

**THE KHYBER PAKHTUNKHWA URBAN AREAS DEVELOPMENT
AUTHORITIES ACT, 2020.**

(KHYBER PAKHTUNKHWA ACT NO. XXXVI OF 2020)

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SCHEDULE

**THE KHYBER PAKHTUNKHWA URBAN AREAS DEVELOPMENT
AUTHORITIES ACT, 2020.**

(KHYBER PAKHTUNKHWA ACT NO. XXXVI OF 2020)

*(First published after having received the assent of the Governor of the
Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa,
(Extraordinary), dated the 15th September, 2020).*

**AN
ACT**

*to provide for the regulation and establishment of the
Urban Areas Development Authorities in the
Province of the Khyber Pakhtunkhwa.*

WHEREAS it is expedient to re-establish and continue the Local Areas Development Authorities established under the Khyber Pakhtunkhwa Urban Planning Ordinance, 1978 (Ordinance No. IV of 1978) and later repealed by the Khyber Pakhtunkhwa Provincial Urban Development Board (Dissolution) Ordinance, 2002 (Khyber Pakhtunkhwa Ordinance No. XVI of 2002) in public interest;

AND WHEREAS for the management and development of urban areas and other regions of the Khyber Pakhtunkhwa, it is further expedient that Government may establish new Urban Areas Development Authorities and to give them autonomy for achieving and maintaining high performance standards in the preparation and execution of schemes.

It is hereby enacted as follows: -

**CHAPTER-I
PRELIMINARY**

1. Short title, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Urban Areas Development Authorities Act,2020.

(2) It shall apply to the Authority areas as defined in clause (b) of section 2 of this Act.

(3) It shall come into force at once.

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

(a) “Authority” or “Authorities” means the Urban Areas Development Authority or Authorities as established or re-established under section 3 of this Act;

- (b) “Authority area” means such area, as notified by the Department, from time to time, where the Authority has jurisdiction under this Act;
- (c) “Board” means the Board of the Authorities, constituted under section 4 of this Act;
- (d) “Chairperson” means the Chairperson of the Board;
- (e) “Department” means the Local Government, Elections and Rural Development Department of Government;
- (f) “development” includes those subjects embraced by the operative Annual Development Plan or similar plan, which have special aspects or implications;
- (g) “Director” means the Director appointed under sub-section (1) of section 10 of this Act;
- (h) “Government” means the Government of Khyber Pakhtunkhwa;
- (i) “Government agency” includes—
 - (i) a division, department, bureau, section, commission, board, office or unit of Government;
 - (ii) a local government; and
 - (iii) a developmental or any other public authority, company or corporation, owned or controlled by Government or a local government;
- (j) “land” means and includes earth, water and air above, below or on the surface and any improvements in the structure customarily regarded as land and benefit arising out of land and things attached to earth or permanently fastened to earth;
- (k) “land development” means the dividing of land into two or more plots, the amalgamation of plots, the carrying out of any building operation including erection, construction, redevelopment, alteration or repair the making of any material change in the use or appearance of any structure on land and includes—
 - (i) a change on the type of use of a structure or land;
 - (ii) a change in the intensity of use of land, such as an increase in the number of business, manufacturing establishments, offices, or dwelling units in a structure or on land;
 - (iii) commencement of excavation and levelling of land;
 - (iv) demolition of a structure or removal of trees;
 - (v) deposit of refuse, solid or liquid waste or filling of land;
 - (vi) in connection with the use of land, the making of any material change in noise levels thermal conditions or omissions of waste material;

