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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN
MINISTRY OF LAW AND JUSTICE

Islamabad, the 20th August, 2021

No. F. 2(1)/2021-Pub.—The following Ordinance promulgated on 17th August, 2021 by the President is hereby published for general information:—

ORDINANCE NO. XV OF 2021

AN

ORDINANCE

to establish the Federal Government Properties Management Authority

WHEREAS it is expedient to effectively manage and utilize assets of Federal Government through attracting private investment, from inland and abroad and to undertake special projects, if and when desired by the Government in collaboration with private investors, local or foreign and in so doing to generate revenue, facilitate job creation, develop Pakistan's human resource, enhance exports, bolster economic growth and improve service delivery to the people.

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AND WHEREAS, the Senate and the National Assembly are not in session and the President of the Islamic Republic of Pakistan 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, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance: —

1. **Short title, application and commencement.**—(1) This Ordinance shall be called the Federal Government Properties Management Authority Ordinance, 2021.

(2) It shall apply to Government properties wherever they may be—

(3) It shall come into force at once.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “asset” means property and includes immovable property and shall include land, structure owned by the Government or any of its Ministries, divisions or any entity under the control of the Government, whether currently un-used or used for any purpose whatsoever;

(b) “Authority” means the Federal Government Properties Management Authority established under section 3;

(c) “Board” means the Board of Governors constituted under section 5;

(d) “Chairman of the Board” means the Minister in-charge of the Division concerned;

(e) “consultancy services” means services requiring adequate technical and financial expertise in undertaking specific assignment, investment or project and may be of an intellectual nature and may include—

(i) advisory and review services;

(ii) pre-investment or feasibility studies;

(iii) construction supervision;

(iv) management and related services;

- (v) other technical services or special studies; and
- (vi) design and surveys and investigations.
- (f) "development plan" means a comprehensive document outlining the details and design of development of assets, and any other matters pertaining thereto.
- (g) "Director General" means Director General of the Authority and includes any person performing the functions of the Director General appointed by the Federal Government;
- (h) "Division concerned" means the division to which the business of this act stands allocated;
- (i) "emergency" means operational emergency to be declared as such by the Authority;
- (j) "execution agreement" means a document mentioning details, terms and conditions agreed between the Authority and Project executor for implementing the project in line with provisions of the ordinance.
- (k) "finance" shall have the same meaning as assigned thereto in the Financial Institutions (Recovery of Finances) Ordinance, 2001 (XLVI of 2001);
- (l) "financial institution" shall have the same meaning as assigned thereto in the Financial Institutions (Recovery of Finances) Ordinance, 2001 (XLVI of 2001);
- (m) "Fund" means the Federal Government Properties Management Authority Fund created under section 14;
- (n) "Government" means the Federal Government;
- (o) "investment" means any transaction between the Authority and a Project Executer for implementing the project in line with provisions of the Ordinance.
- (p) "master plan" means an overarching planning document providing conceptual spatial, landscape, design and infrastructure layout for the development of assets.
- (q) "prescribed" means prescribed by rules or regulations made under this Ordinance, as the case may be;

- (r) "project" means an undertaking by the Authority to utilize the assets for any purpose in line with provisions of this Ordinance and includes any project handed over by the Government to the Authority for any purpose in line with provisions of this Ordinance;
- (s) "project executer" means any person or entity whether public or private participating in a project.
- (t) "proposal" means document mentioning details of the proposed project and may include proposed transaction related to the project.
- (u) "regulations" means regulations made under this Ordinance;
- (v) "rules" means rules made under this Ordinance;
- (w) "technically complex" means a project declared as such by the Authority;
- (x) "transferred Asset" means any asset approved by the Government to be transferred to the Authority; and
- (y) "un-solicited proposal" means any proposal which is not submitted in response to any procurement request, however is aligned with the mission and objectives of the procuring agency and is subject to competitive selection process by soliciting counter proposals through public tendering;

3. **Establishment of the Authority.**—(1) The Government, by notification in the official Gazette, shall establish the Federal Government Properties Management Authority.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power and functions to acquire, hold and utilize assets as per provisions of this Ordinance, and shall sue and be sued in the said name.

