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PART IV

PROVINCIAL ASSEMBLY OF SIND

NOTIFICATION

Karachi, the 15th April, 1976.

No. PAS/Legis/Bill-3/76.—The Sind Orphanages (Supervision and Control) Bill, 1976 having been passed by the Provincial Assembly of Sind on the 16th March, 1976 and assented by the Governor of Sind on 12th April, 1976, is hereby published as an Act of the Legislature of Sind:—

^{DARUL-ATFAL}
THE SIND [ORPHANAGES] (SUPERVISION AND CONTROL) ACT, 1976.

SIND ACT NO. VII OF 1976

(First published after having received the assent of the Governor of Sind in the Gazette of Sind (Extra-Ordinary), dated 15th April, 1976).

AN

ACT

to provide for the establishment of a Board to supervise and regulate the working and control of [Orphanages] in Sind.

[Darul-Atfal]

WHEREAS it is expedient to establish a Board to supervise and regulate the working and control of [Orphanages] in Sind; Preamble.

It is hereby enacted as follows:—

[Darul-Atfal]

1. (1) This Act may be called the Sind [Orphanages] (Supervision and Control) Act, 1976. Short title and commencement.

(2) It shall come into force on such date as Government may, by notification, appoint in this behalf.

Definitions.

2. In this Act, unless the context otherwise requires—

- (a) "Agency" means Voluntary Social Welfare Agency registered under the Voluntary Social Welfare Agencies (Registration and Control) Ordinance, 1961;
- (b) "Board" means a Board established under section 3;
- (c) "budget" means the official statement of annual income and expenditure of the Board;
- (d) "Chairman" means the Chairman of the Board;
- (dd) *inserted see slip-2*
- (e) "Government" means the Government of Sind;
- (f) "Fund" means the Sind ^{Darul-Atfal} [Orphanages] Fund created under section 8;
- (g) "licensee" means a person or agency to whom a licence has been issued under this Act;
- (h) "Licensing Authority" means the Secretary, Social Welfare Department or any other person nominated by the Chairman;
- (i) "Member" means a Member of the Board;
- (j) "orphan" means any child under the age of eighteen years—
- (i) who has lost one or both the parents and has no adequate source of income; or
 - (ii) whose parents are destitute; or
 - (iii) who has been abandoned by his parents; or
 - (iv) whose parents are not known; or
 - (v) the whereabouts of whose parents are not known;
- 3 [k] "orphanage" means ^{omitted} a place or any institution used for receiving, maintaining and looking after orphans;
- (l) "prescribed" means prescribed by rules;
- (m) "Secretary" means the Secretary of the Board;
- (n) "rules" means the rules made under this Act.

[Darul-Atfal]

Establishment and incorporation of the Board.

3. (1) There shall be established a Board to be called the Sind [Orphanages] Supervision and Control Board for carrying out the purpose of this Act.

(2) The Board shall be a body corporate, having perpetual succession and a common seal with power subject to the provisions of this Act, to acquire and hold property, both movable and immovable and may, by the said name, sue and be sued.

① @ Notification No. OSD(SW)5-281/83 dt. 27.11.83.

1. Subs. by Sind ord. LXVI of 1984, S.2.

2. New clause (dd) inserted by —ibid— S.3(i).

3. Clause (k) omitted by —ibid— S.3(ii).

(3) The Headquarters of the Board shall be at Karachi or such other place as Government may fix by notification.

4. (1) The Board shall consist of—

- | | | | |
|--|-----|-----------------------|-------------------------------|
| (a) Minister for Social Welfare | ... | Chairman. | Constitution of the Board. |
| (b) Secretary Social Welfare Department. | | Member/ Secretary. | |
| (c) Three Members of Provincial Assembly of Sind elected by the Assembly. | | Members. | |
| (d) Such other official and non-official members not exceeding seven as Chairman may nominate. | | | |

(2) The Board may co-opt Members not exceeding three from amongst philanthropists.

