

**THE KHYBER PAKHTUNKHWA GALIYAT DEVELOPMENT
AUTHORITY ACT, 2016.**

(KHYBER PAKHTUNKHWA ACT NO. XII OF 2016)

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AUTHORITY ACT, 2016.**

(KHYBER PAKHTUNKHWA ACT NO. XII OF 2016)

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 12th May, 2016].

**AN
ACT**

*to reconstitute and reorganize
the Galiyat Development Authority.*

WHEREAS it is expedient to reconstitute and reorganize the Galiyat Development Authority for the development of Galiyat areas and other regions of Hazara Division;

AND WHEREAS it is necessary to give autonomy to the Galiyat Development Authority for better management and development of Galiyat areas and other regions of Hazara Division and to give due representation to private sector in the Galiyat Development Authority for achieving and maintaining high performance standards in the preparation and execution of schemes in the said areas;

It is hereby enacted as follows:

**CHAPTER-I
PRELIMINARY**

1. Short title, extent and commencement.---(1) This Act may be called the Galiyat Development Authority Act, 2016.

(2) It shall extend to Galiyat areas.

(3) It shall come into force at once.

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

(a) "Authority" means the Galiyat Development Authority, re-constituted under section 3 of this Act;

(b) "Chairman" means the Chairman of the Authority;

(c) "Director General" means the Director General of the Authority;

(d) "Galiyat area" means such area of the Hazara Division as Government may notify from time to time where the Authority has

jurisdiction under this Act and includes all areas as declared Galiyat are as before the commencement of this Act;

- (e) "Government" means the Government of the Khyber Pakhtunkhwa;
- (f) "Government Agency" includes—
 - (i) a division, department, bureau, section, commission, board, office, or unit of Government;
 - (ii) a local council; and
 - (iii) a development or any other public authority, trust, company or corporation, owned or controlled by Government or a local council, as the case may be;
- (g) "land" means and includes earth, water and air above, below or on the surface and any improvements in the structure customarily regarded as land and benefit arising out of land and things attached to earth or permanently fastened to earth;
- (h) "local council" means a local council, constituted under the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013);
- (i) "member" means a member of the Authority and includes the Chairman;
- (j) "person" means and includes an individual, firm, cooperative society or association of individuals whether incorporated or not;
- (k) "prescribed" means prescribed by rules or regulations;
- (l) "regulations" mean regulations made under this Act;
- (m) "rules" mean rules made under this Act; and
- (n) "scheme" means any construction or developmental work, which shall also include master planning, carried out within the territorial limits of the Authority.

CHAPTER-II RE-CONSTITUTION OF THE AUTHORITY

3. Re-constitution of the Authority.----(1) As soon as may be, after the commencement of this Act, Government shall, by notification in the official Gazette, re-

constitute the Galiyat Development Authority, established under the Galiyat Development Authority Act, 1996 (Act No. VII of 1996), in accordance with section 4 of this Act and shall be known as the "Galiyat Development Authority".

(2) The Authority shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued.

(3) The head office of the Authority shall be at Abbottabad; provided that the Authority may establish sub-offices within the Galiyat areas for managing the affairs of the Authority.

4. Constitution of the Authority.----(1) The Authority shall consist of eleven (11) members out of which seven (07) members shall be from private sector out of which two members from Galiyat or Hazara Division with no conflict of interest and one local Member, Provincial Assembly of Khyber Pakhtunkhwa and four (04) members from Government sector to be appointed and notified by Government.

(2) The members from the private sector may include persons having adequate experience, skills and knowledge in relation to the field of environment, town planning, forestry, business, community development, marketing, tourism, architecture, law, finance or civil engineering.

(3) The Chairman shall be elected from amongst the members of private sector, through voting from amongst themselves, who shall preside over the meetings of the Authority. In case of his absence, the Chairman may nominate any member from the private sector, as acting Chairman or if he has not done so, the members present shall elect an acting Chairman from amongst themselves for that meeting.

