

GOVERNMENT OF PUNJAB

Department of Legislative Affairs

**THE PUNJAB EX-SERVICEMEN
CORPORATION ACT, 1978**

(Punjab Act No. 33 of 1978)



THE PUNJAB EX-SERVICEMEN CORPORATION ACTS, 1978

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THE PUNJAB EX-SERVICEMEN CORPORATION ACT, 1978
Punjab Act No. 33 of 1978

[Received the assent of the President of India on the 10th October, 1978, and was first published for general information in the Punjab Government Gazette (Extraordinary), Legislative Supplement, dated the 13th, October, 1978]

An Act to provide for the establishment of the Punjab Ex-Servicemen Corporation.

Be it enacted by the Legislature of the State of Punjab in the Twenty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Punjab Ex-Servicemen Corporation Act, 1978.
(2) It shall be deemed to have come into force on the 10th day of August, 1978.
2. In this Act, unless there is anything repugnant in the subject or context,-
 - (a) "Agricultural Development" includes development of dairy, poultry, piggery, sheep and cattle breeding, pisciculture and sericulture;
 - (b) "Board" means the Board of Directors of the Corporation;
 - (c) "Chairman" means the Chairman of the Corporation;
 - (d) "Corporation" means the Punjab Ex-Servicemen Corporation;
 - (e) "Ex-serviceman" means a person who is ordinarily residing in the State of Punjab and has served in any rank, whether as combatant or noncombatant, in the Indian armed forces or armed forces of the former Indian States (but excluding the Assam Rifles, Defence Security Corps, General Reserve Engineering Force, Lok Sahayak Sena, Jammu and Kashmir Militia and Territorial Army) for a continuous period of not less than six months after attestation and has been released, otherwise than by way of dismissal or discharge on account of misconduct or inefficiency, and in the case of a deceased or incapacitated ex-serviceman includes his wife, children, father, mother, minor brother; widowed, daughter and widowed sister, wholly dependent upon such ex-serviceman immediately before his death or, incapacitation ;
 - (f) "Ex-Servicemen Organization" means a firm registered under the Partnership Act, 1932, an association registered under the Societies Registration Act, 1860, or a Co-Operative Society registered under the Punjab Co-operative Societies Act, 1961, all the partners or members, whereof, as the case may be, are ex-servicemen;
 - (g) "Government" means Government of the State of Punjab;

- (h) "Managing Director" means the Managing Director of the Corporation;
- (i) "Marketing" means all activities relating to the transport, grading, pooling, marketing and sale of agricultural or industrial produce, whether in the primary form or in semi-processed or processed form ;
- (j) "Prescribed" means prescribed by rules made under this Act ;
- (k) "Processing" means all activities relating to the processing of agricultural produce so as to make it marketable or fit for consumption and includes purchase and storage of raw material, purchase of equipment, and purchase, installation and running of machinery, required for processing and storage of finished produce ;
- (l) "Small Scale Industry" means a cottage and small-scale Industry and, includes industry engaged in fabrication, repairs and maintenance of agricultural machinery and equipment, in which capital investment does not exceed five lacs of rupees. [*] ¹
- (m) "Supply and Storage" means supply and storage of agriculture inputs and establishment, maintenance and running of storage, cold storages and warehouses [;and] ²
- (n) ["Vice Chairman" means the Vice –Chairman of the Corporation.] ³

CHAPTER II

INCORPORATION OF PUNJAB EX-SERVICEMEN CORPORATION AND ITS CAPITAL

3. (1) With effect from such date as the Government may by notification, appoint, there shall be established for the purpose of this Act a Ex-Servicemen Corporation to be known as the Punjab Ex-Servicemen Corporation.
- (2) The Corporation shall be a body corporate with the name aforesaid having perpetual, succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract, and may, by that name, sue and be sued.
4. (1) The Head office of the Corporation shall be at Chandigarh or at such other place as the Government may, by notification, specify.

