

THE '[KHYBER PAKHTUNKHWA] INVESTMENT
FACILITATION AGENCY ORDINANCE, 2002.

*[KHYBER PAKHTUNKHWA]] ORDINANCE NO. XXXVI OF 2002.

CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement.
2. Definitions.
3. Establishment of the Agency
4. Management.
5. Investment Facilitation Council.
6. Establishment of Board.
7. Managing Director,
8. Appointment of officers, advisors, etc.
9. Functions of the Agency.
10. Declaration of fidelity and secrecy.
11. Delegation of powers.
12. Fund.
13. Maintenance of accounts.
14. Audit.
15. Annual report.
16. Recovery of Agency's dues.
17. Public servants.
18. Indemnity.
19. Dissolution of *[Khyber Pakhtunkhwa] Development Authority.
20. Transfer of assets and liability.
21. Power to make rules.
22. Power to make regulations.

‘Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

°Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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THE '[KHYBER PAKHTUNKHWA] INVESTMENT
FACILITATION AGENCY ORDINANCE, 2002.

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[28th] September, 2002]

AN

ORDINANCE

to provide for establishment of an Investment Facilitation Agency and
to wind up the 3/[Khyber Pakhtunkhwa] Development Authority established under the
"Khyber Pakhtunkhwa] ° [Khyber Pakhtunkhwa] Development Authority Act, 1972.

WHEREAS it is expedient to provide for the establishment of an Agency in the
[Khyber Pakhtunkhwa] in order to replace the [Khyber Pakhtunkhwa] Development
Authority, established under section 3 of the "[Khyber Pakhtunkhwa] °[Khyber
Pakhtunkhwa] Development Authority Act, 1972 ("°[Khyber Pakhtunkhwa] Act No. XI of
1973), by the said Agency;

AND WHEREAS the Governor of the "Khyber Pakhtunkhwa] is satisfied that
circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the
fourteenth day of October, 1999, as amended upto date, and the Provisional Constitution
Order No. | of 1999, read with Article .4 of the Provisional Constitution (Amendment)
Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor
of the "[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance;

1. Short title and commencement.— (1) This Ordinance may be called the 'S[Khyber
Pakhtunkhwa] Investment Facilitation Agency Ordinance, 2002.

(2) It extends to whole of the "Province of the Khyber Pakhtunkhwa].

(3) It shall come into force on such date as Government may, by notification in

the official Gazette, specify.

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

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(a) "Agency" means the '[Khyber Pakhtunkhwa] Investment Facilitation Agency established under section 3 of this Ordinance;

(b) "Board" means the Board established under section of this Ordinance;

(c) "Chairman" means the Chairman of the Board;

(d) "Chief Executive" means the Chief Executive of the 7[Khyber Pakhtunkhwa];

(e) "Council" means the Council appointed under section 5 of this Ordinance;

(f) "Government" means the *[Khyber Pakhtunkhwa];

(g) "Managing Director" means the Managing Director of the Agency;

(h) "Member" means a member of the Council or the Board, as the case may be;

(1) "prescribed" means prescribed by rules made under this Ordinance;

Gj) "regulation" means regulations framed under this

Ordinance; and

(k) "section" means a section of this Ordinance.

3. Establishment of the Agency.—(1) As soon as may be after the commencement of this Ordinance, Government shall establish an Agency to be called the "[Khyber Pakhtunkhwa] Investment Facilitation Agency.

(2) The Agency shall be a body corporate having perpetual succession and a common seal with power 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 Agency shall be at Peshawar, but Government may, by notification in the official Gazette, transfer it to such other place as may be specified in the notification.

(4) The Agency shall establish regional offices at such places as Government may direct.

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4. Management.—(1) The general direction and administration of the Agency and its affairs shall vest in a council which may exercise all powers and do all acts and things which may be exercised or done by the Agency in accordance with The provisions of this Ordinance.

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

5. Investment Facilitation Council.—(1) There shall be a Council to be called the Investment Facilitation Council (IFC) consisting of the following:

(i) the Chief Minister, '[Khyber Pakhtunkhwa]. President.

(ii) the Minister for Industries, *[Khyber Vice- President. Pakhtunkhwa].

(iii) — the Additional Chief Secretary to Government Member.

Planning and Development Department.

(iv) the Secretary to Government, Industries Member. Department.

(v) the Secretary to Government, Finance Member. Department.

(vi) the Chairman. Member.

(vii) | the Managing Director, Bank of Khyber. Member.

(viii) a representative of *[Khyber Pakhtunkhwa] Member. Chamber of Commerce and Industry/*[Khyber Pakhtunkhwa] Employers Association/APTMA.

