

L.-7646

EXTRAORDINARY

PUBLISHED BY AUTHORITY

ISLAMABAD, FRIDAY, JULY 1, 2016

PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 29th June, 2016

No. F. 9(10)/2016-Legis.—The following Act of Majlis-e-Shoora

(Parliament) received the assent of the President on 28th June, 2016 and is hereby published for general information:—

Act No. XXX oF 2016

An Act to provide for the establishment of institutions and enunciation of mechanisms and procedures so as to provide for effective conservation and

efficient use of energy

Wuereas the conservation and efficient use of energy is pivotal for the development of Pakistan;

AND WHEREAS it is expedient and imperative to establish institutions and

stipulate mechanisms and procedures for effective conservation and efficient use of energy in Pakistan and for matters connected therewith and incidental thereto;

(617)

Price: Rs. 20.50

[3217 (2016)/Ex. Gaz.]

THE GA.ZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 [Part I]

It is hereby enacted as follows:—

1.

Short title, extent and commencement.—(1) This Act may be called the National Energy Efficiency and Conservation Act, 2016.

(2) It extends to the whole of Pakistan.

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It shall come into force at once.

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

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“accredited laboratory” means a laboratory designated by the Authority or the Provincial Government and duly accredited by the National Accreditation Body to carry out such procedures and tests as are necessary for furtherance of the purposes of this Act;

“adverse energy and environment effect” means energy wastage and discharge of air pollutants due to energy waste practices;

“agriculture and livestock sector” means activities or practices related to soil management, land preparation (tillage, plowing etc), harvesting, threshing, mechanized livestock and agriculture farming, livestock and agriculture farm irrigation and drainage, livestock and agriculture farm management, livestock and agriculture farm produce transportation,

_ agro-chemicals management, livestock, plant and agriculture food

processing, preservation and value addition, bio-mass recycling,

rangeland and forest management, livestock and poultry management, post harvest output management:

“Authority” means the National Energy Efficiency and Conservation Authority established under section 6;

“Board” means the National Energy Efficiency and Conservation Board established under section 3;

“buildings sector” means all buildings including private domestic household, commercial, industrial, public and community buildings;

“certified energy auditor” means any person to be certified and designated by the Authority for carrying out energy audit in accordance with the provisions of this Act;

Part I]

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THE GAZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 619

“designated agency” means an agency designated as such by the Board or a Provincial Government for the purpose of this Act;

“designated consumer” means a consumer designated as such by the Authority for the purpose of this Act;

“efficiency” means the ratio of energy output to energy input in respect of energy consuming equipment, appliances or systems;

“ENERCON”™ means the National Energy Conservation Centre

“energy” means conventional and non-conventional, alternate sources of energy including petroleum, coal, natural gas, liquefied petroleum gas or compressed natural gas and-electrical energy and may also include such other new or renewable forms of energy as the Board may, by notification in the official Gazette, specify;

“energy audit” means an examination of any energy consuming project about the way the energy is generated, transmitted, distributed or used there and identification of areas where energy waste can occur for improving energy efficiency and where scope for improving energy use efficiency may be possible;

“energy conservation” means reduction in energy consumption by minimizing waste, or curtailment of energy use or improving generation, transmission, distribution or end use energy efficiency to avoid waste, creating additional energy supply at source and effecting a reduction of undesirable emissions to the atmosphere or air due to better fuel combustion;

“Energy Conservation Tribunal” means the Tribunal constituted under Section 19;

“energy use assessment” means a comprehensive review and analysis to determine the appropriateness of energy use in any energy consuming project;

“energy waste” means amount of energy that remains unused or discarded due to incomplete burning or combustion or due to use of inefficient energy consuming equipment, appliance or due to process or inefficient operation, maintenance and management of a system;

“Government” means the Federal Government or, as the case may be, a Provincial Government;

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THE GAZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 [Parr I

“industrial sector” means small scale, medium scale and large scale industry involving manufacturing, making, formulating, altering, repairing, finishing, packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal;

“Managing Director” means the Managing Director of the Authority;

“National Accreditation Body” means the Pakistan Accreditation Council or such body as may be notified for the purpose by the Government;

