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PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND JUSTICE

Islamabad, the 16th February, 2024

F. No. 2(I)/2024-Pub.—WHEREAS, the Prime Minister advised the President in terms of clause (1) of Article 48 of the Constitution of the Islamic Republic of Pakistan to make and promulgate the following Ordinance under Article 89 of the Constitution;

WHEREAS, the President in exercise of his power conferred by proviso to clause (1) of the said Article 48 required the Prime Minister after such reconsideration reiterated his earlier advice advising the President to make and promulgate the said Ordinance;

NOW, THEREFORE, the following Ordinance deemed to have been promulgated on the 14th day of February, 2024 in terms of Article 89 of the Constitution of the Islamic Republic of Pakistan, read with proviso to clause (1) of Article 48 thereof, by the President is hereby published for general information:—

(17)

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ORDINANCE NO. III OF 2024

AN

ORDINANCE

further to amend the Indus River System Authority Act, 1992

WHEREAS it is expedient further to amend the Indus River System Authority Act, 1992 (XXII of 1992), in the manner and for the purposes hereinafter appearing;

AND WHEREAS the Senate and 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 the Islamic Republic of Pakistan, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance shall be called the Indus River System Authority (Amendment) Ordinance, 2024.

(2) It shall come into force at once.

2. **Amendment of section 2, Act XXII of 1992.**—In the Indus River System Authority Act, 1992 (XXII of 1992), hereinafter called as the said Act, in section 2,—

(a) in clause (d), after the word “rules”, the words “and regulations” shall be inserted;

(b) in clause (e), the word “and” shall be omitted;

(c) after in clause (e), amended as aforesaid, the following new clause shall be inserted, namely:—

“(ea) “Vice-Chairman” means the Vice-Chairman of the Authority; and ”;

(d) after clause (f), the following new clause shall be inserted, namely:-

“(g) “Water Regulation Point” shall mean gauge and discharge locations, required for implementation of Water Apportionment Accord, 1991, including but not limited to

water storage, dams, run-of-river hydropower projects, barrages/headworks, canal head regulators, escape structures, outfall structures, tails of inter-river link canals.”.

3. **Amendment of section 4, Act XXII of 1992.**—In the said Act, in section 4,—

(a) for sub-section (1), the following shall be substituted, namely:—

“(1) The Authority shall comprise of a Chairman and five members, one member to be nominated by the Prime Minister and each one by the Chief Minister of the respective Provinces, with relevant engineering, irrigation or related experience as may be prescribed. The Authority may, on the recommendation of the Chairman, co-opt such other members as may be deemed necessary, from time to time. The Chairman shall be an employee of the Federal Government, either serving or retired in BPS-21 or equivalent or above, to be appointed by the Prime Minister, with such engineering experience and on such terms and conditions as the Prime Minister may determine, from time to time.” ;

(b) for sub-section (2), the following shall be substituted, namely:—

“(2) On commencement of this amendment Ordinance, the first Vice-Chairman shall be the member nominated by Chief Minister of Balochistan, to be followed by the nominees of the Chief Ministers of Khyber Pakhtunkhwa, Punjab, and Sindh, and thereafter in that order.”;

(c) in sub-section (3), for the word “Chairman”, the expression “Vice-Chairman” shall be substituted;

(d) in sub-section (4),—

(i) after the word “member”, the words “or the Chairman” shall be inserted;

(ii) for the words “Provincial Government”, the words “Chief Minister” shall be substituted; and

(iii) for the words “Federal Government”, the words “Prime Minister” shall be substituted;

(e) in sub-section (5),—

(i) after the word “Chairman”, the expression “, Vice-Chairman” shall be inserted;

(ii) for the words “Water and Power Division”, the words “Division Concerned” shall be substituted;

- (iii) after the word “office”, the words “of the Authority” shall be inserted;
 - (iv) for the proviso, the following shall be substituted, namely:—

“Provided that such resignation shall not take effect until it is approved by the Prime Minister”;
 - (f) after the sub-section (5), amended as aforesaid, the following new sub-section (5a) shall be inserted, namely:—

“(5a) The Chairman or, in his absence, the Vice-Chairman shall preside over the meetings of the Authority.”;
 - (g) in sub-section (6), for the word “Chairman”, wherever occurring, the expression “Vice-Chairman” shall be substituted;
 - (h) after sub-section (8), the following new sub-section (8a) shall be inserted, namely:—

