

Law vision (Pakistan)

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Alternative Energy Development Board Ordinance, 2007

ORDINANCE No. LVI OF 2007

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3rd October, 2007

No. 2(1)/2007-Pub.: - The following Ordinance promulgated by the President is hereby published for general information:----

**An Ordinance to provide for
establishment of Alternative Energy Development Board**

WHEREAS, it is expedient to provide for the establishment of Alternative Energy Development Board (AEDB) as an autonomous body for the purpose of implementation of various policies, programmes and projects in the field of Alternative or Renewable Energy Technologies;

AND WHEREAS the objective of the Alternative Energy Development Board is to assist and facilitate development and generation of Alternative or Renewable Energy in order to achieve sustainable economic growth with transfer of technology for development of an indigenous technological base through a diversified energy generation;

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

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

CHAPTER I PRELIMINARY

1. Short title, extent and commencement - (1) This Ordinance may be called the Alternative Energy Development Board Ordinance, 2007.
- (2) It extends to the whole of Pakistan.
- (3) It shall come into force at once.
2. Definitions.-In this Ordinance, unless there is anything repugnant in the subject or context, -
 - (a) "alternative or renewable energy" means energy that is produced by alternative or renewable resources as compared to the conventional or that are replenished naturally, which do not deplete when consumed and are non-polluting and environmental friendly;
 - (b) "Board" means Alternative Energy Development Board (AEDB) established under section 3;
 - (c) "Chairman" means the Chairman of the Board.
 - (d) "Institute" means Institute of Alternative and Renewable Energy Technologies established under section 11;
 - (e) "Member" means Member of the Board.
 - (f) "organization" means an organization of alternative and renewable energy established under section 10;
 - (g) "prescribed" means prescribed by rules or regulations made under this Ordinance;
 - (h) "President" means President of the Islamic Republic of Pakistan;
 - (i) "regulations" means the regulations made under this Ordinance; and
 - (j) "rules" means the rules made under this Ordinance.

CHAPTER II ALTERNATIVE ENERGY DEVELOPMENT BOARD

3. Establishment of the Board. - (1) There shall be established an Alternative Energy Development Board for carrying out the purposes and objectives of this Ordinance.

(2) The Board shall be a body corporate having perpetual succession and a common seal, with powers, subject to the provisions of this Ordinance, to enter into agreements, contracts, acquire and hold property, both moveable and immoveable and to sue and be sued in its name.

(3) The head office of the Board shall be at Islamabad and the Board may set up sub-offices at such place or places as it may deem necessary.

(4) The Board shall comprise of the Chairman and Members.

4. Chairman of the Board-The Chairman of the Alternative Energy Development Board shall be appointed by the Federal Government on such terms and conditions as may be determined by the Federal Government.

5. Terms and conditions of office of the Chief Executive Officer (CEO).- (1) The Chief Executive shall be appointed by

the Federal Government. The terms and conditions of the Chief Executive his remuneration and privileges shall be such as may be determined by the Federal Government.

(2) The Chief Executive shall be an eminent engineering professional of known integrity, competence and expertise in handling development projects.

(3) The Chief Executive shall hold office for a period of three years extendable for another term of three years.

(4) The Chief Executive may resign from his office by giving one month notice by writing under his own hand, addressed to the Federal Government. The age of CEO shall not be more than 65 years.

(5) The Chief Executive will be answerable to the Board for all administrative and financial matters of the Board. He may be delegated the powers to make administrative and financial decisions for day-to-day running of the Board.

