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PROVINCIAL ASSEMBLY SECRETARIAT, KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 30th October, 2017.

No. PA/Khyber Pakhtunkhwa/Bills/2017/10394.—The Peshawar Development Authority Bill, 2017 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 18th October, 2017 and assented to by the Governor of the Khyber Pakhtunkhwa on 25th October, 2017 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE PESHAWAR DEVELOPMENT AUTHORITY ACT, 2017

(KHYBER PAKHTUNKHWA ACT NO. XXXI OF 2017)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 30th October, 2017).

AN ACT

to provide for the establishment of the Peshawar Development Authority.

WHEREAS, it is expedient to establish the Peshawar Development Authority for the development of the Authority area and better management and development in order to improve the quality of life within the Authority area, establish an integrated metropolitan and regional development approach and a continuing process of planning and development, to ensure optimum utilization of resources, economical and effective utilization of land and to evolve policies and programs relating to the improvement of the environment of housing, industrial development, traffic, transportation, health, education, water supply, sewerage, drainage, solid waste disposal and matters connected therewith and incidental thereto;

It is hereby enacted as follows:

**CHAPTER-I
PRELIMINARY**

1. Short title, extent and commencement.---(1) This Act may be called the Peshawar Development Authority Act, 2017.

(2) It shall extend to the Authority area.

(3) It shall come into force at once.

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

(a) "Authority" means the Peshawar Development Authority, established under section 3 of this Act;

(b) "Authority area" means such area of Peshawar Division, as Government may notify from time to time, where the Authority has jurisdiction under this Act;

(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 Khyber Pakhtunkhwa;

(f) "Government agency" includes-

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

(ii) a local council established under the Khyber Pakhtunkhwa Local Government Act, 2013 (Act No. XXVIII of 2013); and

(iii) a developmental or any other public authority, company or corporation, owned or controlled by the Government or a local government;

(g) "green area" means any space, notified by Government as green area, which is required to be kept green including a notified play ground other than a public parks or green belts;

(h) "green belt" means an area, notified by Government as green belt other than a public park, which is kept as an open space in any locality or area either in pursuance of a development plan or otherwise;

- (i) "land" includes earth, water and air, above, below or on the surface and any improvements in the structure customarily regarded as land and benefits arising out of land and things attached to earth or permanently fastened to earth;
- (j) "master plan" means the traditional method for presenting a set of land usage, allocation and control measures in the form of a map or in graphical form and is supported by written statement of goals and objectives, strategy, financial implications and policies for planning and development for an area and includes a structure plan, an outline development plan, a spatial plan, peri-urban structure plan and a metropolitan plan;
- (k) "member" means a member of the Authority and includes its Chairman;
- (l) "prescribed" means prescribed by rules or regulations;
- (m) "public park" means and includes an open space, reserved for use, recreation and entertainment of public duly notified by Government from time to time as public park;
- (n) "regulations" mean regulations made under this Act;
- (o) "rules" mean rules made under this Act; and
- (p) "scheme" means a planning scheme, a development scheme or a project, approved for urban development, redevelopment or renewal and includes master planning, larger area plan, areas specified and notified for specific use, traffic control plans, classification and reclassification plans or zoning scheme carried out within the territorial limits of the Authority.

CHAPTER-II PESHAWAR DEVELOPMENT AUTHORITY

3. Establishment of the Authority.--- (1) As soon as after the commencement of this Act, Government shall, by notification in the official Gazette, establish an Authority to be known as the Peshawar Development Authority.

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

(3) The head office of the Authority shall be at Peshawar; provided that the Authority may establish sub-offices within the Authority area for managing its affairs.

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

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|-----|---|----------------------|
| (a) | the Chief Minister, Khyber Pakhtunkhwa; | Chairman. |
| (b) | Minister for Local Government, Elections and Rural Development, Khyber Pakhtunkhwa; | Vice-Chairman. |
| (c) | a Member of the Provincial Assembly from District Peshawar, to be nominated by the Speaker of the Provincial Assembly; | Member. |
| (d) | Nazim, City District Government, or if no City District Government exists, then the Administrator of Peshawar, as notified by Government; | Member. |
| (e) | Secretary to Government, Planning and Development Department; | Member. |
| (f) | Secretary to Government, Finance Department; | Member. |
| (g) | Secretary to Government, Local Government, Elections and Rural Development Department; | Member. |
| (h) | Secretary to Government, Forest, Environment and Wildlife Department; | Member. |
| (i) | Commissioner, Peshawar Division; and | Member. |
| (j) | Director-General of the Authority. | Member-cum-Secretary |

(2) 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.

