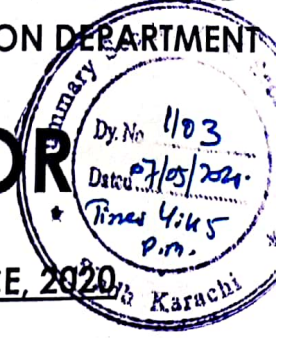


GOVERNMENT OF SINDH
LAW, PARLIAMENTARY AFFAIRS AND
CRIMINAL PROSECUTION DEPARTMENT



SUMMARY FOR GOVERNOR

SUBJECT: THE SINDH COVID-19 EMERGENCY RELIEF ORDINANCE, 2020

Chief Minister may kindly refer to the subject noted above.

2. The draft Sindh Covid-19 Emergency Relief Ordinance, 2020 was placed before the Cabinet vide Agenda Item No. 6 (**Annexure-A**). The Cabinet has considered the same and approved it in its meeting held on 27th April, 2020.

3. The subject matter of the draft Ordinance (**Annexure-B**) falls within the provincial legislative field and the Governor is competent to promulgate it under Article 128 of the Constitution.

4. Chief Minister may kindly advise the Governor to sign two copies of the draft Ordinance (**Annexure-B**) and promulgate the same.

U.O No. S. Legis 3(01)/2020/
dated 27th April 2020.

Office of P.S.G.
Diary No. 789
Date 29.04.2020

(DR. MANSOOR ABBAS RIZVI)
LAW SECRETARY

[Signature]
27/04/2020

ADVISOR TO CHIEF MINISTER FOR LAW,
ENVIRONMENT, CLIMATE CHANGE AND COASTAL DEVELOPMENT
(WITH STATUS OF MINISTER)

[Signature]

SUMMARY SECTION
C.M.S/OUTWARD No. 1008
DATE: 29.04.2020

RECEIVED IN CS HOUSE
DATED 28/4/20

6. CHIEF SECRETARY

[Signature]
28/4/20

7. CHIEF MINISTER

As at para 4.

[Signature]

8. GOVERNOR

28/4/2020



P.T.O.

PS TO CS DIND
20
DATED 28/4/2020

Subject: THE SINDH (COVID-19) EMERGENCY RELIEF ORDINANCE, 2020

8. Reference Section 3(2)(c) of the captioned instrument, which reads as follows:-

(c) all the utility providers falling within the territorial jurisdiction of Government shall provide concession as per Schedule-II in the utility services to all the domestic, residential and commercial consumers;

9. In Schedule II of the proposed draft which relates to section 3(2)(c), certain charges for electricity, water and gas have been prescribed.

10. Attention is invited to Entry 4 of Part II to Fourth Schedule of the Constitution, which enumerates the subject "Electricity". As you are well aware that the Fourth Schedule to the Constitution lays down the Federal Legislative List i.e. the subjects on which the Federal Legislature has the exclusive power, authority and jurisdiction to legislate [see Articles 70(4) and 142 of the Constitution]. It is needless to add that Part II of the Fourth Schedule enumerates subjects which fall in respect of which the Council of Common Interests is competent to formulate and regulate policies [see Article 154(1) of the Constitution]. Again, the latter is subject to the caveat that the legislative power in respect of subjects falling under Part II of the Fourth Schedule exclusively vests in the Federal Legislature [see the decision of the Hon'ble Supreme Court in PMDC v. M. Fahad Malik 2018 SCMR 1956].

11. One is mindful of two judgments of the learned Lahore High Court, which are reported as Flying Cement v. FOP 2015 PTD 1945 and NEPRA v. Faisal Electric Supply Company PLD 2015 Lahore 661. According to which electricity tariff is to be determined by NEPRA under the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, which is admittedly a federal statute.

12. At this juncture one may refer to Article 157(2)(d) of the Constitution which provides that the Government of a Province may determine the tariff for distribution of electricity within the Province. This provision is in respect of electricity which is supplied to

the Provinces from the national grid, requiring supply to be made in bulk for transmission and distribution within the Province [see Article 157(2)(a) of the Constitution]. Therefore, Article 157(2)(d) of the Constitution is not in relation to any utility bill pertaining to electricity.

13. Thus, one cannot see as to how an Ordinance of the Province of Sindh could be promulgated in relation of utility bills of electricity, which does not fall within the legislative domain of the Provinces.

14. Similarly, Entry 2 of Part II of the Fourth Schedule to the Constitution enumerates "natural gas" as a subject. In Zafar Iqbal Jhagra v. FOP PLD 2013 SC 224, the Hon'ble Supreme Court has spelt out that gas tariff is to be determined in terms of the mechanism provided by the Oil and Gas Regulatory Authority Ordinance, 2002, which is admittedly a federal statute, and for such purpose the Oil and Gas Regulatory Authority has to take relevant steps prescribed under the law and rules.

