

**THE PAKISTAN
WATER AND POWER
DEVELOPMENT
AUTHORITY
ACT, 1958**

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Pakistan Act No. XXXI of 1958**

(First published after having received the assent of the Governor of West Pakistan in the Gazette of West Pakistan on the 24th April, 1958 and subsequently amended vide West Pakistan Notification No. Leg.3(13)/59, dated 27th March, 1959)

AN ACT

To provide for the unified and co-ordinated development of the Water and Power resources of Pakistan.

Preamble

WHEREAS it is expedient to provide for the unified and co-ordinated development of the Water and Power resources of Pakistan.

It is hereby enacted as follows:

CHAPTER-I

PRELIMINARY

Short Title and Extent

1. (1) This Act may be called the Pakistan Water and Power Development Authority Act, 1958.
- (2) It extends to the whole of Pakistan except the (I)"Districts" of Karachi *.
- #2. This Ordinance may be called the Pakistan Water and Power Development Authority (Amendment) Ordinance, 1999. It shall come into force at once and shall be deemed to have taken effect from the 22nd April, 1999.

Definitions

2. In this Act, unless there is anything repugnant in the subject of context:-
 - i. "Authority" means the Pakistan Water and Power Development Authority established under Section 3 of this Act;
 - ii. "Chairman" means the Chairman of the Pakistan Water and Power Development Authority;
 - iii. "Controlled station" means a power generating station declared as a controlled station under clause (iv) of Sub-section (I) of Section 11;

- *(iia) "Deputy Chairman", means the Deputy Chairman of the Pakistan Water and Power Development Authority. (Inserted 22-12-1998).
- iv. "Government" means the Federal Government;
- v. "Land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;
- vi. "Local Body" means any District Board, District Local Board, Municipal Corporation, Municipal Committee, Municipality, Small Town Committee or Notified Area Committee;
- vii. "Member" means Member of the Pakistan Water and Power Development Authority;
- viii. "Power" includes hydraulic power, electrical energy, steam, gas or any other power notified as such by the Government in the official Gazette; and
- ix. "Regulations" means regulations framed under this Act.

CHAPTER-II

Institution of the Authority

3. (1) There shall be established an Authority to be known as the Pakistan Water and Power Development Authority for carrying out the purpose of this Act.
- (2) The Authority shall be a body corporate, shall be entitled to acquire, hold ***[and dispose off]* property, shall have perpetual succession and a common seal and shall by the said name sue and be sued.

Appointment and term of office of Chairman and Members

4. (1) The Authority shall consist of a Chairman **[Deputy Chairman]** and not more than three Members to be appointed by the Government; provided that till such time as the Authority is fully constituted, the Chairman shall exercise the powers, functions and duties of the Authority.
- (2) The term of the office of the Chairman **[and Deputy Chairman]* shall be 05 years and that of a Member three years.
- (3) Any person ceasing to be the Chairman **[Deputy Chairman]* or Member by reason of the expiry of the term of his office shall be eligible for re-appointment for another term or for such shorter term, as the Government may decide.
- (4) The *Chairman*[Deputy Chairman]* or any Member may, at any time resign.

Provided that his resignation shall not take effect until accepted by the Government

Remuneration and Conditions of Service

5. The Chairman **[Deputy Chairman]* and each Member shall receive such salary and allowances and be subject so such conditions of service as may be prescribed by the Government, and shall perform such duties as are assigned to them under this Act or by any regulation framed under it.

Removal of Chairman or Members

6. The Government may by notification remove the Chairman **[Deputy Chairman]* or any Member:
 - (a) if he refuses or fails to discharge or becomes in the opinion of the Government incapable of discharging his responsibilities under this Act; or
 - (b) if he has been declared insolvent; or
 - (c) if he has been declared to be disqualified for employment in or has been dismissed from the service of Pakistan, or has been convicted of any offence involving moral turpitude; or
 - (d) if he has knowingly acquired or continued to hold without the permission in writing of the Government, directly or indirectly or through a partner, any share or interest in any contract or employment with or by or on behalf of the Authority, or in any land property which, in his knowledge, is likely to benefit or has benefitted as a result of the operation of the Authority.

Meeting of the Authority

7. (1) The Authority shall meet at such time and place and in such manner as may be prescribed by Regulations:

Provided that until Regulations are made in this behalf, such meetings shall be convened by the Chairman.
- (2) The Chairman, or in his absence **[the Deputy Chairman]* or a Member authorised by him, and one other Member shall be present to constitute a quorum at a meeting of the Authority.