- (vii) commencement or change in the location of an advertising structure or use of land, the commencement or change in location of advertising on the external part of a structure;
 - (viii) alteration of share, bank, or flood plain of a river lake, pond or artificial body of water;
 - (ix) the installation of underground or overhead public service facilities; and
 - (x) re-establishment of a use which has been abandoned or suspended for one or more years regardless of the intended duration of the suspension;
- (l) “local government” means the local government, established under the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013);
 - (m) “master plan” means the traditional method for presenting a set of land usage, allocation and control measures in the form of a map or in graphical form and is supported by written statement of goals and objectives, strategy, financial implications and policies for planning and development for an area and includes a structure plan, an outline development plan, a spatial plan, peri-urban structure plan and a metropolitan plan;
 - (n) “Managing Director” means the Managing Director appointed under sub-section (1) of section 8 of this Act;
 - (o) “member” means a member of the Board and includes the Chairperson;
 - (p) “owner” includes the person for the time being receiving the rent of land and building, whether on his own account or as an agent or trustee for any person or society or for any religious or charitable purpose, or who would so receive the same if land or building were let to a tenant;
 - (q) “person” means and includes an individual, firm, cooperative society or association of individuals whether incorporated or not;
 - (r) “prescribed” means prescribed by rules and regulations;
 - (s) “Province” means the Province of the Khyber Pakhtunkhwa;
 - (t) “regulations” mean regulations made under this Act;
 - (u) “rules” mean rules made under this Act;
 - (v) “Schedule” means Schedule appended to this Act;
 - (w) “scheme” means any construction or developmental work, which shall also include master planning, carried out within the territorial limits of the Authority; and
 - (x) “structure” includes anything constructed or installed or portable, the use of which require a location on a plot of land, movable,

structure while it is located on land which can be used for housing, business commercial, agricultural or office purposes either temporarily or permanently, and fences, bill board, pool, swimming pools, poles, pipelines, transmission lines, tracks and advertising signs whether located on a rock, tree, separate structure or part of another structure.

3. Establishment of Authorities.---(1) As soon as may be, after the commencement of this Act, the Department shall, re-establish the Local Areas Development Authorities as listed in the Schedule which were established under section 15 of the Khyber Pakhtunkhwa Urban Planning Ordinance, 1978 (Ordinance No. IV of 1978) and later repealed under the Khyber Pakhtunkhwa Provincial Urban Development Board (Dissolution) Ordinance, 2002 (Khyber Pakhtunkhwa Ordinance No. XVI of 2002) and shall be deemed to have been established under this Act to be known as Urban Areas Development Authorities which shall respectively be governed by the Board in accordance with the provisions of this Act.

(2) Notwithstanding the re-establishment of the Authorities under sub-section (1), Government,-

- (a) on commencement of this Act, shall establish the Chitral Development Authority (Upper and Lower Chitral) and the Dir Development Authority (Dir Lower and Dir Upper); and
- (b) by notification may, establish new Authorities by amending the Schedule and apply the provisions of this Act to each such Authority as so established.

(3) Each Authority shall be body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued.

¹[(3A) Each Authority may, within its territorial jurisdiction, acquire land, through a land sharing formula, as may be determined by it, subject to payment of developmental charges.]

(4) The head office of an Authority shall be at their respective regions:

Provided that the Authority may establish sub-offices within their areas for managing its affairs.

CHAPTER-II

CONSTITUTION AND FUNCTIONS OF THE BOARD

4. Constitution of the Board.---(1) The Department shall, by notification, constitute a Board to be called the Urban Development Authorities' Board, to perform such functions as may be assigned to it under this Act.

¹ Inserted vide Khyber Pakhtunkhwa Act No. VI of 2022.

(2) The Board shall consist of -

- | | | |
|-----|--|-------------|
| (a) | Minister for Local Government, Elections and Rural Development, Khyber Pakhtunkhwa or in his absence the Advisor, or Special Assistant to Chief Minister on Local Government, as the case may be, to be nominated by the Chief Minister; | Chairperson |
| (b) | one Member Provincial Assembly from concerned district to be nominated by the Chief Minister; | Member |
| (c) | Secretary to Government, Local Government, Elections and Rural Development Department; | Member |
| (d) | Secretary to Government, Housing Department or his nominee not below the rank of BPS-19; | Member |
| (e) | Secretary to Government, Planning and Development Department or his nominee not below the rank of BPS-19; | Member |
| (f) | Secretary to Government, Finance Department or his nominee not below the rank of BPS-19; | Member |
| (g) | Directors of the Urban Area Development Authorities; and | Members |
| (h) | two members from private sector, nominated by the Chief Minister. | Members |

(3) The Managing Director of the Authority shall be the Member-cum-Secretary of the Board.

(4) Where Member Provincial Assembly is not nominated or his seat falls vacant, due to any reason, a private member may be nominated.

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

(6) The member from the private sector may include persons having adequate experience, skills and knowledge in relation to the field of environment, town and urban planning, traffic engineering, forestry, business, community development, marketing, tourism, architecture, law, finance or civil engineering.