15. Therefore, once again one cannot see as to how an Ordinance of the Province of Sindh could tinker with utility bills of gas.


16. May I stress that the Federal Government has taken extensive steps so as to ease the situation for the people throughout the country so also for the Province Sindh, equitably. In this regard you may kindly underscore the following steps taken up by the Federal Government for the Province of Sindh:-

- (a) about 45,000 industrial and 700,000 commercial users of electricity have already been given relief;
- (b) a similar relief has been given to small scale businesses in relation to electricity;
- (c) extension of relief through utility stores;
- (d) re-payment of loans through deferred schemes announced by the State Bank of Pakistan;

- (e) extension of relief to small traders and industrialists for payment of salaries and wages;
- (f) till date Rs.28.3 billion has been disbursed through the Ehsaas Cash Emergency Program in Sindh amongst 2,342,303 beneficiaries;
- (g) the Federal Government has provided the Sindh Government 504,447 face masks, 290,986 surgical masks, 30,142 N-95 masks, 203,840 KN-95 masks, 148,334 protective gears, 77,992 testing kits, 200 thermal guns, 25,000 VTM and PCR machines;
- (h) numerous hand sanitizers, hand washes, soaps, chemical sprays, bio hazard bags, safety boxes and body bags have also been provided by the Federal Government to the Sindh Government;

17. Last but not the least, kindly appreciate that as each day passes the Federal Government improvises to provide tangible relief and extend beneficial policies to the people of Pakistan, including the Province of Sindh. It is the exclusive jurisdiction of the Federal Government to provide relief in respect of electricity and gas bills, which it has already undertaken. As a continuing process, the Federal Government will be providing relief to all, including Sindh, without any fear, favour or discrimination.

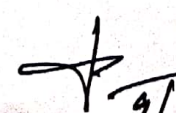
18. Therefore in light of the foregoing, I hereby return this Summary seeking assent of the undersigned to the captioned Ordinance to reconsider your advice and re-trace your steps, in consonance of the law and Constitution.



 07.05.20
 (IMRAN ISMAIL)
 Governor Sindh

~~CHIEF MINISTER~~

19.

Please get views of Law department.

C/S 
 9/5/20
 Secretary Law


 9/5/2020

(Next Page)

P.S to Law Secretary
 Diary No 3687
 Dated: 09-05-2020

PS TO CS DINO. 2127.....
 18
 DATED 09/5/2020



SUMMARY FOR GOVERNOR

(5)

Re-submitted:-

21. Governor may kindly refer to his observations contained at paras 8 to 18.

22. With reference to para-19, the Law Department has examined the observations of the Governor at length and submitted its views contained in the summary which were endorsed by the Advisor to Chief Minister for Law vide para-13 (**Annexure-C**). Law Department proposed for taking into consideration the observations of the Governor by the Cabinet vide para-10 of the said summary. The Chief Minister was pleased to pass the following orders at para-15 of the said summary:-

"15. Endorsement at para-14 is approved. This may be circulated to Cabinet Members for their views / approval."

23. Accordingly, the matter was placed before the Cabinet Members by circulation alongwith the revised draft Ordinance wherein the definition of "utility providers" was omitted, slight amendment made in section 3(2)(c) and deleted the entries relating to "electricity" and "gas" in Schedule-II. The Cabinet has taken the following decision (**Annexure-D**)

"The Cabinet after due deliberations and consideration the observations of the Governor on the proposed Ordinance approved the revised draft Ordinance titled "the Sindh Covid-19 Emergency Relief Ordinance, 2020" by way of circulation."

24. In view of the decision of the Cabinet, the Hon'ble Chief Minister may kindly advise the Governor to act in accordance with proviso to clause (1) of Article 105 of the Constitution and sign two copies of the revised draft Ordinance (**Annexure-E**) and promulgate it.

(DR. MANSOOR ABBAS RIZVI)
LAW SECRETARY

25. ADVISOR TO CHIEF MINISTER FOR LAW,
ENVIRONMENT, CLIMATE CHANGE AND COASTAL DEVELOPMENT
(WITH STATUS OF MINISTER)

26. CHIEF SECRETARY

27. CHIEF MINISTER

GOVERNOR

The Honourable Governor is requested to approve the

SUMMARY SECTION

C.M.S/OUTWARD No.....
DATE.....

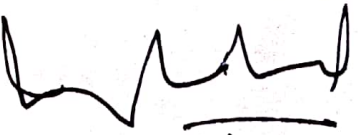
PS TO CS DINO. 2/177
20
DATED 12/15/2020

U.O. No. S. Legis. 3 (01) / 2020 / 189
Dated the 12th May, 2020.

revised Ordinance for promulgation. The references to Electricity and Gas have been taken out and we will be writing to the federal government to provide this relief to the people without prejudice to our views.

