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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE

Islamabad, the 21st May, 2019

ORDINANCE NO. IV OF 2019

No. F. 2 (1)/2019-Pub.—The following Ordinance promulgated by the President on 20th May, 2019 is hereby published for general information:—

AN

ORDINANCE

to provide for housing and real estate development and other activities related to land and construction through the establishment of Naya Pakistan Housing and Development Authority.

WHEREAS the Constitution of the Islamic Republic of Pakistan, 1973, requires the State to endeavor to provide housing, a basic necessity of life, to its citizens;

(73)

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[797(2019)/Ex. Gaz.]

AND WHEREAS it is expedient to establish the Naya Pakistan Housing and Development Authority for the purposes of planning, development, construction and management of real estate development schemes and projects, including housing, and matters connected therewith and ancillary thereto so as to pursue philanthropic and other objectives, on profit and non-profit basis and to carry out refurbishment, uplift or establishment and maintenance of infrastructure, roads etc. and the performance of other civic and municipal ventures or tasks;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of powers conferred by clause (1) of Article 89 of the Constitution of Islamic Republic of Pakistan, 1973, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. **Short title, extent, commencement and application.**—(1) This Ordinance shall be called the Naya Pakistan Housing and Development Authority Ordinance, 2019.

(2) It extends to the whole of Pakistan

(3) It shall come into force at once.

2. **Application.**—This Ordinance shall apply to the works, lands and buildings owned or acquired by, vested in or in the possession of the Federal Government in the specified area and the schemes developed or re-developed under this Ordinance.

3. **Definitions.**— In this Ordinance,—

(a) “Acting Chairman” means the Acting Chairman of the Authority appointed in terms of sub-sections (6) or (7), respectively, of section 10;

(b) “Adjudicator” means an Adjudicator of the Authority appointed in accordance with section 41;

(c) “Appellate Tribunal” means the Appellate Tribunal of the Authority established pursuant to this Ordinance;

- (d) "Authority" means Naya Pakistan Housing and Development Authority established under this Ordinance;
- (e) "certificate of title" includes a certificate of title with regard to the entitlement to an immovable property in terms of a lease, tenancy, license, allotment or allocation or any other mode of grant issued by the Registrar, in the manner and on such terms and conditions as may be prescribed;
- (f) "Chairman" means the Chairman of the Authority;
- (g) "enforcement inspector" means an employee of the Authority designated as enforcement inspector in accordance with section 38;
- (h) "Federal Land Bank" means the Federal Land Bank constituted under section 16;
- (i) "finance" shall have the same meaning as assigned thereto in the Financial Institutions (Recovery of Finances) Ordinance, 2001 (XLVI of 2001);
- (j) "financial institution" shall have the same meaning as assigned thereto in the Financial Institutions (Recovery of Finances) Ordinance, 2001 (XLVI of 2001);
- (k) "Fund" means Naya Pakistan Housing and Development Authority Fund created under this Ordinance;
- (l) "house finance" means finance provided by financial institutions to individuals for the construction, re-furbishment or purchase of residential houses, units or apartments or for purchase of residential plots and construction thereon;
- (m) "management association" means a body, association, trust, body corporate, society or any other entity, registered or otherwise, established and mandated by the Authority, in the prescribed manner, for managing a scheme or part thereof;
- (n) "member" means a member of the Policy Board;
- (o) "Policy Board" means the Policy Board of the Authority constituted under this Ordinance;
- (p) "prescribed" means prescribed by rules or regulations under this Ordinance;
- (q) "Patron" means the Patron of the Authority;

- (r) "Registrar" means a registrar appointed under Section-22 of this Ordinance;
- (s) "Schedule" means a Schedule appended to this Ordinance;
- (t) "scheme" means a scheme or schemes, plan, facility or project, on profit or non-profit basis, comprising development or re-development of:
 - (i) new or existing cities, towns and islands, or
 - (ii) mix-use, housing, commercial and/or public amenity plots, buildings and/or units and related infrastructure, or
 - (iii) infrastructure and services including transportation systems and road networks, traffic management systems, healthcare facilities, educational facilities, recreational and cultural facilities, municipal and civic facilities and services, communications systems and facilities, utilities infrastructure and network (including water supply, drainage, sewerage, sanitation), or
 - (iv) energy generation, procurement, transportation, transmission and distribution systems including for electric power (through any energy source) and gas (LNG/RLNG, LPG etc.), or
 - (v) industrial estates and parks, and
 - (vi) all facilities, systems and works incidental or ancillary thereto, planned, made, undertaken and/or supervised and/or approved by the Authority under this Ordinance;
- (u) "Secretary" means the Secretary of the Authority appointed in accordance with section 6 (7) of this Ordinance;
- (v) "section" means a section of this Ordinance; and
- (w) "specified area" includes an area in which the Authority may pursue a scheme;

