



DEFENCE HOUSING AUTHORITY ISLAMABAD ACT, 2013



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DEFENCE HOUSING AUTHORITY ISLAMABAD ACT, 2013

ACT NO XII OF 2013

[19th March, 2013]

An Act to provide for establishment of Defence Housing Authority Islamabad

WHEREAS it is expedient to establish Defence Housing Authority Islamabad for the purpose and object of carrying out schemes and projects of land development, *inter alia* for welfare of the bereaved families of martyrs, war injured, disabled and other persons of the defence forces of Pakistan to boost their morale; to provide financial security in recognition of their selfless services for the defence of the nation; and to provide for ancillary matters;

It is hereby enacted as follows: —

CHAPTER I

1. Short title, extent and commencement. — (1) This Act may be called the Defence Housing Authority Islamabad Act, 2013.

(2) It extends to the specified area in Islamabad Capital Territory.

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 15th August, 2010.

2. Definitions. —In this Act, unless there is anything resurgent in the subject or context, —

- (a) “Administrator” means the Administrator appointed under section 8;
- (b) “Authority” means the Defence Housing Authority Islamabad established under section 3;
- (c) “Chairman” means Chairman of the Governing Body;
- (d) “Executive Board” means Executive Board constituted under this Act;
- (e) “Governing Body” means Governing Body constituted under section 4;
- (f) “Government” means the Federal Government;
- (g) “member” means a member of the Authority and includes the Chairman;
- (h) “prescribed” means prescribed by rule or regulations made under this Act;
- (i) “President” means President of the Executive Board;
- (j) “project” means any project of development of land undertaken or planned by the Authority in the specified area;

- (k) “Scheme” means any scheme, plan, facility or project for development of land for residential or commercial use undertaken, planned or made and approved by the Authority under this Act;
- (l) “Secretary” means Secretary of the Authority;
- (m) “specified area” means all land owned, purchased or procured by or vested in or leased to the Army Welfare Housing Scheme or the Defence Housing Authority Islamabad constituted under any law before the commencement of this Act in Islamabad Capital Territory and such other land as may, from time to time, be purchased or procured by or leased to the Authority in Islamabad Capital Territory and notified by the Government; and
- (n) “Vice-President” means Vice-President of the Executive Board.

3. The Authority. — (1) There shall be established an Authority to be known as Defence Housing Authority Islamabad for carrying out purposes of this Act.

(2) The Authority shall be a body corporate having perpetual succession and common seal with power to purchase, procure, sell, exchange, hold and dispose of property and shall by the said name, sue and be sued.

(3) The head office of the Authority shall be at Islamabad.

(4) While designing, planning and executing a scheme in the specified area, the Authority shall adhere to the master plan of Islamabad and ensure that all public roads and revenue paths leading to and from the adjoining areas and access to graveyards shall, as far as possible, be maintained and no change or alteration shall be made in such roads, paths or access except with prior approval of the Government.

(5) Subject to the financial viability of a Scheme, the Authority shall reserve in a scheme in the specified area at least fifty per-cent quota for the bereaved family of the martyrs, war injured, disabled and junior ranks from sepoys to junior commissioned officers of the defence forces of Pakistan.

4. Governing Body. — (1) The general administration, supervision and control of the affairs of the Authority shall vest in the Governing Body, which shall consist of, —

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| (a) | Secretary, Ministry of Defence; | <i>Chairman</i> |
| (b) | Adjutant General Pakistan Army; | <i>Vice-Chairman</i> |
| (c) | a serving or retired Major General of Pakistan Army to be nominated by the Chief of Army Staff; | <i>Member</i> |
| (d) | Chief Commissioner, Islamabad; | <i>Member</i> |
| (c) | Administrator; | <i>Member</i> |
| (f) | Chairman, Capital Development Authority; and | <i>Member</i> |

(g) Secretary.