“National Standards Body” means the Pakistan Standards and Quality Control Authority or such other body as may be notified for the purpose by the Government;

“person” means a natural or legal person, firm, association, partnership, society, group, company, corporation, co-operative society, Government agency, public body, non governmental organization, community based organization, village organization, local council or local authority and, in the case of a vehicle, the owner or other person having for the time being the charge or control of the said vehicle;

“pollution” means contamination of air, land or water due to discharge of pollutants as a consequence of incomplete or inefficient combustion of energy resources that alters unfavorably the chemical, physical, biological, radiation, thermal, radiological or aesthetic properties of air, water or atmosphere;

“power sector” means generation, transmission and distribution system of electricity;

“prescribed” means prescribed by rules or, as the case may be, regulations made under this Act;

“project” means any activity, scheme, proposal or undertaking in any sector 0° economy involving use of energy;

“regulations” means the regulations made under this Act;

“rules” means the rules made under this Act;

“sectors of economy” include but not limited to power sector, industrial

sector, transport sector, agriculture and livestock sector and the buildings sector;

(xxxi) "standards" means numeric values for optimum level of energy units required to produce a unit of output or desirable energy efficiency levels assigned to any process, object, equipment or appliance either for general applicability or for specific application established under the provisions of this Act; and

(xxxii) "transport sector" means road transport, railways, aviation and such other means of transportation as the Board may determine.

3. Establishment of the Board.—(1) As soon as may be after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish a Board to be known as the Pakistan Energy Efficiency and Conservation Board consisting of the following members, namely:-

(a) Federal Minister of the Division to which subject-matter Chairman of this Act stands allocated

(b) Federal Secretary of the Division to which subject- Vice Chairman matter of this Act stands allocated

(c) Federal Secretary, Ministry of Finance Member

(d) Federal Secretary, Ministry of Planning and Member Development

(e) Federal Secretary of the Division to which subject- Member matter of Petroleum and Natural Resources stands allocated

(f) Federal Secretary of the Division to which subject- Member

matter of Science and Technology stands allocated

(g) Federal Secretary of the Division to which subject- Member matter of Industries stands allocated

(h) Federal Secretary of the Division to which subject- Member matter of Housing and Works stands allocated .

(i) Federal Secretary of the Division to which subject- Member matter of Climate stands allocated

(j) Secretary of the Designated Department, Member Government of the Punjab .

(k) Secretary of the Designated Department, ' Member

Government of Sindh

(l) Secretary of the Designated Department, Member
Government of Khyber Pakhtunkhwa

(m) Secretary of the Designated Department, Member
Government of Balochistan

(n) Chairman, Oil and Gas Regulatory Authority Member

(o) Chairman, National Electric Power Regulatory Authority Member

(p) one nominee from Chambers of Commerce and Industry Member

(q) one person from Agriculture sector nominated Member
by the Federal Government

(r) Managing Director of the Authority Member

(s) Five persons of known integrity and competence from Member
private sector of which three would be full time paid.

These Members shall have expertise in different sectors
defined in the Act, including Agriculture and Livestock.

(2) A member of the Board other than an ex-officio member, shall hold
office for a period of three years from the date of his appointment and shall be
eligible for reappointment but for not more than two terms.

(3) The headquarters of the Board shall be at Islamabad, but it may hold
its meetings anywhere in Pakistan as and when deemed necessary.

(4) The Board shall hold not less than three meetings during a year and
may co-opt members for particular meetings or generally as may be necessary.

(5) A meeting of the Board shall be presided over by the Chairman of the
Board or, in his absence, by the Vice Chairman or in his absence by any member
elected by the Board.

(6) The Board may make its own rules of procedure and conduct of its
business accordingly.

(7) A member of the Board, other than an ex-officio member, may at any
time by writing under his hand resign from his office, provided that no resignation
shall take effect until it has been accepted by the Board.

(8) The presence of not less than one-third of the total members of the
Board shall be necessary to constitute a quorum for its meetings and its decisions
shall be expressed in terms of the opinion of the majority members present and
voting. In case of a tie, the vote of the presiding officer shall be the casting vote.

