

THE [KHYBER PAKHTUNKHWA] FOREST DEVELOPMENT
CORPORATION ORDINANCE, 1980.

> IKHYBER PAKHTUNKHWA| ORDINANCE No. II OF 1980.

[29th March, 1980]

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¹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

THE '[KHYBER PAKHTUNKHWA] FOREST DEVELOPMENT
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[29th March, 1980]

AN
ORDINANCE

to amend and consolidate the Law relating to establishment of Forest Development Corporation in the * [Khyber Pakhtunkhwa]

WHEREAS it is expedient to amend and consolidate the Preamble law relating to establishment of Forest Development Corporation in the "[Khyber Pakhtunkhwa];

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 the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), 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. (1) This Ordinance may be called the '[Khyber Short title, extent Pakhtunkhwa] Forest Development. Corporation Ordinance, 1980. 44 commencement
(2) It extends to whole of the *[Khyber Pakhtunkhwa].
(3) It shall come into force at once.

2. In this Ordinance, unless there is anything repugnant in the Definition subject or context,—

¹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

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* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

° Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

7 Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

(a)

(b)

(c)

(d)

(e)

(f)

(g)

(h)

(i)

G)

"Board" means the Board of Directors of the Corporation constituted under this Ordinance;

"Chairman" means the Chairman of the Board;

"Corporation". means the '[Khyber Pakhtunkhwa] Forest Development Corporation established or deemed to have been established under this Ordinance;

"Forest produce" means the Forest produce as defined in the Forest Act, 1927 (VI of 1927);

"Government" means the Government of the *[Khyber Pakhtunkhwa];

"Governor" means the Governor of the 3[Khyber Pakhtunkhwa].

"Managing Director" means the Managing Director of the Corporation and includes any person for the time being discharging the functions of the Managing Director;

"General Manager" means the General Manager of the Corporation ;

"prescribed" means prescribed by rules made under this Ordinance; and

"timber" means the timber as defined in the Forest Act, 1927 (VI of 1927).

3. (1) As soon as may be, after the commencement of this Ordinance, Government shall establish a Corporation to be called the "[Khyber Pakhtunkhwa] Forest Development Corporation.

(2) The Corporation shall be a body corporate having perpetual succession and common seal, with power, subject to the

¹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

Incorporation

provisions of this Ordinance, 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 Corporation shall be at Peshawar with Regional Offices at such other places as Government may direct.

4. The authorised share capital of the Corporation shall be ten million rupees, to be subscribed by Government, or such other amount as Government may, from time to time, determine.

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

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

(3) All acts of the Corporation, whether executive or other-wise, shall be expressed to be taken in the name of the Corporation and shall be authenticated in such manner as may be prescribed.

(4) All business of the Corporation shall be transacted in such manner as may be prescribed.

6. (1) The Board shall consist of a Chairman and Directors as hereinafter provided.

(2) The Minister for Forests or, in his absence, a nominee of the Governor shall be the Chairman of the Board.

(3) The following shall be the Directors of the Board:

(i) Additional Chief Secretary to Government, Planning and Development Department;

(ii) Secretary to Government, Finance Department;

Share capital

Administration and conduct of business.

Constitution of the Board

(iii) Secretary to Government, Incharge of the Forest Department;

(iv) | Managing Director;

(v) one nominee of the principal loan giving agency, other than Government, if any;

(vi) a non-official nominee of the Governor having experience in an eminent capacity of business and administration, and having no financial interest directly or indirectly, in the Corporation;

(vii) Chief Conservator of Forests, '[Khyber Pakhtunkhwa].

(4) The Chairman and each Director shall perform such duties and receive such salary or allowances as may be prescribed.

7. Government may appoint a Managing Director of the Corporation who shall be the Chief Executive of the Corporation and shall exercise such powers and perform such duties as Governor may, from time to time, specify, or the Board may under section 13 delegate.