(4) The term of office of a member of private sector shall be three years, which may be extended for a further period of years, unless he resigns earlier or removes from holding such office due to disqualification or ineligibility, as the case may be, under this Act.

(5) The membership of members from private sector shall cease and fall vacant if, he resigns, or fails to attend three consecutive meetings without sufficient cause or for any other reasons which incapacitate to remain as member. Any such vacancy shall be filled in within one month and the new member shall hold office for the remainder of the term of his predecessor.

(6) The private member shall not be paid for being member of the Board.

(7) No person shall be appointed or remain as a member of the Board, if he-

(a) is of unsound mind;

- (b) has applied to be adjudicated as an insolvent and his application is pending;
- (c) is an un-discharged insolvent;
- (d) has been convicted by a Court of law for an offence involving moral turpitude;
- (e) has been debarred from holding any office under any provisions of law for the time being in force; or
- (f) has conflict of interest with such position.

5. Meetings of the Authority.---(1) The meeting of the Authority shall be regulated in accordance with the procedure as may be prescribed by regulations.

(2) Meetings of the Authority shall be held as and when required, but once at least in a quarter, at the time and place as the Chairman may determine.

(3) Presence of seven (07) members of the Authority shall constitute the quorum for a meeting; provided that such number shall include at least two official members.

(4) The decisions of the Authority shall be taken by the majority of the members present and, in case of a tie, the Chairman or in his absence the person presiding over the meeting, as the case may be, shall have a casting vote. All orders, determinations and decisions of the Authority shall be reduced to writing together with a record of the discussions held in the meeting.

(5) The Authority may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Authority, who may take part in discussion, but shall not be entitled to vote for or against the matter under discussion.

(6) The business of the Authority shall be disposed of at its meetings or at the meetings of its committees, so constituted, or by Director General or other employees, staff members or other functionaries in such a manner as may be prescribed by regulations.

(7) No act or proceedings of the Authority shall be invalid merely by reason of any vacancy in or defect in the constitution of the Authority.

CHAPTER-III **POWERS AND FUNCTIONS**

6. Powers and functions of the Authority.---(1) Subject to the provisions of this Act and the rules made thereunder, the Authority may exercise such powers and take such measures as may be necessary for carrying out the purposes of this Act.

(2) The strategy for all development works and other measures shall be embedded in the objective of environmental upgradation and uplift of the local community.

(3) All acts of the Authority, whether executive or not, shall be expressed and taken in the name of the Authority and shall be authenticated by the Director General by affixation of his official seal.

(4) Without prejudice to the generality of the foregoing sub-sections, the Authority may-

- (a) prepare, manage and implement through line departments and any other Government Agency as the Authority may direct, feasible means, schemes of education, health, agriculture and industry, forest conservation and development, preservation of wildlife, promotion of tourism, improvement of water supply, land slide management, development of irrigation facilities, development of means of communication, construction and development of housing, sewerage, drainage, environmental improvement and slum clearance or any other thing pertaining to the purposes of this Act;
- (b) acquire property, both movable and immovable;
- (c) sell, lease, exchange, transfer, mortgage, put under lien or encumbrance, allot, hire or otherwise dispose of or deal in any property vested in or entrusted to the Authority;
- (d) undertake any works and incur any expenditure in the performance of its functions under this Act;
- (e) procure machinery, instruments or any other material required by it;
- (f) enter into contracts or any arrangement, including but not limited to those for grant of a license to any person for carrying out the purposes of this Act;
- (g) cause studies, surveys, experiments, technical researches or contribute towards the cost of any such studies, surveys, experiments or technical researches made by any other agency;
- (h) receive, enquire or investigate, and adjudicate on complaints and claims of alleged contraventions of the provisions of this Act and issue interim development orders for areas for which a scheme is under preparation and restrict or regulate by general or special order, any change in the use of land and alteration in building structure and installations;