(9) The Board may delegate any of its functions, other than the making of regulations, to any committee set up by it or to any of its members, subject to such conditions, if any, as it may specify. The recommendations of the committees shall be submitted to the Board for approval. :

(10) The Board or any of its committees may invite any technical expert or representative of any Government agency or non-governmental organization or other person possessing specialized knowledge of any subject for assistance for the performance of its functions.

(11) The Board may recommend to the Federal Government or a Provincial Government to establish advisory committees for various sectors for assisting the Authority in the discharge of its functions.

(12) The Provincial Government may notify a specific public department as focal point for the proper co-ordination, facilitation and enforcement of 'the provisions of this Act.

4. Functions and powers of the Board.—(1) The supervision, management of the affairs, and policy direction of the Authority shall vest with the Board.

(2) The Board may, exercise all powers and do all acts which may be exercised or done by the Authority.

(3) The Board, or a Provincial Government with the concurrence of the Board, may establish any suitable structure or mechanism for enforcement of this Act in consultation with National Standards Body including energy efficiency standards, labeling, incentives, fines and other related requirements under this Act with effect from the date to be determined by the Board.

(4) The Board may approve appropriate strengthening, restructuring, capacity building, terms and conditions of employees and compensation or protection of service benefits for NEECA and its employees, to effectively carry out the functions under the provisions of this Act.

5. Organization of the Board.—(1) The Board may, for carrying out its functions for promotion of energy conservation and efficiency, development of energy efficient technologies, certification of energy efficient products and projects and project management, may establish one or more organizations as it may consider necessary.

(2) -The organization established under sub-section (1) shall be subject to control and supervision of the Board and shall function within the framework of this Act.

(3) An organization established under sub-section (1) shall perform such

- business as may be prescribed by regulations by the Board for the purpose.

6. Establishment of the Authority—(1) As soon as may be after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish an Authority to be called the National Energy Efficiency and Conservation 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 dispose of property, both moveable and immoveable and shall have the capacity to sue and be sued.

(3) The general direction and administration of the Authority and its affairs shall vest in the Managing Director, who shall be appointed by the Federal Government on such terms and conditions as may be prescribed. Managing Director shall be an energy and environmental expert of known integrity, competence with at least ten years of related experience in handling energy projects. Managing Director shall be appointed for an initial term of three years and shall be eligible for re-appointment upon satisfactory performance for similar term upto a maximum of sixty-five years age. Subject to this Act the Managing Director may exercise all powers and do all acts and things, which may be exercised or done by the Authority. The Managing Director will serve as the Secretary of the Board and shall report to the Board and seek its approval for all matters including its budget, plans and projects.

(4) The Managing Director, officers, employees and servants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules and regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

7. Powers and functions of Authority—The powers and functions of the Authority shall be to—

(a) serve as sole focal Federal authority for initiating, catalyzing, carrying out and coordinating the implementation of all energy conservation programs in all sectors of economy;

(b) administer, implement and enforce the provisions of this Act and the rules and regulations made thereunder;

(c) prepare and update national energy conservation policy for the approval of the Board;

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prepare draft regulations to be made by the Board pursuant to the provisions of this Act;

recommend national energy efficiency standards to the Board and , after approval by the National Standards Body ensure implementation of these standards;

coordinate energy conservation policies and programs nationally and internationally;

establish protocols of coordination between relevant functionaries of the Government and serve as the information house on energy conservation and management;

initiate demonstration and research and development programs in support of its functions;

establish infrastructure and take appropriate institutional development and capacity building measures for effective implementation of the provisions of this Act;

establish systems and procedures for surveys, surveillance, monitoring, inspection and audits to prevent the inefficient use of energy resources and recommend implementation of specific energy conservation measures;

establish and maintain one or more laboratories as accredited laboratories for conducting tests and analysis to help the Authority in the performance of its functions and to conduct research in various

aspects of energy conservation;

seek information or data relevant to its functions from any person or organization for quantitative or technological analysis;

recommend to the Federal Government or a Provincial Government the adoption of financial and fiscal incentives or schemes for achieving energy conservation objectives;

initiate requests for foreign technical and financial assistance for the purposes of this Act, enter into arrangements with foreign agencies and organizations for exchange of information and materials and participate in international meetings and seminars;