CHAPTER-III

Powers and Duties of the Authority

General powers and duties of the Authority and framing of schemes.

8. (1) The Authority shall prepare, for the approval of the Government a comprehensive plan for the development and Utilization of the Water and Power resources of Pakistan on a unified and multi-purpose basis.
- (2) the Authority may frame a scheme or schemes for a Province or any part thereof providing for all or any of the following matters, namely
 - (i) irrigation, water supply and drainage; and recreational- use of water resources;

- (ii) the generation, transmission and distribution of power, and the construction, maintenance and operation of power houses and grids:
 - (iii) flood control;
 - (iv) the prevention of waterlogged and reclamation of waterlogged and salted lands;
 - (v) inland navigation;
 - (vi) the prevention of any ill-effects on public health resulting from the operations of the Authority; and
 - (vii) "Privatise or otherwise restructure any operation of the Authority except the hydel generating power stations *(and the National Transmission Grid - omitted)"; and
3. Every scheme prepared by the Authority under sub-section (2) shall be submitted for approval to the Government, with the following information:-
- (i) a description of the scheme and the manner of its execution;
 - (ii) an estimate of costs and benefits; the allocation of costs to the various purposes to be served by the scheme and the amounts to be repaid by the beneficiaries; and
 - (iii) a statement of the proposal by the Authority for the resettlement of rehousing of persons likely to be displaced by the execution of the scheme.
4. The Government may sanction or may refuse to sanction or may return for reconsideration any scheme submitted to it under this section or may call for such further details or information about the scheme, or may direct such further examination of the scheme as it may consider necessary.
- *5. (Added) "Where a Scheme is sanctioned by the Government under sub-section(4), the Authority may:
- (a) under take any joint venture or work in association with. The Provincial Government, and agency, corporation, company, authority or any person and may subscribe to the equities and acquire such other rights and obligations as may be necessary for such joint venture or association;
 - (b) promote, from or sponsor any company or companies having objects of installation of thermal and hydel projects and development and, utilization of any resources of energy for generation, transmission and distribution of power and for survey, investigation, exploitation and utilization of resources of energy for generation, transmission and distribution of power;
 - (c) subscribe for, take or otherwise, acquire, hold and dispose off shares, bonds, debentures, commercial papers or other securities of any company promoted, formed or sponsored under clause (b) and receive dividends or other payments there from and transfer to it any of its land or any other property, moveable or immovable, tangible or intangible, against cash, " share, bonds debentures, commercial papers or other securities as is' desirable or necessary to enable it to privatise or otherwise restructure any operation of the Authority;

- (d) enter into any of the following arrangements which may be consistent with its objects namely:
 - (i) provision of services and personnel;
 - (ii) provision of goods, appliances plants, machinery and other material and
 - (iii) purchasing of electrical capacity and energy from any company specified in clause (b)
- (e) enter into any contract or agreement with any company or companies specified in clause (b).
- ##/(f) notwithstanding any terms of any contract entered into by the Authority for the supply of electricity to any person, transfer such contract to any company or other entity promoted, formed or sponsored pursuant to a scheme framed under clause (vii) of sub-section (2).*

Explanation-- For the purpose of this section, the expression "privatize" means the transfer or disinvestment of any of its assets, property, rights of liabilities, , interest, power houses, 'grid operation of work, or maintenance thereof, or generation or its distribution, by the Authority, with the prior approval of the Federal Government for valuable consideration to any person, company or body on ownership basis or for management control, operation or maintenance, either in joint venture or in association or otherwise and subject to such conditions as the Authority may impose.

Schemes framed by other agencies

9. (1) Any scheme framed by an agency in any Province other than the Authority, in j" respect of any of the matters enumerated in sub-section (2) of Section 8, if its. estimated cost exceeds the amount to be prescribed by the Government shall be submitted to the Government through the Authority and the Government may pass any of the orders contemplated by sub-section (4) of Section 8.
- (2) The Authority may with the approval of the Government, undertake execution of any scheme, or exercise technical supervision and administrative and financial " control over the execution of any scheme framed or sponsored by any agency in respect of the matters enumerated in sub-section (2) of Section 8.