Member-cum-Secretary

(2) The Governing Body shall,—

- (a) review progress and activities of the Authority;
- (b) lay down policy for guidance of the Executive Board;
- (c) consider and approve budget and audit reports of the Authority; and
- (d) transact such other business of the Authority as the Executive Board may place before it.

5. Executive Board.—(1) There shall be an Executive Board which shall exercise such administrative executive and financial powers of the Authority and do all such acts and functions as the Governing Body may delegate or assign to it.

(2) The Executive Board shall consist of,—

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| (a) | Adjutant General, Pakistan Army; | <i>President</i> |
| (b) | a serving or retired Major General of Pakistan Army
to be nominated by the Chief of Army Staff; | <i>Vice-President</i> |
| (c) | Administrator; | <i>Member</i> |
| (d) | Secretary of the Authority to be appointed by the
President; | <i>and Secretary</i> |
| (e) | two residents of Schemes of the Authority | <i>Co-opted
Members</i> |

(3) The Government shall, for a period not exceeding five years at a time, appoint the co-opted members in accordance with the regulations but they shall serve during the pleasure of the Government.

(4) In the performance of its functions, the Executive Board shall comply with the directions of Governing Body.

6. Powers and functions of Executive Board. — (1) Subject to all applicable laws and provisions of this Act, the Executive Board may take such measures and exercise such powers as may be necessary for proper planning and development of the specified area and for carrying out purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, the Executive Board may, in accordance with all applicable laws, rules and regulations, —

- (a) purchase, procure, hold, manage, reclaim and take possession of any property in the specified area;
- (b) prepare, plan, develop, notify, execute, implement, maintain, manage and regulate any scheme in the specified area;
- (c) enter into contracts, arrangements, joint ventures, and agreements with any person, for preparation, planning, development, execution, implementation and maintenance of schemes in the specified area and for carrying out purposes of this Act;
- (d) incur any expenditure and procure plant, machinery, equipment, instrument and necessary materials;
- (e) carry out, maintain, arrange, manage and provide all facilities, services and utilities, including water, electricity, gas and sewerage in schemes in the specified area so as to ensure that the property is maintained up to the required standards for benefit of the residents;
- (f) plan, approve and execute mergers and amalgamations with other housing schemes or cooperative housing societies subject to approval of the competent authorities of those housing schemes or housing societies for merger and amalgamation;
- (g) impose, vary and recover development charges and transfer fees in respect of any land within any scheme in the specified area;
- (h) lease, purchase procure, sell, exchange, mortgage, rent out or otherwise dispose of any property vested in the Authority;
- (i) cancel or re-plan any scheme or part thereof in the specified area;
- (j) apply for acquisition of land to the Government for initiation and completion of process of land acquisition in accordance with the law governing land acquisition; and
- (k) 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 residential and commercial facilities in the schemes in the specified area.

(3) The Executive Board shall meet as and when required or considered necessary by the Administrator, in consultation with the President.

(4) The Executive Board shall transact such business at a meeting as the Administrator may place before it:

Provided that the Defence Housing Authority shall obtain N.O.C from civic amenities providing agencies who are responsible for supply of services like water, sewerage and sanitation etc, and civic utilities like electricity, gas and telephone etc. working as autonomous bodies.

7. Powers of the Executive Board to borrow. —Subject to the Government's rules and guidelines, the Executive Board may obtain loans for the purposes of generating capital for its schemes.

8. Administrator. — (1) The Chief of Army Staff shall nominate a person not below the rank of serving or retired Brigadier of Pakistan Army, as Administrator of the Authority.

(2) The Administrator shall be the chief executive officer of the Authority.

9. Powers and functions of the Administrator. — (1) Subject to provisions of this Act and the regulations, the Administrator shall exercise all executive powers of the Authority, delegated to him or otherwise, in accordance with the policy laid down by the Governing Body and the directions or decisions of the Executive Board.