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THE GAZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 [Part I]

obtain information or data relevant to the functions of the Authority from any person in such form as the Authority may specify;

undertake inquiry or investigation into energy conservation issues, either on its own accord or upon complaint from any person or on the advice of the Board;

summon and enforce the attendance of any person or an officer, employee, proprietor, partner, manager, director or chief executive of an entity and require him to supply any information or document needed for the conduct of an inquiry or investigation into any issue being carried out pursuant to the provisions of this Act;

direct an initial energy use assessment to be carried out for any upcoming project and submitted to the Authority before commencement thereof;

carry out energy audits either by itself or direct any person to conduct an energy audit by any certified or designated energy auditor for any facility, enterprise, factory, building or object for the purpose of identification of energy conservation issues and making recommendations for corrective measures thereof; ;

request for tests and analysis from its own laboratory or from any other accredited laboratory of an equipment, gadget, accessory or hardware to measure its energy characteristics;

prohibit manufacture, sale or import of equipment or appliances which are not energy-efficient and ensure display of such particulars through labels on equipment or appliances as may be necessary;

fix and realize fee, rates and charges for rendering any service or

providing any facility or information or data audit or assessment or test carried out pursuant to the provisions of this Act and the rules and regulations made thereunder;

appoint such technical and legal experts and administrative staff as it considers necessary for the efficient performance of its functions on such terms and conditions as may be prescribed; and

perform any other function assigned to it by the Federal Government or the Board including but not limited to—

(i) arrange, conduct and monitor the training of relevant professionals for their performance as energy auditors or managers;

(ii) facilitate, manage or designate authority for the appropriate registration of energy auditing firms or individuals and professionals;

(iti) direct, coordinate, renew and terminate the services of energy auditors, relevant trainers and energy efficiency inspectors as may be specified by regulations.

8. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Federal or Provincial Government or officers thereof, Managing Director or any member or officer or employee of the Authority or any person exercising any power or performing any act carried or contemplated to be carried out in good faith in furtherance of the provisions of this Act, as determined by the Board, or the rules or regulations made thereunder.

9. Fund of the Authority—1) There shall be formed a fund to be known as the Authority Fund, which shall vest in the Authority and shall be utilized by the Authority to meet charges in connection with its functions under this Act including, *inter alia*, the payment of salaries and other remuneration to the Managing Director, members, officers, employees, servants, experts and consultants of the Authority.

(2) The Authority Fund shall be administered in the manner as may be prescribed.

(3) To the credit of the Authority Fund shall be placed,—

(a) initial seed money grant of one billion rupees by the Federal Government, for the purpose of meeting expenses in connection with the functions and operations of the Board and the Authority, institutions and organizations under this Act, including payment of salaries and other remunerations, payable to employees of the Authority as well as consultants and advisers;

(b) revenue budget allocations by the Federal Government till such time that an adequate Authority Fund is in place;

(c) grants made by the Federal Government, whether annually or otherwise;

(d) aid and assistance, grants, advances, donations and other non-obligatory funds received from foreign governments, local or international agencies, and non-governmental organizations;

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THE GAZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 © [Part I

(e) levy that may be collected by the Federal Government for the purposes of energy conservation and efficiency enhancement;

(f) contributions from private organizations and other persons;

(g) fees received under the provisions of this Act and the rules and regulations made thereunder;

(h) income from investments and commercially viable energy conservation programs; and

(i) receipts of the Authority from any other source.

The Authority may invest its funds in such profit-earning projects, and

maintain saving accounts in such banks or financial institutions, as may be approved by the Board.

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The accounts of the Authority shall be audited by the Auditor General

of Pakistan.

