

**THE ¹[KHYBER PAKHTUNKHWA] HYDEL DEVELOPMENT
FUND ORDINANCE, 2001.**

²[KHYBER PAKHTUNKHWA] ORDINANCE NO. XXVI OF 2001.

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¹ Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

² Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

THE ¹[KHYBER PAKHTUNKHWA] HYDEL DEVELOPMENT FUND ORDINANCE,
2001.

²[KHYBER PAKHTUNKHWA] ORDINANCE NO. XXVI OF 2001.

[2nd October, 2001.]

AN
ORDINANCE

*to provide for the establishment of a fund for the development of
hydel electricity in the ³[Khyber Pakhtunkhwa].*

WHEREAS it is expedient to provide for the establishment of a fund for the development of hydel electricity in the ⁴[Khyber Pakhtunkhwa] in the manner hereinafter appearing;

AND WHEREAS the Governor of the ⁵[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. I 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 ⁶[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance:

1. Short title and commencement.—(1) This Ordinance may be called the ⁷[Khyber Pakhtunkhwa] Hydel Development Fund Ordinance, 2001.

(2) It shall come into force at once.

2. Definitions.—In this Ordinance, unless the context otherwise requires,-

(a) "Board" means the Board constituted under section 4;

(b) "Chairman" means the Chairman of the Board;

(c) "Fund" means the Fund established under section 3;

(d) "Government" means the Government of the ⁸[Khyber Pakhtunkhwa];

(e) "member" means a member of the Board;

(f) "PDWP" means the Provincial Development Working Party established in the

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁸Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

Planning and Development Department of Government under the chairmanship of Additional Chief Secretary to Government;

- (g) "prescribed" means prescribed by rules made under this Ordinance;
- (h) "project" means large, macro-economic and income generating project or scheme pertaining to the development of hydel electricity to be financially assisted from the Fund;
- (1) "section" means a section of this Ordinance; and
- (j) "SHYDO" means the ¹[Khyber Pakhtunkhwa] Hydel Development Organization, established under section 3 of the ²[Khyber Pakhtunkhwa] Hydel Development Organization Ordinance, 1993 (³[Khyber Pakhtunkhwa] Ord. No. I of 1993).

3. Establishment of the Fund.—(1) As soon as may be after the commencement of this Ordinance, Government shall establish a Fund to be known as the Hydel Development Fund.

(2) Subject to the availability of resources, with particular reference to its over all liabilities, Government shall, on yearly basis, contribute to the Fund, such amount as it may determine, out of the total amount received from the Federal Government or an authority of the Federal Government on account of net profits earned by it from the generation of hydro electricity, for the purposes of this Ordinance, and may, in cases of exigencies, contribute to the Fund from other grants received from the Federal Government or any other agency or from its own budget pertaining to the Annual Development Programme.

(3) All profits from hydel projects undertaken from the Fund shall be deposited in the Provincial Consolidated Fund at the close of each financial year:

Provided that Government shall contribute ten per cent of such profits to the Hydel Development Fund.

(4) The amount contributed to the Fund shall be exclusively utilized for the development of hydel electricity in the Province and shall be operated upon in accordance with the provisions of this Ordinance and the rules made thereunder.

(5) All expenditure from the Fund shall be deemed to be an expenditure charged upon the Provincial Consolidated Fund within the meaning of Article 121(e) of the Constitution of the Islamic Republic of Pakistan.

(6) No project costing less than five hundred million rupees shall be financially assisted from the Fund. The Board may consider and approve viable projects costing less than five hundred million rupees; provided that such a project is a joint venture being executed with the collaboration of the private sector.

¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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(7) Each project shall be undertaken on the basis of equity participation and the extent of equity participation shall be determined by the Board on case to case basis.

(8) Investment of all moneys received into the Fund shall be decided by the Board.

