorised by the State Bank.

(3) Where any foreign exchange is acquired by any person other than an authorised dealer for any particular purpose, or where any person has been permitted conditionally to acquire foreign exchange, the said person shall not use the foreign exchange so acquired otherwise than for that purpose or, as the case may be, fail to comply with any condition to which the permission granted to him is subject, and where any foreign exchange so acquired cannot be so used or, as the case may be, the conditions cannot be complied with, the said person shall without delay sell the foreign exchange to an authorised dealer.

(4) Nothing in this section shall be deemed to prevent a person from buying from any post office, in accordance with any law or rules made there under for the time being in force, any foreign exchange in the form of postal orders or money orders.

**5. Restrictions on payments.** (1) Save as may be provided in and in accordance with any general or special exemption from the provisions of this sub-section which may be granted conditionally or unconditionally by the state Bank, no person in, or resident in, Pakistan shall---

- (a) make any payment to or for the credit of any person resident outside Pakistan;
- (b) draw, issue or negotiate any bill of exchange or promissory note or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favor of any person resident outside Pakistan;
- (c) make any payment to or for the credit of any person by order or on behalf of any person resident outside Pakistan;
- (d) place any sum to the credit of any person resident outside Pakistan;
- (e) make any payment to or for the credit of any person as consideration for or in association with--
  - (i) the receipt by any person of a payment or the acquisition by any person of property outside Pakistan;
  - (ii) the creation or transfer in favor of any person of a right whether actual or contingent to receive a payment or acquire property outside Pakistan;
- (f) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment is created or transferred in favor of any person as consideration for or in association with any matter referred to in clause (e).

(2) Nothing in sub-section (1) shall render unlawful---

- (a) the making of any payment already authorised, either with foreign exchange obtained from an authorised dealer under section 4 or with foreign exchange retained by a person in pursuance of an authorisation granted by the State bank;
- (b) the making of any payment with foreign exchange received by way of salary or payment for services not arising from business in, or anything done while in Pakistan.

(3) Nothing in this section shall restrict the doing by any person of anything within the scope of any authorisation or exemption granted under this act.

(4) For the purposes of this section, "security" also includes coupons or warrants representing dividends or interest and life or endowment insurance policies.

**6. Blocked accounts.** (1) Where an exemption from the provisions of section 5 is granted by the State Bank in respect of payment of any sum to any person resident outside Pakistan and the exemption is made subject to the condition that the payment is made to a blocked account---

(a) the payment shall be made to a blocked account in the name of the person in such manner as the State Bank may by general or special order direct; and

(b) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge to the person making the payment.

(2) No sum standing at the credit of a blocked account shall be drawn on except in accordance with any general or special permission which may be granted conditionally or otherwise by the State Bank.

(3) In this section "blocked account" means an account opened as a blocked account at any office or branch in Pakistan of a bank authorised in this behalf by the State Bank, or an account blocked, whether before or after the commencement of this Act, by order of the State Bank.

**7. Special accounts.** (1) Where in the opinion of the Central government it is necessary or expedient to regulate payments due to persons resident in any territory, the Central Government may, by notification in the official gazette, direct that such payments or any class of such payments shall be made only into an account (hereinafter referred to as a special account) to be maintained for the purpose by the State Bank or an authorised dealer specially authorised by the state Bank in the behalf.

(2) The credit of a sum to special account shall, to the extent of the sum credited, be a good discharge to the person making the payment:

**Provided that** where the liability of the person making the payment is to make the payment in foreign currency, the extent of the discharge shall be ascertained by converting the amount paid into that currency at such rate of exchange as is for the time being fixed or authorised by the State Bank.