(7) The term of office of a member of private sector shall be three years, which may be extended for a further period of one year, unless he resigns earlier or

removed from holding such office due to disqualification or ineligibility, as the case may be, under this Act.

(8) The membership of member from private sector shall cease and fall vacant if, he resigns, or fails to attend three consecutive meetings without sufficient cause or reason, which incapacitate him to continue as a member. Any such vacancy shall be filled within one month and the new member shall hold office for the remainder of the term of his predecessor.

(9) The private member shall not be paid for being a member of the Board except honoraria as approved by the Board.

5. Disqualification.-- No person shall be, or remain to be a member who-

- (a) is or, at any time, has been convicted of an offence involving moral turpitude;
- (b) is or, at any time, has been adjudicated insolvent;
- (c) is of unsound mind;
- (d) has been debarred from holding any office under any provision of law for the time being in force; or
- (e) has conflict of interest with such position.

6. Meetings of the Board.---(1) The meeting of the Board shall be regulated in accordance with the procedure as may be prescribed.

(2) The meeting of the Board shall be held at such time and at such places as may be decided by its Chairperson. Normally one meeting shall be called in each quarter of a calendar year:

Provided, that in case of emergency, the Chairperson may call a meeting of the Board at any time at a short notice of three days.

(3) All the meetings of the Board shall be presided over by the Chairperson.

(4) Quorum of the Board shall be one half of total members of the Board.

(5) The decisions of the Board shall be taken by the majority of the members present and, in case of a tie, the Chairman or in his absence the person presiding over the meeting, as the case may be, shall have a casting vote. All orders, determinations and decisions of the Board shall be reduced to writing together with a record of the discussions held in the meeting.

(6) The Board may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Board, who may take part in discussion, but shall not be entitled to vote for or against the matter under discussion.

(7) The business of the Board shall be disposed in the meetings of the Board or at the meetings of its committees, so constituted, or by Managing Director or other employees, staff members or other functionaries in such a manner as may be prescribed by regulations.

- 7. Powers and functions of the Board.**---(1) The functions of the Board shall be to-
- (a) approve regulations, policies and guidelines pertaining to functioning of the Authorities in the areas of investment, finance, budget and human resource management;
 - (b) approve annual budgets, current and development, honorarium for Board members, create posts, fix salaries and allowances, other perks and privileges for the officers and officials of all Authorities on the recommendation of finance committee;
 - (c) approve master plan and amendments thereto of respective Authorities;
 - (d) approve master plan and regulate land development by private sector;
 - (e) approve physical planning standards for Authorities as well as land development by private sector;
 - (f) review and approve long-term, medium term and short-term policies and regulations for development of urban areas in the Province;
 - (g) review and approve annual planning of the Authorities;
 - (h) take policy decisions for better management and implementation thereof;
 - (i) approve the criteria and guidelines for any agreement of respective Authority with such Government, person or agent, on such terms and conditions as may be prescribed;
 - (j) recommend amalgamation of one Authority with another Authority to Government;
 - (jj) create a new authority where and when needed;
 - (k) modify the terms of the delegation of functions to the Authority;
 - (l) recommend establishment of new Authority and extension of the jurisdiction of the existing Authority to Government for approval;
 - (m) constitute such financial, technical, human resource, audit and advisory committees, as it may deem necessary, for carrying out the purposes of this Act and such committees shall exercise such powers and perform such functions as may be delegated or assigned by the Board;
 - (n) appoint such officers, advisors, experts, consultants and employees, as it considers necessary on such terms and conditions as may be prescribed by regulations;
 - (o) associate any person whose assistance or advice may be required for carrying out its functions under this Act, in such manner and on such terms and conditions as it may deem fit;

- (p) give directions to the respective Authority, in discharging of its functions under this Act, from time to time;
- (q) receive, enquire or seek reports on complaints and claims of alleged contraventions of the provisions of this Act and issue orders regarding areas where a scheme is under preparation and restrict or regulate by general or special order, any change in the use of land and alteration in building structure and installations;
- (r) cause studies, surveys, experiments, technical researches or contribute towards the cost of any such studies, surveys, experiments or technical researches made by any other agency;
- (s) seek and obtain advice and assistance for the preparation of any scheme or for the execution of scheme, from any Government agency or person and such agency or person shall give the advice and assistance, sought by the Board to the best of ability, knowledge and judgment and the additional expenditure, if any, involved in giving such advice or assistance, shall be borne by the concern Authority;
- (t) take action that is necessary, incidental or ancillary to enforce and give effect to the provisions of this Act;
- (u) undertake any other function which Government may assign to it; and
- (v) any other matter as deemed appropriate to be placed before the Board.