28. Although the proviso in Article 105(1) stipulates a period of 10 days to act in accordance with advice tendered for reconsideration, I request that in order to give immediate relief the Ordinance be approved for promulgation as soon as possible.

29. Request approval of para^s 28~~28~~^{27 & 28}


12/18/2020

Governor, Sindh

SUMMARY SECTION
C.M.S./OUTWARD No. 1109
DATE 12.05.2020

AN ORDINANCE

to provide relief to the people of Sindh in an emergency situation arising due to widespread pandemic of Corona Virus (Covid-19) disease, which has badly hit, hurt or affected the population of the province, directly or indirectly by the measures adopted or taken by Government to stop the spread of the disease for the general welfare of the public and to mitigate challenges emanating from the ban/lockdown imposed by the Government of Sindh throughout the Province.

WHEREAS it is expedient to provide relief to the people of Sindh in an emergency situation arising due to widespread pandemic of Corona Virus (Covid-19) disease, which has badly hit, hurt or affected the population of the province, directly or indirectly by the measures adopted or taken by Government to stop the spread of the disease for the general welfare of the public and to mitigate challenges emanating from the ban/lockdown imposed by the Government of Sindh throughout the Province.

Preamble.

AND WHEREAS the Sindh Assembly is not in session and the Governor is satisfied that the circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, 1973, the Governor is pleased to make and promulgate the following Ordinance:

1. (1) The Ordinance may be called the Sindh Covid-19 Emergency Relief Ordinance, 2020

**Short title,
extent and
commencement.**

(2) It shall extend to the whole of the Province of Sindh.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 1st of April, 2020.

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

Definitions.

(a) "educational institution" means any preschool, elementary or secondary school, college, university, higher educational institute, madaris or any vocational, commercial, professional whether in public or private sector providing formal or non-formal education;

(b) "employee" means a person not falling within the definition of employer who is employed in an establishment for hire or reward either directly or through a contractor whether the terms of employment are express or implied and includes a worker for wages;

- (c) "employer" means the owner of an establishment and also includes any person or body of persons, whether incorporated or not, who or which hires employees in the establishment under a contract of employment and includes –
- (i) a successor, heir, or assignee, as the case may be, of such person or body as aforesaid;
 - (ii) any person responsible for the management and control of the establishment;
 - (iii) in relation to an establishment run by or under the authority of any department of the Government, the authority appointed in this behalf or, where no authority is so appointed, the Head of the department;
 - (iv) in relation to an establishment run by or on behalf of a local authority, the officer appointed in this behalf, or where no officer is so appointed, the chief executive officer of that authority;
- (d) "establishment" means any office, firm, factory, society, undertaking, industry, company of all types, educational institution, shop, restaurant, corporation or any other enterprise, which hire employees directly or through a contractor for the purpose of carrying on any business or industry and includes all its departments and branches in the Province of Sindh;
- (e) "Government" means the Government of Sindh;
- (f) "Landlord" means the owner of the premises and includes a person who is for the time being authorized or entitled to receive rent of the premises;
- (g) "premises" means a building or land, let out on rent, but does not include a hotel;
- (h) "prescribed manner" means the manner as may be notified by Government in which the suspended amount shall be recovered by the relevant person (s) or entities;
- (i) "prescribed period" means the period commencing from 1st of April, 2020, continuing to the date on which the Government, by notification in the official gazette, declares as having come to an end;
- (j) "Schedule" means the Schedule to this Ordinance;
- (k) "tenant" means any person who undertakes or is bound to pay rent as consideration for the possession or

occupation of any premises by him or by any other person on his behalf and includes –

- (i) any person who continues to be in possession or occupation of the premises after the termination of his tenancy;
- (ii) heirs of the tenant in possession or occupation of the premises after the death of the tenant.

3. (1) For carrying out the purposes of this Ordinance, the reliefs under sub-section (2) shall be provided to the affected people of the Province of Sindh. **Reliefs.**

(2) That during the prescribed period –

- (a) no educational institution shall charge more than eighty percent (80%) of the total monthly fees. The relief amount, reduced equivalent to twenty percent (20%), under this Ordinance, shall not be recovered as arrears under any circumstances or under any existing or new head of account:

Provided that in addition, no student shall be placed at any disadvantageous position in terms of fee which he or she was paying before the promulgation of this Ordinance;

- (b) no employee or worker shall be laid off, terminated or removed and the employee shall be paid salary by the employer during the closure of an establishment as indicated in Schedule-I;

Provided that this Ordinance shall not prevent an employer from paying the full salary of the employee if he chooses to:

