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North-West Frontier Province

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PROVINCIAL ASSEMBLY SECRETARIAT
THE NORTH-WEST FRONTIER PROVINCE.

NOTIFICATION

Dated 3rd August, 2005.

No. PA/NWFP/Legis:I/2005/21330-35. --- The North-West Frontier Province Housing Authority Bill, 2005 having been passed by the Provincial Assembly of North-West Frontier Province on the 13.07.2005 and assented to by the Governor of the North-West Frontier Province on 28.07.2005 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

THE NORTH-WEST FRONTIER PROVINCE HOUSING AUTHORITY ACT, 2005.

(N.-W.F.P. ACT NO. XI OF 2005.)

(First published after having received the assent of the Governor of the North-West Frontier Province in the Gazette of the N.-W.F.P. (Extraordinary), dated the 3rd August, 2005).

AN
ACT

to provide for the establishment of a Housing Authority
in the North-West Frontier Province.

Preamble:- WHEREAS it is expedient to establish a comprehensive system of town planning at different levels in the province to ensure systematic integrated growth of urban and rural areas and to achieve the object of "Housing for All" including housing for shelterless Government servants and to that end to create an Authority for proper achievement of the objects aforesaid;

It is hereby enacted as follows:-

CHAPTER-I PRELIMINARY

1. **Short title, extent and commencement.** --- (1) This Act may be called the North-West Frontier Province Housing Authority Act, 2005.

(2) It extends to the whole of the North-West Frontier Province.

(3) It shall come into force at once.

2. **Definitions.**----In this Act, unless the subject or context otherwise requires,-

(a) "Authority" means the North-West Frontier Province Housing Authority established under section 3 of this Act to be also known as "PHA";

(b) "Director General" means the Director General of the Authority;

(c) "Government" means the Government of the North-West Frontier Province;

(d) "Government Agency" includes-

(i) a division, department, bureau, section, commission, board, office or unit of Government; and

(ii) District Government, Tehsil and Town Municipal Administration, a Development Authority or any other body, company or corporation (whether autonomous or semi-autonomous) owned or controlled by Government;

(e) "land" includes earth, water and air, above, below or on the surface and any improvement in the structure customarily regarded as land and benefits arising out of land and things attached to earth or permanently fastened to earth;

(f) "member" means a member of the Authority and includes its Chairman;

(g) "person" includes an individual, company, firm, cooperative society or association of individuals whether incorporated or not;

(h) "prescribed" means prescribed by rules or regulations made or framed under this Act;

(i) "regulations" means the regulations made under this Act;

(j) "Revolving Fund" means the fund established under section 23 of this Act; and

(k) "rules" means the rules made under this Act.

CHAPTER-II

NORTH-WEST FRONTIER PROVINCE HOUSING AUTHORITY

3. **Establishment of the North-West Frontier Province Housing Authority.**--- (1)

As soon as may be, after the commencement of this Act, Government shall establish an Authority to be called the North-West Frontier Province Housing Authority for carrying out the purposes of this Act.

(2) The Authority 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.

(3) The Authority shall consist of-

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| (i) | Minister for Housing, North-West Frontier Province; | Chairman. |
| (ii) | Secretary to Government of North-West Frontier Province, Housing Department; | Member. |
| (iii) | a representative of Planning and Development Department not below the rank of an Additional Secretary; | Member. |
| (iv) | a representative of Finance Department not below the rank of an Additional Secretary; | Member. |
| (v) | a representative of Local Government Election and Rural Development Department not below the rank of an Additional Secretary; | Member. |
| (vi) | Member Board of Revenue; | Member. |
| (vii) | three representatives of the Builders/Construction Industry and Architects and Consultants; | Member. |
| (viii) | any two persons to be nominated by Government from amongst the retired Engineers; and | Member. |
| (ix) | Director General of the Authority; | Member/
Secretary. |

(4) Government may, by notification in the Official Gazette, alter, increase or decrease the membership of the Authority.

(5) A member, other than an ex-officio member, shall hold office for a term of three years.

(6) No act or proceeding of the Authority shall be invalid merely by reason of any vacancy in, or defect in the constitution of the Authority.

