

THE KAGHAN DEVELOPMENT AUTHORITY ACT, 1996.

(¹[KHYBER PAKHTUNKHWA] ACT NO. VIII OF 1996)

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THE KAGHAN DEVELOPMENT AUTHORITY ACT, 1996.

(²[KHYBER PAKHTUNKHWA] ACT NO. VIII OF 1996)

[First published after having received the assent of the Governor of the ³[Khyber Pakhtunkhwa] in the Gazette of ⁴[Khyber Pakhtunkhwa] (Extraordinary), dated the 28th July, 1996]

**AN
ACT**

to provide for the establishment of the Kaghan Development Authority.

Preamble.---WHEREAS it is expedient to establish an Authority for the development of Kaghan and other regions of Hazara Division; it is hereby enacted as follows:

**CHAPTER-I
PRELIMINARY**

1. Short title, extent and commencement.---(1) This act may be called the Kaghan Development Authority Act, 1996.

(2) It shall extend to such areas of Kaghan and other regions of Hazara Division as Government may, from time to time, by notification in the official gazette, specify.

(3) It shall come into force at once.

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

- (a) "Authority" means the Kaghan Development Authority established under section 3;
- (b) "area" means the area of the jurisdiction of the Authority as notified from time to time;
- (c) "Chairman" means the Chairman of the Authority;
- (d) "Director-General" means the Director General of the Authority;
- (e) "Government" means the Government of the ⁵[Khyber Pakhtunkhwa];
- (f) "Government Agency" includes—

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (i) a division, department, bureau, section, commission, board, office, or unit of Government;
 - (ii) a Local Council; and
 - (iii) a development or any other public authority trust, company or corporation owned or controlled by Government or a Local Council;
- (g) "land" includes earth, water and air above, below or on the surface and any improvements in the structure customarily regarded as land and benefit arising out of land and things attached to earth or permanently fastened to earth:
- (h) "Local Council" means a Local Council constituted under the North-West Frontier Province Local Government Ordinance, 1979 (N.W.F.P. Ordinance IV of 1979);
- (i) "member" means a member of the Authority and includes its Chairman;
- (j) "person" includes an individual, company, firm, cooperative society or association of individuals whether incorporated or not;
- (k) "prescribed" means prescribed by rules or regulations made under this Act; and
- (l) "section" means a section of this Act.

CHAPTER-II

ESTABLISHMENT AND CONSTITUTION OF THE AUTHORITY

3. Establishment of the Authority.----(1) As soon as may be after the commencement of this Act, Government shall, by notification in the official gazette, establish an Authority known as "The Kaghan Development Authority".

(2) The Authority shall be a body corporate having perpetuate succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued.

4. Constitution of the Authority.----(1) The Authority shall consist of:

- (a) the Chief Minister or any Minister nominated by him;
- (b) the Minister Incharge;
- (c) the Additional Chief Secretary, PE&D Department;

- (d) the Secretary, Finance Department;
 - (e) the Secretary, Forests, Wildlife and Fisheries Department;
 - (f) the Secretary, Physical Planning and Housing Department;
 - (g) the Secretary, Communication and Works Department;
 - (h) the Secretary, Agriculture Department;
 - (i) Commissioner, Hazara Division;
 - (j) Director General, Special Development Unit of Planning, Environment and Development Department;
 - (k) any other person nominated by the Chief Minister.
- (2) The Chief Minister or the Minister nominated by him under sub-section (1) shall be the Chairman of the Authority.
- (3) Government may, by notification, alter the membership of the Authority or increase or decrease the number of its members.
- (4) A non-official member, if any, may resign from his office by submitting his resignation in writing to Government.
- (3) The Chief Minister may, at any time, without assigning any reason, withdraw the nomination made under sub section (1) or nominate any other Minister.

CHAPTER-III **POWERS AND FUNCTIONS**

5. Powers and functions.---(1) Subject to the provisions of this Act and the rules framed there-under, the Authority may exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act.