(ix) any other person to be co-opted by the Member. Council.

(x) the Managing Director of the Agency. Member-cum-Secretary.

(2) The Council shall, in addition to its general responsibilities under section 4, advise the Board on the industrial priorities and preferences being pursued by the Federal Government.

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(3) All decisions made or directions issued by the Council shall be implemented and complied with by the Board through the Managing Director.

6. Establishment of Board.—(1) There shall be established a Board of the Agency, consisting of not more than six members, including the Chairman, as under:

(a) an entrepreneur of outstanding repute and having exposure of corporate sector shall be appointed as Chairman of the Board;

(b) two members shall be appointed from private sector;

(c) two ex-officio members being Director (Finance and Administration) and Director (Planning and Implementation); and

(d) the Managing Director.

(2) The term of office of the members of the Board, including the Chairman, shall, subject to the other provisions contained in this section, ordinarily before a period of three year commencing from the date of assumption of office as such member or, as the case may be, Chairman.

(3) The other terms and conditions of appointment of the members of the Board, including the Chairman, shall be such as may be prescribed by Government.

(4) The Board shall, in the performance of its functions under sub section (3) of section 5, also be responsible for day to day business of the Agency.

(5) Government may, by order in writing, remove any member of the Board, including the Chairman, if he-

(a) refuses or fails to discharge or becomes, in the opinion of Government, incapable, of discharging his, responsibilities under this Ordinance; or

(b) has, in the opinion of Government, abused his position as Chairman or member; or

(c) 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 Agency, or in any property or venture he knows or ought to have known which, in his knowledge, is likely to benefit or has benefited him as a result of the operation of the Agency; or

(d) has absented himself from three consecutive meetings of the Board without the leave of Government, in case of the Chairman, or of the Chairman, in case of a member:

Provided that no such Chairman or member may be so removed unless he has been served with a written notice in this behalf to show cause that why he should not be so removed, his reply, if any, has been received within a reasonable time, and he has been given fair chance of hearing.

(6) Notwithstanding anything contained in this Ordinance, any member of the Board, including the Chairman, 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.

7. Managing Director,—(1) Government shall appoint a Managing Director, who shall be the Chief Executive of the Agency and shall work under the general supervision and control of the Council and the Board.

(2) The terms and conditions of service and the tenure of office of the Managing Director shall be such as may be determined by Government; provided that in matters pertaining to the removal of the Managing Director from his office or tendering of resignation by him, he shall be governed by the provisions contained in sub-section (4) and (5) of section 6.

8. Appointment of officers, advisors, etc.—(1) The Agency may, subject to such general orders as Government may, from time to time give, appoint such officers, advisors and employees as it considers necessary for efficient performance of its functions, on such terms and conditions as it may determine; provided that the number of such officers, advisors and employees shall not exceed one hundred and fifty.

(2) The Agency may request the Government to place the services of such officers, advisors, consultants or other person at its disposal on such terms and conditions as may be mutually agreed to by the Agency and Government, and employee them accordingly.

(3) The Agency shall, with the approval of the Council, prescribe the procedure for appointment and terms and conditions of service of its officers and employees.

9. Functions of the Agency.—(1) The functions of the Agency shall be—

(a) to manage existing industrial estates/EPZ;

(b) to establish more industrial estates where required;

(c) to provide one-window investment facilities for private, public-private and

foreign joint-venture investment;

(d) to manage the affairs of Provincial Committee of Investment (PCOJ) and to coordinate with the Federal Board of Investment (BOD;

(e) to apprise the Ministry of Industries, Government of Pakistan, on impediments and problems being faced by the industrial sector in the 'Khyber Pakhtunkhwa];

(f) to identify new investments and industries and to

prepare opportunity studies and feasibility studies in various sectors; and

(g) to explore new markets, goods and services and to identify viable small, medium and large scale enterprises based upon indigenous raw material, cost effective with good market prospects within the country and abroad.

(2) The Agency, in the performance of its functions under clauses (a) to (c) of sub-rule (1), may levy such fee or impose such service charges as may be determined by it by a notification in the official Gazette.

10. Declaration of fidelity and secrecy.—(1) Every member of the Board, advisor,

officer and other employee of the Agency, before entering upon his duties, shall make such declaration of fidelity and secrecy as may be prescribed by regulations.

(2) Any person referred to in sub-section (1), who, in the opinion of the Chief Executive or a person authorized by the Chief Executive in his behalf, has violated the declaration of fidelity or secrecy made by him shall be liable, after being given 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.

