

THE [KHYBER PAKHTUNKHWA] SARHAD DEVELOPMENT
AUTHORITY ACT, 1972.
*KHYBER PAKHTUNKHWA] ACT NO. XI OF 1973.
12" JANUARY, 1973.

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THE [KHYBER PAKHTUNKHWA] SARHAD DEVELOPMENT AUTHORITY ACT, 1972.

*[KHYBER PAKHTUNKHWA] ACT NO. XI OF 1973.

12" JANUARY, 1973.

(Received the assent of the Governor of the *[Khyber Pakhtunkhwa] on 12th January, 1973)

AN
ACT

to provide for the establishment of Sarhad Development Authority for the purpose of promoting the economic and industrial development of the "(Khyber Pakhtunkhwa).

WHEREAS it is expedient to provide for the establishment of Sarhad Development Authority for the purpose of promoting the economic and industrial development of the *[Khyber Pakhtunkhwa] and for matters ancillary thereto;

It is hereby enacted as follows —

1. (1) This Act may be called the *[Khyber Pakhtunkhwa] Sarhad Development Authority Act, 1972.

(2) It extends to the whole of the [Province of Khyber Pakhtunkhwa], except the Tribal Areas.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context the following expressions shall have the meanings hereby respectively assigned to

them, that is to say.

(a) "Authority" means the Sarhad Development Authority [Khyber Pakhtunkhwa] established under section 3;

(b) "Board" means the Board of Directors of the Authority;

Subs Vide the Khyber Pakhtunkhwa Act.IV of 2011.

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Preamble.

Short title extent
and
Commencement.

Definitions.

(c) "Chairman" means the Chairman of the Authority;
(d) "Director" means a Director of the Authority and includes

the Chairman;

(e) "Government" means the Government of the [Khyber Pakhtunkhwa];

) "Governor" means the Governor of the *[Khyber Pakhtunkhwa];

(g) "Industry" means an industry for the manufacture of

consumer or producer goods, other than-

(i) cottage or small industry; and

(ii) the industry the development whereof under Federal control is declared by Federal law to be expedient in the public interest;

(h) "minerals" mean all minerals excluding minerals necessary for the generation of nuclear energy and mineral oil and natural gas;

(i) "prescribed" means prescribed by rules or regulations;

@ "regulations" means regulations made under this Act;

(k) "rules" mean rules made under this Act;

(l) "Scheduled Bank" means the Bank for the time being included in the list of banks maintained under sub-section (1) of section 37 of the State Bank of Pakistan Act, 1956;Act No.XXXIII of 1956; and

(m) "State Bank" means the State Bank of Pakistan.

3. (1) As soon as may be after the commencement of this Act, Government Establishment

shall establish an Authority to be called the Sarhad Development Authority oe Authority 3{Khyber Pakhtunkhwa] . and its Office.

1, Subs Vide the Khyber Pakhtunkhwa Act.IV of 2011.

2, Subs Vide the Khyber Pakhtunkhwa Act.IV of 2011.

3, Subs Vide the Khyber Pakhtunkhwa Act.IV of 2011.

(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 shall by the said name sue and be sued.

(3) The Head Office of the Authority shall be at Peshawar but Government may, by notification in the official Gazette, transfer it to such other place as may be specified in such notification.

(4) The Authority shall establish Regional Offices at such places as Government may direct.

4. (1) The authorized share capital of the Authority shall in the first instance, be one crore of rupees divided into one hundred fully paid up shares of one lakh of rupees each, which may be issued from time to time by the Authority with the previous sanction of Government.

(2) Nothing in sub-section (1) shall prevent the Authority from increasing its capital with the previous sanction of Government.

5. (1) The general direction and administration of the Authority and its affairs shall vest in the Board which may exercise all powers and do all acts and things which may be exercised or done by the Authority in accordance with the provisions of this Act.

(2) The Board in discharging its functions shall act on commercial considerations and shall be guided by such directions as Government may from time to time give.