(3) The headquarters of the Authority shall be at Islamabad and it may, with the prior approval of the Government, set up as many offices all over the country as, when and where required.

(4) The Government may transfer any assets to the Authority and upon such transfer this Ordinance shall exclusively apply to the transferred assets.

(5) The Government may assign to the Authority any project involving private investment in any form whatsoever and at any stage of project lifecycle.

4. **Director General of the Authority.**—(1) The Government shall appoint a Director General of the Authority on such terms and conditions as may be prescribed by rules.

(2) The Director General of the Authority shall, subject to this Ordinance, hold office for a term of three years and may be re-appointed by the Government for an additional term of three years.

5. **Functions and powers of the Director General of the Authority.**—(1) The Director General of the Authority shall be the principal accounting officer of the Authority responsible for the management, administration and operations of the Authority and, subject to the provisions of this Ordinance, shall exercise all powers and discretions and perform all functions and duties of the Authority under this Ordinance.

(2) Subject to sub-section (3), the Director General of the Authority may declare a project as technically complex and engage, through direct contracting any entity or as a consultant, evaluator or an expert with approval of the Board.

(3) In case of engagement of an entity or individual under sub-section (2), the Director General of the Authority shall record in writing rationale for direct contracting and shall issue a certificate.

6. **Powers and functions of the Authority.**—(1) The Authority shall—

- (i) create a database of assets owned by various Government entities;
- (ii) recommend to the Government such assets to be transferred to the Authority for investment;
- (iii) take possession of any asset transferred to the Authority;
- (iv) undertake all legal measures, to secure assets handed over to the Authority;
- (v) identify Government assets suitable for the development of projects;
- (vi) carry out marketing and promotion of the assets;
- (vii) design and approve transaction structures for offering the assets for projects;
- (viii) approve un-solicited proposals for development of projects;

- (ix) accept, develop and offer projects for investments;
- (x) develop projects for implementation by the Authority itself;
- (xi) lease, purchase, procure, exchange, mortgage, rent out or otherwise utilize any transferred asset;
- (xii) selection of investors, in accordance with stipulated procedures;
- (xiii) enter into investment agreements through lease, rental, partnerships or public private partnership, joint-ventures or any other suitable mode;
- (xiv) responsible for implementation, contract enforcement, contract management and operations of development projects undertaken;
- (xv) prepare mechanisms for supervision and monitoring of projects and carry out operations and oversee monitoring and evaluation of projects against set milestones, targets and outcomes;
- (xvi) recommend to the Federal or Provincial or Local Governments policies, laws and actions to enhance the investment potential of assets;
- (xvii) undertake or cause studies, surveys, experiments or research to be undertaken or contribute towards the cost of any such studies, surveys, experiments or research, to be undertaken by any other entity, public or private, for the development of assets;
- (xviii) prepare, amend and approve development plans, master plans or site plans of any asset including, spatial or town planning, infrastructure development, land use and building control regulations in consonance with the existing building and town-planning regulatory dispensation;
- (xix) develop rules and procedures for approving project proposals;
- (xx) engage third-party consultants, panels, evaluators etc. for the purpose of evaluating project proposals;
- (xxi) appoint legal experts, contract management specialists, procurement specialists and other kinds of experts to represent the authority in litigation, contract negotiations, contract management, procurement etc.;

- (xxii) approve organogram, job descriptions, human resource policies and terms and conditions of employment of all employees of the Authority;
- (xxiii) create or abolish posts and oversee the performance of employees of the Authority;
- (xxiv) take disciplinary action against employees in the prescribed manner;
- (xxv) receive such payments from the investors as contained in the approved agreements and to share such parts of the payments received by it with Government or owner organization as may be approved by the Board;
- (xxvi) coordinate with ministries or divisions or departments or agencies or bodies at the Federal, Provincial and local level for the achievement of the objectives of this Ordinance;
- (xxvii) establish as many committees, as considered necessary or expedient, and determine the membership and terms of reference of such committees, to assist and advice in relation to the performance of its powers and functions under this Ordinance;
- (xxviii) seek loans, grants or debt with the approval of the Federal Government;
- (xxix) mortgage assets with approval of the Federal Government;
- (xxx) provide and release receipts, guarantees, indemnity bonds, cheques and enter into contracts, deeds, instruments, arrangements, joint ventures and agreements or grant concessions, to any person or entity, for the preparation, planning, development, execution, implementation and maintenance of projects and for carrying out the purposes of this Ordinance;
- (xxxi) cancel or re-plan any project or part thereof;
- (xxxii) setup companies, trusts, societies, associations, joint ventures whether contractual or incorporated or any other vehicles for the purpose of carrying out objectives of this Ordinance and allowing private shareholding in their entities;
- (xxxiii) seek any record of assets from any Government entity including but not limited to any ministry, division, autonomous body, body corporate or public sector organization etc. and the entity shall be