Provided further that the period of closure of an establishment may be considered by the employer as paid leave;

- (c) the relief shall be provided to all residential consumers in the monthly bills of water and sewerage as per Schedule-II;
- (d) the landlord shall defer or suspend the recovery of the fifty percent of the total rent of the premises:

Provided that the same shall not apply in cases where the owner is a widow, differently abled person or senior citizen as defined in the Sindh Senior Citizen Act, 2014;

Provided further that there shall be no bar if the tenant chooses to pay the full monthly rent to the landlord;

- (e) the Government may provide exemption in the provincial taxes, duties, fees, cess, levies and charges in a manner as notified by Government;
- (f) the Non-governmental Organization (NGO) registered with the departments of Government, shall, within fifteen days from the date of commencement of this Ordinance, provide the data to the departments with which they are registered, the details of the relief activities being undertaken by them across the Province of Sindh for mitigating COVID-19 pandemic;
- (g) any other relief as may be notified by Government in the official gazette.

(3) The reliefs provided under sub-section (2) shall be for the prescribed period as may be notified by Government.

(4) The recovery of the suspended amount as mentioned in sub-section (2) shall be made by the concerned person(s) or entities in the prescribed manner.

(5) Government shall adopt the measures for prevention of price hiking or hoarding of essential commodities through the officer authorized under section 11.

4. (1) Whoever contravenes the provisions of section 3, without prejudice to any punishment to which he may be liable under any other law for the time being in force, shall be punishable with on spot fine which may extend upto rupees one million or seizure of movable or immovable property or both, on a complaint made by an officer, official or any aggrieved person in writing to an officer authorized under section 11.

Penalty.

Provided that the order of imposing the penalty shall be in writing containing reasons for the issuance of the order thereof.

(2) In case of non-payment of fine, the same shall be recovered as arrears of land revenue under the Sindh Land Revenue Act, 1967 (Act No.XVII of 1967).

5. Where, by any law, rule, regulation, order, contract or otherwise, any act or proceeding is directed or required to be done or undertaken in any court or office or any legal, regulatory, contractual or other obligation, by any person in the Province, that act, proceeding or obligation shall be considered as done or undertaken in due time if it is done or undertaken thirty working days after the prescribed period, and the period to do or

Extension of period to perform duties, etc.

undertake such act, proceeding or obligation shall be deemed to be extended by such period.

6. The provisions of this Ordinance shall have effect **Overriding effect.** notwithstanding anything to the contrary contained in any laws, rules, regulations, judgments or anything otherwise for the time being in force.

7. Government may make rules for carrying out the purpose of this Ordinance. **Power to make rules.**

8. No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Ordinance. **Indemnity.**

9. If any difficulty arises in giving effect to any provision of this Ordinance, the Chief Minister may make such order, not inconsistent with the provisions of this Ordinance, as may appear to him to be necessary for the purpose of removing such difficulty. **Removal of difficulty.**

10. Chief Minister may, by notification in the official gazette, amend any of the Schedules by modification, addition or omission any entry therein or therefrom. **Amendment of Schedule.**

11. Government may, by notification in the official gazette, authorize Departments, attached departments, or any officer or authority to perform such functions and exercise such powers under this Ordinance. **Authorization.**

12. Notwithstanding anything contained in this Ordinance, or any law for the time being in force, or any judgment, decree or order of any court, the notifications, orders, circulars, issued, powers conferred, assumed or exercised by any person or authority or forum between the 20th March 2020 and the date this Ordinance comes into force (both days inclusive) in connection with Covid-19 Pandemic, shall be deemed to have been validly initiated, conducted, done, taken, passed, made, issued, conferred, assumed or exercised under this Ordinance and shall have effect accordingly and shall be deemed to have been validly issued or passed under this Ordinance. **Validity.**

(IMRAN ISMAIL)
GOVERNOR OF SINDH

Karachi,

Dated the April, 2020

Schedule-II
(See section 3(2)(c))

Monthly Consumption of Water

Serial No.	Area per Sq. yds (House/Portion)	Waiver in Monthly Bill for prescribed period.
1	House upto 80 sq.yds.	No amount of Bill to be paid
2	81-160 sq. yds.	25% amount of the Bill to be paid
3	161-240 sq.yds.	50% amount of the Bill to be paid
4	Above 240 sq.yds.	100% amount of the Bill to be paid

Serial No.	Area per Sq. ft (Flat/Apartment)	Waiver for prescribed period.
1	Flat up to 800 Sq. ft	No amount of Bill to be paid
2	800 to 1000 Sq ft	25% amount of the Bill to be paid
3	1000 – 1200 Sq. ft	50% amount of the Bill to be paid
4	Above 1200 Sq.ft.	100% amount of the Bill to be paid