

ISLAMABAD, SATURDAY, JUNE 29, 1991

PART I

Acts, Ordinances, President's Orders, and Regulations

SENATE SECRETARIAT  
Fslamabad, the 26th June, 1991

The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 16th June, 1991, and is hereby publised for general information;—

Act No. XI or 1991

An Act to establish a National Highway Authority

WHEREAS it is expedient to establish a National Highway Authority for planning, development, operation and maintenance of National Highways and strategic roads and to provide for matters connected therewith or incidental thereto;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY -

1. Short title, extent and commencement.—(1) This Act may be called the National Highway Authority Act, 1991,

(2) It extends to the whole of Pakistan.

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[3172(91) Ex. Gaz]

(3) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or-context,— 7

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"Auditor General" means the Auditor General of Pakistan;

"Authority" means the National Highway Authority established .

under section 3; °

"Board" means the Executive Board of the Authority:

"Chairman™ means Chairman of the Authority:

"Council" means the National Highway Council ;

"Member" means member of the Council or, as the case may be, of the Board ;

"National Highway" means a road specified in Part-I of the Schedule and includes a road declared by the Federal Goyern-  
ment, by notification in the official Gazette, to be a National Highway ;

"President" means President of the Council;

"Regulations" means regulations framed under this Act:

"Right of Way' (ROW) means the land acquired for the purpose of construction of a National Highway or any other road assigned to the Authority :

"road" means a road including land within the right of way and

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all works, such as, carriageways, cartways, footpaths berms, side —

drains, culverts, bridges, tunnels, fences, posts, sign boards, plantation and lighting arrangements, intersections and medians assigned to the Authority;

“rules” means rules made under this Act;

“strategic road” means a road specified in Part-II of the Schedule and includes a road declared by the Federal Government, by notification in the official Gazette, to be a\* strategic road;

“Vice President” means Vice President of the Council.

ESTABLISHMENT AND MANAGEMENT  
OF THE AUTHORITY

3. Establishment of National Highway Authority.—(1) As from the commencement of this Act there shall be established for carrying out the purposes of this Act, an Authority to be known as the National Highway Authority.

(2) The Authority shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, and may by its name sue and be sued,

(3) The headquarters of the Authority shall be at Islamabad,

4. Purpose and functions of Authority.—The purpose and functions of the Authority shall be to plan, promote, organise and implement programmes for construction, development, operation, repairs and maintenance of National Highways and strategic roads specially entrusted to it by the Federal Government or by a Provincial Government or other authority concerned,

5. National Highway Council—(1) There shall be established a National Highway Council consisting of :

(a) The Prime Minister of Pakistan. President.

(b) The Minister for Communications, Q Vice President.  
Government of Pakistan.

(c) The Minister for Finance, Government of Member.  
Pakistan.

(d) The Minister for Planning and Development, Member,  
Government of Pakistan.

(e) One member National Assembly and one Member.  
member from Senate to be elected by the  
respective House.

(f) The Chairman. Member,  
Secretary.

(2) The meetings of the Council shall be called by the Secretary of the Council, at least once a year, on such date and at such time as may be specified by the President.

(3) The Minister for Communications may, on the recommendation of the Board, accord anticipatory approval to any matter which falls within the jurisdiction of the Council.

6. Powers and functions of the Council—{(1) The functions of the Council shall be —

(a) to approve five year plans and perspective plans, prepared by the Board, in consultation with the Planning and Development Division, for the construction, development, repair and maintenance of National Highways and strategic roads specially entrusted to the Authority by the Federal Government or by a Provincial Government or other authority concerned :

(b) to lay down the national policies and guidelines to be followed by the Authority in the performance of its functions;

(c) to consider and approve the proposals, schemes and projects costing sixty million rupees or more submitted by the Authority in the prescribed format; and

(d) to approve the annual budget of the Authority.