(3) The sum standing to the credit of any special account shall from time to time be applied---

(a) Where any agreement is entered into between the Central Government and the Government of the territory to which the aforesaid notification relates for the regulation of payments between person resident in Pakistan and in that territory, in such manner as the state Bank having regard to the provisions of such agreement, may direct, or

(b) Where no such agreement is entered into, for the purpose of paying wholly or partly, and in such order of preference and at such times as the Central government may direct, debts due from the persons resident in the said territory to persons resident in Pakistan or in such other territories as the central Government may by order specify in this behalf.

**8. Restrictions on import and export of certain currency and bullion.** (1) The Central government, by notification in the official Gazette, order that, subject to such exemptions, if any, as may be contained in the notification, no person shall, except with the general or special permission of the State Bank and on payment of the fee, if any, prescribed bring or send into Pakistan any gold or silver or any currency notes or bank notes or coin whether Pakistan or foreign.

**Explanation.**--- The Bringing or sending into any part or place in the territories of Pakistan of any such article as aforesaid, intended to be taken out of the territories of Pakistan without being removed from the ship or conveyance in which it is being carried, shall nonetheless be deemed to be bringing or as the case may be sending, into the territories of Pakistan of that article for the purposes of this section.

(2) No person shall, except with the general or special permission of the State Bank or the written permission of a person authorised in this behalf by the State Bank, take or send out of Pakistan any gold, jewellery or precious stones, or Pakistan currency notes, bank notes or foreign exchange.

(3) The restrictions imposed by sub-section (1) and (2) shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878, without prejudice to the provisions of section 23 of this Act, and all the provisions of that Act shall have effect accordingly.

**9. Acquisition by Central Government of foreign exchange.** The Central Government may, by notification in the official Gazette, order every person in, or resident in, Pakistan---

(a) who owns such foreign exchange as may be specified in the notification, to offer it, or cause it to be offered for sale to the State Bank on behalf of the Central Government or to such person, as the State Bank may authorise for the purpose, at such price as the Central Government not less than the market rate of the foreign exchange when it is offered for sale;

(b) who is entitled to assign any right to receive such foreign exchange as may be specified in the notification, to transfer that right to the State Bank on behalf of the Central Government on payment of such consideration therefore as the Central Government may fix:

**Provided that** the Central Government may by the said notification or another order exempt any persons or class of persons from the operation of such order:

**Provided further that** nothing in this section shall apply to any foreign exchange acquired by a person from an authorised dealer and retained by him with the permission of the State Bank for any purpose.

**10. Duty of persons entitled to receive foreign exchange etc.** (1) No person who has a right to receive any foreign exchange or to receive from a person resident outside Pakistan a payment in rupees shall, except with the general or special permission of the State Bank, do or refrain from doing any act with intent to secure---

- (a) that the receipt by him of the whole or part of that foreign exchange or payment is delayed, or
  - (b) that the foreign exchange or payment ceases in whole or in part to be receivable by him.
- (2) Where a person has filed to comply with the requirements of sub-section (1) in relation to any foreign exchange or payment in rupees, the State Bank may give to him such directions as appear to be expedient for the purpose of securing the receipt of the foreign exchange or payment as the case may be.

**11. Power to regulate the uses, etc., of imported gold and silver.** The Central Government may, by notification in the official Gazette, impose such conditions as it thinks necessary or expedient on the use or disposal of or dealings in gold and silver prior to, or at the time of, import into Pakistan.

**12. Payment for exported goods.** (1) The Central government may, by notification in the official Gazette, prohibit the export of any goods or class of goods specified in the notification from Pakistan directly or indirectly to any place so specified unless a declaration supported by such evidence as may be prescribed or so specified, is furnished by the exporter to the prescribed authority that the amount representing the full export value of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

(2) Where any export of goods has been made to which a notification under sub-section (1) applies, no person entitled to sell, or procure the sale of, the said goods shall, except with the permission of the State Bank, do or refrain from doing any act with intent to secure that---

- (a) the sale of the goods is delayed to an extent which is unreasonable having regard to the ordinary course of trade, or
- (b) payment, for the goods is made otherwise than in the prescribed manner or does not represent the full amount payable by the foreign buyer in respect of the goods, subject to subject to such conditions, if any, as may be allowed by the State Bank, or is delayed to such extent as aforesaid:

**Provided that** no proceedings in respect of any contravention of this sub-section shall be instituted unless the prescribed period has expired and payment for the goods representing the full amount as aforesaid has not been made in the prescribed manner.