4. **Powers and functions of the Authority.** — (1) Subject to the provisions of this Act and any rules made thereunder, the Authority may exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing sub-section the Authority shall-

- (i) facilitate provision of housing inputs, including land, finance, building materials through institutional and legal frame-work and develop indigenous and cost effective approaches;
- (ii) implement parameters of the national housing policy, coordinate and liaise with the Federal Government, District Governments, Tehsil and Town Municipal Administrations, concerned departments and Government Agencies;
- (iii) identify state and other lands for developing low income and low cost housing schemes;
- (iv) facilitate construction of multi storey flats (low cost housing) in collaboration with the District Governments and Tehsil and Town Municipal Administrations by arranging finances from the House Building Finance Corporation, Finance Institution and commercialized banks for developments;
- (v) provide cost wise affordable, housing schemes especially for the low income group and families out of the Revolving Fund;
- (vi) facilitate public and private partnership or ventures in housing and development of recreational activities;
- (vii) promote environment for friendly and standardized construction activities;
- (viii) prepare guidelines, long term and short-term plans, for implementing the low cost housing schemes and programmes in the North-West Frontier Province;
- (ix) facilitate land availability through various innovative measures, develop a comprehensive land information system to cater for the planning and development, requirements for a period of five to ten years;
- (x) mobilize resources and generate funds in order to provide finance for housing specially to the low income group;
- (xi) develop land disposal systems which are unified, transparent and market oriented with open auction policy and exception for special needs;
- (xii) develop packages in which prime state land occupied by katchi abady, shall be offered to the private developers for commercial use; provided they arrange finance upgradation or relocation of katchi abady;

- (xiii) suggest measures to check growth of slums and katchi abady, formulate resettlement and relocation plans;
- (xiv) propose suitable amendments in land acquisition laws to make provisions for unified, transparent and market oriented system of land acquisition;
- (xv) formulate provincial land use policy, plan and prepare regional development plans (Inter District Spatial Planning-Master Plans) for an integrated, coordinated and systematic planning to ensure orderly growth and development of physical infrastructure such as highways, railways, industrial zones, conservation of forest reserves and provision of electricity, telephone, sui gas, etc;
- (xvi) plan a comprehensive programme for the development of satellite, intermediate, secondary and industrial towns to reduce migration and drift to big settlements;
- (xvii) develop Geographic Information System for efficient land documentation and information related to housing and town planning;
- (xviii) provide technical assistance to the District Governments and Tehsil and Town Municipal Administrations towards capacity building in all matters related to housing and town planning;
- (xix) coordinate with Federal Government, District Governments and Tehsil and Town Municipal Administrations for implementing the development plans and programmes pertaining to housing and town planning;
- (xx) assist Government Agency to plan/execute Government servants housing scheme, etc. in the areas of low cost housing;
- (xxi) formulate policy parameters to ensure liberalization in the existing regulatory measures, and to streamline the affairs of private housing schemes; and
- (xxii) perform such other functions as may be assigned to the Authority from time to time by Government.

5. **Meeting.**---(1) The Authority shall meet at such place and at such time and shall observe such rules of procedure with regard to transaction of business in its meetings as may be prescribed.

(2) The Chairman shall preside over the meetings of the Authority and in his absence any other member of the Authority, elected by the members present, shall preside over the meeting.

CHAPTER-III DIRECTOR GENERAL AND COMMITTEES

6. Appointment and term of office.---(1) There shall be Director General of the Authority, who shall be appointed by Government from amongst the officers holding degree in Civil Engineering.

(2) The Director General shall be the Chief Executive of the Authority and shall perform such duties as may be assigned to him, and exercise such powers as may be delegated to him, by the Authority.

7. Delegation.---The Authority may, by general or special order, delegate to the Director General, a committee constituted under section 9, a member or an officer of the Authority any of its powers, duties or functions under this Act or the rules made thereunder subject to such conditions as it may deem fit.

8. Appointment of officers and employees.--- The Authority may appoint such officers, advisers, experts, consultants and employees, as it considers necessary for the efficient performance of its functions on such terms and conditions as it deem fit.

9. 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 by the Authority.

CHAPTER-IV GOVERNMENT SERVANTS HOUSING SCHEME

10. Special Committee---(1) There shall be a Special Committee for Government servants housing scheme in order to introduce a plan for providing houses on no profit no loss basis to Government servants on their retirement, or to their families in case of death during service and to make provisions for matters connected therewith or ancillary thereto.

(2) The Special Committee shall consist of the following:

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| (a) Chief Secretary, North-West Frontier Province; | Chairman. |
| (b) Additional Chief Secretary North-West Frontier Province; | Member. |
| (c) Senior Member Board of Revenue; | Member. |
| (d) Secretary Finance Department; | Member. |
| (e) Secretary Establishment Department; | Member |
| (f) Secretary Administration Department; | Member. |

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| (g) | Secretary Housing Department; | Member. |
| (h) | three civil servants, one representing each of the employees in BS-1 to 16, BS-17 to 18 and BS-19 and above to be nominated by Government; | Members. |
| (i) | three other persons as may be appointed by Government for a specified period; and | Members |
| (j) | Director General, North-West Frontier Province Housing Authority. | Member/
Secretary. |

(3) The members appointed under clauses (h) and (i) of sub-section (2) shall hold office for a period of three years.