(2) The Council shall have power to control, direct and regulate the \_

\_affairs of the Authority,

7. Management.—{(1) The general direction and administration of

the Authority and its affairs shall vest in the Executive Board which may exercise all powers, perform all functions and do all acts and things which may be exercised, performed or done by the Authority.

(2) The Board shall consist of a Chairman and not more than eight Members to be appointed by the Federal Government and shall include Secretaries to the Government of Pakistan in the Ministries of Communications and Finance and Planning and Development Division, who shall be ex-officio Members, and not less than two professionals in the field of highway construction and management.

(3) The meetings of the Board shall be held at such times and places and in such manner as may be prescribed by regulations:

Provided that, until regulations are made in this behalf, the meetings shall be held as and when convened by the Chairman.

(4) The Chairman or, in his absence, a Member authorized by him in this behalf, and three Members shall constitute a quorum for a meeting of the Board.

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8. Functions of Board—Functions of Board shall be—

- (aj to consider and approve proposals, schemes, and projects costing less than sixty million rupees and to consider and recommend to the Council proposals, schemes and projects costing sixty million rupees or more ;
- (b) to consider progress reports of the Authority; and
- (c) to perform such other functions as may be delegated to it by the Council,

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9. Chairman, his duties, functions and powers.—(1) The Council shall appoint the Chairman who shall be the Chief Executive of the Authority and shall exercise such powers and perform such functions as may be specified by the Council.

(2) The Chairman shall receive such salary and allowances and be subject to such conditions of service as may be determined by the Council.

**CHAPTER II**  
**POWERS AND DUTIES OF THE AUTHORITY**

10. The powers of the Authority.—(1) The Authority may take such measures and exercise such powers as it considers necessary or expedient for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Authority may for the purpose of carrying out the purposes of this Act—

(i) advise the Federal Government on matters relating to National Highways and strategic roads;

(ii) acquire any land in accordance with legal procedure and obtain and dispose of moveable and immovable property or interests therein;

(ii) undertake any work specified in sub-sections (1) and (2) of section 11;

(iv) incur expenditure on works specified in clause (iii);

(v) procure plant, machinery, instruments and materials required for its use;

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(vi) enter into and perform all such contracts 'as it may consider

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necessary;

levy, collect or cause to be collected tolls on National Highways.  
strategic roads and such other roads as may be entrusted to it and  
bridges thereon;

licence facilities on roads under its control on such terms as it  
deems fit;

determine a building line between which and the ROW it shall  
not be lawful without the consent of the Authority to construct  
or maintain any structure or make any excavation;

cause studies, surveys, experiments and technical researches to  
be made or contribute towards the cost of any such studies,  
Surveys, experiments or technical researches made by any other  
agency :

exercise power to award negotiated contracts for projects to be  
undertaken through Private Sector Financing programme:

seek and obtain advice and assistance for the preparation and  
execution of any plan, programme or project :

raise funds (local and foreign) through borrowing, Nouting of  
bonds, sharing or leasing of assets or any other means, from time  
to time:

Provided that a foreign loan shall be negotiated in consulta-  
tion with the relevant Ministry of the Government of Pakistan;

perform any other function supplemental, incidental or con-

sequential to the purposes and functions aforesaid.

Plans and schemes—(I) The Authority shall prepare a master

plan for the development, construction, operation and maintenance of National Highways and roads in Pakistan for the approval of the Council.

(2) The Authority may frame a scheme or schemes for all or any of the following matters, namely —

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construction, expansion, operation and development: of National Highways and strategic roads; ”

research and development in the field of Highways:

training of the Authority's employees :

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(iv) welfare of the Authority's employees: and

(v) any other matter pertaining to the purposes and functions of the Authority or incidental thereto.

12. Powers to eject unauthorized oceupants.—Subject to rules, the Authority shall have power to summuthly eject any unauthorized occupant of National Highway or strategic road or proposed site thereofand demolish and remove any structure thereon, and Lo use such force, including police force. as may be necessary for the purpose and to recover the cost thereof from the person responsible for such occupation or obstruction.