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Powers and functions of the Federal Government to facilitate

and enforce efficient use of energy and its conservation.—The Federal Government may, in consultation with the Authority and National Standards Body (Where ever applicable):—

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specify the norms/specifications for processes and energy consumption standards for any equipment, appliance which consumes, generates, transmits or supplies energy;

specify equipment or appliance or class of equipments or appliances, as the case may be, for the purposes of this Act;

prohibit manufacture or sale or purchase or import of equipment or appliance specified under clause (b), unless such equipment or appliance conforms to energy consumption standards;

Provided that no notification prohibiting manufacture or sale or purchase or import of equipment or appliance shall be issued within a period of six months from the date of notification issued under clause (a):

Provided further that the Federal Government may, having regard to the market share and the technological development having impact

Part I]

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THE GAZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 629

on equipment or appliance, and for reasons to be recorded in writing, extend the said period of six months referred to in the first proviso by a further period not exceeding six months;

direct display of such particulars on label on equipment or on appliance specified under clause (b) and in such manner as may be specified by regulations;

specify, having regard to the intensity or quantity of energy consumed and the amount of investment required for switching over to energy efficient equipments and capacity of industry to invest in it and availability of the energy efficient machinery and equipment required by the industry, any user or class of users of energy in the energy intensive industries and other establishments as a designated consumer for the purposes of this Act;

alter the list of energy intensive industries specified by the Authority;

establish and prescribe such energy consumption norms/specifications and standards for designated consumers as it may consider necessary:

Provided that the Federal Government may prescribe different norms and standards for different designated consumers having regard to such factors as may be prescribed;

direct, having regard to quantity of energy consumed or the norms and standards of energy consumption specified under clause (a), the energy intensive industries specified to get energy audit conducted by an accredited energy auditor in such manner and intervals of time as may be prescribed by regulations;

direct, if considered necessary for efficient use of energy and its conservation, any designated consumer to get energy audit conducted by an accredited energy auditor;

specify the matter to be included for the purposes of inspection;

direct any designated consumer to furnish to the designated agency, in such form and manner within such period, as may be prescribed, the information with regard to the energy consumed and action taken on the recommendation of the accredited energy auditor;

direct any designated consumer to designate or appoint energy manager in charge of activities for efficient use of energy and its conservation and submit a report, in the form and manner as may be prescribed, on the status of energy consumption at the end of every financial year to the designated agency;

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THE GAZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 [Part I

prescribe minimum qualification for energy auditors and energy managers to be designated or appointed under clause (1);

direct every designated consumer to comply with energy consumption norms and standards;

direct any designated consumer, who does not fulfill the energy consumption norms and standards prescribed under clause (g), to prepare a scheme for efficient use of energy and its conservation and implement such scheme keeping in view the economic viability of the investment in such form, time and the manner as may be prescribed;

prescribe energy conservation building codes for efficient use of energy and its conservation in the building or building complex;

amend the energy conservation building codes to suit the regional and local climatic conditions:

direct every owner or occupier of the building or building complex, being a designated consumer to comply with the provisions of energy conservation building codes for efficient use of energy and its conservation;

direct, any designated consumer referred to in clause (r), if considered necessary, for efficient use of energy and its conservation in his building to get energy audit conducted in respect of such building by an accredited energy auditor in such manner and intervals of time as may be specified by regulations;

take all measures necessary to create awareness and disseminate information for efficient use of energy and its conservation;

arrange and organize training of personnel and specialists in the

techniques for efficient use of energy and its conservation;

prescribe penalties for the energy inefficient apparatus, appliances, equipment, plant and machinery; and

take steps to encourage preferential treatment for use of energy efficient equipment or appliances:

Provided that the powers under clauses (p) to (s) shall be exercised in consultation with the concerned Province.

lil. Powers of the Federal Government to issue energy saving certificate —{ 1) The Federal Government may issue energy saving certificate to a designated consumer whose energy consumption is less than the prescribed norms and standards in accordance with the procedure as may be prescribed.

(2) - The designated consumer whose energy consumption is more than the prescribed norms and standards shall be entitled to purchase the energy saving certificate to comply with the prescribed norms and standards.

12. Powers of the Federal Government to specify value of energy —
The Federal Government may, in consultation with Authority, prescribe the value of per metric ton of oil equivalent of energy consumed for the purpose of this Act.