- (i) cause removal of any works obstructing the execution of its scheme;
- (j) seek and obtain advice and assistance for the preparation of any scheme or for the execution of scheme, from any Government Agency or person and such agency or person shall give the advice and assistance, sought by the Authority to the best of its or his ability, knowledge and judgment and the additional expenditure, if any, involved in giving such advice or assistance, shall be borne by the Authority;
- (k) procure securities, collaterals, bonds or any other means of assurances from lessees;
- (l) impose fine, levy and collect fees, charges as provided under this Act;
- (m) enforce and periodically revise urban designs and public safety and compliance with the master plans;
- (n) recover all arrears of taxes, rents and other moneys, within the Galiyat areas, claimable by it as arrears of land revenue;
- (o) order sealing, demolishing, removal of encroachments or repair of property for purposes of this Act and the rules and regulations;
- (p) take action that is necessary, incidental or ancillary to enforce and give effect to the provisions of this Act; and
- (q) undertake any other function which Government may assign to it.

(5) The Authority, with the approval of Government, may, and if directed by Government, shall, undertake the maintenance and regulation of schemes and other activities of a Government Agency as may be necessary and when a scheme or any activity is undertaken by the Authority, the assets and liabilities, connected therewith, shall also stand transferred to the Authority.

(6) The Authority, with the approval of Government, may, and if directed by Government, shall transfer any of its functions and powers to a Government Agency on such terms and conditions as it may deem fit.

7. Levy of taxes and delegation of powers.---(1) Notwithstanding anything contained in any other law for the time being in force, the Authority may levy and collect a tax with the prior approval of Government, however, the Authority may subject to prior publication in the official Gazette may collect a user charge or a fee or payment in respect of services or facilities extended or made available by the Authority to the public, including fee or charges on account of conservancy, maintenance of public areas or facilities within the Galiyat areas.

(2) The Authority may, subject to such conditions as it may impose, by general or special order, delegate to the Director General or any officer of the Authority or to a member of a committee, so constituted, as the case may be, any of its powers, duties and functions under this Act, not being a power, duty or function delegated to it by Government.

(3) The Authority may, subject to such conditions as it may impose, by general or special order, contract out operational and management functions under clause (f) of subsection (3) of section 5 of this Act to reputable firms or companies.

8. Appointment of officers and other employees.---(1) The Authority may, appoint such officers, advisors, experts, consultants and employees, as it considers necessary, for the efficient performance of its functions on such terms and conditions as may be prescribed by regulations.

(2) The Authority may associate with it, in such manner, on such terms and for such purpose as it may deem fit, any person whose assistance or advice it may require in carrying out its functions under this Act.

9. Constitution of the committees.----The Authority may constitute such financial, technical and advisory committees, as it may deem necessary, for carrying out the purposes of this Act and such committees shall exercise such powers and perform such functions as may be delegated or assigned so.

CHAPTER-IV **DIRECTOR GENERAL**

10. Appointment and terms of office of Director General.---(1) Government may post a Government officer, not below the rank of BPS 20, from a panel of three (03) officers, duly recommended by the Board, to act as the Director General of the Authority for a term not exceeding three (03) years.

(2) Notwithstanding the expiration of three (03) years term of his office, the Director General shall continue to hold office till his successor enters upon his office; provided that the process of new Director General shall be completed within six (06) months from the date on which the term of three (03) years of the existing Director General is expired.

(3) In addition to the functions and powers, assigned or delegated under this Act or as may be prescribed by regulations, the Director General shall-

- (a) be whole time officer of the Authority;
- (b) act as the Principal Accounting Officer of the Authority;

- (c) be responsible for the day to day management and affairs of the Authority; and
- (d) delegate all or any of his powers under this Act or as may be prescribed, except powers so delegated to him by the Authority.

(4) The Director General shall also act as a Secretary of the Authority and while acting so, he shall be responsible for:

- (a) convening of meetings of the Authority with the approval of the Chairman;
- (b) the preparation of the agenda, working paper and its distribution among the members of Authority;
- (c) recording the minutes of each meeting of the Authority and its prompt dispatch to the concerned quarters;
- (d) implement decisions of the Authority.
- (e) proper follow-up of all matters connected with or arising out of a meeting of the Authority; and
- (vi) monitoring and evaluation of the progress of projects approved by the Authority.