(2) The strategy for all development works and other measures shall be embedded in the objective of environmental upgradation and uplift of the common man.

(3) Without prejudice to the generality of the foregoing subsection, the Authority may—

- (a) prepare and implement through line departments and any other agencies as the Authority may direct, feasible means, schemes of education, health,

agriculture and industry, forest conservation and development, preservation of wildlife, promotion of tourism, improvement of water supply, land slide management, development of irrigation facilities, development of means of communication, construction and development of housing, sewerage, drainage, environmental improvement and slum clearance;

- (b) acquire property, both movable and immovable;
- (c) sell, lease, exchange or otherwise dispose off any property vested in it;
- (d) undertake any works and incur any expenditure in the performance of its functions under this Act;
- (e) procure machinery, instruments or any other material required by it;
- (f) enter into contracts;
- (g) cause studies, surveys, experiments, technical researches or contribute towards the cost of any such studies, surveys, experiments or technical researches, made by any other agencies;
- (h) issue interim development orders for areas for which a scheme is under preparation and restrict or regulate by general or special order, any change in the use of land and alteration in building structure and installations;
- (i) cause removal of any works obstructing the execution of its scheme;
- (j) seek and obtain advice and assistance for the preparation of any scheme, or for the execution of scheme, from any Government Agency or person and such Agency or person shall give the advice and assistance sought by the Authority to the best of its or his ability, knowledge and judgement and the additional expenditure, if any, involved in giving such advice or assistance shall be borne by the Authority; and
- (k) undertake any other function which Government may assign to it.

(4) The Authority, with the approval of Government, may, and if directed by Government, shall, undertake the maintenance and regulation of schemes and other activities of a Government Agency as may be necessary and when a scheme or any activity is undertaken by the Authority, the assets and liabilities connected therewith shall also stand transferred to the Authority.

(5) The Authority, with the approval of Government, may, and if directed by Government, shall, transfer any of its functions and powers to a Government Agency on such terms and conditions as it may deem fit,

6. Levy of taxes and delegation of powers.---(1) The Authority may levy and collect a tax with the prior approval of Government.

(2) The Authority may, subject to such conditions as it may impose, but with the prior approval of Government, by general or special order, delegate to the Director General or any officer of the Authority any of its powers, duties and functions under this Act, not being a power, duty or function delegated to it by Government.

7. Appointment of Officers, etc., and association of other persons.---(1) The Authority may, subject to such general or special order as Government may give, appoint such officers, advisors, experts, consultants and employees, as it considers necessary, for the efficient performance of its functions on such terms and conditions as it may deem fit.

(2) The Authority may associate with it, in such manner, on such terms and for such purpose as it may deem fit, any person whose assistance or advice it may require in carrying out its functions under this Act.

8. Constitution of Committees.---The Authority may constitute such financial, technical and advisory committees as may be deemed necessary for carrying out the purposes of this Act and such committees shall exercise such powers and perform such functions as may be delegated or assigned to them.

CHAPTER-IV **DIRECTOR GENERAL**

9. Appointment and terms of office.---(1) There shall be a Director General of the Authority to be appointed by Government on such terms and conditions as it may determine.

(2) The Director General shall—

- (a) be a whole- time officer of the Authority;
- (b) perform such duties as may be assigned to him and exercise such powers as may be delegated to him by the Authority; and
- (c) hold office during the pleasure of Government.

⁶[(3) Notwithstanding the provisions contained in subsections (1) and (2), till such time as the Director General is appointed, the Commissioner, Hazara Division, shall also act as Director General of the Authority.]

⁶Added vide Khyber Pakhtunkhwa Act No. IV of 1999.

CHAPTER-V
EXECUTIVE POWERS AND CONDUCT OF BUSINESS

10. Executive Authority.---(1) Save as otherwise provided the executive authority of the Authority shall vest in, and be exercised by, its Director General.