(3) Where in relation to any such goods the said period has expired and the goods have not been sold and payment therefore has not been made as aforesaid, the State Bank may give to any person entitled to sell the goods or to procure the sale thereof, such directions as appear to it to be expedient for the purpose of securing the sale of the goods and payment therefor as aforesaid, and without prejudice to the generality of the foregoing provisions, may direct that the goods shall be assigned to the Central Government or to a person specified in the directions.

(4) Where any goods are assigned in accordance with sub-section (3), the Central Government shall pay to the person assigning them such sum in consideration of the net sum recovered by or on behalf of the Central government in respect of the goods as may be determined by the central Government.

(5) Where in relation to any such goods the value as stated in the invoice is less than the amount which in the opinion of the State Bank represents the full export value of those goods, the State bank may issue an order requiring the person holding the shipping documents to retain possession thereof until such time as the exporter of the goods has made arrangements for the State Bank or a person authorised by the State Bank to receive on behalf of the exporters payment in the prescribed manner of an amount which represents in the opinion of the State Bank the full export value of the goods

(6) For the purpose of ensuring compliance with the provisions of this section and any orders or directions made thereunder, the state Bank may require any person making any export of goods to which a notification under sub-section (1) applies to exhibit contracts with his foreign buyer or other evidence to whom that the full amount payable by the said buyer in respect of the goods has been, or will within the prescribed period be, paid in the prescribed manner.

**13. Regulation of export and transfer of securities.** (1) No person shall, except with the general or special permission of the State Bank,---

- (a) take or send any security to any place outside Pakistan;
- (b) transfer any security or create or transfer any interest in a security to or in favor of a person resident outside Pakistan;

- (c) transfer any security from a register in Pakistan to a register outside Pakistan or do any act which is calculated to secure, or forms part of a series of acts which together are calculated to secure, the substitution for any security which is either in, or registered in, Pakistan of any security which is either outside or registered outside Pakistan;
- (d) issue, whether in Pakistan or elsewhere, any security which is registered or to be registered in Pakistan to a person resident outside Pakistan.

(2) Where the holder of a security is a nominee, neither he nor any person through whose agency the exercise of all or any of the holder's rights in respect of the security is controlled shall, except with the general or special permission of the State Bank, do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives instructions, unless both the persons previously instructing him and the person substituted, resident in Pakistan.

(3) The State Bank may, for the purposes of securing that the provisions of this section are not evaded, require that the person transferring any security and the person to whom such security is transferred shall subscribe to a declaration that the transferee is not resident outside Pakistan.

(4) Notwithstanding anything contained in any other law, no person shall, except with the permission of the State Bank,---

- (a) enter any transfer of securities in any register or book in which securities are registered or inscribed if he has any ground for suspecting that the transfer involves any contravention of the provisions of this section, or
- (b) enter in any such register or book, in respect of any security, whether in connection with the issue or transfer of the security or otherwise, an address outside Pakistan except by way of substitution for any such address in the same country or for the purpose of any transaction from which permission has been granted under this section with knowledge that it involves entry of the said address.