(5) Without prejudice to the generality of the foregoing, the Director General shall function under the supervision and control of the Authority and shall undertake responsibilities and duties as are entrusted to him by the Authority for purposes of this Act.

CHAPTER-V **PREPARATION AND EXECUTION OF SCHEMES**

11. Preparation of schemes.---(1) The Authority shall, in such form and in such manner as may be determined by the Authority in accordance with the provisions of this Act, prepare schemes for the Galiyat areas or any part thereof.

(2) A scheme, prepared under sub-section (1), shall be subject to the following conditions and restrictions:

- (a) no residential plot shall be of an area of less than two Kanals, nor shall any such plot be sub-divided to reduce the plot size to an area of less than two Kanals; provided that this restriction shall not apply in relation to those plots where lawful construction work started before the commencement of this Act;

- (b) the covered area of any plot, whether residential or commercial, shall not exceed one-third of the total area of the plot; provided that this provision shall not be applicable on the plots which already exists before the promulgation of this Act;
- (c) no residential building raised on a plot shall be of more than two stories and the covered area of the top storey shall not exceed half of the covered area of the ground floor; and
- (d) no construction in the Galiyat area shall be made unless the detailed plan of construction alongwith the site plan thereof is approved by the Authority.

(3) All constructions, whether for residential or commercial purpose, in the Galiyat area, shall strictly be in accordance with the scheme and the land use plan prepared by the Authority in accordance with the regulations made under this Act.

(4) No excavation or land levelling in the Galiyat area shall be made, except with the prior approval of the Authority.

(5) No construction, of whatsoever nature, shall be permissible in the Galiyat area known as Lalazar, situated between Nathiagali and Mukshpuri and on the main road leading from Abbottabad and Murree contrary to the West Pakistan Highway Ordinance, 1959 (W.P. Ord. No. XXXII of 1959).

12. Modification of schemes.---A scheme prepared under this Act may, at any time, be amended, modified or abandoned by the Authority in such form and in such manner as may be decided by the Authority.

13. Power to give directions.---(1) The Authority may, with the prior approval of Government, require a Government Agency, within whose jurisdiction any particular locality or aspect of development covered by a scheme lies-

- (a) to execute a scheme in consultation with the Authority;
- (b) to take over and maintain any of the works and services in that area;
- (c) to provide any amenity in relation to the land which, in the opinion of the Authority, ought to be provided; and
- (d) to enforce regulations on behalf of the Authority.

(2) The expenditure incurred on the execution of any scheme or on the taking over or maintenance of any work, or the enforcement of regulations, under this section, shall be borne, as may be agreed to between the Authority and the Government Agency or, in the event of disagreement, as may be determined by Government.

CHAPTER-VI
GENERAL

14. Direction by Government.---The Authority shall, in discharging its functions under this Act, be guided by such directions as Government may give it from time to time.

15. Borrowing money.----(1) The Authority shall be deemed to be a local authority for the purpose of borrowing money and any scheme or project, prepared or undertaken by the Authority, shall be deemed to be work as defined in section 2 of the Local Authorities Loans Act, 1914 (Act IX of 1914):

Provided that no local or foreign loan shall be obtained by the Authority without the previous sanction of Government.

(2) The Authority may, in consultation with Government, borrow money or raise funds by issuing bonds or debentures or otherwise for carrying out the purposes of this Act. A scheme or project for which money is borrowed or funds raised shall be self financing according to profit or loss as may be approved by Government.

16. Power to levy betterment fee.---(1) Where, as a consequence of any scheme having been executed by the Authority, the value of any property in that locality, in the opinion of the Authority, has increased, the Authority may, with the previous consent of Government, levy upon the owner of the property or any person having an interest therein, a betterment fee in respect of the increase in value of the property resulting from the execution of the scheme.