(4) Decisions shall be taken by the Special Committee by simple majority and in case of equality of votes the Chairman shall have a second or casting vote.

11. **Functions of the Special Committee.** ---Subject to the provisions of this Act, the Special Committee shall for the purpose of this Chapter, undertake the following functions:

- (a) to identify and recommend the steps for the establishment of a fund in the manner hereinafter provided, for carrying out the purposes, including incurring of expenditure and investment of money;
- (b) to arrange, purchase and acquire land, wherever necessary, within the Province;
- (c) to exercise control over the housing scheme for Government servants in the manner as may be prescribed;
- (d) to adopt such measures and mechanism/procedure for allotment of the houses to Government servants in the prescribed manner;
- (e) to authorize the PHA for spending from the fund established under section 12 for housing schemes for Government servants; and
- (f) to do such other acts as are ancillary and incidental to the above functions.

12. **Establishment of Funds** --- (1) As soon as may be, after the commencement of this Act, there shall be established, for the purpose of this Chapter, a fund, hereinafter referred as the Fund, with the help and assistance of the PHA and Government.

(2) The Fund shall consist of-

- (a) such grants as may, from time to time, be made by Government;

- (b) contributions and donations by private or public organizations;
- (c) loans and advances as may be obtained from Financial Institutions with the help of Government wherever necessary;
- (d) contributions made by Government servants from time to time;
- (e) income and profits from investments from various sources;
- (f) fees or other user charges;
- (g) amounts received from sale or disposal of assets vested in the Authority; and
- (h) all other sums received by the Special Committee and income from any other source.

(3) The money credited to the Fund shall be kept in such custody as may be prescribed.

13. Manner of collection of contributions and maintenance of accounts.---(1) All monthly contribution shall, in the prescribed manner, be deducted at source from the salary of the Government servants by the Accountant General, North-West Frontier Province or the District Accounts Officer, as the case may be, within whose jurisdiction the disbursement of salary is made to the Government servant.

(2) The Accountant General shall allocate a separate sub-head for deduction of contribution from the pay bill of Government servants and pass on the credit to the Special Committee regularly within one month of such deduction.

(3) The Special Committee shall maintain separate account in respect of each Government servant and be responsible to ensure that the amounts of contributions paid by Government servant or deducted from his pay bills by the Accountant General or the District Accounts Officer, as the case may be, have been received and accounted for in the books of the Committee.

14. Disposal of residential units.—Subject to the provisions of this Act, the Special Committee shall dispose of the residential units in favour of Government servants at the time of their retirement, or in favour of their families in case of death during service:

Provided that in case the number of residential units exceeds the above requirement, the same may be disposed of in favour of other Government servants in the manner as may be prescribed.

15. Location, categorization, allocation and price of residential units.--- (1) The housing schemes shall be carried out at such locations as may be determined by the Special Committee but initially a scheme shall be started at Peshawar as a pilot project at one or more suitable places and when the housing schemes are commenced at other locations a Government servant may be given three options of preference of the locations of his choice.

(2) A Government servant shall be allocated by the Special Committee, a residential unit of a particular category, keeping in view his seniority, date of retirement or any other deserving special circumstance.

(3) Price of each residential unit or each category of residential units shall be determined by the Special Committee.

(4) All payments made by a Government servant and the mark-up accrued thereon at the rate determined by the Special Committees from time to time shall be updated annually.

(5) Possession of a residential unit shall not be delivered unless the price of the unit is paid in full.

(6) A Government servant shall not alienate the allocated residential unit for a prescribed period.

CHAPTER- V

PREPARATION AND EXECUTION OF SCHEMES

16. **Preparation of schemes.**--- (1) The Authority, in consultation with the Government Agency concerned, shall, in such form and in such manner as may be prescribed, prepare schemes for the purpose of this Act in various urban and rural areas.

(2) All schemes prepared by the Authority shall be submitted to Government for approval, except those the estimated costs whereof do not exceed such limit as may be prescribed by rules or for which no loan or grant is required from Government.

(3) The Authority shall publish the sanctioning of any scheme in the Official Gazette and shall forthwith proceed to execute the scheme in collaboration with the Government Agency concerned.