(3) If the Board fails to obey any direction as aforesaid, Government may remove the Directors including the Chairman, and, notwithstanding anything in section 6, appoint persons in their places to be Directors temporarily until fresh Directors are appointed under that section.

6. (1) The Board shall consist of such number of Directors not less than three and not more than five, as may be appointed by Government.

(2) Each Director shall-

(a) be a whole time or part-time officer of Authority;

(b) perform such duties as the Board may by regulations assign to him;

(c) divest himself of any directorship or other interest held by him in any other Corporation Company or concern other than public companies sponsored by the Authority, under sub-

Share capital.

Management.

Appointment
and terms of

offices of
Directors.

section (5) of section 17 before assuming office as whole time Director;

(da) subject to the provisions of section 9, hold office for a term of three years and may be appointed thereafter for a further term or terms of such duration as Government may, in appointing him thereto, determine; and

(e) receive such salary and allowances as Government may determine:

Provided that Government may, in exceptional circumstances where it considers it necessary to do so in the public interest, exempt, by a special order, any person, who has been appointed or is about to be appointed a Director, from the application of clause (c).

(3) One of the Directors appointed under sub-section (1) shall be the Financial Director, who shall exercise such powers and discharge such duties as may be prescribed.

7. (1) Government shall appoint one of the Directors to be the Chairman of the Board, who shall be the Chief Executive of the Authority.

(2) Subject to his continuing to hold office as a Director, the Chairman shall hold office as Chairman for a term of three years and subject as aforesaid, shall remain in office as Chairman, thereafter until his successor in that office is appointed and may, subject as aforesaid, be appointed to hold that office for a further terms or terms as Government may, in appointing him thereto, determine.

8. Notwithstanding anything contained in sections 6 and 7, when the Board is first constituted, the Chairman and Directors shall hold office for such term, not exceeding three years, as may be determined by Government:

Provided that such Chairman and Directors may be appointed to hold that office for a further terms or terms as Government may, in appointing them thereto, determine.

9. (1) No person shall be or shall continue to be a Director who —

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

(b) is or at any time has been adjudicated insolvent; or

(c) is found a lunatic or becomes of unsound mind; or

Chairman.

Terms of office
of first
Chairman and
Directors.

Disqualifications
of Directors.

(a)

(e)

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is or at any time has been disqualified for employment in; or dismissed from the service of Pakistan; or

is under the age of twenty-one years; or

is not a citizen of Pakistan.

(2) Government may, by order in writing, remove the Chairman or a Director

if he-

(a)

(b)

()

(a)

refuses or fails to discharge or becomes, in the opinion of Government, incapable of discharging his responsibilities under Act; or

has in the opinion of Government, abused his position as Chairman or Director; or

has knowingly acquired or continued to hold without the permission in writing of Government, directly or indirectly, or through a partner, any share or interest in any contract or employment with, by or on behalf of the Authority, or in any property which, in his knowledge, is likely to benefit or has benefited as a result of the operations of the Authority; or

has absented himself from three consecutive meetings of the Board without the leave of Government in the case of the Chairman, or of the Chairman in the case of a Director.

(3) Notwithstanding anything contained in this Act, the Chairman or a Director may, at any time before the expiry of his term, upon three months notice, resign his office, or upon similar notice be removed from office by Government without assigning any reason.

10. (1) The Authority, subject to such general or special orders as Government may from time to time give, appoint such officers, advisers and employees as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may determine.

(2) The Authority may employ such officers, expert, advisors, consultants

and other persons as may be transferred to it by Government, on such terms and conditions as may be determined by Government.

(3) The Chairman, in cases of urgency, may appoint such officers, advisers, consultants and other employees as may be necessary:

Removal of
Chairman and
Directors.

Resignation by
Chairman or
Director.

Appointment of
officers,
advisors etc.

Provided that every appointment made under this sub-section shall be reported to the Authority without unnecessary delay, and shall not continue beyond six months unless approved by the Authority.

11. (1)The Authority may associate with itself in such manner, on such terms and for such period as it may deem fit, any person whose assistance or advice it may deem necessary in carrying out any of the purpose of this Act.