(5) For the purposes of this section,--

- (a) "holder" in relation to a bearer security means the person having physical custody of the security; Provided that, where a bearer security is deposited with any person in a locked or sealed receptacle from which the person with whom it is deposited is not entitled to remove it without the authority of some other person, that other person shall be deemed to be the holder of the security;
- (b) "nominee" means a holder of any security (including bearer security) or any coupon representing dividends or interest who, as respects the exercise of any rights in respect of the security or coupon, is not entitled to exercise those rights except in accordance with instructions given by some other person, as to the exercise by the holder one or more persons, as to the exercise by the holder of the security or coupon of any rights in respect thereof and is not, in so doing, himself under a duty to comply with instructions given by some other person.
- (c) "security" also includes coupons or warrants representing dividends or interest, and life or endowment in surance policies;
- (d) "a person resident outside Pakistan" includes a foreign national for the time being resident in Pakistan.

**14. Custody of securities.** (1) The Central Government may, by notification in the official Gazette, order every person by whom or on whose behalf a security or document of title to a security specified in the order is held in Pakistan to cause the said security or document of title to be kept in the custody of an authorised depository named in the order:

**Provided that** the State Bank may by order in writing permit any such security to be withdrawn from the custody of the authorised depository subject to such conditions as may be specified in the order.

(2) No authorised depository may part with any security covered by an order under sub-section (1) without the general or special permission of the State Bank except to, or to the order of, another authorised depository.

(3) Except with the general or special permission of the State Bank, no authorised depository shall--

- (a) accept or part with any security covered by an order under sub-section (1) whereby the security is transferred into the name of a person as the person resident outside Pakistan; or
- (b) do any act whereby he recognizes or gives effect to the substitution of another person as the person from whom he directly receives instructions relating to such security unless the person previously so instructing him and the person substituted for that person were immediately before the substitution resident in Pakistan.

(4) Except with the general or special permission of the State Bank, no person shall buy, sell or transfer any security, or document of title to a security, covered by an order under sub-section (1) unless such security or document of title has been deposited in accordance with the order.

(5) Except with the general or special permission of the State Bank, no capital moneys, interest or dividends in respect of any security converted by an order under sub-section (1) shall be paid in Pakistan except to or to the order of the authorised depository having the custody of the security.

(6) For the purposes of this section,---

(a) "authorised depository" means a person notified by the central Government to be entitled to accept the custody of securities and documents of title to securities, and

(b) "security" shall include coupons.

**15. Restrictions on issue of bearer securities.** The Central Government may, by notification in the official Gazette, order that except with the general or special permission of the State Bank no person shall in Pakistan issue any bearer security or coupon or so alter any document that it becomes a bearer security or coupon.

**16. Acquisition by Central Government of foreign securities.** (1) Subject to any exemptions that may be contained in the notification, the Central Government may, if it is of opinion that it is expedient so to do for the purpose of strengthening its foreign exchange position by notification in the official Gazette,---

(a) order the transfer to itself of any foreign securities specified in the notification at a price so specified, being a price which is, in the opinion of the Central Government not less than the market value of the securities on the date of the notification, or

(b) direct the owner of any foreign securities specified, in the notification to sell or procure the sale of the securities and thereafter to offer or cause to be offered the net foreign exchange proceeds of the sale to the State Bank on behalf of the Central Government or to such person as the state Bank may authorise for the purpose, at such price as the Central Government may fix, being a price which is in the opinion of the Central Government not less than the market rate of the foreign exchange when it is offered for sale.

(2) On the issue of a notification under clause (a) of sub-section (1), ---

(a) the securities to which the notification relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit:

(b) the owner of any of the securities to which the notification relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary or as the Central government or the State Bank may order to be done, for the purpose of securing that ---

(i) the securities and any documents of title relating thereto are delivered to the Central Government and, in the case of registered or inscribed securities, that the securities are registered or inscribed in the name of the Central or of such nominee of the central government as it may specify, and

(ii) any dividends or interest on those securities becoming payable on or after the date of the issue of the notification are paid to the Central government or its nominee as aforesaid and where in the case of any security payable to bearer which is delivered in pursuance of the said notification, any coupons representing any such dividends or interest are not delivered with the security, such reduction in the price payable therefore shall be made as the central Government thinks fit:

**Provided that** where the price specified in the notification in relation to any security is ex-dividend or ex-interest, this sub-clause shall not apply to that dividend or interest or to any coupon representing it.