8. (1) The Board may, subject to such general or special orders as Government may, from time to time give, appoint such officers, advisers and employees necessary for the efficient performance of the functions of the Corporation on such terms and conditions as may be prescribed.

(2) The Board shall employ such officers, experts, advisers, 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 case of urgency, may appoint such officers, advisers, consultants and other employees as may be necessary:

Provided that every appointment made under this sub-section shall be reported to the Board without unnecessary delay,

' Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

Appointment of
Managing Director

Appointment of
officers, etc.

and shall not continue beyond six months unless approved by the Board.

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

Provided that until rules 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 five.

(3) All decisions in the meeting shall be taken by majority of votes. In the event of an equality of votes, the Chairman shall have a second or casting vote.

(4) The meeting of the Board shall be presided over by the Chairman and in his absence by the person authorised by the Chairman in writing in that behalf, and in default of such authorisation by the person elected for the purpose by the Directors present from among themselves.

(5) The minutes of every meeting of the Board, 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. Such book shall at all reasonable times and without charge be open to inspection by the Directors.

(6) No 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.

10. (1) The Corporation shall make suitable arrangements for the-

(a) economic and scientific exploitation of forests;

(b) sale of forest produce;

(c) establishment of primary wood-processing units;

Meetings of the Board

Functions

(d) regeneration in areas to be specified by

Government; and

(e) performance of such other functions as may

be assigned to it by Government.

(2) For carrying out any of its functions, the

Corporation may, with the approval of the Board, sponsor limited or subsidiary companies incorporated under the Companies Act, 1913 (VII of 1913), on such terms and conditions relating to their capital structure, its subscription, representation of the Corporation on their management, under writing of the share capital and sale or transfer of the Corporation's share therein, as the Board may deem proper; provided that before sponsoring any such company, the Corporation shall obtain the approval of Government to the Company's capital structure.

11. All contracts made by or on behalf of the Corporation shall

be-

(a) in writing and expressed to be in the name

of Corporation; and

(b) executed in such manner as may be

prescribed.

12. (1) There shall be a fund to be known as _ the

Corporation Fund vested in the Corporation which shall be utilized by the Corporation to meet charges in connection with its functions under this Ordinance including the payment of salaries and other remuneration to the Managing Director, officers and servants of the Corporation.

(2) The Corporation Fund shall consist of —

(a) capital subscribed by Government;

(b) grants made by Government;

(c) loans obtained from Government;

(d) sale proceeds of bonds issued under the

authority of Government;

Contract

Corporation Fund

(e) loans obtained from Banks and _ other financial institutions;

(f) foreign aids and loans obtained with the previous sanction of the Federal Government;

(g) sales proceeds of timber and other forest produce ; and

(h) income accruing from operations of the Corporation or any of the limited or subsidiary companies sponsored by it.

13. (1) The Board may, for the purpose of efficient functioning of the Corporation, by a resolution , delegate to the Chairman or Managing Director or any other officer of the Corporation, subject to such conditions and limitations as may be specified therein, such of its powers, duties or functions under this Ordinance as it may deem appropriate.

(2) The Managing Director may, with the prior approval of the Chairman, delegate to officers of the Corporation such of the powers and duties assigned to him by or under this Ordinance, other than those delegated to him under sub-section (1), as he may deem appropriate.

14. (1) The Corporation shall be deemed to be a local authority within the meaning of the Local Authorities Loans Act, 1914 (IX of 1914), for the purpose of borrowing money under that Act, and the making or execution of any scheme under this Ordinance shall be deemed to be a work which such authority is legally authorised to carry out:

Provided that no foreign loan shall be obtained by the Corporation without the previous sanction of the Federal Government, and no other loan shall be obtained by it without the previous sanction of Government.

°(2) The Corporation shall be a local authority and shall always be deemed so within the meaning of the Income Tax Ordinance, 1979 (XXXI of 1979), for the purpose of claiming exemption of its income from the tax chargeable under that

¹ Renumbered vide Khyber Pakhtunkhwa Ord. No. XV of 1981, S. 2.