(2)A person associated under sub-section (1) for any purpose shall have a right to take part in the discussion of the Board relating to that purpose but shall not have a right to vote and shall not be deemed to be a Director for that or any other purpose.

12. The Authority may constitute such financial technical and advisory committees as may be necessary for carrying out the purposes of this Act.

13. (1)Every Director, advisor, officer or other employee of the Authority, before entering upon his duties, shall make such declaration of fidelity and secrecy as may be prescribed by regulations.

(2)Any advisor, officer or other employee of the Authority, who in the opinion of the Governor or a person authorized by the Governor in this behalf, has violated the declaration of fidelity or secrecy made by him under sub-section (1) shall be liable after being given a reasonable opportunity of showing cause against the action proposed to be taken with respect to him to be forthwith removed from his office or post.

14. (1)The meetings of the Board shall be held at such times and at such places as may be prescribed by regulations:

Provided that at least one meeting shall be held in a month:

Provided further that until regulations are made in this behalf, such meetings shall be held at such times and at such places as may be determined by the

Chairman.

(2)The quorum necessary for transacting business at a meeting of the Board shall be three,if the Board consists of five Directors and two if the number is less.

(3)Each Director, including the Chairman, shall have one vote but in the event of an equality of votes, the Chairman shall have a second or casting vote.

(4)The meetings of the Board shall be presided over by the Chairman, and in his absence by a Director authorized by him in this behalf and in default of such

Powers of
Authority to
associate other
persons.

Financial
technical and
advisory

committee.

Declaration of
fidelity and
secrecy.

Meetings of the
Board.

authorization by a person elected for the purpose by the Director present from among themselves.

(5) Not act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

(6) The minutes of every meeting, stating among other things, the names of the Directors present, shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting, and such book shall at all reasonable times and without charge be open to inspection by any Director.

15. (1) If the Governor so directs in any case, the Chairman shall forward to him copies of all papers which were laid before the Board for consideration at a meeting.

(2) Government may require the Chairman to furnish it with—

(a) any return, statement, estimate, statistics or other information regarding any matter under the control of the Authority; or

(b) a report on any such matter; or

(c) a copy of any document in the charge of the Chairman.

(3) The Chairman shall comply with any such requisition under sub-section (2) without undue delay.

16. Subject to the provisions of sub-section (3) of section 6, the Authority may, by general or special order in writing, direct that such of its powers shall, in such circumstances and under such conditions, if any as may be specified in the order, be exercisable also by the Chairman or such Director or officer or employee as may be specified therein.

17. (1) The Authority shall take over and be responsible for such business, projects undertakings and properties, rights, duties and liabilities as may be transferred to it by Government.

(2) Unless, otherwise directed by Government, the Authority shall also be responsible for—

(a) planning, promoting, organizing and implementing programmes for the establishment of industries, and commercial ventures;

(b) the exploration exploitation and development of minerals and mines; and

Forwarding of statements, etc., to Government.

Delegation of powers.

Business which
the Authority
shall transact.

(c) tendering advice on the technical, operational and commercial feasibility of any programme or scheme specified by Government.

Explanation.- In clause (a) “planning” includes studies, surveys, experiments and scientific and technical investigation.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Authority shall perform such other duties and functions as Government may, from time to time, assign to it.

(4) The Authority shall, in order to carry out any functions under sub-section (1) or clauses (a) and (b) of sub-section (2) or sub-section (3)-

(a) submit, for the approval of Government, proposals or schemes; and

(b) proceed to give effect to any proposal or scheme as approved by Government.

(5) the Authority may, and, where Government so directs, shall, for the purpose of giving effect to any proposal or scheme approved by Government, sponsor limited companies independent of each other or subsidiary companies incorporated under the Companies Act, 1913:

Provided that before sponsoring any such company, the Authority shall obtain the approval of Government to the company's capital structure.

(6) The Authority shall be represented on the Board of Directors of the aforesaid companies.