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1. Omitted by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

2 & 3. Inserted by Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

(2) The Corporation may establish offices or agencies at such places as it may think fit.

5. The authorized capital of the Corporation shall be such sum not exceeding five crores of rupees as the Government may initially fix:

Provided that where the capital initially fixed is less than five crores of rupees, the Government may, from time to time, increase the capital to such sum not exceeding five crores of rupees as it may think fit.

CHAPTER III MANAGEMENT OF THE CORPORATION

6. The general superintendence, direction and management of the Affairs and the business of the Corporation shall vest in a Board of Directors which may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation-

7. (1) The Board of Directors shall consist of [the Chairman, the Vice-Chairman,]⁴ the Managing Director and the following other directors, namely:-

(a) The Secretary to Government in the department of Defence Service Welfare or his nominee, ex-officio;

(b) The Secretary to Government in the Finance Department or his nominee, ex-officio;

(c) The Secretary to Government in the Development Department or his nominee, ex-officio;

(d) The Director of Industries, Punjab, or his nominee, ex-officio;

(e) Director Sainik Welfare, Punjab.

(f) Four other directors to be nominated by the Government from amongst ex-servicemen.

(2) [The Chairman, the Vice Chairman shall be the persons who are Ex-servicemen and]⁵ were holding a class I post while in service and the Managing Director shall be a person who is or has been a Class I Officer of the state Government or Central Government and they shall be appointed by the Government on such terms and conditions, including salary and allowances, as may be prescribed.

(3) The terms and conditions of service, including salaries and allowances, of the directors referred to in clause (e) of sub-section (1) shall be such as may be prescribed.

(4) The Term of the office of [the Chairman, the Vice Chairman,]⁶ the Managing Director and the directors referred to in clause (e) of sub-section (1) shall be two years and they shall be eligible for re-appointment.

4&6. Substituted for "the Chairman" by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

5. Substituted for "The Chairman shall be a person who is an ex-serviceman and was" by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

(5) The circumstances under which [the Chairman, the Vice Chairman,]⁷ the Managing Director and the other directors referred to in clause (e) of sub-section (1) shall be removable during the term of their office shall be such as may be prescribed.

8. (1) A person shall be disqualified for being appointed or nominated or for continuing, as a director of the corporation—

(a) If he is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors ;

(b) If he is of unsound mind and stands so declared by a competent court;

(c) If he is or has been convicted of any offence which in the opinion of the Government involves moral turpitude;

(d) If he, having held any office under the state Government or Central Government, any local authority, any Government Company or any corporate body owned or controlled by the state Government or Central Government, has been removed or dismissed from services ; or

(e) If he has been removed by the Government.

(2) If a director become subject to any disqualification specified in sub section (1), his seat shall thereupon become vacant.

9. (1) The Managing Director who shall be a whole-time officer of the corporation shall –

(a) Be its Chief Executive Officer;

(b) Be responsible for the operational management of the corporation and implementation of the general policies approved by the Corporation;

(c) Perform such duties as the Corporation may, by regulations or otherwise, assign to him.

(2) If the Managing Director is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise, in circumstances not involving the vacation of his appointment, the Government may appoint another person to act in his place during his absence.

7. Substituted for "the Chairman" by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

10. The Corporation may appoint such officers and employees as it may consider necessary for the efficient performance of its functions and determine, with the prior approval of the Government, the terms and conditions of their services.

11. Subject to the rules made in the behalf, the board may, from time to time, appoint one or more Committee for the purpose of securing the efficient discharge of its functions.

12. (1) The Board or any committee appointed by it shall meet at such times and places and shall observe such rules of procedure in regards to the transaction of business at its meetings as may be provided by the regulations made by the corporation under this act.

(2) [If for any reason, the Chairman is unable to attend any meeting of the board, the Vice Chairman, and in his absence, any other director, elected by the directors present at the meeting shall preside at the meeting.]⁸

(3) Five Directors shall form a quorum for the meetings of the board: Provided that no quorum shall be necessary for adjourned meetings.