CHAPTER IV  
ESTABLISHMENT

13. Appointment of officers, servants etc.—(1) The Authority may from time to time employ such officers und servants, or appoint such experts or consultants, as it may consider necessary for the performance of its functions, on such terms and conditions as it may deem fit,

(2) Notwithstanding any thing contained in sub-section (1), any rules made, or orders or instructions issued, by the Authority, or in the terms and conditions of service of any person employed by or serving under the Authority, the Authority may at any time terminate the setvices of any person, after giving him not Jess than sixty days notice or pay for the period by which such notice falls short of sixty days.

(3) Service under the Authority is hereby declared to be service of Pakistan and every person holding « post under the Authority, not beg a person who is on deputation to the Authority from any province. shall be deemed to be a civil servant for the purposes of the Service Tribunals Act, 1973.

14. Recruitment and condition of servcie—The Authority shall. with the approval of the Council, prescribe the procedure for appointment and terms and conditions of service of its officers and servants.

15, Chairman, etc., to be deemed to be public servants —The Chairman, Members, officers and servants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act,be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

16. Delegation of powers to Chairman, etc.—The Authority may by general of special order delegate to the Chairman a Member or officer of the conditions as it may think fit to impose,

17. Industrial Relations Ordinance, 1969 (XXIII of 1969), not to apply.— Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to, or in relation to, the Authority.

18. Persons serving National Highways Board.—(1) Any person on deputation to the National Highways Board immediately before the constitution of the Authority, shall, on the constitution of the Authority, be deemed to be on deputation to the Authority on the same terms and conditions of service to which he was entitled in the National Highways Board.

(2) Employees of the National Highways Board immediately before the constitution of the Authority, including a person on deputation to any other organization in Pakistan or abroad, may, on the constitution of the Authority, opt to become an employee of the Authority.

(3) An employee exercising an option under sub-section (2) shall become an employee of the Authority on such terms and conditions as may be prescribed by rules or regulations.

(4) The Federal Government shall contribute to the pension, gratuity and final payment of provident fund of a person absorbed in the Authority under sub-section (3) in accordance with the rules of the Federal Government in force at the time of such absorption.

19. Authority to be local authority.—The Authority shall be deemed to be a local authority for the purpose of borrowing money under the Local Authorities Loans Act, 1914 (IX of 1914).

## CHAPTER V REPORTS AND STATEMENTS

20. Submission of yearly reports and returns, etc.—(1) The Authority shall submit to the Federal Government, as soon as possible after the end of every financial year but before the last day of September next following, a report on the conduct of its affairs for that year.

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(2) A copy of the report mentioned in section (1), together with a copy of the audit report, shall be placed before the Federal Government before the National Assembly and the National Assembly shall refer the same to its Committee on Public Accounts for Scrutiny and examination:

(3) The 'Saisie on Public Accounts, shall investigate and examine the reports referred to it under sub-section (2) in the same manner as, 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 Federal Government and the report of the Auditor General thereon,

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(4) The Federal Government may require the Authority to furnish it

with— ]

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

(ii) a report on any such matter; or

(iii) a copy of any document in the charge of the Authority

and the Authority shall comply with every such requisition.

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21, National Highway Authority Fund.—(1) There shall be formed a non-lapsable fund vesting in the Authority known as the "National Highway Authority Fund", to be utilized by the Authority to meet charges in connection with its functions under this Act including the payment of salaries and other remuneration to the Chairman, Members, officers, servants, experts and consultants of the Authority.

(2) The National Highway Authority Fund shall be kept in scheduled banks and shall be operated according to rules and regulations of the Authority.