11. Delegation of powers.—The Board may delegate any of its powers to the Chairman, or a member of the Board, or to the Managing Director, by a general or special order in writing.

12. Fund.— (1) The Agency shall have a non-lapsable fund to be known as the Agency Investment Facilitation Fund to which shall be credited-

(a) loans obtained from, or grants and funds provided by, Government including the Federal Government;

(b) other loans obtained by the Agency;

(c) income accrued from industrial estates/zones and other resources;

(d) foreign aids, grants and loans negotiated and raised by the Agency

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with the approval of Government;

(e) all other sums/income received by the Agency such as fees, damages costs, refunds, forfeitures, sale proceeds, lease money, rentals and fines;

(f) income from sale by assets, land or vehicles belonging to the Agency; and

(g) funds from floating boards, shares or through any other means, with the permission of Government.

(2) — The Fund shall be utilized in relation to its functions in such manner as may be prescribed and shall be kept in a Scheduled Bank approved by the Council.

13. Maintenance of accounts.—The Agency 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 direction as may be issued, and in such manner as may be specified by Government in consultation with the Auditor General of Pakistan, hereinafter referred to as the Auditor General.

14. Audit.—(1) The accounts of the Agency shall be audited by the auditors who shall be Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961, and shall be appointed by the Agency, with the approval of Government, on such remuneration as the Agency may think fit. The remuneration shall be paid by the Agency.

(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 Agency.

(3) The Auditor General shall, in holding the audit, keep in view the provisions of sub-section (2) of section 4 and state in his report how far in his opinion the said provisions have been complied with.

(4) A statement of accounts of the Agency and the report of the Auditor General on the said accounts shall be furnished to Government by the Agency, as soon as may be, after the end of every financial year.

15. Annual report.—(1) The Agency 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 proposal to the next ensuing financial year.

(2) The statement of accounts, the audit reports and the annual report shall, as soon as possible, be laid by Government before the Provincial Assembly of the '[Khyber Pakhtunkhwa], and the Provincial Assembly shall refer the same to its Committee on Public

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Accounts for scrutiny and examination in the same manner as the Committee exercises in respect of appropriation accounts of Government.

16. Recovery of Agency's dues.—(1) The Agency may declare that any dues or class of dues recoverable by it from a defaulter shall be recovered as arrears of land revenue.

(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 (I of 1890).

17. Public servants.—The President, the Vice-President, the Chairman, the members of the Council and the Board, officers, advisers and other employees of the Agency shall, while acting or purporting to act in pursuance of the provisions of this Ordinance, or the rules and regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

18. Indemnity.—Every member, adviser, officer or other employee of the Agency shall be indemnified by the Agency 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.

19. Dissolution of '[Khyber Pakhtunkhwa] Development Authority.---The *[Khyber Pakhtunkhwa] Development Authority (hereinafter referred to as "The Authority"),

established under section 3 of the *[Khyber Pakhtunkhwa] '[Khyber Pakhtunkhwa] Development Authority Act, 1972 ?[Khyber Pakhtunkhwa] Act No. XI of 1973), shall stand dissolved with immediate effect and as a corollary thereof the said Act shall stand repealed.

20. Transfer_of assets _and_liability—(1) Consequent upon the dissolution of the Authority and the repeal of the °[Khyber Pakhtunkhwa] '[Khyber Pakhtunkhwa]

Development Authority Act, 1972 (*[Khyber Pakhtunkhwa] Act No, XI of 1973), hereinafter referred to as the repealed Act,-

(a) the share capital of the Authority, authorized under sub-sections (1) and (2) of section 4 of the repealed Act shall stand transferred in the name of the Agency;

(b) all assets and liabilities of the Authority, movable or immovable, acquired or possessed by the Authority and all financial deposits in commercial banks/Disbursing Financial Institutions (DFIs) shall, on the commencement of this Ordinance, be the assets and liabilities of the Agency;

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(c) all cases pending in courts for or against the Authority shall be deemed to be cases for or against the Agency and will be defended by the Agency; and

(d) all lease agreements/deeds for allotment of plots in various industrial states/zones, executed by the Authority, shall be deemed to have been executed by the Agency and all interests of the Authority thereunder shall be the interests of the Agency.

(2) All the employees of the Authority, except the employees who may become surplus, shall become the employees of the Agency.

(3) All surplus employees of the Authority shall be given golden hand shake in the prescribed manner.

21. Power to make rules—Government may make rule to carry out the purposes of this Ordinance.

22. Power to make regulations.—Subject to rules made by Government, the Agency may make regulations on matters not covered by the rules.