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ORDINANCE NO. XXXVIII OF 2009

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ORDINANCE

*to provide for the re-organization and conversion of the Industrial  
Development bank of Pakistan into a public limited company*

WHEREAS, it is expedient to provide for re-organization and conversion of the Industrial Development Bank of Pakistan into a public limited company incorporated under the companies Ordinance, 1984 (XLVII of 1984), and for matters connected therewith or incidental thereto;

AND WHEREAS, the National Assembly is not in session and the circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Industrial Development Bank of Pakistan (Reorganization and Conversion) Ordinance, 2009.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 17th September, 2007.

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

- (a) "assets" means rights and powers of every description and includes all properties, movable or immovable, tangible or intangible, mortgages, charges and claims in the name of the IDBP, as the case may be;
- (b) "company" means the Industrial Development Bank Limited to be established and incorporated in accordance with section 3;
- (c) "contracts" means all contracts, agreements, bonds guarantees, indemnities, representations, obligations, undertakings and other legal documents and instruments of every description executed by or on behalf of IDBP, as the case may be, including employment, investment, sales and financial contracts with whomsoever;
- (d) "effective date" means the date specified in the Order issued under section 5;
- (e) "IDBP" means the Industrial Development Bank of Pakistan established under the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961);
- (f) "liabilities" means all liabilities lawfully incurred by IDBP, as the case may be, and includes duties and obligations of every kind imposed thereon;

- (g) "order" means an Order made by the Federal Government under sub-section (1) of section 5;
- (h) "proceedings" includes any suit, arbitration or other legal or administrative proceedings, applications, appeals, awards, reviews or revisions filed or pending;
- (i) "rules" means the rules made under this Ordinance;
- (j) "transfer" means the transfer of assets, contracts, liabilities, proceedings and undertakings of IDBP, as the case may be, to the company; and
- (k) "undertakings" includes all projects, ventures and any other operations undertaken by IDBP, as the case may be, individually or collectively in collaboration with some other person.

3. **Establishment of the Company, etc.**—(1) As soon as may be, after the commencement of this Ordinance, the Federal Government shall establish a Company to be known as the Industrial Development Bank Limited, limited by shares and cause it to be incorporated under the Companies Ordinance, 1984 (XLVII of 1984), with the principal object of taking over the business, functions, contracts, proceedings, undertakings, assets and liabilities of IDBP.

(2) No stamp duty or any other charges shall be payable by the Company under any law for the time being in force for the transfer and vesting of the assets, contracts, liabilities, proceedings or undertakings of IDBP to the company or any shares or securities issued in favour of the shareholders or financiers of IDBP by the Company.

4. **Company to be deemed a banking company.**—(1) The Company shall be deemed to be a banking company for the purposes of the State Bank of Pakistan Act, 1956 (XXXIII of 1956), the Banking Companies Ordinance, 1962 (LVII of 1962) and any other law for the time being in force relating to banking companies until such time that the licence is granted to the Company under sub-section (2).

(2) Without prejudice to the provisions of sub-section (1), the company shall apply to the State Bank of Pakistan, for a licence for permitting it to carry on the business of banking in Pakistan in accordance with the provisions of section 27 of Banking Companies Ordinance, 1962 (LVII of 1962), through the existing branches of IDBP.

**5. Transfer and vesting of assets, contracts, liabilities, proceedings and undertakings.**—(1) After the registration of the Company, the Federal Government shall by an Order, published, in official Gazette, direct that all the assets, contracts, liabilities, proceedings and undertakings of IDBP stand transferred to, and vest in the Company on the date specified therein, on such terms and conditions as may be determined by the Federal Government in this behalf.

(2) The Order issued under sub-section (1) shall, *inter alia*, provide for—

- (a) the transfer of all the assets, contracts, liabilities, proceedings and undertakings of IDBP to the Company;
- (b) the allotment of shares or debentures of the Company to the shareholders, debenture-holders or bond holders of IDBP in proportion to their shares, debentures, bonds or other securities in IDBP, as the case may be, after determining the net asset value of IDBP on the effective date;
- (c) the dissolution of IDBP from the effective date;
- (d) the transfer of guarantees issued in favour of the Company by the Government of Pakistan, the Provincial Government and other government agencies such as Sarhad Development Board and Punjab Small Industries Corporation for repayment of loans from borrowers; and
- (e) such incidental, consequential and supplemental matters as are necessary to secure the, transfer of assets, contracts, liabilities, proceeding and undertakings under this Ordinance.