bound to provide the same within timelines specified by the Authority;

(xxxiv) recommend to competent authority initiation of disciplinary action against any Government employee found intentionally withholding information sought by the Authority or providing false or misleading information to the Authority; and

(xxxv) perform any ancillary powers and functions as prescribed.

(2) Notwithstanding anything contained in this Ordinance, all acts and proceedings of the Authority shall be subject to the control of the Government and the Government may revoke, suspend or modify any such acts or proceedings.

7. **Board.**—(1) The Government shall, by notification in the official Gazette, constitute the Board of Governors of the Authority comprising the following members, namely:—

(i) Minister in-charge of the Division concerned who shall be Chairman of the Board;

(ii) Director General of the Authority appointed by the Government;

(iii) four independent members to be appointed by the Government, from private sector well known for their integrity, have sufficient relevant fields of expertise; and

(vi) four *ex-officio* members appointed by the Government.

(2) Independent members shall be appointed for a term of three years on terms and conditions as may be prescribed.

(3) Secretary of the Board shall be appointed with the approval of the Chairman of the Board.

(4) The Board shall meet at least once in every quarter. The Secretary of the Board may take approval of any decision through circulation among members of the Board. A special meeting may be called with the approval of the Chairman of the Board.

(5) The meetings of the Board shall be presided over by the Chairman of the Board and in his absence, the Director General of the Authority shall chair the meeting.

(6) The quorum for a meeting of the Board shall be one-third of the total membership of the Board, and decisions of the Board shall be made with majority of total present members of the Board.

8. **Powers and functions of the Board.**—(1) The general direction and administration of the Authority and its affairs shall vest in the Board, which shall exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) Without prejudice to the generality of powers given in sub-section (1), the Board shall perform, *inter alia*, the following functions, namely:—

- (a) to approve rules, regulations and policies of the Authority;
- (b) to approve strategies and development plans of the Authority;
- (c) to approve project proposals;
- (d) to approve award of contracts for projects;
- (e) to accept and approve project proposals including un-solicited proposals;
- (f) to recommend to the Federal Government the raising of debts;
- (g) to recommend to the Federal Government assets of Ministries/ division/organizations to be transferred to the Authority;
- (h) to recommend to the Federal Government mortgage against assets;
- (i) to establish as many committees, as the Board considers necessary or expedient, and determine the membership and terms of reference of such committees, to assist and advice in relation to the performance of its powers and functions under this Ordinance;
- (j) to establish and maintain strategic direction of the Authority;

(3) The Board shall, in discharge of its functions, be guided on questions of policy by such directions as the Government may give from time to time.

(4) If any question arises as to whether any matter is a matter of policy or not, the decision of the Government in respect thereof shall be final.

9. **Appointment of employees etc.**—The Authority may create posts and appoint such officers, experts, consultants and staff on such terms and conditions as may be prescribed.

10. **Officers, officials, experts to be public servants.**—The Director General, officers, officials, experts and consultants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code Act, 1860 (Act XLV of 1860).

11. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done under this Ordinance or rules or regulations made under there under.

12. **Prior consent of the Board mandatory for initiating any legal action against any member, officer, officials.**—(1) Notwithstanding anything contained in any law for the time being in force, no legal action shall be initiated against any member, officer or official by any Government agency for acts of omission or commission in his official capacity, pertaining to this Ordinance, rules or regulations etc. made thereunder, unless the said agency obtains prior consent of the Board by an intimation in writing to the Board along-with supporting evidence of the charges. The Board shall constitute an inquiry committee for the purpose, which shall determine whether there is a *prima facie* cause for the legal action on the charges. The committee shall give its findings and recommendations to the Board and decision of the Board on the matter, whether to allow the proposed legal action or not shall be deemed to be final.