6. Members of the Board. - (1) The composition of the Board shall be as follows:-

- (a) Chairman;
- (b) Secretary, Finance Division or his nominee not below the rank of Additional Secretary or equivalent;
- (c) Secretary, Ministry of Water and Power or his nominee not below the rank of Additional Secretary or equivalent;
- (d) Secretary, Planning and Development Division or his nominee not below the rank of Additional Secretary or equivalent;
- (e) Secretary, Ministry of Petroleum and Natural Resources or his nominee not below the rank of Additional Secretary or equivalent;
- (f) Secretary, Ministry of Science and Technology or his nominee not below the rank of Additional Secretary or equivalent;
- (g) Secretary, Ministry of Environment or his nominee not below the rank of Additional Secretary or equivalent;
- (h) Additional Secretary, Cabinet Division; and
- (i) Six Members nominated by the Federal Government Board with the approval of the Prime Minister; and
- (j) The Chief Executive Officer of the AEDB

(2) The Secretary of the Board shall be appointed by the Federal Government on the recommendations of the Board.

(3) The Federal Government may increase or decrease the number of Members of the Board from time to time as it may consider appropriate.

(4) The Federal Government may prescribe the qualifications and mode of appointment of Members from private sector in such manner as it may consider appropriate.

(5) The business of the Board shall be conducted as prescribed.

(6) One half of the total membership of the Board shall constitute the quorum and in case of equality of votes the Chairman shall have the casting vote.

(7) In the absence of the Chairman, one of the Technical Members designated by the Chairman shall preside over the Board meeting.

7. Terms and conditions of office of Members. - (1) A Member, other than an ex-officio Member, shall be appointed by the Federal Government for a period of three years, extendable for another term of three years on the recommendations of the Board.

(2) A Member, other than ex-officio Member, may at any time resign from his office by giving one-month notice, in writing under his own hand, addressed to the Federal Government.

(3) The Federal Government may remove any Member, other than ex-officio Member, on grounds of misconduct and physical incapacitation.

8. Functions of the Board. - The functions of the Board shall be as under, namely: -

- (i) To develop national strategy, policies and plans for utilization of alternative and renewable energy resources to achieve the targets approved by the Federal Government in consultation with the Board;
- (ii) to act as a forum for evaluating, monitoring and certification of alternative or renewable energy projects and products;
- (iii) to act as a coordinating agency for commercial application of alternative or renewable technology;
- (iv) to facilitate power generation through alternative or renewable energy resources by -
 - (a) acting as one window facility for establishing, promoting and facilitating alternative or renewable energy projects based on wind, solar, micro-hydel, fuel cells, tidal, ocean, biogas, biomass etc;
- (b) setting up alternative and renewable energy power pilot projects on it's own or through joint venture or partnership with public or private entities in order to create awareness and motivation of the need to take such initiatives for the benefit of general public as well as by evaluating concepts and technologies from technical and financial perspective;
- (c) conducting feasibility studies and surveys to identify opportunities for power generation through alternative and renewable energy resources;
- (d) undertaking technical, financial and economic evaluation of the alternative or renewable energy proposals as well as providing assistance in filing of required licensing applications and tariff petitions to National Electric Power Regulatory Authority (NEPRA) established under the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);
- (e) interacting and co-ordinating with national and international agencies for promotion and development of alternative energy;
- (f) assisting the development and implementation of plans with concerned authorities and provincial governments for off-grid electrification of rural areas; and
- (g) making legislative proposals to enforce use and installation of equipment utilizing renewable energy.making legislative proposals to enforce use and installation of equipment utilizing renewable energy.

9. Committees of the Board. - (1) The Board may, for carrying out its functions, constitute such committees, from time to time, as may be considered appropriate by the Board.

(2) The committees shall conduct their business in such manner as may be prescribed by the Board.

10. Organization of the Board. - (1) The Board may, for carrying out its functions for promotion of alternative and renewable energy, development of alternative and renewable energy technologies, certification of alternative and renewable energy products and projects and project management, establish one or more organizations, as it may consider necessary.

(2) The organization(s) established under sub-section (1) shall be subject to control and supervision of the Board and function within the framework of this Ordinance.

(3) An organization established under sub-section (1) shall perform the business as may be prescribed by regulations by the Board.