(2) Government may direct the Board for any undertaking of a matter or activity in respect of management of the Authorities under the Board as it may deem appropriate.

(3) Government on its motion or on the recommendations of the Board, amalgamate one Authority with another Authority.

CHAPTER-III **POWERS AND FUNCTIONS OF** **MANAGING DIRECTOR**

8. Appointment and term of office of the Managing Director.—(1) The Managing Director shall be posted or appointed by the Chief Minister from public or private sectors, on such terms and conditions as may be specified by the Department.

(2) The Managing Director shall be the Chief Executive Officer of the Authorities and shall be a whole time officer.

(3) The Managing Director shall hold office for a term of three years and shall remain in office for three months thereafter or until his successor enters upon office, whichever is earlier.

(4) An outgoing Managing Director shall be eligible for reappointment for similar term.

(5) Notwithstanding anything contained in sub-section (3), the Managing Director may, at any time before the expiry of his term and upon one-month notice, resign his office, or may be removed by the Chief Minister without assigning any reason.

9. Powers and functions of the Managing Director.—(1) Subject to the provisions of this Act, rules and regulations, the Managing Director may exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act.

(2) The Managing Director shall also act as a Secretary of the Board and shall-

- (a) convene meetings of the Board with the approval of the Chairman;
- (b) prepare agenda, working paper and its distribution among the members of Board;
- (c) record the minutes of each meeting of the Board and its prompt dispatch to the concerned quarters;
- (d) implement all decisions of the Board;
- (e) follow-up of all matters connected with or arising out of a meeting of the Board; and
- (f) monitor and evaluate the performance of the Authorities as specified by the Board.

(3) The Managing Director shall-

- (a) be appointing authority for the employees of the Authorities as may be prescribed;
- (b) implement decisions of the Board for better management of the Authorities;
- (c) supervise and oversee implementation of approved master plans of the Authorities;
- (d) monitor progress with regards to implementation of the rules and regulations;
- (e) review development schemes of Authorities;
- (f) convene meeting of Directors as and when deemed necessary;
- (g) be administrative and financial head of all the Authorities; and
- (h) perform such other duties and exercise such other powers as may be assigned or delegated by the Board.

(4) The Managing Director shall be assisted by technical and support staff in the performance of his duties and functions assigned under this Act.

CHAPTER-IV
POWERS AND FUNCTIONS
OF DIRECTORS

10. Appointment of Director.---(1) The Department for each Authority established under this Act, shall, post an officer of BPS-19, as Director to run its affairs.

(2) The Director shall report to the Managing Director in the discharge of his functions under this Act.

(3) The Director shall be-

- (a) whole time officer of the Authority;
- (b) head of the executing agency;
- (c) appointing authority for such employees of the Authority as may be prescribed; and
- (d) responsible for the day to day management and affairs of the Authority.

11. Powers and functions of Director.---(1) Without prejudice to the generality of the foregoing powers and functions, the Director shall have to:-

- (a) perform technical and managerial functions;
- (b) prepare and approve design and cost estimates of the civil works to be undertaken by an authority;
- (c) execute, implement and supervise the construction works;
- (d) provide technical scrutiny of projects, preparation of standards plans, approval of construction schedule of works and ensuring quality of works etc;
- (e) prepare a local urban physical development plan in accordance with Provincial development plan;
- (f) identify and define the boundaries of his local areas under his control which contain, public facilities, public investments, natural resources, or other resources of Province concerned with the approval of the Board;
- (g) provide technical support for the development and co-ordination of urban planning in the Province, including the provision of technical services, personnel of financial assistance to municipal bodies, for projects approved by the Department;
- (h) administrator and enforce land development regulations under this Act;
- (i) be responsible for the service matters of employees of respective Authority;
- (j) review and approve or disapprove a re-construction, alteration of the size or material change in the external appearance of a structure or land;

