

**Pakistan Water And Power Development Authority Act,
1958**

31 of 1958

[24 April 1958]

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Pakistan Water And Power Development Authority Act, 1958

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An Act to provide for the unified and co-ordinated development of the water and power resources of [3][Pakistan] Preamble.-
WHEREAS it is expedient to provide for the unified and co-ordinated development of the water and power resources of [4][Pakistan]: It is hereby enacted as follows:-

CHAPTER 1

PRELIMINARY

1. Short Title And Extent :-

(1) This Act may be called the [5][Pakistan Water and Power Development Authority Act, 1958];

(2) It extends to the whole of [6][Pakistan except the [7][Districts] of Karachi.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context-

(i) "Authority" means the [8][Pakistan Water and Power Development Authority] established under section 3 of this Act;

(ii) "Chairman" means the Chairman of the Water and Power Development Authority;

(iii) "controlled station" means a power generating station declared

as a controlled station under clause (iv) of sub-section (1) of section 11;

(iv) "Government" means the [9][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 Water and Power Development Authority;

(viii) "power" includes hydraulic power, electrical energy, steam, gas or any other power notified as such by the [10][Government] in the official Gazette; and

(ix) "Regulations" means Regulations framed under this Act.

CHAPTER 2

CONSTITUTION OF THE AUTHORITY

3. Constitution Of The Authority :-

(1) There shall be established an Authority to be known as the [11] [Pakistan Water and Power Development Authority] for carrying out the purposes of this Act.

(2) The Authority shall be a body corporate, shall be entitled to acquire [12][, hold and dispose of] property, shall have perpetual succession and a common seal and shall by the said name sue and be sued.

4. Appointment And Term Of Office Of Chairman And Members :-

[(1) The Authority shall consist of a Chairman and not more than three members appointed by Government.]

(2) The term of office of the Chairman shall be five years and that of a Member three years.

(3) Any person ceasing to be the 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 or any Member may at any time resign; provided that his resignation shall not take effect until accepted by the Government.

5. Remuneration And Conditions Of Service :-

The Chairman and each Member shall receive such salary and allowances and be subject to 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.

6. Removal Of Chairman Or Members :-

The Government may by notification remove the 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 an 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 or property which, in his knowledge, is likely to benefit or has benefitted as a result of the operation of the Authority.

7. Meetings Of The Authority :-

(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, a Member authorised by him, and one other Member shall be present to constitute a quorum at a meeting of the Authority.

CHAPTER 3

POWERS AND DUTIES OF THE AUTHORITY

8. General Powers And Duties Of The Authority And Framing Of Schemes :-

(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 [14][Pakistan] on a unified and multi-purpose basis.

(2) The Authority may frame a scheme or schemes for [15][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 waterlogging and reclamation of waterlogged and salted lands;

(v) inland navigation; [16][*]

(vi) the prevention of any ill-effects on public health resulting from the operations of the Authority [17][; and]

[18][(vii) Privatised or otherwise restructure any operation of the Authority except the hydel generating power stations and the National Transmission Grid.]

(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 proposals by the Authority for the resettlement or re-housing 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.

[19][(5) Where a scheme is sanctioned by the Government under sub-section (4), the Authority may-

(a) undertake any joint venture or work in association with the Provincial Government, an 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, form 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 of shares, bonds, debentures, commercial papers or other securities of any company promoted, formed or sponsored under clause (b) and receive dividends or other payments therefrom and transfer to it any of its land or any other property, movable or immovable, tangible or intangible, against cash, shares, 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); and

(e) enter into any contract or agreement with any company or companies specified in clause (b)

Explanation.- For the purpose of this section the expression privatise means the transfer or disinvestment of any of its assets, property, rights or 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.

9. Schemes Framed By Other Agencies :-

(1) Any scheme framed by an agency in [20][any Province] other than the Authority, in respect of any of the matters enumerated in sub-section (2) of section 8, if its estimated cost exceeds the amount to be prescribed[21] 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 the 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.

9A. Section 9A :-

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 a 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 the Provincial Government or, as the case may be, such agency in consultation with the Provincial Government on the other.

10. Survey And Experiments :-

The Authority, if it considers this necessary or expedient for carrying out the purposes 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.

10A. Section 10A :-

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 the liability of the Authority.

11. Control Over Waters, Power Houses And Grids :-

(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 [24][a Province];
 - (b) operation of [25][its] power houses and grids, including such ancillary 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 standardisation of the system of supply;

[26][xxx]

(2) Before the Authority exercises 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.