(3) A certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the central government under this section shall be treated by all person concerned as conclusive evidence that the securities have been so transferred.

**17. Restriction on settlement.** (1) No person resident in Pakistan shall, except with the general or special permission of the State Bank, settle any property, otherwise than by will, upon any trust under which a person who at the time of the settlement is resident outside Pakistan, elsewhere than in territories notified in this behalf, by the State Bank, will have an interest in the property, or exercise, other than by will, any power for payment in favour of a person who at the time of the exercise of the power is resident outside Pakistan elsewhere than in such notified territories.

(2) A settlement or power as aforesaid shall not be invalid except in so far as it confers any right or benefit on any person who at the time of the settlement or the exercise of the powers resident outside Pakistan, elsewhere than in territories notified the State Bank.

**18. Certain provisions as to companies.** (1) Except with the general or special permission of the State Bank, no person resident in Pakistan shall do any act whereby a company, which is controlled by persons resident in Pakistan, ceases to be so controlled.

(2) Except with the general or special permission of the State Bank, no person resident in Pakistan shall lend any money or security to any company, not being a banking company, which is by any means controlled, whether directly or indirectly, by persons resident outside Pakistan elsewhere than in the territories notified in this behalf by the state Bank.

In this sub-section, "company" includes a firm, branch or office of a company or firm.

**19. Power to call for information.** (1) The Central Government or the State Bank may, at any time by notification in the official Gazette, direct owners, subject to such exceptions, if any, as may be specified in the notification, of such foreign exchange or foreign securities as may be so specified, to make a return thereof to the State bank within such period, and giving such particulars, as may be so specified.

(2) The Central government may by order in writing require any person to furnish it or any person specified in the order with any information, book or other document in his possession, being information, book or document which the Central Government considers it necessary or expedient to obtain and examine for the purposes of this Act and may, at any time, by notification in the official Gazette, direct that the power to make such order shall for such period as may be specified in the direction, be exercised by the State bank.

(3) On a representation in writing made by a person authorised in this behalf by the Central Government or the State Bank and supported by a statement on oath of such person that he has reason to believe that a contravention of any of the provisions of this Act has been or is being or is about to be committed in any place or that evidence of the contravention is to be found in such place, a district magistrate, a sub-divisional magistrate or a magistrate of the first class, may, by warrant, authorise any police officer not below the rank of sub-inspector---

- (a) to enter and search any place in the manner specified in the warrant; and
- (b) seize any books or other documents found in or on such place.

**Explanation.**--- In this sub-section, "place" includes a house, building, tent, vehicle, vessel or aircraft.

(3A) A police officer authorised under sub-section (3) may search any person who is found in or whom he has reasonable ground to believe to have recently left or to be about to enter such place and to seize any article found in the possession of or upon such person and believed by the police officer so authorised to be evidence of the commission of any offence under this Act.

(3B) A police officer authorised under sub-section (3) shall conduct any search under that sub-section or under sub-section (3A) in accordance with the provisions relating to search in the code of Criminal Procedure, 1898.

(4) The Provisions of sub-sections (1), (2) and (3) of section 54 of the Income -tax Act, 1922, shall apply in relation to information obtained under sub-section (2) of this section as they apply to the particulars referred to in that section, and for the purposes of such application---

- (a) the said sub-section (3) shall be construed as if in clause (a) thereof there was included reference to a prosecution for an offence under section 23 of this Act, and
- (b) persons to whom any information is required to be furnished under an order made under sub-section (2) of this section shall be deemed to be public servants within the meaning of that section.