11. Institute of Alternative and Renewable Energy Technologies. - (1) The Board may, for carrying out its functions of commercial application of alternative or renewable energy and corresponding human resource development in the area of alternative and renewable energy, establish an Institute of Renewable Energy Technologies.

(2) Institute shall conduct the business in such manner as may be prescribed by regulations by the Board.

12. Appointment or employment of officers and staff of the Board. - (1) The Board may appoint such officers, experts, advisors, consultants and members of staff as it may consider necessary for the efficient performance of its functions on such terms and conditions as may be prescribed under the rules made with the prior approval of the Federal Government.

(2) The officers, members of the staff, advisors, consultants and experts and other persons appointed by the Board shall not be deemed to be civil servants within the meaning of the Civil Servants Act, 1973 (LXXI of 1973).

(3) The Chairman and non-official Members of the Board, officers, advisors, consultants, employees and staff of the Board, when acting or purporting to act under any of the provisions of this Ordinance, or rules and regulations, shall be deemed to be public servants within the meaning of section 21 of Pakistan Penal Code 1860 (Act XLV of 1860)

CHAPTER III FUND, ACCOUNTS AND AUDIT

13. Alternative Energy Fund. - (1) There shall be established a non-lapsable fund vesting in the Board to be known as the "Alternative Energy Fund" (AEF) for the purpose of meeting expenses in connection with the functions and operations of the Board, Institute and Organizations under this Ordinance, including payment of salaries and other remuneration payable to the Chairman, Members, members of its staff, experts, consultants, advisors and other officers and employees of the Board, Institute and the Organizations.

(2) The fund shall consist of:-

- (a) funds provided by the Federal Government for payment of salaries, establishing infrastructure and running the day to day business of the Board;
- (b) loans or grants by the Federal Government or any Provincial Government or local authority;
- (c) other loans or funds obtained by the Board;
- (d) foreign aid, grants and loans negotiated and raised, or otherwise obtained, by the Board, through the Economic Affairs Division;
- (e) charges for services or for the provision of any information or report automated or otherwise to any government, private or any other person or entity;
- (f) fees and commissions collected by the Board as prescribed for time to time;
- (g) income from the sale of moveable or immoveable property;
- (h) funds from floating bonds, shares, debentures, commercial papers, or other securities issued by the Board or through any other means; and
- (i) all other sums received by the Board;

(3) The Alternative Energy Fund shall be kept in one or more accounts maintained by the Board, in local or foreign currency in any scheduled bank in Pakistan and shall be operated in accordance with the directions of the Board.

(4) The Government shall fund all administrative, operational and any other expenses:

Provided that the responsibility of the Federal Government to exclusively fund the operations and functions of the Board shall cease at such appropriate time, when in the opinion of the Federal Government, the Board shall have become capable of funding its functions and operations envisaged under this Ordinance to be funded by the Board;

14. Accounts and Audit. - (1) The Board, Institute and Organization(s), shall prepare their own budget in respect of each financial year, in accordance with the prescribed procedure and shall maintain complete and accurate books of accounts of their actual expenses and receipts including that of the Alternative Energy Fund.

(2) The accounts of the Board, Institute and Organization(s) shall be audited by a reputable firm of Chartered Accountants, who are within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) appointed by the Board in consultation with the Auditor General of Pakistan, from a panel of Chartered Accountants proposed by the Board on such remunerations as the Board may determine.

(3) The auditors appointed under sub-section (2) shall be provided access to the books, accounts and other documents as may be considered necessary by them for audit of the accounts.

(4) The Auditor General may conduct external audit of the Board as per Auditor General's (Functions, Powers and Terms and Conditions of Service) Ordinance, 2001 (XXIII of 2001).

CHAPTER IV MISCELLANEOUS

15. Delegation of powers. - (1) The Board may delegate all or any of its powers and functions to the Chairman or such other officer of the Board subject to such conditions and limitations, as it may prescribe.