(2) All Acts of the Authority, whether executive or not, shall be expressed and taken in the name of the Authority and shall be authenticated by the Director-General by affixation of his official seal.

11. Disposal of business.---(1) The business of the Authority shall be disposed off at its meetings, or at the meetings of its committees, or by its Director-General or servants or other functionaries in the prescribed manner.

(2) No Act or proceedings of the Authority shall be invalid merely by reason of any vacancy in, or defect in the constitution of, the Authority.

12. Meeting of the Authority.---(1) The members of the Authority shall meet at such place and at such time as the Authority may decide.

(2) The Authority may frame regulations for the conduct of its meetings.

(3) The Chairman, or, in his absence, the Minister Incharge, shall preside over a meeting of the Authority:

Provided that where both the Chairman and the Minister Incharge are absent, the Additional Chief Secretary shall preside over that meeting.

(4) The Authority shall hold at least one meeting in each quarter of the year.

CHAPTER-VI
PREPARATION AND EXECUTION OF SCHEME

13. Preparation of schemes.--- ⁷[(1)] The authority shall, in such form and in such manner as may be prescribed, prepare schemes for the area or any part thereof.

⁸[(2) A scheme prepared under sub section (1) shall be subject to the following conditions and restrictions:

- (a) no residential plot shall be of an area of less than two Kanals, nor shall any such plot be sub-divided to reduce the plot size to an area of less than two Kanals; provided that this restriction shall not apply in relation to those plots where lawful construction work started before the commencement

⁷Re-numbered vide Khyber Pakhtunkhwa Act No. IV of 1999

⁸Added vide Khyber Pakhtunkhwa Act No. IV of 1999

of this act;

- (b) the covered area of any plot, whether residential or commercial, shall not exceed one-third of the total area of the plot;
- (c) no residential building raised on a plot shall be of more than two stories and the covered area of the top storey shall not exceed half of the covered area of the ground floor; and
- (d) no construction in the area shall be made unless the detailed plan of construction alongwith the site plan thereof is approved by the Authority.

(3) All constructions, whether for residential or commercial purpose, in the area shall strictly be in accordance with the scheme and the land use plan prepared by the Authority.

(4) No excavation or land levelling in the area shall be made, except with the prior approval of the Authority.

(5) No construction, of whatsoever nature, shall be permissible in the area known as Lalazar situated between Nathiagali and Mukshpuri and on the main road leading from Abbottabad and Murree contrary to West Pakistan Highway Ordinance, 1959.]

14. Modification of Schemes.---A scheme prepared under this Act may, at any time, be amended, modified or abandoned by the Authority in such form and in such manner as may be decided by the Authority.

15. Power to give directions.---(1) The Authority may, with the prior approval of Government, require a Government Agency, within whose jurisdiction any particular locality or aspect of development covered by a scheme lies—

- (a) to execute a scheme in consultation with the Authority;
- (b) to take over and maintain any of the works and services in that area;
- (c) to provide any amenity in relation to the land which, in the opinion of the Authority, ought to be provided; and
- (d) to enforce regulation on behalf of the Authority.

(2) The expenditure incurred on the execution of any scheme or on the taking over or maintenance of any work, or the enforcement of regulations, under this section, shall be borne, as may be agreed to between the Authority and the Government Agency or, in the event of disagreement, as may be determined by Government.

CHAPTER-VII
GENERAL

16. Direction by Government.---The Authority shall, in discharging its functions, Act and be guided by such directions as Government may give to it from time to time.

17. Borrowing money.---(1) The Authority shall be deemed to be a "Local Authority" for the purpose of borrowing money and any scheme or project prepared or undertaken by the Authority shall be deemed to be work as defined in section 2 of Local Authorities Loans Act, 1914 (Act IX of 1914):

Provided that no local or foreign loan shall be obtained by the Authority without the previous sanction of Government.