(4) All questions which come up before any meeting of the board shall be decided by a majority of votes of the directors present and voting and in the event of an equality of votes, the Chairman, or in his absence, the director presiding, shall have and exercise a second or casting vote.

13. The Board may, by a general or special order, delegate to [the Chairman, the Vice Chairman]⁹ or the Managing Director or any Committee appointed by it or any other officer or employee of the Corporation, subject to such conditions and limitations, if any, as may be specified, such of its powers and duties under this act, except the power to make regulations, as it may deem necessary.

14. (1) [The Chairman, the Vice Chairman]¹⁰ or the Managing Director or any director referred to in clause (e) if sub-section (1) of section 7 may, at any time, resign his office by giving a notice in writing to the Government and on such resignation being accepted he shall be deemed to have vacated his office.

(2) If the office of [the Chairman, the Vice Chairman]¹¹ or the Managing Director or any director referred to in clause (e) of Sub-section (1) of Section 7 falls vacant by the reason of his death, resignation or otherwise the vacancy shall be filled by the government by appointment or nomination, as the case may be.

8. Substituted for "If for any reason, The Chairman is unable to attend any meeting of the board, the Vice Chairman, and in his absence, any other director, elected by the directors present at the meeting shall preside at the meeting" by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

9, 10 & 11. Substituted for "the Chairman" by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

CHAPTER –IV

FUNCTIONS AND FUND OF THE CORPORATION

15. (1) Subject to the provisions of this Act, the function of the Corporation may shall be to provide for the welfare and economic uplift of the ex-servicemen in the State.
- (2) Without prejudice to the generality of the foregoing provisions, the Corporation may take such steps as it may think necessary-
- (i) To plan, promote and undertake, on its own or in collaboration with or through such ex-servicemen organisations or other agencies as may be approved by the Corporation programmes of agricultural development, marketing, processing, supply and storage of agricultural produce, small-scale industry, building construction, transport and such other business, trade or activity as may be approved in this behalf by the Government.
 - (ii) To provide financial assistance to ex-servicemen or their organisations by advancing to them in cash or in kind loans including loans under hire-purchase system for any of the purposes specified in clause (i) either directly or through such agency, organization or institution as may be approved by it.
 - (iii) To give on hire agricultural or industrial machinery or equipment to ex-servicemen or their organisations.
 - (iv) To give grants and subsidies to, and to guarantee loans taken by, the ex-servicemen or their organisations.
 - (v) To discharge such other functions as may be prescribed or as are supplemental, incidental or consequential to any of the functions conferred on it under this Act.
- (3) In discharging its functions, the Corporation shall have due regard to public interest, its solvency and welfare of ex-servicemen.
16. (1) For the purpose of carrying out its functions under this-Act, the Corporation may-
- (a) Be provided with capital by the Government on such terms and conditions as the Government may specify, or by any person or association of persons interested in or dealing with the welfare of ex-servicemen on such terms and conditions as may be mutually agreed upon between the Corporation and such person or association of persons.
 - (b) With the previous approval of, and subject to the directions of the Government, borrow money from any Bank or other financial institution or any other authority or organisation.

(c) Issue bonds and debentures or draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, hundies, bill, warrants, debentures and other negotiable instruments.

(d) The Government may guarantee the repayment of the moneys borrowed by the Corporation under sub-section (1) and the payment of interest thereon.

17. (1) The Corporation shall maintain a fund called the ex-servicemen Corporation Fund (hereinafter referred to as the Fund) to which shall be credited-

(a) All moneys received by it from the Government or any person or association of persons interested in or dealing with the welfare of ex-servicemen.

(b) Such sums of money as may, from time to time, be realized by way of repayment of loans made from the Fund or from interest on loans.

(c) All moneys borrowed under section 16; and

(d) All moneys received by it from any other source.