(2) The Board may delegate all or any of its powers and functions under this Ordinance to any Member or officer of the Board, subject to such conditions and limitations, as may be prescribe.

16. Issuance of policy directives. - The Federal Government may, as and when it considers necessary, issue policy directives to the Board in respect of its activities and the compliance of such directives shall be binding on the Board.

17. Annual Report. - On conclusion of each calendar year, the Chairman shall submit an annual report to the Federal Government in respect of all activities of the Board including the status of its existing programmes, projects and future plans formulated in furtherance of its aims and objectives.

18. Rules. - The Federal Government may on the recommendations of the Board make rules to carry out the purposes of this Ordinance.

19. Regulations. - (1) The Board, may make regulations, not inconsistent with this Ordinance and the rules, to carry out the purposes of this Ordinance.

(2) Without prejudice to the generality of the forgoing provisions, the regulations may provide for:-

- (a) disciplinary proceedings and award of punishments;
- (b) terms and conditions along with remuneration and privileges etc for appointment of officers, staff members, experts, advisors and consultants etc;
- (c) prescription of different scales and grades etc. for the remuneration and privileges of officers, staff members, experts, advisors and consultants etc of the Board;
- (d) procedure for appointment of members of the different committees and laying down regulations for the conduct of their business; and
- (e) all or any of the matters, which by this Ordinance are to be or may be prescribed, by the regulations.

20. Authorities to aid the Board. - All executive authorities in the Federation and in the Provinces shall render such assistance to the Board as may be necessary for the execution of its programmes and projects being carried out under this Ordinance.

21. Immunity of the Board. - No suit, prosecution or other legal proceeding shall lie against the Board, the Chairman, Members, officers, advisors, consultants and other persons and employees of the Board, in respect of anything done or intended to be done in good faith under this Ordinance.

22. Removal of difficulties. - If any difficulty arises in giving effect to any of the provisions of this Ordinance, the President may make such order, not inconsistent with the provisions of this Ordinance, as may appear to be necessary for removing the difficulty.

23. Dissolution of Board. - Upon the commencement of this Ordinance, the Alternative Energy Development Board established vide notification No. F.1/7/2003-Admn II dated 12th May 2003, hereinafter referred to as the former Board, shall stand dissolved and upon such dissolution:-

(1) all assets, rights, powers, authorities and privileges and property, moveable and immoveable, cash and bank balance, reserve funds, investments and all other interests and rights in, or arising out of such property and all debts, liabilities and obligations of whatever kind of the former Board subsisting immediately before its dissolution shall stand transferred to and vest in the Board;

(2) all officers and other employees of the former Board shall, notwithstanding anything contained in any law or in any agreement, deed, document or other instrument, stand transferred to the Board and shall be deemed to have been appointed or engaged by the Board in accordance with the terms and conditions of service applicable to them; and no officer or other employee whose services are so transferred shall be entitled to any compensation because of such transfer;

(3) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the former Board before its dissolution shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for the Board; and

(4) all suits and other legal proceedings instituted by or against the former Board before its dissolution shall be deemed to be suits and proceedings by or against the Board and may be proceeded or otherwise dealt with accordingly.

24. Exemption from taxes. - Notwithstanding anything contained in the Income Tax Ordinance 2001(XLIX of 2001) or any other law for the time being in force relating to income tax, the Board shall not be liable to pay any such tax on its income, capital profit, wealth, gifts or gains.

25. Validation of actions etc.- Anything done, actions taken, orders passed, instruments made, orders of appointment made, proceedings initiated, processes or communications issued, power conferred, assumed, exercised by the Board or its officers and servants on and after the 24th August, 2006, and before the commencement of this Ordinance shall be deemed to have been validly done, made, issued, taken, initiated, conferred, assumed and exercised and the provisions of this Ordinance shall have, and shall be deemed always to have had, effect accordingly.

Case Law

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