**20. Supplemental provisions.** (1) For the purposes of this Act and of any rules, directions or orders made thereunder---

- (a) until the State Bank by general or special order otherwise directs, any person who has at any time after the commencement of this Act been resident in Pakistan shall be treated as still being resident in Pakistan and if such direction is given in relation to any such person the State Bank may by the same or a subsequent direction, declare the territory in which he shall be treated as being resident;
- (b) in the case of any person to whom clause (a) does not apply the State Bank may by general or special order declare the territory in which he shall be treated as being resident;
- (c) in the case of any person resident in Pakistan who leaves Pakistan, the State Bank may give a direction to any bank that until the direction is revoked, any sum from time to time standing to the credit of that person and any security held on his behalf at any office or branch of that bank in Pakistan specified in the direction, shall not be dealt with except with the permission of the State Bank;
- (d) any transactions with a branch of any business, whether carried on by a body corporate or otherwise, shall be treated in all respects as if the branch were a body corporate resident where the branch is situated;
- (e) the making of any book entry or other statement recording a debit against a branch of any business in favour of the head office or any other branch of that business shall be treated as the acknowledgement of a debt whereby a right is created in favour of a person resident where the head office or other branch is situated.

(2) Nothing in this Act relating to the payment of any price or sum by the Central Government shall be construed as requiring the Central Government to pay that price or sum otherwise than in Pakistan currency or otherwise than in Pakistan.

(3) The State Bank may give directions in regard to the making of payments and the doing of other acts by bankers, authorised dealers, travel agents, carriers, whether common of private, stock brokers and other persons who are authorised by the State Bank to do anything in pursuance of this Act in the course of their business, as appear to it to be necessary or expedient for the purpose of securing compliance with the provisions of this Act and any rules, orders or directions made thereunder.

**21. Contracts in evasion of this Act.** (1) No person shall enter into any contract or agreement which would directly or indirectly evade or avoid in any way the operation of any provision of this Act or of any rule, direction or order made thereunder.

(2) Any provision of, or having effect under, this Act that a thing shall not be done without the permission of the Central Government or the State Bank, shall not render invalid any agreement by any person to do that thing, if it is a term of the agreement that thing shall not be done unless permission is granted by the Central Government or the State Bank, as the case may be; and it shall be an implied term of every contract governed by the law of any part of Pakistan that anything agreed to be done by any term of that contract which is prohibited to be done by or under any of the provisions of this Act except with the permission of the Central Government or the State Bank, shall not be done unless such permission is granted.

(3) Neither the provisions of this Act nor any term (whether expressed or implied) contained in any contract that anything for which the permission of the Central Government or the State Bank is required by the said provisions shall not be done without that permission, shall prevent legal proceedings being brought in Pakistan to recover any sum which, apart from the said provisions and any such term, would be due, whether as a debt, damages or otherwise, but---

(a) the said provisions shall apply to sums required to be paid by any judgment or order of any Court as they apply in relation to other sums; and

(b) no steps shall be taken for the purpose of enforcing any judgment or order for the payment of any sum to which the said provisions apply except as respects so much thereof as the Central Government or the State Bank, as the case may be, may permit to be paid; and

(c) for the purpose of considering whether or not to grant such permission, the Central Government or the State Bank, as the case may be, may require the person entitled to be benefited of the judgment or order and the debtor under the judgment or order, to produce such documents and to give such information as may be specified in the requirement.

(4) Notwithstanding in the Negotiable Instruments Act, 1881, neither the provisions of this Act or of any rule, direction or order made thereunder, nor any condition, whether express or to be implied having regard to those provisions, that any payment shall not be made without permission under this Act, shall be deemed to prevent any instrument being a bill of exchange or promissory note.

**22. False statements.** No person shall when complying with any order or direction under section 19 or when making any application or declaration to any authority or person for any purpose under this Act, give any information or make any statement which he knows or has reasonable cause to believe to be false, or not true, in any material particular.