* 9-A. Notwithstanding anything contained in this Act, the Authority may, with the previous approval of the Government, undertake the execution of any scheme framed or sponsored by a Provincial Government or any agency under the control of Provincial Government, or exercise technical supervision and administrative and financial control over the execution thereof on such terms and conditions as may be agreed to by the Authority on the one hand and Provincial Government or, such agency in consultation with the Provincial Government on the other as the case may be.

Survey and Experiments

10. The Authority, if it considers this necessary or expedient for carrying out the purpose of this Act, may:
- (a) cause studies, surveys, experiments or technical research to be made; or
 - (b) contribute towards the cost of any such studies, surveys, experiments or technical research made by any other agency.
- 10-A. On and from such date as the Government may, by notification, declare and subject to such terms and conditions as it may determine, all assets including lands, works, machinery apparatus, material and plants vested in the Government in the. Electricity Department shall vest in the Authority, and all liabilities in respect of the said assets shall be liability of the Authority.

Control over waters, power houses and grids

11. (1) Subject to the provisions of any other law for the time being in force, the Authority:
- (i) Shall have control over the
 - (a) underground water resources of any region in a Province;
 - (b) operation of ****its** power houses and grids, including such ancillaries works as may be considered necessary for their proper operation.
 - (ii) may make recommendations to the Government for prescribing standards for the
 - (a) operation and maintenance of all irrigation works;
 - (b) maintenance of power houses and grids;.
 - (iii) may make recommendations to the Government for promoting simplification of methods of charge for supplies of electricity and standardization of the system of supply;
- (2) Before the Authority exercise any control under clause (i) of sub section (1), the area over which and the extent to which control is intended to be exercised shall be agreed to and notified by the Government in the official Gazette.

Authority to have Dower and obligation of licensee under Act IX of 1910

12. The Authority shall for the purposes of the Electricity Act, 1910 (IX of 1910) be deemed to be licensee and shall have all the powers and discharge all the obligation of a licensee under the said Act.

Provided that nothing in Sections 3 to II, sub-section (2) and (3) of Section 21 and Sections 22, 23 and 27 or in clauses 1 to XII of the Schedule to the Said Act relating to the duties and obligations of a licensee shall apply to the Authority.

Powers regarding certain matters

13. (1) The Authority may take such measures and exercise such power as it considers necessary or expedient for the carrying out of the proposes of this Act.

(2) Without prejudice to the generality of the power conferred by the preceding i sections and the provisions of such-section (1) of this section, the Authority may for carrying out the proposes of this Act:

- (a) undertake any works, incur any expenditure, procure plant, machinery and materials required for its use and enter into and perform all such contracts as it may consider necessary or expedient;
- (b) acquire by purchase, lease, exchange or otherwise and dispose off by sale, lease, exchange or otherwise any land or any interest in land;
- (c) place wires, poles, wall brackets, stays, apparatus and appliance for the transmission of electricity or for the transmission of telegraphic or telephonic communications necessary for the proper execution of a scheme;
- (d) Direct the owners of private lands to:
 - (i) carry out measures for training of streams;
 - (ii) under take anti-erosion operations, including conservation of forests and representation.
- (e) restrict or prohibit by general or special order the cleaning and breaking up of land in the catchment area of any river;
- (f) direct that any work which has been required to be done by any person under the two preceding clauses, and which remains undone, shall after due notice to such person- and consideration of any objection raised by him, be executed by the Authority and specify the proportion in which the risk and expense of such work shall be borne by such person, or by any other person who, after being given a reasonable notice and after such inquiry as the Authority considers necessary, is held by the Authority to be responsible for the execution of such work in whole or in part; and
- (g) seek and obtain advice and assistance in the preparation or execution of a scheme from any local body or agency of the Government, and such local body. or agency shall give the advice and assistance sought by the Authority to the best of its ability, knowledge and judgment;

Provided that the Authority shall pay the cost of such advice and assistance if the giving of such advice and assistance entails additional expenditure to the local body or the agency.

(3) The acquisition of any land or any interest in land for the Authority, under this sections, or for any scheme under this Act, shall be deemed to be an acquisition for a public purpose within the meaning of the Land Acquisition

Act, 1894, and the provision of the said Act shall apply to all such proceedings.

Right of Entry

14. (1) The Chairman or any person authorised by him in writing may enter upon and survey any land, erect pillars for the determination of intended lines of works, make borings and excavations and do all other acts which may be necessary for the preparations of any scheme;

Provided that when the affected land does not vest in the Authority, the power conferred by this sub-section shall be exercised in such manner as to cause the least interference with, and the least damage to, the rights of the owner thereof.