¹[(9) An Investment Committee, consisting of the following, shall be constituted to make recommendation to the Board for making investment out of the Fund:

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| 1. | Chief Secretary to Government | Chairman |
| 2. | Secretary to Government, Irrigation and Power Department | Member |
| 3. | Secretary to Government, Finance Department: , | Member |
| 4. | Managing Director, SHYDO | Member |
| 5. | Director Finance and Administration SHYDO | Member] |

4. Constitution of the Board.—(1) For carrying out the purposes of this Ordinance, there shall be a Board comprising the following:-

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|--------|--|----------|
| (i) | ² [Chief Minister] of the ³ [Khyber Pakhtunkhwa] or his nominee not below the status of a Provincial Minister, other than the Ministers at clauses (ii) and (iii); | Chairman |
| (ii) | Minister for Finance, ⁴ [Khyber Pakhtunkhwa]; | Member |
| (iii) | Minister for Power, ⁵ [Khyber Pakhtunkhwa]; | Member |
| (iii) | Chief Secretary to Government; | Member |
| (v) | Additional Chief Secretary to Government; | Member |
| (vi) | Managing Director, Bank of Khyber; | Member |
| (vii) | one Provincial Chief of any leading public sector bank or development financial institution stationed at Peshawar to be nominated by Government; | Member |
| (viii) | the Secretary to Government, Finance Department; | Member |

¹Added vide Khyber Pakhtunkhwa Act No. IX of 2006

²Substituted vide Khyber Pakhtunkhwa Act No. X of 2003

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (ix) Managing Director, SHYDO; and Member
- (i) the Secretary to Government, Power Department. Member-cum-Secretary
- (2) The Board shall meet at such time and place and on such dates as the Chairman may direct.
- (3) The Chairman and ¹[four] members shall form quorum for a meeting.
- (4) All decisions in a meeting of the Board shall be taken by majority of votes of members present; provided that the Chairman shall have a casting vote in case of equality of votes of the members.
- (5) The Board shall, until rules are made in this regard, evolve its own procedure for the conduct of its business under this Ordinance.
- (6) No remuneration shall be admissible to any member including the Chairman.

5. Functions and powers of the Board.— (1) The Board shall, in consultation with Government, if need be, have the power to control, operate and utilize the Fund for the purposes of this Ordinance:

Provided that the Board shall approve only such projects or schemes including feasibility studies, for being financially assisted from the Fund as may, for reasons to be recorded in writing, result in direct economic growth to the Province or augment the provincial receipts:

Provided further that the Board may for the purpose of this Ordinance, seek such independent expert advice from proper source appropriate to evaluate whether a particular project or scheme is feasible to be financially assisted from the Fund or not.

6. Submission of projects and schemes to the Board.—(1) For the purposes of this Ordinance, the SHYDO through the ²[Irrigation and Power Department] of Government shall submit each case for financing of a project or scheme from the Fund to the Board and the Board shall, after it has been scrutinised by the PDWP, subject to the provisions contained in the provisos to section 5, approve the same in the prescribed manner:

Provided that until the rules are made in this regard, the case shall be submitted to the Board in such manner as the Board directs.

7. Accounts and audit.— (1) The ³[Finance Department] of Government shall maintain the accounts of the Fund in such form and manner as may be prescribed.

¹Substituted vide Khyber Pakhtunkhwa Act No. IX of 2006

²Substituted vide Khyber Pakhtunkhwa Ordinance No. XIII of 2002

³Added vide Khyber Pakhtunkhwa Act No. IX of 2006

(2) No amount from the Fund shall be withdrawn and incurred, except with the prior approval of the Board, and every such drawal shall be jointly signed by the ¹²[Secretary Finance], ³[Khyber Pakhtunkhwa] and the Secretary Irrigation and Power Department] as members of the Board.

(3) Annual statement of accounts in respect of the Fund shall be prepared by the ⁴[Finance Department] on the close of each financial year, and the Board shall cause such statement alongwith brief report on the maintenance and management of the Fund to be laid before Government within three months of the close of the said financial year.

(4) The Fund shall be audited annually by the Auditor General of Pakistan through its commercial audit and the audit report shall be laid before the Board within a period of one month of its receipt in an annotated form and will be submitted to Government.

8. Power to make rules.—Government may make rules for carrying out the purposes of this Ordinance.

Peshawar,
dated the, 28th Sept.
2001.

Lt. Gen. (Rtd.) IFTIKHAR HUSSAIN SHAH
Governor of the ⁵[Khyber Pakhtunkhwa]

¹Substituted vide Khyber Pakhtunkhwa Ordinance No. XIII of 2002

²Substituted vide Khyber Pakhtunkhwa Act No. IX of 2006

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Added vide Khyber Pakhtunkhwa Act No. IX of 2006

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