- (k) acquire, sell, lease, exchange, transfer, mortgage, put under lien or encumbrance, allot, hire or otherwise dispose of or deal in any property, vested in or entrusted to the Authority, both movable and immovable, with the approval of the Board;
- (l) undertake any works and incur any expenditure in the performance of its functions under this Act;
- (m) procure machinery, instruments or any other material required by it;
- (n) enter into contracts or any arrangement, including but not limited to those for grant of a license to any person for carrying out the purposes of this Act with the approval of Board;
- (o) cause removal of any works obstructing the execution of its scheme;
- (p) impose fine, levy and collect fees, charges as provided under this Act;
- (q) enforce and periodically revise urban designs and public safety and compliance with the master plans;
- (r) recover all arrears of fees, rents and other moneys, within the local areas, claimable by it as arrears of land revenue;
- (s) order sealing, demolishing, removal of encroachments or repair of property for purposes of this Act, rules and regulations;
- (t) take any step or adopt any measures for the face lifting and beautification of the Authority area;
- (u) protect trees and other vegetation;
- (v) perform any other functions and tasks assigned, from time to time, by the Department; and
- (w) exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act.

(2) The Director shall be responsible for implementing the approved master plan either directly itself or through Government agencies as may be prescribed by rules and regulations.

CHAPTER-V **GENERAL FUNCTIONS OF** **THE AUTHORITIES**

12. Functions of the Authority.---(1) All acts of the Authority, whether executive or not, shall be expressed and taken in the name of the Director and shall be authenticated by the Director by affixation of his official seal.

(2) The strategy for all development works and other measures shall be embedded in the objective of environmental up-gradation and uplift of the local community.

(3) The Authority, with the approval of the Board, may, and if directed by Government, shall, undertake the maintenance and regulation of schemes and other activities of a Government agency as may be necessary and when a scheme or any activity is undertaken by the Authority, the assets and liabilities, connected therewith, shall also stand transferred to the Authority.

(4) The Authority, with the approval of Board, may, and if directed by Government, shall transfer any of its functions and powers to a Government agency on such terms and conditions as it may deem fit.

(5) The Authority shall engage in a continuing planning process including planning for land development and implementation thereof for all parts of the local area which may be related to the-

- (a) location, distribution, characteristics and intensity of uses and development of land for residential, commercial, public or other purposes;
- (b) development, improvement or provision of public facilities, and services such as transportation and traffic circulation system, or their components public utility, educational, health, sanitation, community and recreational facilities, and other environmental facilities and services;
- (c) location, distribution, characteristics, rehabilitation and development or public private housing;
- (d) designation, improvement, clearance, re-development or renewal of blighted, insanitary or otherwise deteriorated area and the relocation and rehabilitation of their residents;
- (e) location and development of new or expended urban areas;
- (f) acquisition of land for public purposes;
- (g) allocation of public land, including the terms and conditions of sale or lease or rent or auction as may be prescribed; and
- (h) other objectives or tasks assigned to it by Government.

13. Collection of fines and fees---The Authority shall collect fines and fees for the penalty it imposes or the services it provides, as the case may be, within the Authority area. The Authority may, subject to prior publication in the official Gazette, collect a user charge or a fee or payment in respect of services or facilities extended or made available by the Authority to the public, including fee or charges on account of conservancy, maintenance of public parks or facilities within the Authority area.

14. Directions by Department.---The respective Authority shall, in discharging of its functions under this Act, be guided by such directions, as the Department may give it, from time to time.

15. Borrowing money.---(1) The Authority shall be deemed to be a “local authority” for the purpose of borrowing money and any scheme or project, prepared or undertaken

by the Authority, shall be deemed to be work, as defined in section 2 of the Local Authorities Loans Act, 1914, (Act No. IX of 1914):

Provided that no local or foreign loan shall be obtained by the Authority without the previous sanction of Government.

(2) The Authority may, in consultation with Department, borrow money or raise funds by issuing bonds or debentures or otherwise for carrying out the purposes of this Act. A scheme or project for which money is borrowed or funds raised shall be self-financing according to profit or loss as may be approved by Government.