13. **Delegation of functions.**—The Authority may, by general or special order and subject to such conditions as it may think fit to impose, delegate to the Director General or an officer of the Authority, all or any of its powers or functions under this Ordinance.

14. **Fund.**—(1) There shall be a Fund known as the Federal Government Properties Management Authority Fund which shall vest in the Authority and shall be utilized by the Authority to meet its expenses and charged properly incurred in connection with the carrying out of its functions and duties assigned or transferred to it under this Ordinance.

(2) The Authority shall have the power to take decision for utilization of funds for maximizing commercial, social and strategic potential of assets.

(3) The Authority shall meet its expenditure from the revenue raised and in case of shortfall that will be met by the Government either through grant or loan.

(4) The Fund shall consist of—

- (a) funds, loans or grants by the Government, Provincial Governments, Local Governments or any donor agencies;
- (b) grants and loans negotiated and raised or otherwise obtained by the Authority;
- (c) fee, charges, rentals, tolls, fines and other moneys received or collected by the Authority;
- (d) income from mortgage, lease etc.;
- (e) funds from bonds, sukuk and other forms of finances obtained on the basis of participation term certificate, real estate investment trusts, bonds, musharika certificates, sukuk, term finance certificates, any other financial or debt instruments or securities issued by the Authority;
- (f) proceeds of any investments made by the Authority which are not required for immediate use. All investments to be made by the Authority shall be with approval of the Board; and
- (g) all other sums received by the Authority.

(5) At the end of each financial year, the books of accounts balance sheet shall be prepared and business plan for the next financial year shall be finalized and approved by the Board.

15. Bank accounts.—(1) The Authority may open and maintain its bank account with any scheduled banks or financial institutions within the framework of the prescribed rules.

(2) The Accounts of the Authority shall be maintained in accordance with international accounting standards and international financial reporting standards as applicable.

16. Budget and accounts.—(1) The Board shall, in respect of each financial year, prepare on first day of July of a year and ending on the thirtieth day of June of the succeeding year a statement of the estimated receipts and expenditure, including the revised and estimated budgets and requirement of grant or loan from the Government for next financial year for consideration and approval of the Board.

(2) The Director General shall cause the budget prepared under subsection (1) to be placed before the Board for its approval.

(3) The books and accounts of the Authority shall be maintained in such manner as may be prescribed in accordance with Article 170 of the Constitution.

17. Audit.—(1) The Authority shall appoint a firm of chartered accountants, which is placed in category "A" by the State Bank of Pakistan, for the annual audit of the accounts of the Authority.

(2) The Authority shall cause to be carried out audit of its accounts by the Auditor General of Pakistan.

(3) The Director General shall cause the audited financial statements to be placed before the Board for its approval.

(4) A copy of the audit report shall be sent to the Federal Government along-with the comments of the Authority as also to Auditor General of Pakistan.

(5) The Authority shall take the requisite steps for the rectification of any objection raised by the Auditor General of Pakistan.

18. Litigation.—(1) All litigation with respect to the property transferred to the Authority shall be deemed to be transferred to the Authority on the date the Authority takes possession of the property.

(2) The Authority shall have power to approve institution, commencement, prosecution, defence, compromise and all actions and settlement of any disputes, suits and legal proceedings whether civil or criminal before any court, tribunal, administrative body or authority.

19. Duty to assist the Authority.—(1) The Authority may in the performance of its functions seek assistance of any office, authority or agency working under the Government, a Provincial Government or a local government.

(2) The office, authority or agency shall comply with the direction of the Authority unless, for reasons to be recorded in writing and within thirty days of the direction, an officer not below the rank of head of the office, authority or agency requests the Authority to place the matter before the Director General whose decision, on such matter, shall be final.

20. Authentication of instruments of the Authority.—All orders, decisions and other instruments of the Authority shall be authenticated by the signature of the Director General or any other employee of the Authority authorized by the Director General, in the prescribed manner.