(3) No person shall be, or shall continue to be a member who-

- (a) is or, at any time, has been convicted of an offence involving moral turpitude;

- (b) is or, at any time, has been adjudicated insolvent;
- (c) is found to be a lunatic or of unsound mind; or
- (d) has a financial interest in any scheme or a conflicting interest, directly or indirectly, between his interests as a member and his private interests, and has failed to disclose such interest in writing to the Government.

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

(2) The meetings of the Authority shall be presided over by the Chairman and in the absence of the Chairman, the Vice-Chairman shall preside over the meetings of the Authority.

(3) Meetings of the Authority shall be held as and when required, but once at least in a quarter, at the time and place as the Chairman may determine.

(4) Presence of seven (07) members of the Authority shall constitute the quorum for a meeting; provided that such number shall include at least two official members.

(5) The decisions of the Authority shall be taken by the majority of the members present and, in case of a tie, the Chairman or in his absence the person presiding over the meeting, as the case may be, shall have a casting vote. All orders, determinations and decisions of the Authority shall be reduced to writing together with a record of the discussions held in the meeting.

(6) The Authority may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Authority, who may take part in discussion, but shall not be entitled to vote for or against the matter under discussion.

(7) The business of the Authority shall be disposed of at its meetings or at the meetings of its committees, so constituted, or by Director-General or other employees, staff members or other functionaries in such a manner as may be prescribed by regulations.

CHAPTER-III POWERS AND FUNCTIONS

6. Powers and functions of the Authority.– (1) Subject to the provisions of this Act, rules and regulations, 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-sections, the Authority may-

- (a) initiate and maintain a continuous process of comprehensive development planning for the Authority area with the objective of preparing and implementing master plan;
- (b) periodically update such master plan and co-ordinate its implementation by the Authority and Government agencies within the Authority area;
- (c) develop, operate and maintain water-supply, sewerage, solid waste and drainage systems within the Authority area;
- (d) prepare and ensure compliance of the Annual Development Program for the Authority area with priorities, established in the master plan, after its preparation and evaluate performance under the Annual Development Program at the end of each year;
- (e) establish, maintain and periodically revise as necessary, planning controls and building regulations for the Authority area to--
 - (i) provide appropriate urban design and protect public safety; and
 - (ii) ensure compliance with the master plan after its preparation;
- (f) prepare, implement and enforce, in consultation with other relevant departments of Government, schemes and schemes for environmental improvements, urban renewal including slum improvement and redevelopment, solid waste disposal, transportation and traffic, health and education facilities and preservation of objects or places of historical, archaeological, scientific, cultural and recreational importance;
- (g) take any step or adopt any measures for the face lifting and beautification of the Authority area;
- (h) acquire, sell, lease, exchange or otherwise dispose of both movable and immovable property or grant license or concessions in respect of any property vested in it;
 - (i) undertake any works and incur any expenditure;
 - (j) procure machinery, instruments or any other material required by it;
- (k) enter into contracts or any arrangements, in accordance with the applicable laws for the time being in force, including but not limited to those for grant of a license to any person for carrying out the purposes of this Act;

- (l) cause studies, surveys, experiments or technical researches to be made or contribute towards the cost of any such studies, surveys, experiments or technical researches, made by Government agency or any other agency;
- (m) 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 structures and installations;
- (n) cause removal of any works, obstructing the executions of its schemes;
- (o) construct, maintain, upgrade and exclusively charge toll on roads, bridges, flyovers, underpasses or such other facilities within the Authority area, grant concession in respect thereof;
- (p) seek and obtain advice and assistance for the preparation of any scheme, or for the execution of any 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 ability, knowledge and judgment and the additional expenditure, if any, involved in giving such advice or assistance, shall be borne by the Authority;
- (q) recover all arrears of taxes, rents and other moneys, within the Authority areas, claimable by it as arrears of land revenue;
- (r) take action that is necessary, incidental or ancillary to enforce and give effect to the provisions of this Act;
- (s) maintain, develop and regulate public parks, green belts and green areas;
- (t) regulate the installation of billboards, sky signs, out-door advertisements on private or public property;
- (u) establish and maintain botanical gardens;
- (v) organize shows and exhibitions pertaining to horticulture, aviculture and cultural entertainment;
- (w) protect trees and other vegetation;
- (x) create awareness about horticulture and promote gardening;
- (y) acquire land for the development of any public park, green belt or green area;