[27][xxx]

12. Authority To Have Powers And Obligations Of Licensee Under Act IX Of 1910 :-

The Authority shall, for the purposes of the Electricity Act, 1910[28], be deemed to be a licensee and shall have all the powers and discharge all the obligations of a licensee under the said Act:

Provided that nothing in sections 3 to 11, sub-sections (2) and (3) of section 21 and sections 22, 23 and 27 or in clauses I to XII of the Schedule to the said Act relating to the duties and obligations of a licensee shall apply to the Authority.

13. Powers Regarding Certain Matters :-

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

(2) Without prejudice to the generality of the power conferred by the preceding sections and the provisions of sub-section (1) of this section, the Authority may for carrying out the purposes 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 of by sale, lease, exchange or otherwise any land or any interest in land;

(c) place wires, poles, wall brackets, stays, apparatus and appliances 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) undertake anti-erosion operations, including conservation of

forests and re-afforestation;

(e) restrict or prohibit by general or special order the clearing 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 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 judgement:

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 section, 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[29], and the provisions of the said Act shall apply to all such proceedings.

14. Right Of Entry :-

(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 preparation 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), he 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 dispute as to the sufficiency of the amount so paid or tendered, the dispute

shall be referred to the Deputy Commissioner of the district whose decision shall be final.

15. Sanction Of The Government :-

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.

16. Arrangements With Local Body Or Other Agency :-

(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 [30][Provincial Government] and the [31][Provincial Government] may give such directions to the local body or the 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 4

ESTABLISHMENT

17. Employment Of Officers And Servants :-

(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:

[32][Provided that all persons serving in connection with the affairs

of [33][a Province] in the Electricity and Irrigation Department shall be liable to serve under the Authority, if required to do so by the [34][Provincial Government] on such terms and conditions as the [35][Provincial Government] may, in consultation with the Authority, determine but shall not be entitled to any deputation allowance:

Provided further that the [36][Provincial Government] may, in relation to any such person as aforesaid, delegate such administrative, disciplinary and financial powers to the Authority as the [37][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.]

[38][(1-A) Notwithstanding anything contained in sub-section (1) or 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 may, at any time, retire or remove from its service any person [39][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 in writing against the action, within a period of fourteen days].]

[40][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).]

[41][(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 (LXX of 1973).]

[42][(1-C) Any order of removal or termination of service passed by the Authority, in exercise of the powers conferred by sub-section (1-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[43] of the West 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.]

[44] [(1-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 establishments of the Authority.]

(2) The Chairman, in case of urgency, may appoint such officers 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) [xxx]

18. Recruitment And Conditions Of Service And Disciplinary Powers :-

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 its officers and servants.

19. Immunity Of The Authority And Its Employees :-

(1) 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.

(2) No suit, prosecution or other legal proceedings shall lie against the Authority, the 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.

20. Delegation Of Powers To Chairman, Etc :-

The Authority may by general or special order delegate to the 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 5

REPORTS AND STATEMENTS

21. Submission Of Yearly Reports And Returns, Etc :-

(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 [46][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 [47][the National Assembly] [48][,] [49][and [50][the National Assembly] shall refer the same to its Committee on public Accounts for scrutiny and examination.]

[51][(2-A) The Committee on Public Accounts shall scrutinise 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 [52][Federal Government] and the report of the [53][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 6

FINANCE

22. Authority Fund :-

(1) There shall be a fund to be known as the "Authority Fund" vested in the Authority which shall be utilised 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) grants made by local bodies as required by the Government;

[54][(d) sale proceeds of bonds, debentures, commercial papers or other securities issued by the Authority;]

[55][(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;]

(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 of Reconstruction and Development or otherwise, with the sanction [56][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.

23. Authority To Be Deemed To Be A Local Authority :-

[(1)] The Authority shall be deemed to be a local authority under the Local Authorities Loans Act, 1914[58], 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 authorised to carry out.

[59][(2) Any sum due to the Authority shall be recoverable as arrears of land revenues.

24. Limited Liability :-

The liability of the Government to the creditors of the Authority shall be limited to the extent of grants made by the Government and the loans raised by the Authority with the sanction of the Government.

25. Rates For Sale Of Power :-

(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 taxes and a reasonable return on investment.

26. Maintenance Of Accounts :-

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 transactions relating to power.

27. Annual Statement Of Accounts :-

In the month of [60][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.

28. Audit :-

The accounts of the Authority shall be audited every year by the [61][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 7
REGULATIONS

29. Regulations :-

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

30. Repeal :-

The West Pakistan Water and Power Development Authority Ordinance, 1958[62], is hereby repealed.