(7) The Authority may issue the capital required for the aforesaid companies for public subscription and, if any portion thereof remains unsubscribed after the expiry of the closing date for public subscription, subscribe on behalf of Government that portion:

Provided that the Authority shall not subscribe to an extent which in the aggregate exceeds such limit as may be notified by Government from time to time.

(8) The Authority may underwrite the whole or any portion of the capital issued under sub-section (7).

(9) The Authority shall, when it considers the time apportion sell or transfer the shares subscribed for by it under sub-section (7):

Provided that no such sale or transfer shall take place at a rate below the market quotation or below the par value of such shares without the previous sanction of Government.

(10)the Authority may participate in joint ventures with '[the public or private sector or both] in regard to matters specified in clauses (a) and (b) of sub-section (2).

18. No subscription shall be made unless it is adequately secured by pledge, Mortgage, hypothecation or assignment of such property, movable or immovable, and of such value in proportion to the subscription as may be notified by Government from time to time.

19. The Authority may, with the previous approval of Government and the Federal Government, and on such terms and conditions as may be approved by Government, borrow in foreign currency from the International Bank for Reconstruction and Development or otherwise moneys required for the development of industries.

20. The Authority shall be deemed to be a bank for the purposes of the Banker's Books Evidence Act, 1891.

21. The Authority shall by such date in each year as may be prescribed by rules, submit to Government for approval a statement to be called the Annual Budget Statement in the prescribed form for every financial year showing the estimated receipts and expenditure and sums which are likely to be required from Government during that financial year.

22. (1)All money at the credit of the Authority shall be kept in such in such institutions or banks as may be approved by Government.

(2)Nothing in sub-section (1) shall be deemed to preclude the Authority from investing any such money which are not required for immediate expenditure in any of the securities fixed deposit with a bank approved by Government or in such other manner as may be approved by Government.

"2199-A. Recovery of Authority dues.

(1) The Authority may declare that any dues or class of dues recoverable by it from a defaulter shall be recoverable as arrears of land revenue.

1, Substituted vide Khyber Pakhtunkhwa ordinance No.XIV of 1981.

2 Inserted vide Khyber Pakhtunkhwa Act No. VIII of 1999.

Security for
subscription.

Loans in
foreign
currency.

Act XV_ II
1891 to apply

the books of
Authority.

Annual Budget
Statement.

Custody and
investment of
Authority fund.

(2) On a declaration under sub-section (1), any such dues shall be recovered by the Collector in the manner laid down in the Revenue Recoveries Act, 1890 (Act No.I of 1890).]"

23. The Authority shall maintain proper accounts and other relevant records and prepare annual statement of accounts, including the profit and loss account and balance-sheet, in accordance, with such general directions as may be issued, and in such forms as may be specified by Government in consultation with the Auditor General of Pakistan, hereinafter referred to as the Auditor-General.

24. (1)The accounts of the Authority shall be audited by Auditors who shall be chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961, and appointed with the approval of Government by the Authority on such remuneration as it may think fit, and such remuneration shall be paid by the Authority.

(2)Notwithstanding the audit provided for in sub-section (1), the Auditor-General shall once a year audit or cause to be audited the accounts of the Authority.

(3)The Auditor-General shall also hold, or cause to be held, a test audit of the undertakings wholly owned by the Authority and of the companies sponsored by it and in the event of a test audit disclosing irregularities, the Auditor-General may carry out or cause to be carried out, such further audit as he considers necessary.

(4)The Authority and every such undertaking and company as is referred to in sub-section (3) shall produce the accounts, books and connected documents, at the place where they are normally expected to be available, and furnish such explanations and information as the Auditor-General or any officer authorized by him in this behalf may require at the time of the audit.

(5)The Auditor-General shall, in holding the audit, keep in view the provisions of sub-section (2) of section 5 and state in his report how far in his opinion these provisions have been complied with.

(6)A statement of accounts of the Authority and the report of the Auditor-General on the said accounts, together with the report of the Auditor-General on the account of undertaking and the companies referred to in sub-section (3) shall be furnished to Government by the Authority after the end of every financial year.