(2) The moneys in the Fund shall be applied by the Corporation for carrying out its functions under this Act.

(3) All moneys in the Fund shall be deposited in a Bank for the time being included in the Second Schedule, to the Reserve Bank of India Act, 1934, or in a Government Treasury, as may be decided by the Corporation.

Provided that the Corporation may invest or deposit its surplus funds in the government securities or in such other manner as it may decide.

CHAPTER V LOANS

18. In making any loan authorized by this Act, the Corporation may impose such conditions as it may think necessary or expedient for protecting the interests of the Corporation.

Provided that interest on such loans shall be chargeable at such concessional rates as may, from time to time, be fixed by the Corporation with the prior approval of the Government.

19. Notwithstanding anything to the contrary contained in any agreement, the Corporation may, by notice in writing, require any debtor to discharge forthwith in full his liabilities to the Corporation-

(a) If it appears to the Corporation that any false or misleading information or particular was given in the application for loan.

(b) If the debtor has failed to comply with any of the terms of the agreement entered into by him with the Corporation.

(c) If there is a reasonable apprehension that the debtor is unable to pay the money due from him; or

(d) If for any other reason it is necessary to do so to protect the interests of the Corporation.

20. (1) Where any amount is due to the Corporation from any person, including the surety of a debtor, in respect of loans or advances or other financial accommodation granted by it, such amount shall, on a certificate being granted by the Managing Director in the prescribed form, be recoverable as arrears of land revenue by the Collector of the district in which the person from whom the amount is due resides or carries on business or owns any property.

(2) Before issuing the certificate referred to in sub-section (1) the Managing Director shall make an application to such officer, unconnected with the business of the Corporation, as may be empowered by the Government in this behalf and that officer shall by an order determine the amount due to the Corporation after giving an opportunity of being heard to the person concerned and communicate the same to the Managing Director.

(3) The officer empowered under sub-section (2) shall follow such procedure as may be prescribed.

(4) The certificate issued by the Managing director under subsection (1) shall be final and conclusive and shall not be called in question before any authority or court.

(5) For the purpose of recovering any amount due to the Corporation in respect of loan it shall not be necessary to proceed against the principal before proceeding against his surety.

21. Notwithstanding anything, contained in any law for the time being in force, but subject to the provisions relating to priority of charges in any law made by Parliament and to any prior charge of the prescribed financing institutions or any prior claim of the Government in respect, of land revenue or any money recoverable by it as arrears of land revenue a loan advanced by the Corporation under this Act together with interest accrued thereon and costs of its recovery, shall be first charge on the property of the debtor.

CHAPTER VI

ACCOUNTS AND AUDIT

22. (1) The balance-sheet and accounts including the profit and loss Account of the Corporation shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Corporation shall cause its books and accounts to be balanced and closed on the thirty-first day of March each year.

23. (1) The accounts of the Corporation shall be audited once in every financial year, by auditors duly qualified to act as auditors under subsection (1) of section 226 of the Companies Act, 1956, who shall be appointed by the Corporation and shall receive such remuneration from the Corporation as it may fix.

(2) The auditor shall be supplied with a copy of the annual balance sheet and the profit and loss account of the Corporation and it shall be their duty to examine them together with the accounts and vouchers relating thereto, and they shall have a list delivered to them of all books kept by the Corporation and shall all reasonable time have access to the books, accounts and other documents of the Corporation and may require from any officer of the Corporation such information as the auditors may think necessary for the performance of their duties as auditors.

(3) The auditors shall make a report to the Corporation upon the annual balance sheet and accounts examined by them and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance sheet containing all necessary particulars and

properly drawn up so as to exhibit a true and fair view of the state of affairs of the Corporation.

(4) The Corporation shall furnish to the Government, within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditor's report, and a report on the working of the Corporation during the relevant year.