16. Power to levy betterment fee.--- Where, as a consequence of any scheme having been executed by the respective Authority, the value of any property in that locality, in the opinion of the respective Authority, has increased, the respective Authority may, with the previous consent of Department, levy upon the owner or any person having an interest therein, a betterment fee in respect of the increase in value of the property resulting from the execution of the scheme.

17. Assessment of betterment fee.---(1) Where it appears to the Authority that any particular development scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Authority may, by an order made in this behalf, declare that for the purpose of determining the betterment fee, the execution of the scheme shall be deemed to have been completed and shall thereafter give notice in writing to the owner of any person having an interest therein that the Authority proposes to assess the amount of betterment fee in respect of the property mentioned in section 16.

(2) The betterment fee under section 16 or under sub-section (1) of this section, shall be assessed and be payable in the manner as may be prescribed by regulations.

CHAPTER-VI **PREPARATION AND EXECUTION** **OF SCHEMES**

18. Preparation and approval of scheme.---(1) The respective Authority shall, in such form and in such manner as may be determined by it in accordance with the provisions of this Act, prepare a scheme for the Authority areas or any part thereof.

(2) The Board shall have the power to approve all developmental schemes, programmes and proposals conceived from its own revenue resources in accordance with the regulations as may be prescribed.

(3) All the developmental schemes, programmes and proposals that are to be funded from the Annual Developmental Programme of the Government or grants made by the Federal Government shall be brought to the forum of PDWP or DDWP, as the case may be.

(4) All constructions, whether for residential or commercial purposes, in the respective Authority area, shall strictly be in accordance with the scheme, the land use plan, prepared by the Authority and in accordance with the rules or regulations.

(5) No excavation or land levelling in the Authority area shall be made, except with the prior approval of the Authority.

(6) No construction, of whatsoever nature, shall be permissible in the Authority area, contrary to the West Pakistan Highway Ordinance, 1959 (W.P. Ord. No. XXXII of 1959).

19. Modification of scheme.---A scheme, prepared under this Act, may, at any time, be amended, modified or abandoned by the respective Authority in such form and in such manner as may be decided by it.

20. Housing schemes, projects etc.---(1) Any housing scheme or project, as the case may be, prepared, established and developed within the respective Authority area, before the commencement of this Act, shall be deemed as validly prepared, established and developed under this Act.

(2) A housing scheme or project, as the case may be, so prepared, established and developed, shall be regulated by the respective Authority in the manner as may be prescribed by regulations.

21. Liability to acquisition.---The Authority may, in accordance with the provisions of the Land Acquisition Act, 1894 (Act No. I of 1894), acquire or purchase any land for any public purpose including establishing and development of schemes.

CHAPTER-VII **FINANCES, ACCOUNTS** **AND AUDIT**

22. Authority Fund.---(1) Each Authority shall have a Fund which shall vest in that Authority and shall be utilized by the Authority in connection with its functions under this Act including the payment of salaries and other remunerations to the officers, employees, experts, advisors and consultants and day to day business of the Authority.

(2) The Authority Fund shall consist of-

- (a) grants made by Government, Federal Government or any international agency;
- (b) all fees, rates and charges received by the Authority under this Act;
- (c) all moneys received by the Authority from the disposal of lands, buildings and other properties, movable and immovable;
- (d) proceeds from the self-financing schemes of urban development and environmental sanitation; and
- (e) all other legal sums receivable by the Authority.

(3) In case of deficit revenue of the Authority, Government may provide from its own revenues or from any other source, such sum as may be necessary for the efficient performance of the functions of the Authority under this Act.

(4) The Authority may keep in current account of any scheduled bank such sum as may be specified by the Authority and any amount in excess of the said amount shall be invested in Government securities, Government sponsored saving schemes or in such other manner as may be determined by regulations.

23. Rates and fees.---(1) The Authority may raise adequate funds to meet the cost of planning, expansion, execution, development, redevelopment, maintenance, zoning, classification, reclassification, augmentation, supervision, regulation and conversion of any property or any present and future scheme or any part thereof, by imposing rates, fees, surcharge, other charges and fines in the manner as may be prescribed through regulations.