“(8a) In absence of the Chairman, Additional Secretary of the Division concerned shall represent the Chairman.”;
 - (i) for sub-section (9), the following shall be substituted, namely:—

“(9) The Chairman, and *ex-officio* members of the Authority including *inter alia* Chairman of the Water and Power Development Authority, Chief Engineering Adviser or their nominees and the co-opted members shall have no right to vote.”; and
 - (j) after sub-section (9), amended as aforesaid, the following new sub-section (10) shall be inserted, namely:—

“(10) The Authority shall have its own secretariat and such other offices, consisting of officers, employees or consultants, as the Chairman may, from time to time, deem necessary for discharging the functions envisioned under this Act.”.
4. **Amendment of section 5, Act XXII of 1992.**—In the said Act, in section 5, for the words “The Chairman and every”, the word “Every” shall be substituted.
5. **Amendment of section 6, Act XXII of 1992.**—In the said Act, in section 6, for the words “Federal Government”, wherever occurring, the words “Prime Minister” shall be substituted.
6. **Amendment of section 7, Act XXII of 1992.**—In the said Act, in section 7, for sub-section (2), the following shall be substituted, namely:—

“(2) All members, including the Vice-Chairman, entitled to vote shall constitute quorum for a meeting of the Authority:

Provided that the Chairman shall, at all times, be kept informed of all decisions made by the Authority.”.

7. **Amendment of section 8, Act XXII of 1992.**—In the said Act, in section 8,—

(a) in sub-section (1),—

(i) after clause (a), the following explanation shall be inserted, namely:—

“Explanation: For the purposes of this sub-section, the technical basis for the regulation and distribution of surface waters shall be determined by the Independent Experts Committee.”;

(ii) after clause (b), the following new clause (ba) shall be inserted, namely:—

“(ba) monitor and compile, through telemetry or other modern technological means, the river and canal discharges of all Water Regulation Points being observed by Provincial Irrigation Departments and WAPDA, and conduct, from time to time, water audit thereof. In case of conflict between observations made by Authority and any other Provincial Irrigation Department or WAPDA, observations of the Authority shall take precedence over all observations to the contrary.”;

(iii) in clause (c), the explanation shall be omitted;

(iv) after clause (c), amended as aforesaid, the following new clause (ca) shall be inserted, namely:—

“(ca) impose, vary and recover fees, charges, cess, or other sums, from time to time, as may be prescribed;

Explanation: The cess levied and collected under this sub-section may be utilized for the purposes of, or in relation to, the integration and maintenance of telemetry system, up-gradation of existing water-related infrastructure, or development of modern water regulation and monitoring systems or human resource development and capacity building thereof;”;

(v) in clause (e), the explanation shall be omitted;

(vi) after clause (e), amended as aforesaid, the following new clauses shall be inserted, namely:—

“(ea) issue binding directives, with regards to powers envisioned under this Act, to Federal entities, including, *inter alia*,

Water and Power Development Authority, as well as each of the Provinces, which shall implement the same at, *inter alia*, the Water Regulation Point(s). In case of failure or inordinate delay, by any entity or person, in implementing the directives issued under this Act, the Authority shall have the power to impose such penalties, as may be prescribed;

- (eb) proceed against employees of the Authority involved in, *inter alia*, corrupt practices, professional misconduct and inefficiency, in the manner as may be prescribed;
- (ec) proceed against persons and entities involved in, *inter alia*, water theft, tampering of installations and data, and other illegal or fraudulent activities, in accordance with law, as may be prescribed;
- (ed) contract, engage, collaborate, transact, and enter into commercial arrangements with governmental as well as corporate entities, for carrying out the purposes of this Act;”;
- (b) in sub-section (2), the expression “and in case equality of votes, the Chairman shall have a casting vote” shall be omitted;
- (c) in sub-section (3),—
 - (i) after the word “Government”, the expression “, any member” shall be inserted; and
 - (ii) for the words “make a”, the expression “file a review before the Chairman, prior to making any” shall be substituted;
- (d) after sub-section (3), amended as aforesaid, the following new sub-section (4) shall be inserted, namely:—

“(4) A review filed by any aggrieved party, under sub-section (3) hereof, shall be decided by the Chairman, through a speaking order, after consultation with the Independent Expert Committee, and or such independent experts or consultants, as may be deemed appropriate by the Chairman:

Provided that the order passed by the Chairman, under sub-section (3) hereof, shall be final and shall not be called in question before any Court, forum or authority, except the Council of Common Interests.”.