- (z) procure machinery, equipment or material as may be required for the proper discharge of its functions;
- (aa) grant a service contract for the maintenance of public parks, green belts or green areas to a company owned by it or to any other private or public limited company, as the case may be;
- (ab) develop libraries within the Authority area, in lines with the modern day technology;
- (ac) constitute financial, technical, advisory and such other committees as it may deem necessary, in such manner and with such composition, as may be prescribed by regulations, for performing specific functions of the Authority;
- (ad) designate Authority areas for car parking and charge parking fee for the same in manner as may be prescribed; and
- (ae) take all steps and measures and undertake any other function which Government may assign to it, necessary for the implementation and enforcement of the provisions of this Act.

7. Collection of fines and fees and delegation of powers.---(1) The Authority shall collect fines and fees for the penalty it imposes or the services it provides, as the case may be, within the Authority area. The Authority may, subject to prior publication in the official Gazette, collect a user charge or a fee or payment in respect of services or facilities extended or made available by the Authority to the public, including fee or charges on account of conservancy, maintenance of public parks, green belts and green areas or facilities within the Authority areas.

(2) The Authority may, subject to such conditions as it may impose, by general or special order, delegate to the Director-General or any officer of the Authority or to a member of a committee, so constituted, as the case may be, any of its powers, duties and functions under this Act, not being a power, duty or function delegated to it by Government.

8. Appointment of officers and employees.---(1) The Authority may appoint such officers, officials and employees, as it considers necessary for the efficient performance of its functions on such terms and conditions as may be prescribed by regulations.

(2) The Authority may appoint advisors, experts and consultants on such terms and conditions as the Authority may specify from time to time.

(3) The Authority may associate with it, in such manner, on such terms and conditions 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.

CHAPTER-IV
DIRECTOR-GENERAL

9. Appointment and terms of office of Director-General.---(1) Government may either post an Officer of Government of BPS-20 as Director-General of the Authority or may appoint the Director-General by initial recruitment, as the case may be, for a term not exceeding three (03) years. In case of appointment by posting, the Director-General shall be from a panel of three (03) officers, duly recommended by the Local Government, Elections and Rural Development Department to act as the Director-General of the Authority.

(2) In case of appointment by Transfer/recruitment the qualification, experience and other terms and conditions of the Director-General, PDA shall be as follows:

- (a) he has atleast Second Class Master's Degree in Business Administration or Bachelor's Degree in Engineering from a recognized University; and
- (b) he has atleast twelve years administrative experience in a public or private sector or autonomous or semi-autonomous corporation.

(3) The salary, perks and privileges, allowances and other remuneration of the Director-General shall be as may be determined by Government from time to time.

(4) Notwithstanding the expiration of three (03) years term of his office, the Director-General shall continue to hold office till his successor enters upon his office; provided that the process of new Director-General shall be completed within six (06) months from the date on which the term of three (03) years of the existing Director-General is expired.

(5) In addition to the functions and powers, assigned or delegated under this Act or as may be prescribed by regulations, the Director-General shall-

- (a) be whole time officer of the Authority;
- (b) act as the Principal Accounting Officer of the Authority;
- (c) be responsible for the day to day management and affairs of the Authority; and
- (d) delegate all or any of his powers under this Act or as may be prescribed, except powers so delegated to him by the Authority.