(2) The rates, fees and other charges for water supply, sewerage and drainage schemes shall be such as to provide sufficient revenues to-

- (a) cover the operating expenses including taxes, if any, and interest to provide adequate maintenance and depreciation;
- (b) meet repayments on long term indebtedness to the extent that such repayments exceed the provision of depreciation; and
- (c) finance the normal year to year extension of any of such schemes and to provide a reasonable portion of the cost of future major expansion of such schemes.

24. Application of the Bankers Books Evidence Act, 1891 to books of the Authority.---The Authority shall be deemed to be a bank for the purposes of the Bankers Books Evidence Act, 1891 (Act No. XVIII of 1891).

25. Custody and investment of funds.---The Authority may keep money in any treasury, sub-treasury or a bank in such manner and in such form as may be prescribed by the Board.

26. Budget and accounts.---(1) The Authority shall prepare its annual budget estimates and work plan and submit the same to the Board for approval. The Board may modify the said estimates or plan to the extent of any Government fund or grants as it may consider necessary.

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

(3) The Authority shall, within three (03) months of the close of each financial year, place before the Board, annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the proceeding financial year.

27. Audit of accounts.--- The accounts of the Authority shall be audited by the Auditor General of Pakistan.

28. Annual report.---The Authority shall, within four (04) months, after the end of every financial year, submit an annual report to the Board on the conduct of its affairs for

that year. The Authority shall also, prior to end of its financial year, finalize and present to the Board or annual development plan and budget for the next ensuing financial year.

CHAPTER-VIII **OFFENCES AND** **PENALTIES**

29. Power to seal a building for violation of this Act or rules.---The Managing Director, the Director or any other officer of the Authority, duly authorized by him, shall have the powers to seal any building, structure or any other premises for violation of any clause of this Act or rules, as the case may be.

30. Penalty for violation of construction or trespassing into sealed building.---Any person, who enters into or opens a sealed building or initiates construction in a sealed building within the respective Authority areas, shall be liable to imprisonment for a term not exceeding three (03) years or fine up to rupees one million or both.

31. Penalty for encroachment.---Whoever, encroaches or violates the approved site plan or structure of a building in the Authority Area, shall be liable to imprisonment for a term not exceeding three (03) years or fine up to rupees two million or both:

Provided that no person shall be subject to fine or proceedings under this section unless he is given notice and has failed to remedy the violation within fifteen (15) days thereof at his own costs and expenses.

32. Penalty for illegal housing schemes.---Whoever, develops a housing scheme or society within the Authority area, without prior written approval of the competent authority, shall be liable to imprisonment for a term which may extend to three (03) years or a fine up to rupees five (05) million or both.

33. Imposition of fine by the Authority.---(1) Whoever, causes damage to the property of the Authority including but not limited to sanitation, sewerage, parks and offices within the Authority area, shall be liable to a fine which may extend to rupees one (01) million.

(2) Whoever, uses any property in the Authority area for any purpose, other than permitted by the terms of lease under this Act, shall be liable to fine which may extend to rupees one (01) million and its repetition for the second time may lead to the cancellation of the lease agreement.

(3) Whoever illegally installs or alters the water supply line to any property shall be liable for a fine which may extend to rupees twenty thousand.

34. Consequences of non-payment of fines.---(1) The amount of fine shall be paid to the Authority within thirty (30) days and in the event of delay in payment of such fine, such person shall be liable to a further fine of rupees five (05) thousand per day for each day defaulted:

Provided that no fine shall be imposed until an opportunity of hearing is given to the person liable to such fine.

(2) In the event a fine imposed under this Act, remains unpaid for a period exceeding sixty (60) days, the Authority shall, without the need for further notice or proceedings, seal the property, demolish, remove or repair the encroachment, as the case may be, at the cost of the person in whose favour the rent or lease agreement has granted.

35. Offences to be cognizable and non-bailable.---The offences mentioned in this Act shall be deemed to be cognizable and non-bailable. No Court shall take cognizance of any offence punishable under this Act except upon a complaint by Director or an officer authorized by the Managing Director in this behalf.

36. Application of the Criminal Procedure Code.---The provisions of the Criminal Procedure Code, 1898 (V of 1898), relating to the trial of offences, shall mutatis mutandis be applicable to the offences under sections 30, 31 and 32 of this Act.