8. **Insertion of new section 8A, Act XXII of 1992.**—In the said Act, after section 8, amended as aforesaid, the following new section 8A shall be inserted, namely:—

“8A. **Declaration of strategic locations relating to water accounting.**—(1) The Authority may, through majority vote declare a location or installation to be of strategic importance for the purposes of implementation of this Act.

(2) For protection, safeguard and securing of any location or installation that has been duly declared to be of strategic importance under this Act, the Chairman may request the Federal Government to provide requisite assistance through the Armed Forces of Pakistan, or other law enforcement agencies, as may required, from time to time.”.

9. **Amendment of marginal heading of Chapter III, Act XXII of 1992.**—In the said Act, in Chapter III, for the marginal heading “Advisory Committee”, the word “Committees” shall be substituted.

10. **Insertion of new sections 10A and 10B, Act XXII of 1992.**—In the said Act, after section 10, the following new sections 10A and 10B shall be inserted, namely:—

“10A. **Committees and sub-committees.**—The Authority may, from time to time, constitute such committees or co-opt such experts or consultants, as deemed appropriate by the Chairman, to carry out purpose of this Act.

10B. **Independent Experts Committee.**—(1) The Authority shall have an Independent Experts Committee consisting of the following, namely:—

- (a) Convener to be appointed by the Chairman, who shall serve as Chairman of the Independent Experts Committee;
- (b) two experts, having at least ten years’ experience in hydrology, hydraulic modelling, or related engineering fields, to be appointed by the Chairman;
- (c) two experts, having at least ten years’ experience in GIS, Remote Sensing, irrigation, or related engineering fields, to be appointed by the Chairman; and
- (d) four experts, having at least ten years’ experience in related engineering fields, to be appointed by the Chairman.

(2) The Independent Experts Committee may, on the recommendation of the Chairman, co-opt other experts and consultants, from time to time.

(3) All members of the Independent Expert Committee, except the co-opted members, shall be full-time employees of the Authority, who shall be engaged having such qualifications, and on such terms and conditions, as may be prescribed:

Provided that the co-opted members shall be paid such allowances as may be prescribed.

(4) Subject to provisions of this Act, the Independent Experts Committee shall, *inter alia*, perform the following functions, namely:—

- (a) aid and assist the Chairman, as and when required, in deciding the review filed under this Act;
- (b) advise on the monitoring, handling and compilation of the data, received through telemetry or other modern technological systems, of all Water Regulation Points;

- (c) determine gains and losses in terms of water distribution, during two cropping seasons and at such other times, as may be directed by the Chairman;
- (d) render advice on all technical matters, referred by the Chairman;
- (e) maintain water accounts, and conduct, from time to time, audit thereof, as directed by Chairman; and
- (f) carry out all matters connected therewith and ancillary thereto.”.

11. **Amendment of section 12, Act XXII of 1992.**—In the said Act, in section 12, in sub-section (2), after the word “conditions”, the expression “, including perks and privileges,” shall be inserted.

12. **Amendment of section 14, Act XXII of 1992.**—In the said Act, in section 14,—

- (a) in the marginal heading, the words “to and by Chairman” shall be omitted;
- (b) the existing clause shall be numbered as sub-section (1), and thereafter the following new sub-section (2) shall be inserted, namely:—

“(2) The Chairman may, from time to time, delegate in writing any of his operational powers, duties or functions, to a member, officer or employee of the authority, on such conditions and in such manner as he deems appropriate:

Provided, that the power of hearing and deciding a review filed under this Act shall not be delegated by the Chairman.”.

13. **Amendment of section 19, Act XXII of 1992.**—In the said Act, in section 19, for the word “January”, the word “March”, and for the expression “submit to the Federal Government, for approval,”, the word “Authority” shall be substituted.

14. **Amendment of section 22, Act XXII of 1992.**—In the said Act, in section 22, in clause (a), at the end, the word “and” shall be omitted, and in clause (b), for the full stop, the expression “; and” shall be substituted, and thereafter, the following new clause (c) shall be inserted, namely:—

- “(c) mechanism, criteria, terms and conditions for appointment of members and experts, from time to time, to the Authority and the Independent Experts Committee, in accordance with the provisions of this Act.”.

RAJA NAEEM AKBAR,
Secretary.