(6) The Director-General shall also act as a Secretary of the Authority and shall be responsible for-

- (a) convening of meetings of the Authority with the approval of the Chairman;

- (b) the preparation of the agenda, working paper and its distribution among the members of Authority;
- (c) recording the minutes of each meeting of the Authority and its prompt dispatch to the concerned quarters;
- (d) implementation of the decisions of the Authority.
- (e) proper follow-up of all matters connected with or arising out of a meeting of the Authority; and
- (f) monitoring and evaluation of the progress of projects approved by the Authority.

(7) Without prejudice to the generality of the foregoing powers and functions, the Director-General shall perform under the supervision and control of the Authority and shall undertake responsibilities and duties as are entrusted to him by the Authority for purposes of this Act.

10. Resignation by or removal of Director-General.---Notwithstanding anything contained in this Act, the Director-General may, at any time before the expiry of his term and upon three months' notice, resign his office, or be removed by Government.

CHAPTER-V **PREPARATION AND EXECUTION OF SCHEMES**

11. Preparation of schemes.---(1) The Authority shall, in such form and in such manner as may be determined by it in accordance with the provisions of this Act, prepare schemes for the Authority areas or any part thereof.

(2) A scheme, prepared under sub-section (1), shall be subject to the conditions provided in this Act and as may be prescribed by rules and regulations.

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

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

(5) No construction, of whatsoever nature, shall be permissible in the Authority area, contrary to the West Pakistan Highway Ordinance, 1959 (W.P. Ord. No. XXXII of 1959).

12. 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.

13. Housing schemes, projects etc.---(1) Any housing scheme or project, as the case may be, prepared, established and developed within the Authority area, before the commencement of this Act, shall be deemed as validly prepared, established and developed under this Act.

(2) A housing scheme or project, as the case may be, so prepared, established and developed, shall be regulated by the Authority in the manner as may be prescribed by regulations.

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

- (a) execute a scheme in consultation with the Authority;
- (b) take over and maintain any of the works and services in that area;
- (c) provide any amenity in relation to the land which, in the opinion of the Authority, ought to be provided; and
- (d) enforce regulations 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 mutually agreed between the Authority and the Government agency and in the event of disagreement, as may be determined by Government.

15. Power to execute any scheme.--- (1) Where the Authority is satisfied that any direction, given by it under this Act, with regard to any scheme, has not been carried out by the Government agency, the Authority may itself, undertake any works for the execution of that scheme and the cost, thereof, shall be borne as may be mutually agreed between the Authority and the Government agency 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.

CHAPTER-VI GENERAL

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

17. Controlled area.---(1) The Authority may, by notification in the official Gazette, declare any locality within the Authority area to be a controlled area for purposes of this Act and may issue in respect of such controlled area 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 constructions in such controlled area.

(2) The Authority may, by notification in the official Gazette, after it is satisfied, notify any controlled area to be no longer a controlled area.

(3) The Authority may, by notification in the official Gazette, entrust any of its functions in any locality within the Authority area, to any Government agency, person or agent, as the case may be.

(4) For purposes of sub-section (3), the Authority may enter into an agreement with such Government agency, person or agent, on such terms and conditions as may be mutually agreed.

18. Powers to remove sources of pollution, nuisance etc.---(1) The Authority shall, for the purposes of undertaking improvement of the environment, within the Authority area or any part thereof, strictly adhere to and implement the environmental standards, as specified and fixed by the Environmental Protection Agency under the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (KP Act No. XXXVIII of 2014).

(2) For the purposes of sub-section (1), the Authority may check, replace, eliminate, remove, demolish, conserve, resettle or relocate the sources of environmental pollution such as cattle, horses or other animals, tongas, vehicular exhaust, industrial waste, solid waste, congestion, blight and slums.

19. Beautification.---(1) The Authority shall undertake beautification of the Authority area or part thereof, in a manner, as it deems fit, or to prepare schemes in accordance with the environmental standards, as specified under the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (KP Act XXXVIII of 2014) and Khyber Pakhtunkhwa Housing Authority Act, 2005 (Khyber Pakhtunkhwa Act No. XI of 2005).

(2) The Authority may, for the purpose of beautification and establishing public parks, green belts and green areas within the Authority areas, under sub-section (1), require the services of any private land holders.

(3) Where the Authority undertake the supervision for the beautification of public parks, green belts or green areas, as the case may be, situated in a privately developed area, it may charge the maintenance charges from the private land holders, which was required to maintain such public parks, green belts or green areas.