(4) The publication of a sanction under sub-section (3), shall be conclusive evidence that the scheme has been duly framed and sanctioned.

17. **Modification of schemes.**---Any scheme prepared under this Act may at any time, be amended or modified by the Authority in consultation with Government Agency concerned in the same manner as may be prescribed for the preparation of a scheme.

18. **Power to give directions.**---(1) The Authority may require a Government Agency within whose jurisdiction any particular locality or aspect of development covered by the scheme lies-

- (i) to execute work in consultation with the Authority;
- (ii) to take over and maintain any of the works and services in that area; and
- (iii) to provide any amenity in relation to the land which in the opinion of the Authority ought to be provided.

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

determined by Government.

19. **Power to execute scheme.**---(1) Where the authority is satisfied that any direction given by it under sub-section (1) of section 18 with regard to any scheme has not been carried out by the Government Agency concerned, the Authority may itself undertake any work for the execution of that scheme and the cost thereof shall be borne as may be agreed between the Authority and Government Agency concerned and in the event of disagreement as may be determined by Government.

(2) Where any work is undertaken by the Authority under sub-section (1), it shall be deemed to have, for the purposes of execution of such work, all the powers which may be exercised, under any law for the time being in force by Government Agency concerned.

CHAPTER- VI GENERAL

20. **Directions 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.

21. **Controlled Area.**--- The Authority may, by notification in the Official Gazette, declare any locality to be a Controlled Area, for the purposes of this Act and may issue in respect of such locality such directions as it considers fit and appropriate and do all such things as may be necessary for the prevention of haphazard growth, encroachments and unauthorized construction in such area.

22. **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 the Local Authorities Loan 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 the Finance Department of Government, borrow money or raise funds by issuing bonds or debentures or otherwise for carrying out the purposes of this Act, in the prescribed manner.

CHAPTER-VII FINANCE, ACCOUNTS AND AUDIT

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

(2) The Revolving Fund shall consist of -

- (i) grants and loans made by Government;
- (ii) all moneys received from Federal Government or any international agency by way of grants, loan, advances or otherwise;

- (iii) all fees, rates and charges received by the Authority under this Act;
- (iv) all money received by the Authority from the disposal of lands, buildings and other properties moveable and immovable;
- (v) proceeds from the self financing schemes; and
- (vi) all other sums receivable by the Authority.

(3) In case of deficit revenue of the Authority, Government shall provide from its own revenues or from any other source, such sum as may be necessary for the efficient performance of functions of the Authority under this Act.

(4) The Authority may keep in current account of any scheduled bank such sum as may be prescribed and any amount in excess of the said amount shall be invested in Government securities, Government sponsored saving schemes or in such manner as may be determined by the Authority.

Explanation.---For the purpose of this sub-section, Government includes Federal Government.

24. **Rates and fees.**--- (I) With the previous consent of Government, adequate funds may be raised by the Authority from time to time, to meet the cost of its schemes by imposing rates, fees and other charges.

(2) The rates, fees and other charges shall be such as to provide sufficient revenues-

- (i) to cover the operating expenses including taxes and other maintenance and depreciation charges;
- (ii) to meet repayments on long term indebtedness to the extent that such repayments exceed the provision of the depreciation; and
- (iii) to finance the normal year to year extension of any of such schemes and to provide a reasonable portion of the cost of future major expansion of such schemes.

25. **Accounts.**--- The Authority shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed.

26. **Budget.**---The Authority shall prepare every year, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure of the Authority and shall submit the same to Government for approval. If Government does not approve or modify the budget within thirty days of its receipt, the budget as prepared by the Authority shall be deemed to be the approved budget.

27. **Audit.**---The accounts of the Authority shall be audited annually by duly qualified auditors appointed by the Authority in addition to the pre-audit by Government Auditors.

CHAPTER- VIII **PENALTY AND PROCEDURE**

28. **Notice and authorization.**--- The Authority or Government Agency, as the case may be, shall authorize an officer or officers under its administrative control:-

- (a) to issue legal notices for violation or commission of any offence under this Act, rules or regulations;
- (b) to take such measures and actions for compliance of directions contained in the notices issued restraining violation or commission of any offence under this Act, rules or regulations; and
- (c) to initiate legal proceedings or defend any legal proceedings initiated against the Authority or Government Agency, as the case may be, attend court proceedings and represent the concerned Authority or Government Agency as the case may be.

29. **Cognizance of offence.**---(1) No court shall take cognizance of an offence under this Act except on a complaint in writing made by the Authority or an officer or a person generally or specifically authorized by the Authority or on a complaint filed by an affected citizen.