(3) A non-official Member shall hold office for a period of three years, unless he resigns by addressing a letter to the Chairman or is removed earlier, for reasons to be recorded in writing by the Chairman:

Provided that a Member elected by the Provincial Assembly—

- (a) shall not be removed except by the Assembly;
- (b) shall cease to be Member on vacating his office as Member of the Assembly^[?]

New proviso added see slip-1

(4) A casual vacancy in the office of a non-official Member shall be filled in accordance with sub-section (1) and sub-section (2) and such Member appointed in such vacancy shall hold office for the un-expired portion of the term.

(5) An official Member appointed by virtue of his office shall cease to be Member on vacating his office unless he is replaced earlier by another official Member by the Chairman.

5. The Secretary shall be the Chief Executive of the Board.

Chief
Executive
of the Board.

6. (1) The meetings of the Board shall be presided over by the Chairman.

Meetings of
the Board.

(2) No act or proceeding of the Board shall be invalid merely by reason of any vacancy in the Board or defect in its Constitution.

(3) The Board shall meet at such place and time and in such manner as may be decided by the Chairman.

7. (1) The Board may, for the purpose of efficient performance of its functions or exercise of its powers, appoint such officers and other employees as it may consider necessary on such terms and conditions and possessing such qualifications as may be prescribed:

Officers and
employees
of the Board.

1. New Proviso added by Sindh Ord. LXVI of 1984, S.4.

Provided that the terms and conditions of service under this section shall be fixed in accordance with terms and conditions of service applicable to Government servants.

(2) The Board may, pending framing of the rules, appoint any employee on ad-hoc basis on such terms and conditions as it may determine.

(3) The officers and staff appointed under sub-sections (1) and (2)—

(a) may be assigned such duties and powers by the Board as it may deem fit;

(b) shall work under the control and supervision of the Chairman;

(c) shall be subject to such disciplinary action as may be prescribed.

(4) The employees of the Board shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

8. (1) There shall be a Fund of the Board known as the Sind ^{Fund.} ~~Orphanages~~ Fund. 10-

(2) The Fund shall consist of—

(a) grants made by Government;

(b) moneys collected through donations and other contributions;

(c) moneys received or collected under this Act, as fee;

(d) moneys received from the Federal Government, any International Agency or any other donor Agency; and

(e) income accruing from investments of the Fund.

(3) The Board may invest its funds in any security of the Federal Government or a Provincial Government or in any other security or manner approved by the Chairman.

(4) The Board may obtain loan from Government or any Bank on such terms and conditions as may be specified by Government.

Utilization
of Fund.

9. (1) The Board may utilize the Fund for—

(a) performance of its functions under this Act including salaries and other allowances to officers and employees of the Board;

(b) repayment of loans;

(c) giving financial aid to ^{Darul-Atfal} ~~orphanages~~; and

(d) other expenses required for carrying out the purpose of this Act.

(2) The Board may fix the limit upto which the Secretary shall have the power to draw from the Fund, hold in his custody and spend.

1. Subs. by Sind Ord. LXV of 1984, S.2.

10. (1) The Board shall prepare statement of estimated receipts and expenditure for every financial year and submit such statement to Government for approval not less than three months before commencement of such financial year. Budget.

(2) Government may sanction the budget submitted under sub-section (1) with or without modification as it may deem fit.

(3) The Board shall not, except with prior approval of Government, incur expenditure in excess of the sanctioned budget.

11. (1) The accounts of the Board shall be maintained and audited in such manner as may be prescribed. Accounts and Audit.

(2) A statement of the accounts duly audited under sub-section (1) shall be placed before the Board for its scrutiny and a copy of the statement shall be furnished to Government as soon as may be after the end of every financial year.

12. (1) Subject to general or special directions of Government, the Board shall— Functions of the Board.

