

**THE ¹[KHYBER PAKHTUNKHWA] ABASEEN CONSTRUCTION
CORPORATION ORDINANCE, 2002.**

²[KHYBER PAKHTUNKHWA] ORDINANCE NO. L OF 2002.

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¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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[05th November, 2002.]

**AN
ORDINANCE**

*to establish a Construction Corporation for undertaking
developmental works in the ⁵[Khyber Pakhtunkhwa].*

WHEREAS it is expedient to establish a Construction Corporation to be known as Abaseen Construction Corporation for undertaking developmental works and its speedy disposal in the ⁶[Khyber Pakhtunkhwa];

AND WHEREAS the Governor of the ⁷[Khyber Pakhtunkhwa] is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended upto date, and the Provisional Constitution Order No.1 of 1999, read with Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of the ⁸[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance:

1. Short title, extent and commencement.---(1) This Ordinance may be called the Abaseen Construction Corporation Ordinance, 2002.

(2) It shall extend to the whole of the ⁹[Khyber Pakhtunkhwa].

(3) It shall come into force at once.

2. Definition.---In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

(a) “Board” means the Board of Directors of the Corporation, established under section 8;

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⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁸Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (b) “Chairman” means the Chairman of the Board;
- (c) “Corporation” means the Abaseen Construction Corporation, established under section 3;
- (d) “Government” means the Government of the ¹⁰[Khyber Pakhtunkhwa];
- (e) “local government” means a local government established under the ¹¹[Khyber Pakhtunkhwa]Local Government Ordinance, 2001 (¹²[Khyber Pakhtunkhwa]Ord. No. XIV of 2001);
- (f) “Patron-in-Chief” means the Patron-in-Chief of the Corporation;
- (g) “plant and machinery” means all the required plants and machinery presently held by Government or a local government, which may, by the respective government, be transferred to the Corporation;
- (h) “prescribed” means prescribed by rules made under this Ordinance; and
- (i) “section” means a section of this Ordinance.

3. Establishment of the Corporation.---(1) As soon as may be after the commencement of this Ordinance, there shall be established a Corporation, to be known as the Abaseen Construction Corporation, for carrying out the purposes of this Ordinance.

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

(3) The headquarters of the Corporation shall be at Nowshera.

(4) The Corporation shall, in the performance of its functions under this Ordinance, abide by such directions and follow such guidelines, as the Patron-in-Chief may, from time to time, give.

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¹²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

4. Share Capital.---The authorized share capital of the Corporation shall, in the first instance, be such as may be prescribed, divide into 100 Millions fully paid up shares of 100 rupees each:

Provided that nothing shall prevent the Corporation from increasing its capital with the prior sanction of Government:

Provided further that not more than 49% of the shares may be sold by the Corporation to the general public.

5. Functions of the Corporation.---The Corporation shall perform the following functions:

- (a) undertake construction, repair and maintenance of highways and roads, the allied structures/works and operation and maintenance of highway services like tools, weighing station, etc;
- (b) establish, maintain and operate pool of earth moving, road making and other machinery; and
- (c) undertake other civil engineering construction and development works.

6. Patron-in-Chief.---The Chief Executive of the Province of the ¹³[Khyber Pakhtunkhwa] shall be the Patron-in-Chief of the Corporation.

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

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

8. Constitution of the Board.---(1) The Board shall consist of a Chairman and Directors as hereinafter provided.

(2) The Minister for Works and Services, or, in his absence, a nominee of the Patron-in-Chief shall be the Chairman of the Board.

¹³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (3) The following shall be the Directors of the Board;
- (i) Secretary to Government, Finance Department or his nominee, not below the rank of an Additional Secretary;
 - (ii) Secretary to Government, Law, Parliamentary Affairs and Human Rights Department or his nominee, not below the rank of an Additional Secretary;
 - (iii) Secretary to Government, Local Government, Elections and Rural Development Department or his nominee, not below the rank of an Additional Secretary;
 - (iv) Secretary to Government, Works and Services Department or his nominee, not below the rank of an Additional Secretary;
 - (v) any other person co-opted by the Board; and
 - (vi) Managing Director, who shall be Director-cum-Secretary of the Board.

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

9. Appointment of Managing Director.---(1) Government shall appoint a Managing Director, in Basic Pay Scale 20, from amongst the members of the existing staff of the Works and Services Department or from the private sector on contract basis, who shall be the Chief Executive of the Corporation and shall exercise such powers and perform such duties as Government may, from time to time, specify, or the Board may assign or delegate.