(2) The Authority on its own motion, or an officer or any other person generally or specially authorized by the authority on his own motion, or on the complaint of any affected citizen, may institute any suit or initiate prosecution or any other legal action against a person committing an offence under this Act.

30. **Offences.** --- (1) All the offences specified in Fourth Schedule to the North-West Frontier Province Local Government Ordinance, 2001 (N.-W.F.P. Ord. No. XIV of 2001), shall also be deemed to be offences under this Ordinance and shall be punishable with the same punishment as provided therein.

(2) Notwithstanding anything contained in any other law for the time being in force, an act (not provided specifically in this Act) in contravention of the provisions of this Act and rules or regulations issued from time to time by Government or the PHA, shall be punishable with imprisonment or fine or both as may be deemed appropriate by the court of competent jurisdiction.

31. **Compounding of offences.**--- Subject to the provisions of section 345 of the Criminal Procedure Code, 1898 (V of 1898), except as otherwise provided, the Authority or Government Agency, as the case may be, or an officer or any other person generally or specially authorized by the Authority in this behalf, may, at any time or after the commission of the offence but before the conclusion of proceedings in the court, compound any offence punishable under this Act.

32. **Rights of citizens.**---Nothing contained in section 29 shall restrict or limit the right of the citizens or residents of a local area to bring any suit or other legal proceedings against the Authority or Government Agency, as the case may be, its officers or other functionaries violating the right available to them under any law for the time being in force.

CHAPTER-IX **MISCELLANEOUS**

33. **Annual report.**---The Authority shall prepare for every year a report of its activities during that year and submit the report to Government in such form and on or before such date, as may be prescribed.

34. **Recovery of dues.**--- Any sum due to the Authority from, or any sum wrongly paid by the Authority to, any person under this Act, shall be recoverable as arrears of land revenue.

35. **Conversion of property to a different use.**---Any conversion of property to a different use or purpose than the one provided under a scheme, by a person or agency without the previous approval of the Authority in writing, shall be punishable with a fine which may extend to rupees five hundred per. day from the date of its conversion till the default continues or with imprisonment for a term which may extend to one year, or with both.

36. **Summary ejectment of unauthorized occupant.**---Any person authorized by the Authority in this behalf may summarily eject any person in unauthorized occupation of any land or property vested in the Authority, and may for such ejectment use such force as may be necessary:

Provided that no action under this section shall be taken without providing an opportunity of being heard to the persons to be affected thereby.

37. **Removal of building, etc. erected or used in contravention of this Act.**---(1) If any building, structure, work or land is erected, constructed or used in contravention of the provisions of this Act or of any rule, regulation or order made thereunder, any person authorized by the Authority in this behalf may, by order in writing, require the owner, occupier, user or person in control of such building, structure work or land to remove, demolish or alter the building, structure or work or to use it in such manner so as to bring such erection, construction or use, in accordance with the provisions of this Act.

(2) If an order under sub-section (1) in respect of any building, structure, work or land is not complied with within such time as may be specified therein, any person authorized by the Authority in this behalf may, after giving the person affected by the order an opportunity of being heard, remove, demolish or alter the building, structure or work, or stop the use of the land and in so doing, may use such force as may be necessary and may also recover the cost therefor, from the person responsible for the erection, construction or use of the building, structure, work or land.

38. **Members, officers and employees to be public servants.**--- The Chairman, members, Director General, officers, servants, experts and consultants of the Authority shall, when acting or purporting to act in pursuance of any provision of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860.

39. **Indemnity.**--- No suit prosecution or any other legal proceedings shall lie against the Authority, the Chairman, the Director General, any member, officer, servant, expert-or consultant of the Authority, in respect of anything done or intended to be done in good faith under this Act.

40. **Jurisdiction of courts barred.**--- Save as otherwise provided by this Act, no Court or other Agency shall have jurisdiction to question the legality of anything done or any action taken under this Act by or at the instance of the Authority.

41. **Power to make rules.**--- Subject to the provisions of this Act, Government may make rules for carrying into effect the purposes of this Act.

42. **Power to make regulations.**--- Subject to the provisions of this Act and the rules framed there under, the Authority may make regulations as may be necessary to carry out the purposes of this Act.

43. **Repeal.**--- The North-West Frontier Housing Authority Ordinance, 2005 (N.W.F.P. Ord: No. 1 of 2005) is hereby repealed.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF
NORTH-WEST FRONTIER PROVINCE.

NAZIR AHMAD
Secretary,
Provincial Assembly of N.-W.F.P.