- (2) When any person enters into or upon any land in pursuance of sub-section (1), shall at the time of entering or as soon thereafter as may be practicable, pay or tender payment for all necessary damage to be done as aforesaid, and in case of disputes as to the sufficiency of the amount so paid or tendered, the disputes shall be referred to the Deputy Commissioner of the district whose decision shall be final.

Sanction of the Government

15. A scheme framed and sanctioned under this Act may be amended or modified by the Authority at any time, but if a material change is made in the scheme, previous sanction of the Government shall be obtained.

Explanation - An increase in the cost of the scheme by more than fifteen per cent of the sanctioned cost, or a change in the benefit and cost ratio which either makes the cost component in the ratio exceed the benefits or reduces the benefits component by more than fifteen per cent shall be deemed to be a material change for the purpose of this section.

Arrangement with Local body or other Agency

- 16 (1) As soon as any scheme has been carried out by the Authority or at a later date, the Authority may arrange by a written agreement with a local body or other agency within whose jurisdiction any particular area covered by the scheme lies, to take over and maintain any of the works and services in that area. If the Authority fails to obtain the assent of such a local body or other agency, it may refer the matter to the Provincial Government and the Provincial Government may give such directions to the local body or other agency as it may deem fit.

- (2) The Government shall have the power to direct the Authority to hand over any scheme other than a power scheme or the power part of a multi purpose scheme carried out by it to any agency of the Government or a local body. In such a case the Authority shall be entitled to receive credit to the extent of the audited expenditure incurred by it on that scheme.

CHAPTER-IV ESTABLISHMENT

Employment of Officers and Servants

17: (1) The Authority may from time to time employ such officers and 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.

*Provided that all persons serving in connection with the affairs of a Province in the Electricity and Irrigation Departments shall be liable to serve under the Authority, If required to do so by the Provincial Government, on such terms and conditions as the Provincial Government may, in consultation with the Authority, determine but shall not be entitled to any deputation allowance

*Provided further that the Provincial Government may, in relation to any such person as aforesaid delegate such administrative, disciplinary and financial powers to the Authority as the Provincial Government may deem fit.

*Provided also that the terms and conditions of service of any such person as aforesaid shall not be varied by the Authority to his disadvantage.

(1A) **Notwithstanding anything contained in sub-section (1) or any law, settlement or award for the time being in force, or any rules or regulations made under this Act, or any rules, regulations, 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:-**

- (a) retire from its service any person without assigning any reason; or
- (b) remove from its service any person after informing him in writing of the grounds on which such action is proposed to be taken and giving him an opportunity of showing cause against the action within fourteen days.

(1AB) Where a person is retired from service under sub-section (1A), he shall, in addition to the retiring benefits admissible to him under the terms and conditions of his service, if any, be paid additional pay for three months.

Explanation I - For the purpose of this sub-section any person employed by, or serving under the Authority includes a person referred to in the provisos to sub-section (1).

Explanation II - Any person referred to in the provisos to sub-section (1) who is removed or retired from service by the Authority under this sub-section shall stand reverted to the Province to which he is allocated under the Province of West Pakistan (Dissolution) Order, 1970 (P.O No.1 of 1970); and

- (1-B) - *Service under the Authority is hereby declared to be service of Pakistan and every person holding a post under the Authority, not being 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.*
- (I-C) *Any order of removal or termination of service passed by the Authority in exercise of the power conferred by sub-section (I-A), shall not be called in question in any proceedings taken under the Industrial Relations Ordinance, 1969 (XXIII of 1969) or the Essential Services (Maintenance) Act, 1952 (LIII of 1952) or under any law for the time being in force before any Court, Tribunal or Commission and any order passed by any Court, Tribunal or Commission after the Thirtieth day of September 1975 and before the coming into force of the Pakistan Water and Power Development Authority (Amendment) Ordinance, 1979, setting aside or modifying or declaring any order of the Authority to be void and of no effect, shall stand vacated.*
- (I-D) Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to or in relation to any person employed as a member of the security staff of the Authority for the protection of the installations and establishment of the Authority.
- (2) The Chairman, in case of urgency, may appoint such officer and servants on such terms and conditions as may be necessary.
- Provided that every appointment made under this sub-section shall be reported to the Authority without unreasonable delay.
- (3) *Notwithstanding anything contained in sub-section (1) or any rules made, 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, transfer, second or depute any such person to any company or other entity promoted, formed or sponsored pursuant to a scheme framed under clause (vii) of sub-section (2) of Section 8 on such terms and conditions as it may deem fit. (added 24.05.1999).*

Recruitment and condition of service and disciplinary power

18. The Authority shall prescribe the procedure for appointment and terms and conditions of service of its officers and servants, and shall be competent to take disciplinary action against the officers and servants.