(2) The Administrator may, either by himself or through any officer appointed by the Executive Board in this behalf, carry on the correspondence and shall sign, verify, pursue and file all pleadings and such other documents on behalf of the Authority, in any suit, appeal, petition and proceedings which may be instituted, prepared and filed by or against the Authority in or before any court, tribunal or authority.

(3) The Administrator may, with approval of the Executive Board, delegate any of his specified powers to any of his sub-ordinate staff, including but not limited to sign contracts, pleadings or any other legal instruments on behalf of the Authority.

(4) Subject to conditions of delegation of the authority, the authorized officer shall exercise the power of signing the instrument after its approval by the Executive Board or, as the case may be, the Administrator.

10. Meetings. — (1) The Governing Body shall meet at least once each year on such date, time and place as may be fixed by the Chairman.

(2) The Chairman and, in his absence, the most senior member of the Governing Body shall preside over meetings of the Governing Body.

(3) The President and, in his absence, the most senior member of the Executive Board shall preside over meetings of the Executive Board.

(4) The quorum of a meeting of the Governing Body or the Executive Board shall be a majority of the total membership.

(5) The Secretary shall record, maintain and keep the minutes of meetings of the Governing Body and the Executive Board.

11. Appointments. —The Executive Board may, in such manner and on such terms and conditions as may be prescribed, appoint such officers, functionaries, employees, staff, experts, consultants and advisers as may be necessary for purposes of this Act.

12. Annual report and accounts. —As soon as may be after conclusion of a financial year but before the 31st day of December, the Executive Board shall in respect of the said financial year,

submit to the Governing Body a general report on its affairs including accounts, balance sheet and audit.

13. Delegation of powers. —Subject to this Act and the specified conditions, the Governing Body, the Executive Board and the Administrator may, by order in writing, delegate to any person to exercise any of their powers and perform such functions and duties as may be specified in the order.

14. Committees. —The Governing Body and the Executive Board may constitute such committees and assign to them such functions as may be necessary for efficient performance of their respective functions.

15. Authority Fund. — (1) There shall be a fund to be known as the Defence Housing Authority Islamabad Fund which shall vest in the Authority and to which shall be credited all moneys received by the Authority.

(2) The fund shall be kept in a scheduled bank or financial institution and shall be utilized and regulated in such manner as may be prescribed.

(3) The funds may, with approval of the Executive Board, be invested in any banking, financial or non-banking financial institution.

16. Budget, audit and accounts. —The budget of the Authority shall be approved by the Governing Body and its accounts shall be maintained and audited in such manner as may be prescribed.

17. Power to cancel allotment.—The Executive Board may cancel revoke or rescind any allotment, transfer, licence lease or agreement in respect of any plot or housing unit in a scheme in the specified area if the allottee, transferee, licensee or lessee fails to pay the dues or installments, including development charges, in respect of such plot or housing unit within three months from the date of receipt of the demand notice in writing or within such extended time as the Governing Body or the Executive Board may, in special cases, fix and thereupon the plot or the housing unit, with or without construction thereon, shall be resumed and shall vest in the Authority.

18. Conversion of property to a different use. — (1) If a person converts without previous written approval of the Authority, any property in a scheme in the specified area to a use or purpose other than the one provided under the scheme, such person shall be liable to fine which may extend to two thousand rupees per day from the date of the conversion of the property till the default continues.

(2) The Authority shall not impose the fine under sub-section (1) unless the person concerned is afforded an opportunity of being heard.

19. Removal of building erected or used in contravention of the Act.—(1) If any land is used or building, structure, work on land is erected, constructed or used in contravention of the provisions of this Act or any regulations or orders made thereunder, or in contravention of the Scheme or without the permission of the Authority, the Authority or any person authorized by it in this behalf, may, by order in writing, require the owner, occupier, user or person in control of such land, building, structure, work on land to remove, demolish or alter the building, structure or work or to use it in such manner as may bring such erection, construction or use in accordance with the provisions of this Act.