(3) To the credit of the National Highway Authority Fund shall be placed all funds received by the Authority from which the Authority can incur

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expenditure related to its functions including —

(i) grants obtained from the Federal Government;

(ii) other loans obtained by the Authority;

(iii) grants made by the Federal Government;

(iv) income from tolls;

(v) "grants provided by the Federal Government"

(vi) "foreign aid." grants and loans negotiated and raised by the Authority; 7"

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

(viii) income from the sale of assets, land or vehicles; and

(ix) funds from floating bonds, shares or through any other means.

22. Maintenance of accounts.—The Authority shall maintain complete and accurate books of accounts in such forms as may be prescribed by it.

23. Annual statement of accounts.—In the month of January each year, the Authority shall submit to the Federal Government for approval a statement of the estimated receipts and expenditure in respect of the next financial year.

24. Audit—(1) The accounts of the Authority shall be audited every year by the Auditor-General in such manner as may be prescribed by the Federal Government."

(2) Copies of the audit report shall be sent to the Authority and, with the comments of the Authority, to the Federal Government and shall also be available for public inspection,

(3) The Authority shall carry out any directive issued by the Federal Government for rectification of an audit objection.

,— MISCELLANEOUS

Récovery of arrears due as arrears of land revenues.—Any sum due to the state shall be recoverable as an arrear of land revenue.

26. Land acquisition.—The acquisition of any land or any interest in land for the Authority or for any project under this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894 (1 of 1894), and the provisions of the said Act shall apply accordingly.

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27. 'Transfer of rights and liabilities.—(1) As from the commencement of this Act all assets and liabilities and all rights and obligations of the National Highways Board and the Directorate General National Highways shall stand transferred to the Authority.

(2) All contracts made by the National Highway Board or the Directorate General National Highways shall be deemed to be contracts made by the Authority.

28. Authentication of orders and other instruments of the Authority.— All orders, decisions and other instruments of the Authority shall be authenticated by the signature of the Chairman and any other Member or any officer of the Authority authorised by it in this behalf',

29. Power to enter.—Subject to any regulations made in this behalf, any person generally or specially authorised by the Authority in this behalf may, whenever it is necessary so to do for any of the purposes of this Act at all reasonable times, enter upon any land or premises, and

(i) make any inspection survey, measurement, valuation or enquiry ;

(i) take levels;

(ii) dig or bore into sub-soil;

(iv) set out boundaries and intended lines of work ; \

(v) mark such levels, boundaries and lines by placing marks and cutting trenches : and

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Provided that no such person shall enter any boundary of  
any enclosed court or garden attached to a dwelling-house except  
with the consent of the occupier thereof for obtaining which at  
least twenty-four hours notice in writing of his intention to do so  
has been given to the occupier.

'30... Indemnity, etc)—(1). Nothing in this Act shall be construed as  
imposing 'upon' the Authority, either directly or indirectly, any 'duty  
enforceable by/ proceedings before any court. \ i

(2) No suit, prosecution or other legal proceedings shall lie against the  
Authority, the Chairman, or any, Member, officer, servant, expert, or  
consultant of the Authority in respect of any damage caused or likely to be  
caused or anything done or intended to be done in good faith under this Act or  
the rules or regulations.

31. Rules —The Federal Government may, by notification in the  
official Gazette, make rules for carrying out the purposes of this Act.

32. Regulations—The Authority may, make regulations. .not  
inconsistent with the rules, on all matters for which regulations are expedient.

33. Removal of difficulties —If any difficulty arises in giving effect to  
any of the provisions of this Act, the Federal Government may make such  
order, not inconsistent with the provisions of this Act, as may appear to it to be  
necessary for the purpose of removing the difficulty :

Provided that no such order shall be made after the expiry of one year  
from the commencement of this Act.

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THE SCHEDULE

[See section 2(g) and(m)]

PART-I

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PART-II

AZIZ AHMED QURESHI,  
Secretary,

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PRINTEO BY THE MANAGER, PRINTING CORPORATION OF PAKISTAN PRESS, ISLAMABAD  
PUBLISHED BY THE MANAGER OF PUBLICATIONS, KARACH|