. 13. Powers and functions of Provincial Governments to facilitate and enforce efficient use of energy and its conservation.—{1) The Provincial Governments may, after approval of proposals to the effect thereof from the Board and in consultation with the Authority, by notification —

(a) amend the energy conservation building codes to suit the regional and local climatic conditions and may, by rules made by it, specify and notify energy conservation building codes with respect to use of energy in the buildings;

(b) direct every owner or occupier of a building or building complex being a designated consumer to comply with the provisions of the energy conservation building codes;

(c) direct, if considered necessary for efficient use of energy and its conservation, any designated consumer referred to in clause (b) to get energy audit conducted by an accredited energy auditor in such manner and at such intervals of time as may be specified by regulations;

(d) establish or designate laboratories duly accredited and certified by the Federal Government;

(e) collect data and information and maintain database; and

(f) direct, any designated consumer to furnish to the designated agency, in such form and manner and within such period as may be specified by rules made by it, information with regard to the energy consumed by such consumer.

(2) The Federal Government may establish a fund to be called the Energy Conservation Fund for the purposes of promotion of efficient use of energy and its conservation within its territory.

(3) To the Fund shall be credited all grants and loans that may be made by the Provincial Government or the Federal Government or any other organization or individual for the purposes of this Act.

(4) The Fund shall be applied for meeting the expenses incurred for implementing the provisions of this Act.

(5) The Fund established under sub-section (2) shall be administered by such persons or authority and in such manner as may be specified in the rules made by the Federal Government in respect thereof.

(6) The Provincial Government may, by notification in the official Gazette, adopt or make rules for carrying out the provisions of this Act, which shall not be inconsistent with the rules, if any, made by the Federal Government.

(7) The Provincial Governments shall nominate a specific department under its control to coordinate with the Authority and facilitate implementation of the provisions of this Act within its jurisdiction. The Authority upon receiving the nomination from Provincial Government, may declare the nominated department as the designated agency. The designated agency may appoint as many inspecting officers as may be necessary for the purpose of ensuring compliance of this Act.

(8) Subject to any rules made under this Act, an inspecting officer shall have such powers as vested in him by the Board.

(9) The Federal Government or a Provincial Government may, in exercise of their powers and performance of their functions under this Act and for efficient use of energy and its conservation, issue such directions in writing to any person, officer, authority or any designated consumer as they deem fit for furthering the purposes of this Act and such person, officer or authority or any designated consumer shall be bound to comply with such directions.

Explanation—The power to issue directions under this sub-section includes the power to direct in respect of—

(a) regulating the norms for process and energy consumption standards in any industry or building or building complex; and

(b) regulating the energy consumption standards for equipments and appliances. . .

14. Powers of Provincial Government to make rules.—(1) The Provincial Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act and not inconsistent with the rules, if any, made by the Federal Government.

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THE GAZETTE OF PAKISTAN, EXTRA., JULY 1, 2016 633

In particular, and without prejudice to the generality of the foregoing

power, such rules may provide for all or any of the following matters, uamely:—

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energy conservation building codes under section 13;

the form, manner and period within which information with regard to energy consumption shall be furnished under section 13;

the person or any authority who shall administer the Fund and the manner in which the Fund shall be administered under section 13;

the matters to be included for the purposes of inspection under section 15;

any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, or may be made, by rules.

Powers of inspection.—(1) The designated agency may appoint,

after the date of commencement of this Act, as many inspecting officers as may be necessary for the purpose of ensuring compliance with energy consumption standards specified under section 10 or ensure display of particulars on label on equipment or appliance specified under clause (b) of section 10 or for the purpose of performing such other functions as may be assigned to them.

(2)

Subject to any rules made under this Act, an inspecting officer shall

have power to—

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inspect any operation carried on or in connection with the equipment or appliance specified under clause (b) of section 10 or in respect of which energy standards under clause (a) of section 10 have been specified;

enter any place of designated consumer at which the energy is used for any activity and may require any proprietor, employee, director, manager or secretary or any other person who may be attending in

" any manner to or helping in, carrying on any activity with the help of

energy—

(i) to afford him necessary facility to inspect—

(A) any equipment or appliance as he may require and which may be available at such place;

(B) any production process to ascertain the energy consumption . norms and standards;

(ii) to make an inventory of stock of any equipment or appliance checked or verified by him;

{iii) to record the statement of any person which may be useful for, or relevant to, for efficient use of energy and its conservation under this Act.