21. Annual report.—(1) The Authority shall, within three months of the end of a financial year, submit to the Board an annual report.

(2) The Annual report under sub-section (1) shall consist of —

- (a) the statement of accounts and audit reports of the Authority;
- (b) a comprehensive statement of the work and activities of the Authority during the preceding financial year and its proposed projects;
- (c) proposed business plan; and
- (d) such other matters as may be prescribed or as the Authority may consider appropriate.

22. **Ejectment of un-authorized occupants.**—Subject to provision of an opportunity of hearing to the person concerned, the Director General or any person authorized by the Director General may summarily eject any person in un-authorized occupation of any asset transferred to the Authority and may for such ejectment use such force as may be necessary. All Government authorities, Federal, Provincial or local shall provide full legal assistance if and when requested by the Authority to do so.

23. **Removal of building, etc. erected or used in contravention of this Ordinance.**—(1) If any property is used in contravention of the provisions of this Ordinance or of any rule, regulation or order etc. made thereunder, the Director General or any person authorized by him or the Authority in this behalf may by order in writing require the owner, occupier, user or person in control of such property to remove, demolish or alter the property or to use it in such manner so as to bring such structure, construction or use in accordance with the said provisions of this Ordinance or of any rule, regulation or order made thereunder.

(2) If an illegal structure is built or existing structure is tampered with or damaged or altered with regard to any property, the responsible person/ entity shall rectify it at its own risk and cost. In case of non-compliance, the Authority shall carry out required function and, in such case, the responsible person or entity shall be liable to bear all expenses incurred. In case the responsible person or party is not in a position to bear the cost, it shall be recovered as arrears of land revenue or any other revenue collection process in place.

24. **Jurisdiction of courts barred.**—(1) Save as otherwise provided by this Ordinance, no court or other authority shall have jurisdiction to question the legality of anything done or any action taken under this Ordinance by or at the instance of the Authority in good faith.

(2) No court shall in any case pass an order affecting any anti-encroachment operation by the Authority.

25. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, by notification in the official Gazette, not inconsistent with the provisions of this Ordinance for the purpose of removing the difficulty.

26. **Power to make rules.**—The Authority may, with approval of the Government and by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

27. **Power to make regulations.**—The Authority may, by notification in the official Gazette, with the approval of the Board, make regulations for its internal working and terms and conditions of service of employees not inconsistent with the provisions of this Ordinance or the rules, for the carrying out of its functions under this Ordinance.

28. **Overriding effect.**—The provisions of this Ordinance shall have effect notwithstanding anything inconsistent herewith contained in any other law for the time being in force, including the Privatization Commission Ordinance, 2000 (LII. of 2000).

DR. ARIF ALVI,
President.

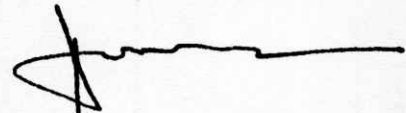
RAJA NAEEM AKBAR,
Secretary.

FEDERAL GOVERNMENT PROPERTIES (MANAGEMENT) AUTHORITY
ORDINANCE, 2021

STATEMENT OF OBJECTS AND REASONS

Federal Government owns a vast tract of urban and rural property throughout the length and breadth of the country. These fixed assets are owned, operated and managed by the Federal Ministries, Divisions and organizations under their control. Many of these lands have gained in value over time due to expansion of urban areas and growth of commercial activities. However, most of government entities have not been able to manage these assets optimally. In fact, these are beset with multiple problems like encroachments, illegal occupation, etc. Despite government directions, most of the government assets are not being utilized in an economically viable manner. In various cases, even the superior courts have issued similar directions.

2. There have been several unsuccessful attempts in the past to make use of some of the properties for generating optimum economic returns. Managing assets, especially land, is a specialized function. None of the existing government organizations have the exclusive mandate and capacity to perform this function in a manner where these properties generate valuable returns for the economy. Such functions are required to be performed by a dedicated professional agency / organization. It is therefore proposed that a new organization, FGPMA may be established to own, manage, operate or lease properties of the Federal Government as approved by the Federal Government.



(Asad Umar)
Minister