20. 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 Loans Act, 1914, (Act No. 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, at such rate of interest as may be approved by Government.

21. Power to levy betterment fee.---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 or shall increase, the Authority shall be entitled to 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.

22. Assessment of betterment fee.---(1) When 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, thereupon give notice in writing to the owner of the property, or any person having an interest therein, that the Authority proposes to assess the amount of the betterment fee in respect of the property under section 21.

(2) The betterment fee under section 21 or under sub-section (1) of this section, shall be assessed and be payable, in the manner, as may be prescribed by regulations.

23. Property tax.--- Notwithstanding anything contained in any other law for the time being in force, the Authority shall, with prior approval of Government, have the power to levy property tax on any new scheme, which the Authority executes within the Authority area.

CHAPTER-VII ACQUISITION

24. Liability to acquisition.---The Authority may, in accordance with the provisions of the Land Acquisition Act, 1894 (Act No. I of 1894), acquire or purchase any immovable property or land for any public purpose including establishing and development of schemes.

CHAPTER-VIII FINANCES, ACCOUNTS AND AUDIT

25. Authority Fund. - (1) There shall be a 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 remunerations to the officers, employees, experts, advisors and consultants and day to day business of the Authority.

(2) The Authority Fund shall consist of-

- (a) grants made by Government, Federal Government or any International agency;

- (b) all fees, rates and charges received by the Authority under this Act;
- (c) all moneys received by the Authority from the disposal of lands, buildings and other properties, movable and immovable;
- (d) proceeds from the self-financing schemes of urban development and environmental sanitation; and
- (e) all other legal sums receivable by the Authority.

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

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

26. Rates and fees.---(1) The Authority may raise adequate funds to meet the cost of planning, expansion, execution, development, redevelopment, maintenance, zoning, classification, reclassification, augmentation, supervision, regulation and conversion of any property or any present and future scheme or any part thereof, by imposing rates, fees, surcharge, other charges and fines in the manner as may be prescribed by the Authority.

(2) The rates, fees and other charges for water supply, sewerage and drainage schemes shall be such as to provide sufficient revenues to-

- (a) cover the operating expenses including taxes, if any, and interest to provide adequate maintenance and depreciation;
- (b) meet repayments on long term indebtedness to the extent that such repayments exceed the provision of depreciation; and
- (c) 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.

27. Application of the Bankers Books Evidence Act, 1891 to books of the Authority.---The Authority shall be deemed to be a bank for the purposes of the Bankers Books Evidence Act, 1891 (Act No. XVIII of 1891).

28. Custody and investment of funds.---The Authority may keep money in any treasury, sub-treasury or a bank in such manner and in such form as may be prescribed by it.

29. Budget and accounts.---(1) The Authority shall prepare its annual budget estimates and work plan and submit the same to Government and Government may modify the said estimates or plan to the extent of any Government fund or grants as it may consider necessary.

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

(3) The Authority shall, within three (03) 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.

30. Audit of accounts.--- The accounts of the Authority shall be audited by the Auditor General of Pakistan.

31. Annual report.---The Authority shall, within four (04) months, after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year. The Authority shall also, not later than four (04) months, prior to the end of its financial year, finalize and present to Government annual development plan and budget for the next ensuing financial year.

CHAPTER-IX PENALTY AND PROCEDURE

32. Power to seal a building for violation of this Act, rules or regulations.---The Director-General or any other officer of the Authority, duly authorized by him, shall have the powers to seal any building, structure or any other premises for violation of any provisions of this Act, rules or regulations, as the case may be.

33. Penalty for violation of construction or trespassing into sealed building.---Any person, who enters into or opens a sealed building or initiates construction in a sealed building within the areas, shall be liable for imprisonment for a term which may extend to three (03) years or with fine which may extend to rupees one million or with both.

34. Penalty for encroachment.---Whoever, encroaches or violates the approved site plan or structure of a building in the Authority areas, shall be liable for imprisonment for a term which may extend to three (03) years or with fine which may extend to rupees two million or with both:

Provided that no person shall be subject to fine or proceedings under this section unless he is given a notice and he has failed to remedy the violation within fifteen (15) days thereof at his own costs and expense.