* Inserted vide Khyber Pakhtunkhwa Ord. No. XV of 1981.

Delegation of powers

'(Declaration of the Corporation as a Local authority for

certain purpose)

Ordinance, under section 14 thereof, read with item (57) of the Second Schedule appended thereto.

15. The Corporation shall be deemed to be a bank for the purpose of the Bankers Books Evidence Act, 1891.

16. (1) The Corporation may keep money in any treasury, sub-treasury or a bank as may be prescribed.

(2) Nothing in sub-section (1) shall be deemed to preclude the Corporation from investing any such moneys which are not required for immediate expenditure in any of the securities described in section 20 of the Trusts Act, 1882 (II of 1882), or in such other manner as it may deem fit.

17. (1) The Corporation shall prepare its annual budget estimates and work plan and submit the same to Government by the prescribed date, and Government may modify the said estimates or plan to such extent as it may consider necessary.

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

(3) The Corporation shall, within three 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 preceding financial year both of the Corporation and the limited or subsidiary companies referred to in section 10 (2).

18. (1) The accounts of the Corporation shall be audited by Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ord. X of 1961), and appointed by the Board on such remuneration as, it may think fit.

(2) Notwithstanding the provisions of sub-section (1), the Auditor General may, on the request of Government, cause to be audited the accounts of the Corporation.

19. (1) The Corporation shall, as soon as possible after the end of every financial year, submit an annual report to Government of the conduct of its affairs for that year, and on its proposals for the next ensuing financial year.

Act XVIII of 1891
to apply to the
books of the
Corporation

Custody and
investment of funds

Budget and

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].

20. Every person acting or purporting to act under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (X.L. V. of 1860).

21. No suit, prosecution or other legal proceeding shall lie against the Corporation or any person for anything in good faith done or intended to be done under this Ordinance.

22. No provision of law relating to the winding up of companies and corporations shall apply to the Corporation and the Corporation shall not be wound up except by order of Government and in such manner as it may direct.

23. Every Chairman, Director, Adviser, Officer or servant of the Corporation shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties, except as are caused by his own wilful act or default.

°23A. All sums and dues, recoverable by the Corporation under this Ordinance, shall be recoverable as arrears of land revenue.

24. The Corporation may, with the approval of Government, make rules for carrying out the purposes of this Ordinance.

25. (1) The *[Khyber Pakhtunkhwa] Forest Development Corporation Act, 1977 ("[Khyber Pakhtunkhwa] Act XI of 1977), is hereby repealed.

(2) Notwithstanding the repeal of the said Act—

(a) everything done, action taken, Corporation established, obligation or liabilities incurred, assets or property acquired, person appointed or authorised, jurisdiction or powers conferred, notifications or orders issued or the rules made under any of the

¹ Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

² Inserted vide Khyber Pakhtunkhwa Act No. VI of 2006.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

* Substituted vide Khyber Pakhtunkhwa Act. No. IV of 2011.

Public servant

Bar to proceedings

Winding up of the

Corporation

Indemnity

Recovery of dues

Powers to make
rules

Repeal and savings

provisions of the said Act, if not inconsistent with the provisions of this Ordinance and the rules made thereunder, shall continue and so far as may be, be deemed to have been respectively done, taken, established, incurred, acquired, appointed or authorised, conferred, issued or made under this Ordinance, and any document referring to any of the provisions of the said Act or the rules made there-under shall, so far as may be, be considered to refer to the corresponding provisions of this Ordinance and the rules made thereunder; and

(b) any regulations made under the said Act shall, if not inconsistent with the provisions of this Ordinance or the rules made thereunder, be deemed to be rules validly made under this Ordinance.

LIEUTENANT GENERAL FAZLE HAQ
GOVERNOR OF THE KHYBER PAKHTUNKHWA
Peshawar,
Dated the
29th March, 1980