**23. Penalty and procedure.** (1) Whoever contravenes, attempts to contravene or abets the contravention of any of the provisions of this Act or of any rule, direction or order made thereunder, shall notwithstanding anything contained in the Code of Criminal Procedure, 1898, be tried by a Tribunal constituted by section 23A, and shall be punishable with imprisonment for a term which may extend to two years or with fine or with both, and any such Tribunal trying any such contravention may, if it thinks fit, and in addition to any sentence which it may impose for such contravention, direct that any currency, security, gold or silver, or goods or other property in respect of which the contravention has taken place shall be confiscated.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under this section shall be cognizable for such period as the Central Government may from time to time, by notification in the official Gazette, declare.

(3) A Tribunal shall not take cognizance of any offence punishable under this section and not declared by the Central Government under the preceding sub-section to be cognizable for the time being, or of an offence punishable under section 54 of the Income-tax Act, 1922, as applied by section 19, except upon complaint in writing made by a person authorized by the Central Government or the State Bank in this behalf:

**Provided that** where any such offence is the contravention of any of the provisions of this Act or any rule, direction or order made thereunder which prohibits the doing of an act without permission and is not declared by the Central Government under the preceding sub-section to be cognizable for the time being, no such complaint shall be made unless the person accused of the offence has been given an opportunity of showing that he had such permission.



(4) Where the person guilty of an offence under this Act is a company or other body corporate every director, manager, secretary and other officer thereof who is knowingly a party to the offence shall also be guilty of the same offence and liable to the same punishment.

**23A. Tribunal, its powers, etc.** (1) Every Sessions judge shall, for the areas within the territorial limits of his jurisdiction, be a Tribunal for trial of an offence punishable under section 23.

(2) A tribunal may transfer any case for trial to an additional Sessions judge within its jurisdiction who shall, for trying a case so transferred, be deemed to be a tribunal constituted for the purpose.

(3) A Tribunal shall have all the powers of a magistrate of the First Class in relation to criminal trials, and shall follow as nearly as may be the procedure provided in the Code of Criminal procedure, 1898, for trials before such Magistrate, and shall also have powers as provided in the said code in respect of the following matters, namely:--

- (a) directing the arrest of the accused;
- (b) issuing search warrants;
- (c) ordering the police to investigate any offence and report;
- (d) authorizing detention of a person during police investigation;
- (e) ordering the release of the accused on bail.

(4) All proceedings before a Tribunal shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code, and for the purposes of section 196 thereof, and the provisions relating to the execution of orders and sentences in the Code of Criminal Procedure, 1898, shall, so far as may be, apply to orders and sentences passed by a Tribunal.

(5) As regards sentences of fine, the powers of a Tribunal shall be as extensive as those of a Court of Session.

(6) The State Bank of Pakistan or any other person aggrieved by a judgment of a Tribunal may, within three months from the date of judgment, appeal to the High Court.

(7) Save as provided in the preceding sub-section, all judgments and orders passed by a Tribunal shall be final.

**24. Burden of proof in certain cases.** (1) Where any person is tried for contravening any provision of this Act or of any rule, direction or order made thereunder which prohibits him from doing an act without permission, the burden of proving that he had the requisite permission shall be on him.

(2) If in a case in which the proof of complicity of a person resident in Pakistan with a person outside Pakistan is essential to prove an offence under this Act, then after proof of the circumstances otherwise sufficient to establish the commission of the offence, it shall be presumed that there was such complicity, and the burden of proving that there was no such complicity shall be on the person accused of the offence.

**25. Power to Central Government to give direction.** For the purposes of this Act the Central Government may from time to time give to the state Bank such general or special directions as it thinks fit, and the State Bank shall, in the exercise of its functions under this act, comply with any such direction.

**26. Bar of legal proceedings.** No suit, prosecution or other legal proceedings shall lie against any person for anything in good faith done or intended to be done under this Act or any rule, direction or order made thereunder.

**27. Power to make rules.** The Central Government may, by notification in the official gazette, make rules for carrying into effect the provisions of this act.