35. Penalty for illegal schemes.---Whoever, develops a scheme or society within the Authority areas, without prior written approval of the Authority or contravenes the provision of this Act, rules and regulations, shall be liable to imprisonment for a term which may extend to three (03) years or a fine which may extend to rupees five (05) million or with both.

36. Imposition of fine by the Authority.---(1) Whoever, causes damage to the property of the Authority including but not limited to sanitation, sewerage within the Authority areas, shall be liable to a fine which may extend to rupees one (01) million.

(2) Whoever, uses any property in the Authority areas for any purpose, other than permitted by the terms of lease under this Act, shall be liable to fine which may extend to rupees two (02) million and its repetition for the second time may lead to the cancellation of the lease agreement.

(3) Whoever illegally installs or alters the water supply line to any property shall be liable for a fine which may extend to rupees five hundred thousand.

37. Consequences of non-payment of fines.---(1) The amount of fine shall be paid to the Authority within thirty (30) days and in the event of delay in payment of such fine, such person shall be liable to a further fine of rupees five thousand per day for each day defaulted:

Provided that no fine shall be imposed until an opportunity of hearing is given to the person liable to such fine.

(2) In the event a fine, imposed under this Act, remains unpaid for a period exceeding sixty (60) days, the Authority shall, without the need for further notice or proceedings, seal the property, demolish, remove or repair the encroachment, as the case may be, at the cost of the person in whose favour the lease agreement has granted.

38. Offences to be cognizable and non-bail able.---The offences, under sections 33,34 and 35 of this Act, shall be cognizable and non-bail able.

39. Application of the Code.---The provisions of the Code of Criminal Procedure, 1898 (V of 1898), relating to the trial of offences, shall mutatis mutandis be applicable to the offences under sections 33, 34 and 35 of this Act.

40. Appeals against the orders of the Authority.--- Any person, aggrieved by any decision or order of the Director-General or any other officer of the Authority, acting under delegated powers of the Authority, may, within 15 days of the receipt of such decision or order, appeal to the Secretary Local Government Department Khyber Pakhtunkhwa.

41. Application on corporate bodies.--- Where the person, guilty of an offence, under this Act, is a company or other body corporate, every director, manger or other officer responsible for the conduct of affairs of such person, shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed guilty of the offence.

42. Application of Public Property (Removal of Encroachment) Act, 1977.--- Notwithstanding anything contained in this Act, the provisions of the Khyber Pakhtunkhwa Public Property (Removal of Encroachment) Act, 1977 (Khyber Pakhtunkhwa Act No. V of 1977) shall mutatis mutandis apply to any case of encroachment falling within the area of the Authority.

43. Application of Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012.---The provisions of the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012) and the rules made thereunder shall, for the purposes of procurement, mutatis mutandis apply to the Authority.

44. Act to override other laws.--- The provisions of this Act shall have effect, notwithstanding anything to the contrary, contained in any other law for the time being in force.

45. Public servant.---All employees of the Authority, 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, 1860 (XLV of 1860).

46. 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.

47. Indemnity.---The Chairman, members, Director-General, Directors, advisors, consultants, officers, officials or employees 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.

48. Power to make rules and regulations.--- (1) Government may, by notification in official Gazette, make rules for carrying out the purposes of this Act.

(2) Subject to this Act or the rules, the Authority may, by notification in official Gazette, make regulations for carrying out the purposes of this Act.

49. Regularization of employees.---(1) All employees, serving with the affairs of the Authority, who are holding various posts till the enactment of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the commencement of this Act, having the same qualification and experience for the said posts.

(2) The seniority of the employees regularized under sub-section (1) shall be determined in the prescribed manner.

50. Removal of difficulties.---If any difficulty arises in giving effect to the provisions of this Act, the Authority may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

51. Savings.---After the repeal of the Khyber Pakhtunkhwa Urban Development Board (Dissolution) Ordinance, 2002 (Ord. No. XVI of 2002), all actions done, orders given, notifications issued and appointments made, by the Director-General, in good faith and in accordance with applicable laws, rules and regulations, for the time being in force, till the commencement of this Act, shall be deemed to be done, given, issued and made under this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa