



Securities and Exchange Commission of Pakistan  
*Enforcement and Monitoring Division*

[Islamabad]

*Before Rashid Sadiq, Executive Director*

## Order

*In the matter of*

**M/S MACDONALD LAYTON & COMPANY LIMITED**

(Order under Sub-section (4) of Section 158 and Sub-section (3) of section 245 of the  
Companies Ordinance, 1984)

Number and date of notice	EMD/233/554/2002/ dated March 05, 2003
Date of hearing	May 06, 2003
Present	Brig. (Retd.) N. Humayun Chief Executive/Chairman Maj. Gen. (Retd.) Shafqat Ahmed Executive Director
Date of Order	June 27, 2003

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This Order shall dispose of the proceedings initiated against M/S MacDonald Layton & Company Limited (hereinafter referred to as the “Company”) and its directors for default in complying with the provisions of Sub-section (1) of Section 158 of the Companies Ordinance, 1984 (the “Ordinance”).

2. The brief facts of the case are that the financial year of the Company starts on July 01 and ends on June 30. As per the requirements of the provisions of Sub-section (1) of Section 158 of the Companies Ordinance, 1984 (the “Ordinance”) the Company was required to hold its annual general meeting for the calendar year 2002 by December 31, 2002 i.e. within six month of the close of the financial year ending June 30, 2002. The failure of the Company to



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comply with the aforesaid mandatory requirements necessitated action against the Company and its directors as provided under the Ordinance.

3. A notice dated March 05, 2003 was issued to the Company, its Chief Executive and directors calling upon them to show cause as to why penalties as provided under Clause (a) of Sub-section (4) of Section 158 may not be imposed upon them for making default in complying with the mandatory requirements of Sub-section (1) of Section 158 of the Ordinance. In order to give opportunity to the Company and its directors for personal hearing, the case was fixed for April 30, 2003, which was cancelled at the request of the company and was re-fixed on May 06, 2003, and on which date Brig. (R) N. Humayun, chief executive/chairman and Maj. Gen. (R) Shafqat Ahmed, director appeared and pleaded the case.

4. In the written submissions in response to the show cause notice and at the time of the hearing it was contended that due to financial crunch, the company was not in a position to get the accounts audited and to hold the annual general meeting. It was further stated that a dispute between the Company and the financial institution has been going on since the last eighteen year and since that time the expenses have been met from sale of replaceable assets, recoveries from debtors and personal sources of the directors who in turn have not been paid for the last six years for their services. It was stated that financial position of the company was such that it was not even able to pay the fee to the auditors. The auditors have withheld their report, therefore, the audited accounts cannot be laid before the shareholders resulting in delay in holding of AGM. They requested that the default may be condoned keeping in view the company's financial position and its past performance with regards to compliance with the statutory requirements.



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5. I have given careful consideration to the arguments advanced for delay in holding of AGM within the mandatory time period, however, none of them justify the delay in holding of AGM. Furthermore, the respondents could not submit any document/arguments from which it could be evidenced that they have done earnest efforts to avoid this default. I am, therefore, constrained to believe that the Company and its directors including the Chief Executive have willfully and deliberately committed the default in holding of annual general meeting.

6. In view of the foregoing I, hereby, impose a fine of Rs 20,000/- (Rupees twenty thousand only) on the Chief Executive of the Company only for default of the provisions of Section 158 of the Ordinance. However, in consideration of the fact that the Company is now making efforts to hold its overdue AGM and has also filed an application under Section 170 of the Ordinance for direction to this effect, I am inclined to take a lenient view and therefore do not impose any fine on the directors nor impose per day fine as provided in law for continuous default.

7. The Chief Executive of the Company is hereby directed to deposit the fine amounting to Rs 20,000/- (Twenty thousand only) in the bank account of the Commission within 30 days of the receipt of this order and submit a copy of the receipted challan to the Commission.

***Rashid Sadiq***

Executive Director (Enforcement and Monitoring)

**Announced**  
June 27, 2003  
ISLAMABAD