37. Appeals against the orders of the Authority.---(1) Any person aggrieved by any decision or order of the Director or any other officer of the Authority, acting under delegated powers of the Authority may, within fifteen (15) days of the receipt of such decision or order, appeal to Managing Director.

(2) The Managing Director shall decide the issue within a period of sixty (60) days.

(3) Second Appeal against the decision of Managing Director shall be made to Secretary to Government, Local Government, Elections and Rural Development Department and the decision made in the second appeal shall be final.

38. Application on corporate bodies.---Where the person guilty of an offence under this Act is a company or other body corporate, every director, manger or other officer responsible for the conduct of affairs of such person shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed guilty of the offence.

CHAPTER-IX **MISCELLANEOUS**

39. Application of Public Property (Removal of Encroachment) Act, 1977.---Notwithstanding anything contained in this Act, the provisions of the Khyber Pakhtunkhwa Public Property (Removal of Encroachment) Act, 1977 (Khyber Pakhtunkhwa Act No. V of 1977) shall mutatis mutandis apply to any case of encroachment falling within the Authority area.

40. Application of Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012.---The provisions of the Khyber Pakhtunkhwa Public Procurement Regulatory Authority Act, 2012 (Khyber Pakhtunkhwa Act No. XI of 2012) and rules made thereunder shall, for the purposes of procurement, mutatis mutandis apply to the Authority.

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

42. Bar to proceedings.---No suit, prosecution or other legal proceedings shall lie against the Authority or any of its employees for anything in good faith done or intended to be done under this Act.

43. Indemnity.---The Chairperson, members, Managing Director, Directors, advisors, consultants, officers, officials or employees of the Authority shall be indemnified by the Authority against all losses and expenses incurred by him in the discharge of his duties, except as are caused by his own wilful act, negligence or default.

44. Power to make rules and regulations.---(1) Government may make rules for carrying out the purposes of this Act.

(2) Subject to this Act or the rules, the Board may make regulations for carrying out the purposes of this Act.

45. Regularization of employees.---(1) All employees, serving with the affairs of the Authority, who are holding various posts till the promulgation of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the promulgation of this Act, having the same qualification and experience for the said posts.

(2) The seniority of the employees, regularized under sub-section (1), shall be determined in the prescribed manner.

46. Service matters of PUDB employees.--- (1) All employees, serving with the affairs of the PUDB, recruitment, promotion, seniority and service rules shall not be affected by the promulgation of this Act.

(2) The Department shall constitute a special Committee, to be chaired by the Secretary to Government, Local Government, Elections and Rural Development Department, for the service matters of the existing PUDB employees under the Khyber Pakhtunkhwa Urban Development Board (Dissolution) Ordinance, 2002.

47. Act to override other laws. ---The provisions of this Act shall have effect, notwithstanding anything to the contrary, contained in any other law for the time being in force.

48. Removal of difficulties.---If any difficulty arises in giving effect to the provisions of this Act, the Board 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.

49. Savings.---Notwithstanding the repeal of the Khyber Pakhtunkhwa Urban Planning Ordinance, 1978 (Khyber Pakhtunkhwa Ordinance No. IV of 1978), hereinafter referred to as the “repealed Act”, repealed by the Khyber Pakhtunkhwa Urban Development Board (Dissolution) Ordinance, 2002 (Ord. No. XVI of 2002), all actions done, orders given, notifications issued and appointments made by the Local Areas

Development Authorities, in good faith and in accordance with applicable laws, rules and regulations, for the time being in force, till the promulgation of this Act, shall be deemed to be done, given, issued and made under this Act.

50. Repeal of the Khyber Pakhtunkhwa Ordinance No. XIII of 2020. ----- The Khyber Pakhtunkhwa Urban Areas Development Authorities Ordinance, 2020 (Khyber Pakhtunkhwa Ord. No. XIII of 2020), is hereby repealed.

SCHEDULE

(see section 3)

Urban Areas Development Authorities

1. Urban Areas Development Authority Abbottabad
2. Urban Areas Development Authority Bannu
3. Urban Areas Development Authority Dera Ismail Khan
4. Urban Areas Development Authority Mansehra
5. Urban Areas Development Authority Mardan
6. Urban Areas Development Authority Swabi
7. Urban Areas Development Authority Swat
8. Urban Areas Development Authority Karak
9. Urban Areas Development Authority Kohat