- (a) formulate policy for institutional care of orphans throughout the Province;
- (b) determine the standard of care to be given to the orphans in such institutions;
- (c) advise the management of orphanages in running the ~~orphanages~~ ^{Darul-Atfal} on correct lines;
- (d) exercise supervision on the institutions and ensure that they conform to the standard of care set for them;
- (e) formulate and suggest to Government suitable legislation relating to orphans and recommend amendments in existing laws, if necessary;
- (f) review the system of registration of ^{Darul-Atfal} ~~orphanages~~ and suggest ways and means to streamline it;
- (g) do any other thing which is conducive to the improvement of ~~orphanages~~ ^{Darul-Atfal};
- (h) perform such other functions as may be assigned to it by Government.

(2) The Board may—

- (a) take such measures as may be necessary for carrying out the purposes of this Act;
- (b) incur any expenditure for carrying out the purposes of this Act.

1. Subs. by Sind Ord. LXVI of 1954, S. 2.

Prohibition to establish or continue an orphanage without a licence.

13. No ^{Darul-Atfal} orphanage shall continue or be established except in accordance with the provisions of this Act.

Application for licence.

14. (1) Any person or agency intending to establish ^{Darul-Atfal} an orphanage and any person or agency intending that ~~an orphanage~~ already in existence should be continued as such, shall, in the prescribed form and on payment of fee of rupees fifty, make an application to the Licensing Authority, indicating if the ^{Darul-Atfal} orphanage for which licence is required is for males or females and the application shall be accompanied by such documents as may be prescribed.

(2) The Licensing Authority may, on receipt of the application, make such enquiries as it considers necessary, and either grant the application, or for reasons to be recorded in writing, reject it.

(3) The Licensing Authority for grant of licence shall, amongst other things, consider that—

(i) the ^{Darul-Atfal} orphanage is suitable for accommodating orphans;

(ii) the applicant is capable of discharging the responsibilities in relation to the ^{Darul-Atfal} orphanage efficiently and in proper manner;

(iii) the ^{Darul-Atfal} orphanage is not likely to suffer for want of funds or such other difficulty; and

(iv) the ^{Darul-Atfal} orphanage meant for females has entirely female staff.

(4) If the Licensing Authority grants the application, it shall issue a licence to the applicant in the prescribed form.

(5) The Licensing Authority shall maintain a Register, containing such particulars as may be prescribed, of licences issued under sub-section (4).

Establishment and continuance of orphanage

15. (1) No ^{Darul-Atfal} orphanage shall run or be established unless a licence has been issued under sub-section (4) of section 14.

(2) An ^{Darul-Atfal} orphanage already in existence shall not be continued for more than six months from the date on which this Act comes into force, unless an application for a licence has, within thirty days of such date, been made under sub-section (1) of section 14.

(3) Where an application as aforesaid has been made in respect of an existing ^{Darul-Atfal} orphanage and such application is rejected, then, notwithstanding the period of three months provided in sub-section (2), the ^{Darul-Atfal} orphanage may be continued, for a period of thirty days from the date of which the application is rejected, or if an appeal is preferred under section 17, and the appellate authority has by an order in writing allowed the ^{Darul-Atfal} orphanage to continue, until decision of the appeal;

1. Subs. by Sindh Ord. LXVI of 1984, s. 2.

(4) Where a licence in respect of an existing ^{; Darul-Atfal} [orphanage] has not been granted the Board may pass such orders or take such action as may appear to it to be necessary.

16. A licence issued under section 14 shall be valid for a period of two years which may, on payment of fee of rupees twenty-five be renewed by the Licensing Authority for a further period not exceeding two years. Renewal of licence.

17. If the Licensing Authority rejects an application for issuing or renewing a licence, or suspends or cancels a licence issued under this Act, the aggrieved party may, within thirty days from the date of the order of the Licensing Authority, prefer an appeal to Government, and the order passed by Government shall be final and given effect to by the Licensing Authority[:]. Appeal.

