



North-West Frontier Province

Published by Authority

PESHAWAR, FRIDAY, 24TH APRIL, 2009.

PROVINCIAL ASSEMBLY SECRETARIAT
THE NORTH-WEST FRONTIER PROVINCE

NOTIFICATION

Dated Peshawar, the 24th April, 2009.

No.PA/NWFP/Bills/2009/1505.—The Defence Housing Authority Peshawar Bill, 2009 having been passed by the Provincial Assembly of North-West Frontier Province on 21st January, 2009 and assented to by the Governor of the North-West Frontier Province on 13th April, 2009 is hereby published as an Act of the Provincial Legislature of the North-West Frontier Province.

THE DEFENCE HOUSING AUTHORITY PESHAWAR ACT, 2009 (N-W.F.P. ACT NO. X OF 2009)

(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 24th April, 2009).

AN
ACT

to establish the Defence Housing Authority Peshawar.

Preamble.---WHEREAS it is expedient to establish the Defence Housing Authority Peshawar;

It is hereby enacted as follows:-

1. Short title and commencement.---(1) This Act may be called the Defence Housing Authority Peshawar Act, 2009.

(2) It shall come into force at once and shall be deemed to have taken effect from 14th September, 2008.

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

- (a) "Authority" means the Defence Housing Authority Peshawar established under this Act;
- (b) "Executive Board" means the Executive Board constituted under this Act;
- (c) "Governing Body" means the Governing Body constituted under this Act;
- (d) "Government" means the Government of the North-West Frontier Province;
- (e) "prescribed" means prescribed by rules or regulations made under this Act;
- (f) "regulations" mean regulations made under this Act;
- (g) "rules" mean rules made under this Act;
- (h) "Scheme" means any financial scheme or development scheme undertaken, planned or made by the Authority, under this Act; and
- (i) "specified area" means all land that may be purchased or procured or acquired by, or leased to the Authority with the approval of the Government for a single scheme, in an area of Peshawar and adjoining districts, as may be notified by the Authority, after the commencement of this Act.

3. **Establishment of the Authority.**---(1) As soon as may be after the commencement of this Act, there shall be established an Authority to be known as the Defence Housing Authority Peshawar.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to acquire and hold property and to enter into contracts, and may by the said name sue and be sued.

4. **Management.**---(1) The general direction and administration of the affairs of the Authority shall vest in the Governing Body which shall consist of-

- (a) the Corps Commander Peshawar;
- (b) the Chief Secretary, North-West Frontier Province;
- (c) the General Officer Commanding, 7 Division;
- (d) the Administrator;
- (e) the Secretaries to the Government of the North-West Frontier Province Law and Housing Departments or their nominees not below the rank of Additional Secretary;

- (f) the Secretary of the Authority; and
- (g) two members of the Provincial Assembly to be nominated by the Speaker Provincial Assembly of NWFP.

(2) The Corps Commander Peshawar, and the Chief Secretary, North-West Frontier Province, shall be the Chairman and the Vice-Chairman of the Governing Body respectively.

(3) There shall be an Executive Board consisting of-

- (a) Corps Commander Peshawar;
- (b) the General Officer Commanding, 7-Division;
- (c) the Administrator of the Authority;
- (d) two members of the Provincial Assembly nominated by the Speaker Provincial Assembly of NWFP; and
- (e) the Secretary of the Authority.

(4) The Corps Commander Peshawar and the General Officer Commanding, 7-Division shall be the President and the Vice President of the Executive Board respectively.

(5) The Executive Board shall, subject to the control of the Governing Body, exercise all powers and do all acts and things which may be exercised or done by the Authority.

(6) No act or proceedings of the Governing Body or the Executive Board shall be invalid merely by reason of any vacancy in or defect in the constitution thereof.

5. **Administrator.**---The Administrator shall be a serving or retired officer not below the rank of Brigadier, duly appointed by the Corps Commander Peshawar, who shall perform such functions as may be assigned to him by the Governing Body.

6. **Meeting of the Governing Body and the Executive Board.**---The Governing Body and the Executive Board shall meet at such place and in such manner as may be prescribed.

7. **Delegation of powers.**---The Governing Body, the Executive Board and the Administrator may delegate to any person all or any of their functions under this Act.

8. **Committees.**---The Authority may constitute such Committees as may be necessary for the efficient performance of its functions and assign to such Committees such functions as it may deem necessary.

9. **Functions of the Authority.**---The Authority may do all such acts and things as may be necessary for the planning and development of and for providing and regulating housing facilities in the area notified by the Government.

10. **Municipal functions.**---(1) Notwithstanding anything contained in any other law for the time being in force, Government may, by notification in the Official Gazette, specify, that the Authority may exercise and perform such powers and functions for the specified area as a municipal administration may exercise and perform in relation to municipal functions under the law for the time being in force.

(2) No master plan, planning or development scheme shall be prepared by any local body or agency for the specified area without prior consultation with, and approval of, the Executive Board.

11. **Power to cancel allotment.**---The Governing Body or the Executive Board may cancel, revoke or rescind any allotment, transfer, license, lease or agreement in respect of any plot or scheme in the specified area if the allottee, transferee, licensee or lessee fails to pay the dues or installments, including development charges, in respect of such plot, a piece of land or housing unit within three months from the date of receipt of the demand in writing or within such extended time as the Governing Body or the Executive Board may, in special cases fix and thereupon the plot or the housing unit, with or without construction thereon, shall be resumed and vest in the Authority.

12. **Authority fund.**---(1) There shall be a fund to be known as "the Defence Housing Authority Peshawar Fund", which shall vest in the Authority and to which shall be credited all moneys received by the Authority.

(2) The fund shall be kept in such custody and shall be utilized and regulated in such manner as may be prescribed.

13. **Budget, audit and accounts.**---The budget of the Authority shall be approved and its accounts shall be maintained and audited in such manner as may be prescribed under the rules.

14. **Recovery of sums due to the Authority.**---Any sum payable to the Authority shall be recoverable as arrears of land revenue.

15. **Acquisition of land.**---The acquisition of any land or any interest in land for the purposes of the Authority shall be deemed to be an acquisition for a "public purpose" within the meaning of the Land Acquisition Act, 1894 (I of 1894).

16. **Appointment of officers, staff, etc.**---The Executive Board may appoint such persons in its service as may be necessary for the efficient performance of its functions in such manner and on such terms and conditions as may be prescribed.

17. **Employees to be public servants.**---All persons acting or purporting to act in pursuance of any provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860.

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

19. **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 any rules, regulations or orders made thereunder, the Authority or any person authorized by it 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 as may 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, the Authority or any person authorized by it in this behalf may, after giving the person concerned 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 thereof from the person responsible for the erection, construction or use of the building, structure, work or land in contravention of the provisions as aforesaid.

20. **Indemnity.**---No suit or legal proceedings shall lie against the Authority, the Governing Body, the Executive Board, the Administrator, or any of their members, or employees of the Authority for any things done or purported to have been done by them in good faith under this Act, the rules or the regulations made thereunder.

21. **Rules.**---Government may make rules for carrying out the purposes of this Act.

22. **Regulations.**---The Authority may make regulations not inconsistent with this Act and the rules, for carrying out the purposes of this Act.

23. **Removal of difficulties.**---If any difficulty arises in giving effect to any provision of this Act, Government may give such directions as it may consider necessary for the removal of such difficulty.

24. **Repeal.**---Defence Housing Authority Peshawar Ordinance, 2008 (N-W.F.P. Ordinance No. XVII of 2008) is hereby repealed.

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

MUHAMMAD SALIM KHAN
Secretary,
Provincial Assembly of NWFP