(3) An inspecting officer may enter any place of designated consumer,—
(a) where any activity with the help of energy is carried on; and

(b) where any equipment or appliance notified under clause (b) of section 10 has been kept, during the hours at which such place is open for production or conduct of business connected therewith.

(4) An inspecting officer acting under this section shall, on no account, remove or cause to be removed from the place wherein he has entered, any equipment or appliance or books of account or other documents.

16. Powers to issue directions.—The Federal Government or a Provincial Government may, in exercise of its powers and performance of its functions under this Act and for the efficient use of energy and its conservation, issue such directions in writing as it deems fit for the purposes of this Act to any person, officer, authority or any designated consumer and such person, officer or authority or any designated consumer shall be bound to comply with such directions,

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct—

(a) regulation of norms for process and energy consumption standards in any industry or building or building complex; or

(b) regulation of the energy consumption standards for equipment and appliances.

17. Procedure for conducting inquiry, investigation and energy audit.—(1) The Authority or a designated agency may on its own initiative or upon a complaint require any person to get energy audit carried out within the time stipulated by such agency.

(2) The Authority or a designated agency shall bring the wastage of energy into notice of that person and give reasonable time to that person for taking corrective measures thereof.

(3) After the expiry of the stipulated time, the Authority or a designated agency shall require that person to get second energy audit or such remedial measures as may be prescribed.

(4) If that person is again found to be contravening the provisions of this Act, he shall be subject to a fine, to be imposed by the Authority or a designated agency, in accordance with section 18, after providing a reasonable opportunity of hearing to that person.

18. Imposition of fine—(1) Failure on part of any person to comply with the provisions of this Act shall constitute an offence, which shall entail a fine commensurate with the gravity of offence, as determined by the Board from time to time.

(2) The amount of fine imposed, in case of default, shall be recovered as arrears of land revenue.

19. Energy Conservation Tribunals.—(1) The Federal Government may, by notification in the official Gazette, establish as many Energy Conservation Tribunals as it consider necessary and, where it establishes more than one Energy Conservation Tribunals, it shall specify territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) An Energy Conservation Tribunal shall consist of a Chairperson who is, or has been, or is qualified for appointment as a judge of a High Court to be appointed after consultation with the Chief Justice of the High Court concerned and two members to be appointed by the Federal Government of which at least one shall be a technical member with suitable professional qualifications and experience in the energy conservation field as may be prescribed.

(3) For every sitting of the Energy Conservation Tribunal, the presence of the Chairperson and not less than one member shall be necessary.

(4) A decision of an Energy Conservation Tribunal shall be expressed in terms of the opinion of the majority of its members, including the Chairperson, or if the case has been decided by the Chairperson and only one of the members and there is a difference of opinion between them, the decision of the Energy Conservation Tribunal shall be expressed in terms of the opinion of the Chairperson.

(5) An Energy Conservation Tribunal shall not, merely by reason of a change in its composition, or the absence of any member from any sitting, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by or produced before it.

(6) An Energy Conservation Tribunal may hold its sittings at such places within its territorial jurisdiction as the Chairperson may decide.

(7) No act or proceeding of an Energy Conservation Tribunal shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution, of the Energy Conservation Tribunal.

(8) The terms and conditions of service of the Chairperson and members of the Energy Conservation Tribunal shall be such as may be prescribed.

(9) An Energy Conservation Tribunal shall exercise such powers and perform such functions as are, or may be, conferred upon or assigned to it by or under this Act or the rules and regulations made thereunder.

(10) All contraventions under sections 17 and 18 shall exclusively be triable by an Energy Conservation Tribunal.

(11) In all matters with respect to which no procedure has been provided for in this Act, the Energy Conservation Tribunal shall follow the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908).

(12) Any person aggrieved by any order or direction of the Authority or any designated Provincial agency under any provision of this Act and rules or regulations may prefer an appeal to the Energy Conservation Tribunal within thirty days of the date of communication of the impugned order or direction to such person.