CHAPTER II

INCORPORATION AND FUNCTIONS

4. **Authority.**—(1) The Patron shall, by notification in the official Gazette, establish the Naya Pakistan Housing and Development Authority.

(2) The Authority shall be a corporation having perpetual succession, a common seal and may sue or be sued in the name mentioned in sub-section (1) of this section 4.

(3) The head office of the Authority shall be at Islamabad and the Authority may establish regional and/or such offices in such other parts of Pakistan as it may deem necessary.

5. Functions of the Authority.—(1) The Authority as may be prescribed, shall:—

- (a) identify immovable properties and projects suitable for the development of schemes;
- (b) recommend to the Federal Government to provide or procure immovable property or a project through any means permissible under law, including compulsory acquisition; purchase, lease or license through private agreement; donation by any private party or any state land or project by any government or other public authority, on such terms as may be mutually agreed between the Federal Government and the relevant transferor or provider;
- (c) cause studies, surveys, experiments or technical researches to be undertaken or contribute towards the cost of any such studies, surveys, experiments or technical researches, undertaken by any other entity;
- (d) if necessary, prepare and approve a master or site plan of a specified area containing zoning, spatial or town planning, infrastructure development, land use and building control regulations in consonance with the planning under the applicable building and town-planning dispensation;
- (e) undertake, design, approve and execute scheme or schemes in specified areas;
- (f) prescribe transparent criteria and procedure for registration, membership, possession, transfer and cancellation of immovable property in a scheme;
- (g) facilitate the low income segment for availing housing under this Ordinance or any other specific programme or otherwise through the provision of loans or other facilities;
- (h) develop procedures for allocation, allotment, lease or auction, if any, of any type of immovable property, including the procedure to

transact or exchange the actual property or allotment/allocation file thereof;

- (i) ensure maximum use of indigenous labour and construction material in the development of schemes;
- (j) formulate and, from time to time, vary the organogram, job descriptions, human resource policies and terms and conditions of employment of all employees of the Authority;
- (k) create or abolish posts and oversee the performance of its employees;
- (l) take disciplinary action against employees in the prescribed manner;
- (m) establish committees for assistance and advice in relation to the performance of its functions and determine the membership and terms of reference of a committee;
- (n) develop and maintain public amenities and common areas in a scheme;
- (o) maintain updated record of immovable property including title, leasehold rights, mortgage, easement, license, tenancy and possession thereof;
- (p) publish geo-tagged title, leasehold rights, mortgage and other rights or interests in an immovable property on its website;
- (q) collect all levies, taxes, duties, fees and charges on the transfer, or possession of an immovable property, or any encumbrance thereon, under any law after agreeing on an arrangement with the relevant agency;
- (r) exercise control over maintenance of buildings, their common areas and amenities in a scheme;
- (s) impose, levy and collect fines, fees, tolls, penalties, surcharges and charges as may be prescribed;
- (t) coordinate with similar agencies or bodies at the federal, provincial and local level for the achievement of the objectives of this Ordinance;

- (u) to undertake schemes for the purposes of raising funds for various objects of the Ordinance including funding for subsidies in low cost housing projects and creation of employment and opportunities; and
 - (v) perform any ancillary functions or a function under this Ordinance.
- (2) The Authority, as may be prescribed, may—
- (a) raise funds through any means considered appropriate in the circumstances including through real estate investment trusts, bonds, sukuk and other forms of finances obtained on the basis of participation term certificate (PTC), musharika certificates, term finance certificates (TFC) or any other financial or debt instruments or securities;
 - (b) raise funds and obtain finance or loans from donor agencies, governmental bodies, and financial institutions, including on the security of its Fund or any portion thereof;
 - (c) provide or facilitate and support the provision of finance, including housing finance, for the achievement of the objectives of the Ordinance;
 - (d) generate electricity or obtain utilities in bulk or otherwise and carry out, maintain, arrange, manage and provide all facilities, services and utilities, including water, gas and sewerage in schemes;
 - (e) manage and maintain utilities;
 - (f) assign any function to a local government or local authority and *vice versa* on mutually agreed terms and conditions;
 - (g) outsource any function through public private partnership or any other mode;
 - (h) hire or utilize services for undertaking of schemes including design, technical evaluation and monitoring thereof;
 - (i) provide and release receipts, guarantees, indemnity bonds, cheques and enter into contracts, deeds, instruments, arrangements, joint ventures and agreements with any person or grant concessions, for the working of the Authority, for the preparation, planning, development, execution, implementation and maintenance of schemes and for carrying out the purposes of this Ordinance;