(3) The value ascribed to the assets and liabilities transferred to, and vested in, the Company by the Federal Government under the Order shall represent the fair net value of the assets for taxation, depreciation or any other purposes.

(4) Notwithstanding the provisions of section 146 of the Companies Ordinance, 1984 (XLVII of 1984), the Company shall, upon transfer, continue all business and undertakings of IDBP as were being carried on immediately prior to the effective date.

**6. Continuation of service in the Company.**—(1) All permanent employees and officers of IDBP, who were continuously in the service of IDBP for a period of one year or more immediately before the effective date shall stand transferred to, and become the employees of the Company as of the effective date

on the same terms and conditions as were applicable to them before the effective date. The terms and conditions applicable to the retired employees of IDBP shall continue to apply to such retired employees.

(2) Notwithstanding, anything contained in any law, contract, agreement or conditions of service no person transferred to the Company pursuant to subsection (1) shall be entitled to any compensation as a consequence of transfer to the Company.

**7. Contracts and proceedings.**—(1) All contracts subsisting or having effect immediately before the effective date, to which IDBP may have been a party or beneficiary, shall be deemed to have been made by the Company and shall remain in force for all intents and purposes.

(2) All proceedings by or against or relating to IDBP pending on the effective date before any court, tribunal, arbitrator or any other authority shall be continued, prosecuted, defended, enforced and executed by or against the Company in the same manner and to the same extent as might have been continued, prosecuted, defended, enforced and executed by or against IDBP, as the case may be, and for the purposes of the proceedings under IDBP Ordinance, the relevant provisions of IDBP Ordinance shall, *mutatis mutandis*, continue to apply to these proceedings notwithstanding the repeal of the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961).

**8. Certain guarantees to remain in force.**—Notwithstanding the repeal of the aforesaid IDBP Ordinance, all guarantees given by the Government of Pakistan in favour of foreign and local institutions which extended loans to IDBP shall remain in force as though these guarantees were given on behalf of IDBP.

**9. Bar of jurisdiction.**—No court, tribunal, arbitrator or authority shall question, or permit to be called in question, any transfer or order made, anything done, or action taken or purported to be made, done or taken under this Ordinance.

**10. Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government, State Bank of Pakistan, IDBP, the Company or any other person for anything which is in good faith done or intended to be done under this Ordinance or any rule or order made thereunder.

**11. Ordinance to override other laws, etc.**—The provisions of this Ordinance shall have effect notwithstanding anything contrary contained in any other law for the time being in force, or in any agreement, contract, decree, order or any other instrument whatsoever.

12. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

13. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary, for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of two years from the commencement of this Ordinance.

14. **Repeal.**—Immediately after the dissolution of IDBP in pursuance of clause (c) of sub-section (2) of section 5, the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961), shall stand repealed.

### **STATEMENT OF OBJECTS AND REASONS**

The Industrial Development Bank of Pakistan (Re-Organization and Conversion) Ordinance was re-promulgated on 26<sup>th</sup> November 2009 for repealing the Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961) under which the entity namely, Industrial Development Bank of Pakistan (IDBP) was established for providing credit facilities to Industrial concerns. The Ordinance was re-promulgated on 26<sup>th</sup> November 2009 for a period 120 days. However, over a period of time the bad portfolio exacerbated IDBP's problems having an adverse impact on the financial condition of the Bank. It is therefore, considered imperative to carry out financial restructuring of IDBP. The IDBP (Re-Organization and Conversion) Ordinance, 2009 provides for the Re-Organization and Conversion of IDBP into a Public Limited Company.

**SHAUKAT FAYAZ AHMED TARIN**  
Minister for Finance, Revenue,  
and Planning and Development  
Member-in-Charge