(13) An appeal to the Energy Conservation Tribunal shall be in such form, contain such particulars and be accompanied by such fee as may be prescribed.

(14) Any person aggrieved by any final order of the Energy Conservation Tribunal passed under this Act may, within thirty days of communication of such order, prefer an appeal to the High Court concerned.

(15) The Energy Conservation Tribunal shall, preferably, dispose of the appeal within a period of ninety days from the date of its filing. In case the Tribunal fails to dispose of the same within the stipulated period, it shall decide within a reasonable period, after recording reasons for such delays.

(16) The Energy Conservation Tribunal may co-opt any additional member to assist the Tribunal in technical matters.

20. Power to make rules.—The Federal Government may, by notification in the official Gazette, make such rules for carrying out the purposes of this Act, as approved by the Board.

21. Power to make regulations.—(1) The Board may, by notification in the official Gazette, make regulations in consultation with the Authority to achieve the purposes of this Act.

(2) Without prejudice to the provisions of sub-section (1), the regulations may provide for inter alia the powers and modes of appointments and determination of the terms and conditions of the employees.

22. Delegation of powers.—(1) The Authority may, by general or special order in writing, delegate to any of its officer, consultant, adviser, designated entity or any other person such of its powers and functions under this Act and subject to such conditions, as may be specified in the order.

23. Power to exempt.—(1) In case the Authority is of the opinion that it is expedient so to do in the public interest, it may, by notification and subject to such conditions as may be specified therein, exempt any designated consumer or class of designated consumers from application of all or any of the provisions of this Act:

Provided that the Authority shall not grant exemption to any designated consumer or class of designated consumers for a period exceeding five years.

(2) After the expiry of the period specified in the proviso to sub-section (1), the designated consumer or class of designated consumers shall not be entitled for exemption for any further period.

24. Act not to be derogatory.—The provisions of this Act shall be in addition to and not in derogation to the provisions of any other law for the time being in force. ,

25. Transitional.—(1) All existing officers, employees and servants of the ENERCON, on the date of coming into force of this Act, shall stand transferred to the Authority, provided that all such officers, employees and servants shall have a one time irrevocable option to be exercised within six months of the commencement of this Act either to be absorbed as the employees of the Authority or retain their status which was enjoyed in the ENERCON.

(2) If any officer, employee or servant exercises one time irrevocable option to be absorbed against their respective positions he shall be deemed to be duly appointed under the relevant provisions of this Act on the date such officer, employee or staff exercises the one time option and the terms and conditions of services of such officer, employee or staff will be governed by this Act and rules and regulations made thereunder.

(3) All such officers, employees and servants who do not exercise the option under sub-section (1) of getting absorbed in the Authority shall continue enjoying the status as was enjoyed by them before the commencement of this Act.

26. Removal of difficulty—If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, by order in the official Gazette, make such provisions, not being inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that such power shall not be exercised after one year of the commencement of this Act.

27. Savings—{(1) All assets, rights, powers, authorities and privileges and all property, cash and bank balances, reserve funds, investment and all other interests and rights in or arising out of such property and all debts, liabilities and obligations of whatever kind of the ENERCON subsisting immediately before its dissolution shall stand transferred to and vest in the Authority constituted under this Act.

(2) All debts, liabilities and obligations accrued or incurred or contracts entered into, rights acquired and all matters and things engaged to be done by, with or for, the ENERCON shall be deemed to have been accrued, incurred, entered intd, acquired or engazed to be done by, with or for, the Authority.

(3) All suits and other legal proceedings instituted by or against the ENERCON before its dissolution shal be deemed to be suits and proceedings by or against the Authority and shall be proceeded or otherwise dealt with accordingly.

(4) Any reference to the ENERCON in any statutory instrument or document shall, unless the context otherwise requires, be read and construed as reference to the Authority under this Act.

28. Repeal.—The Federal Government's Resolution No. S.R.O. 4(KE)/86, dated the 23rd Deceniber, 1986 is hereby repealed.

SYED MUSSARRAT ABBAS SHAH,
Acting Secretary.

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