(2) The Managing Director shall receive salary and allowances as may be determined by Government in consultation with the Board.

10. Appointment of Officers, etc.---(1) The Board may, subject to such general or special directions, as the Patron-in-Chief may, from time to time, give, appoint such officers, advisers and employees as it considers necessary for the efficient performance of the functions of the Corporation and on such terms and conditions as may be prescribed.

(2) The Board may requisition the services of such officers, experts, advisors, consultants and other persons from Government as may be considered appropriate by it, but all such persons shall be transferred on such terms and conditions as may be determined by Government.

(3) The Chairman, in case of urgency, may appoint such officers, advisors, consultants and other employees as may be necessary:

Provided that every appointment made under this sub-section shall be reported to the Board without un-necessary delay, and shall not continue beyond six months, unless approved by the Board.

11. Meetings of the Board.---(1) The meetings of the Board shall be held at such times and at such places as may be prescribed; provided that till rules are made in this behalf, such meetings shall be held at such times and at such places as may be determined by the Chairman.

(2) The quorum necessary for transacting business at a meeting shall be four.

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

(4) The meetings of the Board shall be presided over by the Chairman, or if he is unable to attend a meeting by reason of illness or any other cause, by the person authorized by the Patron-in-Chief; provided that in the absence of any such authorization, the meeting shall be presided by one of the Directors elected for the purpose from among themselves.

(5) The minutes of every meeting of the Board, stating among other things, the names of the Directors present, shall be drawn up and recorded in a book to be kept for the purpose, and shall be signed by the person presiding at the meeting, and such book shall at all reasonable times and without charge be open to inspection by the Directors.

(6) No act or proceeding of the Board shall be invalid merely on ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

12. Contract.---All contracts made by or on behalf of the Corporation shall be-

(a) in writing and expressed to be taken in the name of the Corporation; and

(b) executed in such manner as may be prescribed.

13. Corporation's Fund.---(1) There shall be a non-lapsable fund vesting in the Corporation to be utilized by it to meet charges in connection with its functions under this Ordinance, including the payment of salaries and other remunerations of the Managing Director, officers and servants of the Corporation; provided that in

addition to the salary and other remuneration, 10 percent of the annual net income of the Corporation, after deducting all expenditures, shall be distributed amongst the officers and servants of the Corporation.

- (2) The Fund of the Corporation shall consist of:
 - (a) seed money obtained from Government to raise and administratively maintain the Corporation during the first year of its establishment;
 - (b) loan obtained from Government, including the Federal Government;
 - (c) other loan obtained from banks;
 - (d) income from contracts, execution of works, etc;
 - (e) income from letting of machinery;
 - (f) income from the sale of assets, plants, machinery or vehicles belonging to the Corporation;
 - (g) funds from floating bonds, shares or through any other means permitted by the Board; and
 - (h) income from special and urgent works awarded by Government at the prevailing market rate.

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

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

15. Custody and investment of the Fund.---The Fund of the Corporation shall be kept and maintained through a Scheduled Bank approved by the Board and shall be operated in the prescribed manner.

16. Budget and accounts.---(1) The Corporation shall prepare its annual budget and work plan and submit the same to Government by the prescribed date, and Government may modify the said estimates or plan to such extents as it may consider necessary; provided that the work plan of the Corporation in the private sector shall not be subject to any modification by Government.

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

(3) The Corporation shall, within three months of the close of each financial year, place before Government the annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the preceding financial year.

17. Audit.---(1) The accounts of the Corporation shall be audited by Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ord. No. X of 1961), appointed by the Board on such remuneration as it may think fit.

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

18. Transfer of assets and liabilities.---All available earth plants, road making and construction machinery of the former Communication and Works Department and the Public Health Engineering Department of Government and all assets of the Ex-Mechanical Division of Chief Engineer, Works and Services, shall, on the commencement of this Ordinance, stand transferred to the Corporation.

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

(2) The annual report referred to in sub-section (1) shall, as soon as possible, be laid by Government before the Provincial Assembly of the¹⁴[Khyber Pakhtunkhwa].

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

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

¹⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

22. Power to make rules.---The Corporation may, with the approval of Government, make rules for carrying out the purposes of this Ordinance.

Peshawar,
Dated the 1st Nov., 2002.

Lt. Gen. (Rtd.) IFTIKHAR HUSSAIN SHAH
Governor of the ¹⁵[Khyber Pakhtunkhwa]

¹⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011