Proviso added see slip 2.

18. There shall be separate ^{Darul-Atfal} [orphanages] for males and females, which may, if necessary, be allowed to run under the same management: Orphanages for males and females.

Provided that children below seven years of age may be allowed to remain by the Board in the same ^{Darul-Atfal} [orphanage].

19. (1) If at any time the Licensing Authority has reasons to believe that the management of an ^{Darul-Atfal} [orphanage] has been responsible for any irregularity in respect of its funds or any maladministration in the conduct of its affairs or has failed to comply with the provisions of this Act or the rules made thereunder or any term or condition of the licence, it may, after giving such opportunity to the management of being heard as it thinks fit, by order in writing, suspend or cancel the licence. Suspension or cancellation of licence.

(2) On the cancellation or suspension of a licence, the Board may make such orders and take such action with respect to the ^{Darul-Atfal} [orphanage] whose licence has been cancelled or suspended, as may appear to it to be necessary.

20. The licensee shall before the admission into the ^{Darul-Atfal} [orphanage], have every orphan medically examined by a registered doctor and thereafter at least once a year and maintain record of such medical examination in the prescribed form. Medical examination of orphans.

21. (1) The licensee shall, within seven days of the admission into, or discharge from an ^{Darul-Atfal} [orphanage], of an orphan, report to the Board the name and other particulars of such orphan, in the prescribed form. Admission and discharge of orphans.

(2) The Board may issue such directions regarding admission or discharge of an orphan as it may deem necessary and the licensee shall carry out such directions.

22. A licensee shall not permit any orphan admitted to an ^{Darul-Atfal} [orphanage] to beg for alms or solicit for donations or subscriptions in any manner. Prevention of begging.

1. Subs. by Sindh Ord. LXVI of 1984, S.2.
2. Proviso added by — ibid — , S.5.

Inspection of orphanage.

23. The Board may authorise any person to enter and inspect any [orphanage] with a view to satisfying himself that such [orphanage] is maintained in accordance with the provisions of this Act and conditions of the license issued thereunder, and the management of the [orphanage] shall afford him all facilities for carrying out a proper inspection:

Provided that no male person shall be authorised to enter and inspect the [orphanage] meant for females.

Maintenance and inspection of Accounts.

24. (1) The licensee shall maintain or cause to be maintained accounts of income and expenditure of the [orphanage] in the prescribed manner.

(2) The Board or any person authorised by it may inspect the accounts of an [orphanage] and issue such directions as it or he may deem necessary and the licensee shall carry out such directions.

(3) The licensee shall, whenever required, produce or cause to be produced record and accounts maintained by him before the Board or the Licensing Authority or his nominee.

Penalties.

25. (1) Whoever contravenes any provision of this Act shall be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) Where fine is imposed seventy-five percent of such fine shall be credited to the Fund.

Power to make rules.

26. (1) Subject to the provisions of this Act the Board may with previous approval of Government make rules, for carrying 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 procedure to be followed at the meetings of the Board;
- (b) the terms and conditions of service of the employees of the Board;
- (c) the powers and duties of the Chairman, Secretary and the Members of the Board;
- (d) the form of application for issue or renewal of licences;
- (e) the form and conditions on which licences may be issued;
- (f) the form of making reports of medical examination and admission of orphans.

1. Subs. by Sind Ord. LXVI of 1984, s.2.

27. The West Pakistan Control of Orphanages Act, 1958, in its application to the Province of Sind and the Control of Orphanages (Karachi Division) Ordinance, 1958, are hereby repealed. Repeal.

28. The Sind Orphanages (Supervision and Control) Ordinance, 1976, is hereby repealed. Repeal of
Sind Ordinance II of
1976.

By Order of the Speaker,
Provincial Assembly of Sind

JAMALUDDIN ABRO,
Secretary,
Provincial Assembly of Sind.

Ext. IV—19

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