Immunity of the Authority and its employees (XLV of 1860)

19. (1) The Chairman **[Deputy 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.

- (2) No suit, prosecution or other legal proceedings shall lie against the Authority, the Chairman ***[Deputy Chairman]**, Members or officers, and servants of the Authority, in respect of anything done or intended to be done, in good faith under this Act.

Delegation of Powers to Chairman etc.

20. The Authority may be general or special order delegate to the Chairman [Deputy Chairman], a Member or officer of the Authority any of its powers, duties or functions, under this Act subject to such conditions as it may think fit to impose.

CHAPTER-V

REPORTS AND STATEMENTS

Submission of yearly reports and returns, etc.

21. (1) The Authority shall submit to the 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.
- (2) A copy of the report mentioned in sub-section (1) together with a copy of the audit report referred to in Section 28 shall be placed by the Government before the National Assembly and the National Assembly shall refer the same to its Committee on Public Accounts for scrutiny and examination.
- (2-A) The Committee on Public Accounts shall scrutinize and examine the report 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 of Pakistan thereon.
- (3) The 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.

CHAPTER-VI

FINANCE

Authority Fund

22. (1) There shall be a fund to be known as the " Authority Fund" vested in the Authority which shall be utilized by the Authority to meet charges in connection with its functions under this Act including the payment of salaries and other remunerations to the Chairman and Members of the Authority and to its officers and servants.

(2) The Authority Fund shall consist of:-

- (a) grants made by the Government;
- (b) loans obtained from the Government;
- (c) grant made by local bodies as required by the Government;
- (d) "sale proceeds of bonds, debentures, commercial papers or other securities issued by the Authority;"
- (dd) "all sums, dividends, shares, bonds, debentures, commercial papers, securities or any other payments received from a company or companies specified in clause (b) of sub-section (5) of Section 8" ; and
- (e) loans obtained by the Authority with the special or general sanction of the Government;
- (f) foreign aid and loans obtained from the International Bank for Reconstruction and Development or otherwise, with the sanction ****[and under the guarantee of]** and on such terms and conditions as may be approved by the Government; and
- (g) all other sums received by the Authority.

Authority to be deemed to be a Local Authority (IX of 1914)

23. (1) The Authority shall be deemed to be a local Authority under the Local Authorities Loans Act, 1914 for the purpose of borrowing money under the said Act, and the making and execution of any scheme under this Act shall be deemed to be a work which such Authority is legally authorized to carry out
- (2) Any sum due to the Authority shall be recoverable as arrears of land revenues.

Limited Liability

24. The liability of the Government to the creditors of the Authority shall be limited to the extent of grant made by the Government and the loans passed by the Authority with the sanction of the Government.

Rules for sale of power

25. (1) The Authority shall ordinarily sell power in bulk.
- (2) The rates at which the Authority shall sell power shall be so fixed as to provide for meeting the operating costs, interest charges and depreciation of assets, the redemption at due time of loans other than those covered by depreciation, the payment of any takes and a reasonable return on investment.

Maintenance of Accounts

26. The Authority shall maintain complete and accurate books of accounts in such form as may be prescribed by it.

Provided that separate accounts shall be maintained for all schemes and transaction relating to power.

Annual Statement of Accounts

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

Audit

28. The accounts of the Authority shall be audited every year by the Auditor-General of Pakistan in such manner as may be prescribed by the Government. Copies of the Audit Report shall be sent to the Authority, and with the comments of the Authority, to the Government and shall also be available for public inspection. The Authority shall carry out any directive issued by the Government for rectification of an audit objection.

CHAPTER-VII

Regulations

29. For the purpose of carrying into effect the provisions of this Act, the Authority may, with the approval of the Government, frame such Regulation as it may consider necessary or expedient.

West Pakistan Ordinance No. VIII of 1958

30. Repeal -- The West Pakistan Water and Power Development Authority Ordinance, 1958 is hereby repealed.