(2) The Authority may, in consultation with Government, borrow money or raise funds by issuing bonds or debentures or otherwise for carrying out the purposes of this Act. A scheme or project for which money is borrowed or funds raised shall be self financing according to profit/loss as may be approved by Government.

18. Power to levy betterment fee.---(1) Where as a consequence of any scheme having been executed by the Authority, the value of any property in that locality, in the opinion of the Authority, has increased, the Authority, may with the previous consent of Government, levy upon the owner of the property or any person having an interest therein, a betterment fee in respect of the increase in value of the property resulting from the execution of the scheme.

(2) Any Government Agency, when so directed by Government, shall surrender its local organization along with its assets and liabilities including funds or funding source, to the administrative control of the Authority and the Authority shall, in that event take over the organization and ensure its efficient performance.

19. Assessment of betterment fee.---(1) Where it appears to the Authority that any particular development scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Authority may, by an order made in this behalf, declare that for the purpose of determining the betterment fee, the execution of the scheme shall be deemed to have been completed and shall thereafter give notice in writing to the owner of the property of any person having an interest therein that the Authority proposes to assess the amount of betterment fee in respect of the property mentioned in section 18.

(2) The betterment fee under section 18 or under sub-section (1) of this section, shall be assessed and be payable, in the manner prescribed.

CHAPTER-VIII **FINANCES, ACCOUNTS AND AUDIT**

20. Authority Fund.---(1) There shall be formed a fund to be known as the "Authority Fund" which shall vest in the Authority and shall be utilized by the Authority in connection with its functions under this Act including the payment of salaries and other remuneration to the members, officers, servants, experts and consultants of the Authority.

(2) The Authority Fund, shall consist of—

- (a) grants made by Government;
- (b) all moneys received from the Federal Government or any International Agency by way of grants, loans, advance or otherwise;
- (c) all fees, rates and charges received by the Authority under this Act;
- (d) all moneys received by the Authority from the disposal of lands, buildings and other properties movable or immovable;

21. Act XVIII of 1891 to apply to the books of the Authority.---The Authority shall be deemed to be a bank for the purpose of the Bankers Books Evidence Act, 1891.

22. Custody and investment of funds.----The Authority may keep money in any treasury, sub-treasury or a bank as may be prescribed.

23. Budget and Accounts.---(1) The Authority shall prepare its annual budget estimates and work plan and submit the same to Government by the prescribed date, and Government may modify the said estimates or plan to such extent as it may consider necessary.

(2) Accounts of the receipts and expenditure of the Authority shall be kept in such form as may be prescribed.

(3) The Authority shall, within three months of the close of each financial year, place before Government the annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the proceeding financial year.

24. Audit of Accounts.---(1) The accounts of the Authority shall be audited by Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ordinance X of 1961), and appointed by the Authority on such remuneration as it may think fit.

(2) Notwithstanding the provisions of sub-section (1), the Auditor General may, cause to be audited the accounts of the Authority.

25. Annual Report.---The Authority shall, as soon as possible after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year, and on its proposals for the next ensuing financial year.

CHAPTER-IX **SUPPLEMENTAL PROVISION**

26. Public servant.---Every person acting or purporting to Act under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

27. Bar to proceedings.----No suit, prosecution or other legal proceedings shall lie against the Authority or any of its employees for anything in good faith done or intended to be done under this Act.

28. Winding up of the Authority.---No provision of law relating to the winding up of companies and corporations shall apply to the Authority and the Authority shall not be wound up except by order of Government and in such manner as it may direct.

29. Indemnity.---Every Chairman, member, Director General, Director, Advisor, officer or servant of the Authority shall be indemnified by the Authority against all losses and expenses incurred by him in the discharge of his duties, except as are caused by his own willful Act, negligence or default.

30. Power to make rules.---The Authority may, with the approval of Government, make rules for carrying out the purposes of this Act.