(5) Without prejudice to anything contained the preceding subsections, the Government may, at any time, appoint any other authority to examine and report upon the accounts of the Corporation and any expenditure incurred in connection with such examination and report shall be payable by the Corporation to such authority.

(6) Copies of the reports referred to in sub-sections (4) and (5) shall be laid by the Government, as soon as may be before the State Legislatures.

CHAPTER VII

MISCELLANEOUS

24. No provision of law other than this Act, relating to the winding up dissolution or liquidation of the companies or corporations shall apply to the Corporation.

25. A director who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or a Committee thereof shall, as soon as possible, after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and the disclosure shall be recorded in the minutes of the Board or the Committee, as the case may be, and the director shall not take any part in any deliberation or decision of the Board or the Committee with respect to that matter.

26. Save as otherwise expressly provided in this Act, no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Corporation or any officer or authority appointed under this Act is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

27. No suit or other legal proceedings shall lie against the Corporation or any director or any officer or employee or any other person authorized by the Board to discharge any functions under this Act for any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act.

28. (1) Every director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties except such as are caused by his own willful act or default.

(2) A director shall not be responsible for any other director, or for any officer or other employee of the Corporation or for any loss or expenses resulting to the corporation from the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Corporation in good faith, or by the insolvency or wrongful act of any debtor or any person under obligation to the Corporation, or anything done in good faith, in the execution of the duties of his office or in relation thereto.

29. All documents executed by or on behalf of the Corporation in the course of discharge of its functions under this Act shall be exempt from payment of stamp duty and registration fee;

Provided that exemption from payment of stamp duty shall apply to those documents in relation to rates of stamp duty whereof the State legislature is competent to legislate.

30. The corporation shall carry out such directions as may, from time to time, be issued to it by the Government for the efficient administration of this Act.

31. (1) The Corporation may, with the previous approval of the Government, make regulations not inconsistent with this Act and the rules framed there under to provide for all matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such regulations may provide for-

- (a) The duties which [the Chairman, the Vice Chairman]¹² and the Managing Director shall perform.
- (b) The time and places of meetings of the Board and the Committees appointed by it and the procedure to be followed in relation to such meetings.
- (c) The conditions which may be imposed and the procedure which may be followed in granting loans or entering into other arrangement by the Corporation
- (d) The duties and ` conduct of the officers and other employees of the Corporation.
- (e) The establishment and maintenance of provident fund and other benefit funds for the officers and other employees of the Corporation; and
- (f) Generally, the efficient conduct of the affairs of the Corporation.

(3) No regulations made under this Act shall have effect until they are published in the Official Gazette.

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12. Substituted for "the Chairman" by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

32. (1) The Government may, by notification, make rules to carry out all or any of 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 terms and conditions of appointment, including salary and allowances, of [the Chairman, the Vice Chairman]¹³ and the Managing Director;
- (b) The terms and conditions of appointment, including salary and allowances, of the directors referred to in clause (e) of sub-section(1) of section 7:

(c) The circumstances under which [the Chairman, the Vice Chairman]¹⁴ or the Managing Director or a director referred to in clause (e) of sub-section (I) of section 7 shall be removable during the term of his office;

(d) Other functions which the Corporation may discharge in addition to those mentioned in sub-section 15;

(e) The form in which the certificate shall be granted by the Managing Director and the procedure that shall be observed for determining the amount;

(f) The financing institutions for the purposes of priority of charge under section 21;

(g) The form and manner in which accounts shall be maintained and the balance sheet and profit and loss account shall be prepared and;

(h) Any other matter which is required to be or may be prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before the House of State Legislature while it is in session for a total period of ten days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the successive sessions aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

33. (1) The Punjab Ex-Servicemen Corporation Ordinance, 1978 (Punjab Ordinance No.15 of 1978), is hereby repealed.

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13 & 14. Substituted for "the Chairman" by the Punjab Ex-Servicemen Corporation (amendment) Act, 2012 w.e.f. 20th August 2010.

(2) Notwithstanding such repeal anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.