25. (1)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 years

Maintenance of accounts.

Audit.

Annual Report.

(2)The annual report referred to in sub-section (1) shall, as soon as possible, be laid by Government before the Provincial Assembly of the '[Khyber Pakhtunkhwa].

26. The Chairman, Directors, officers, advisors, or employees of the Authority shall, while acting or purporting to act in pursuance of the provisions of this Act, or the rules or regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

27. (1)Every Director, advisor, officer or other employee of the Authority shall be indemnified by the Authority against all losses and expenses incurred by him in the discharge of his duties, except such as are caused by his own willful act or default.

(2)The Director shall not be personally responsible for the acts of any other Director, or of any officer, adviser, or an employee of the authority for any loss or expense resulting to the Authority by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Authority, or by the wrongful act of any person under a liability to the Authority or by anything done by him in good faith in the execution of the duties of his office.

28. (1)the annual statement of accounts referred to in section 23 together with the audit report and test audit report of the Auditor-General on the accounts of the Authority, undertaking and companies referred to in section 24 shall be placed by Government before the Provincial Assembly of the *[Khyber Pakhtunkhwa] as soon as possible after they are received, and the Provincial Assembly shall refer the same to its Committee on Public Accounts for scrutiny.

(2)The Committee on public accounts shall scrutinize and examine the reports referred to it under sub-section (1) in the same manner, and shall in respect thereof perform the same functions and exercise the same powers as are required by it to be performed and exercised in respect of appropriation accounts of the provincial Government and the report of the Auditor-General thereon.

29. (1)Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2)In particular and without prejudice to the generality of the foregoing powers,such rules may provide for —

(a) the manner of keeping accounts of the Authority and the companies managed by it;

1, Subs Vide the Khyber Pakhtunkhwa Act.IV of 2011.

2, Subs Vide the Khyber Pakhtunkhwa Act.IV of 2011.

Public servants.

Indemnity of
Directors, etc.

Placing of audit
reports, etc.,

before the
Provincial
Assembly.

Power to make
rules.

- (b) the recruitment of officers, advisors and employees of the Authority;
- (c) the terms and conditions of service of the officers, advisors and employees of the Authority, including the functions of the advisors;
- (d) the borrowing by the Authority;
- (e) the purchase and sale of goods by the Authority;
- (f) the date by which, and the form in which, the annual budget statement shall be submitted in each year;
- (g) the procedure for appropriation and re-appropriation of moneys returns, at the credit of the Authority;
- (h) the form and manner in which and the authorities to whom returns, reports or statements shall be submitted; and
- (i) such other matters relating to the administration of the affairs of the Authority as Government may think fit to regulate by rules.

30. (1) The Authority may, with the previous sanction of Government, make regulations to provide for all matters, not provided for in the rules for which provision is necessary or expedient for carrying out the purposes of this Act and the said rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for —

- (a) the meetings of the Board;
- (b) the investment of the Authority's funds; and
- (c) the sale or transfer of shares under sub-section (9) of section 17.

31. 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.

32. (1) The North-West Frontier Province, Sarhad Development Authority Ordinance, 1972 (N.W.F.P, Ord No. XX of 1972), is hereby repealed.

(2) Notwithstanding the repeal of the North-West Frontier Province, Sarhad Development Authority, Ordinance, 1972, everything done, action taken, authority established, obligation or liabilities incurred rights, assets or property acquired, persons appointed or authorized, jurisdiction or powers conferred or notifications or orders issued under any of the provisions of the said Ordinance or

Power to make regulations.

Winding up of the Authority.

Repeal and

Saving.

tules or regulations made thereunder, if not inconsistent with the provisions of this Act or rules or regulations made under this Act, shall be continued, and, so far as may, be deemed to have been respectively done, taken, established, incurred, acquired, appointed or authorized, conferred and issued under this Act, and any document referring to any of the provisions of the said Ordinance, rule or regulations shall so far as may be, considered to refer to the corresponding provisions of this Act or rules or regulations made under this Act.