- (j) to set up agencies, companies, subsidiaries, trusts, societies, associations, joint-ventures (whether contractual or incorporated) or any other vehicles for the purposes of carrying out its objectives;
- (k) incur any expenditure and procure plant, machinery, equipment, instruments and necessary materials;
- (l) plan, approve and execute mergers and amalgamations with other housing schemes or cooperative housing societies subject to the approval of the competent authorities of those housing schemes or housing societies for such merger or amalgamation;
- (m) impose, vary, and recover development charges and transfer fees in respect of any immovable property within any scheme;
- (n) lease, purchase, procure, sell, exchange, mortgage, rent out or otherwise dispose of or deal with any property under the management and control of the Authority;
- (o) cancel or re-plan any scheme or part thereof;
- (p) do all such acts, deeds and things that may be necessary or expedient for the purpose of proper preparation, planning, development, execution, implementation, management and maintenance of schemes;
- (q) frame, amend or repeal service, conduct of business and other regulations necessary for carrying out the purposes of the Ordinance;
- (r) make recommendations to the Patron for prescription of rules under this Ordinance;
- (s) institute, commence, prosecute, defend, compromise, settle any and all actions, disputes, suits and legal proceedings whether civil or criminal before any court, tribunal, administrative body or authority; and
- (t) exercise any other power that is necessary for the performance of any function.

(3) Except where any powers and functions of the Authority are specified in this Ordinance to be exercised or performed by the Policy Board or the Patron, all the powers and discretions of the Authority shall be exercised, and the functions and duties of the Authority shall be performed, by the Chairman.

CHAPTER III

PATRON, POLICY BOARD AND ADMINISTRATION

6. **Patron and Policy Board.**—(1) The Prime Minister of the Islamic Republic of Pakistan shall be the Patron of the Authority, who shall review the performance of the Authority and may, from time to time, give to the Authority general policy directions to implement the same, subject to the terms of this Ordinance.

(2) The Patron shall, by notification in the official Gazette, constitute the Policy Board comprising not less than five and not more than eleven members (including the Chairman), for a term of five years. In case of any casual vacancy, a member (other than the Chairman) may, in the like manner, be nominated by the Patron for the remaining unexpired term of the outgoing member.

(3) The Chairman shall preside over the meetings of the Policy Board, however, in his absence, a member nominated by the Chairman may so preside.

(4) A member, unless disqualified under this Ordinance from holding office, may be re-appointed by the Patron in the above manner, provided that no individual shall serve for more than two consecutive terms as a member.

(5) Two thirds (2/3rd) of the members, including the Chairman [or his nominee under sub-section (3) of this Section 6] present in person or through video-conference or tele-conference, shall constitute the quorum for a meeting of the Policy Board. Subject to quorum, the decisions of the Policy Board shall be taken by majority of the members present and voting, provided that in the event of a tie, the Chairman [or his nominee under sub-section (3) of this Section 6 presiding at such meeting] shall have a second and casting vote.

(6) The Policy Board shall meet at least once in every calendar quarter and a meeting of the Policy Board shall be held on such date and at such time and place, as the Chairman may determine.

(7) The Chairman shall appoint a Secretary of the Authority on such terms and conditions as may be prescribed and who shall perform such functions as the Chairman may direct. The Secretary of the Authority shall also be the secretary of the Policy Board and shall maintain or cause to be maintained, in the prescribed manner, the record of each meeting of the Policy Board including the minutes of the meetings as approved by the Chairman.

(8) The Chairman may invite any person other than a member to attend a meeting of the Policy Board for the purposes of advising or assisting the Policy Board on any agenda item taken up for consideration at such meeting.