(2) If an order under sub-section (1), in respect of any building, structure work or land is not complied with in such time, as may be specified therein, the Authority or any person authorized by it in this behalf, may, after giving the person concerned an opportunity of being heard, remove, demolish or alter the building, structure or work, or stop the use of the land, or seal the building, premises and in so doing, may use such force as may be necessary and may also recover the cost thereof from the person responsible for the erection, construction, or use of the building, structure, work or land.

20. Power to make regulations. — (1) The Governing Body may, for carrying out the purposes of this Act, make regulations, not inconsistent with this Act or any other law, rules, regulations or bye-laws for the time being in force in the Specified Area.

(2) The Executive Board may, with the prior approval of the Governing Body, frame regulations relating to the terms and conditions of service of employees, staff and consultants of the Authority.

21. Act not to override other laws. — The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

22. Transfer and savings. — (1) After, on the repeal of the Defence Housing Authority Islamabad Ordinance, 2010 (XV of 2010) and on commencement of this Act, to the extent of Specified Area in Islamabad Capital Territory;

- (a) all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash and bank balances, reserve funds, investments and all other interests and rights in or arising out of such property and all liabilities and obligations of whatever kind of the Defence Housing Authority Islamabad established before this Act, shall be transferred to and vested in the Authority;
- (b) all contracts and agreements entered into, all rights acquired and all matters and things agreed to be done by, with or for the Defence Housing Authority Islamabad established before this Act, shall be deemed to have been entered into, acquired or agreed to be done by, with or for the Authority;
- (c) all leases executed and all grants made and all lands vested in the name of the Defence Housing Authority Islamabad established before this Act, shall be deemed to be leases executed, grants made and property vested in the name of the Authority;
- (d) all contracts, projects, schemes, work (whether in progress or not) and all guarantees, undertakings, obligations, liabilities and mortgages, executed or subsisting in the name of the Defence Housing Authority Islamabad established before this Act, shall be deemed to be contracts, projects, schemes, works, guarantees, undertakings, obligations, liabilities and mortgages of the Authority;
- (e) all pending disputes in respect of the Defence Housing Authority Islamabad established before this Act, shall stand transferred to this Authority and be decided by the Administrator and any party aggrieved by his decision shall

have the right of appeal to the Executive Board whose decision thereon shall be final;

- (f) all suits, petitions and other legal proceedings instituted by or against the Defence Housing Authority Islamabad established before this Act, shall be deemed to be suits, petitions, and proceedings by or against the Authority;
- (g) all allotments and transfers of plots, whether residential, commercial or otherwise, made by the Defence Housing Authority Islamabad established before this Act, shall be deemed to be allotments and transfers made by the Authority; and
- (h) all bye-laws and regulations in force immediately before the commencement of this Act made by the Defence Housing Authority Islamabad established before this Act, shall continue to remain in force until, altered or repealed by regulations made under this Act.

(2) Notwithstanding anything contained in sub-section (1), the Executive Board may:

- (a) alter the area of any plot involving duplicate allotments and re-allot the same in such manner as it may consider appropriate; and
- (b) pass such order in respect of transfer of plot involving duplicate allotments as it may deem fit.

23. Appeal. —Any person aggrieved by an order of cancellation under Section 17, or imposition of fine under section 18, or an order under section 19, or an order of the Executive Board under section 22 may, within 15 days of the communication of the order, file an appeal before the Governing Body, whose decision shall be final.

24. Validation. —All actions done or taken by the Defence Housing Authority Islamabad before the commencement of this Act shall be deemed to be validly done or have been taken to the extent they are consistent with this Act.

25. Removal of difficulty. —If any difficulty arises in giving effect to any provision of this Act, the Government may, within one year of the commencement of this Act, give such directions, not inconsistent with the provisions of the Act, as it may consider necessary for the removal of such difficulty.