(2) Any Government Agency, when so directed by Government, shall surrender its local organization along with its assets and liabilities including funds or funding source to the administrative control of the Authority and the Authority shall, in that event, take over the organization and ensure its efficient performance.

17. Assessment of betterment fee.---(1) Where it appears to the Authority that any particular development scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Authority may, by an order made in this behalf, declare that for the purpose of determining the betterment fee, the execution of the scheme shall be deemed to have been completed and shall thereafter give notice in writing to the owner of the property of any person having an interest therein that the Authority proposes to assess the amount of betterment fee in respect of the property mentioned in section 16.

(2) The betterment fee under section 16 or under sub-section (1) of this section, shall be assessed and be payable in the manner as may be prescribed by regulations.

CHAPTER-VII
FINANCES, ACCOUNTS AND AUDIT

18. Authority Fund.---(1) There shall be a Fund to be known as the Authority Fund which shall vest in the Authority and shall be utilized by the Authority in connection with its functions under this Act, including the payment of salaries and other remuneration to the officers, servants, experts and consultants of the Authority.

- (2) The Authority Fund, shall consist of-
- (a) grants made by Government;
 - (b) all moneys received from the Federal Government or any International Agency by way of grants, loans, advance or otherwise;
 - (c) all fines, fees, rates and charges received by the Authority under this Act; and
 - (d) all moneys received by the Authority from the disposal of lands, buildings and other properties movable or immovable.

19. Application of the Bankers Books Evidence Act, 1891, apply to the books of the Authority.---The Authority shall be deemed to be a bank for the purpose of the Bankers Books Evidence Act, 1891 (Act No. XVIII of 1891).

20. Custody and investment of funds.---The Authority may keep money in any treasury, sub-treasury or a bank in such manner and in such form as may be prescribed by regulations.

21. Budget and accounts.---(1) The Authority shall prepare its annual budget estimates and work plan and submit the same to Government and Government may modify the said estimates or plan to the extent of any Government fund or grants as it may consider necessary.

(2) Accounts of the receipts and expenditure of the Authority shall be kept in such form as may be prescribed by regulations.

(3) The Authority shall, within three (03) months of the close of each financial year, place before Government the annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the proceeding financial year.

22. Audit of accounts.---(1) The accounts of the Authority shall be audited by Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ordinance X of 1961), and appointed by the Authority on such remuneration as it may think fit.

(2) Notwithstanding the provisions of sub-section (1), the Auditor General of Pakistan may cause to audit the accounts of the Authority.

23. Annual report.---The Authority shall, within four (04) months after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year. The Authority shall also, not later than four (04) months prior to the end of its financial year, finalize and present to Government annual development plan and budget for the next ensuing financial year.

CHAPTER-IX **OFFENCES AND PENALTIES**

24. Power to seal a building for violation of this Act or rules.---The Director General or any other officer of the Authority, duly authorized by him, shall have the powers to seal any building, structure or any other premises for violation of any clause of this Act or rules, as the case may be.

25. Penalty for violation of construction or trespassing into sealed building.---Any person, who enters into or opens a sealed building or initiates construction in a sealed building within Galiyat areas, shall be liable for punishment for a term not exceeding three (03) years or fine up to rupees one million or both.

26. Penalty for encroachment.---Whoever, encroaches or violates the approved site plan or structure of a building in the Galiyat areas, shall be liable for punishment for a term not exceeding three (03) years or fine up to rupees two million or both:

Provided, however, that no person shall be subject to fine or proceedings under this section unless he is given notice and has failed to remedy the violation within fifteen (15) days thereof at his own costs and expenses.

27. Penalty for illegal housing schemes.---Whoever, develops a housing scheme or society within the Galiyat areas, without prior written approval of the competent authority, shall be liable to imprisonment for a term which may extend to three (03) years or a fine up to rupees five (05) million or both.

28. Imposition of fine by the Authority.---(1) Whoever, causes damage to the property of the Authority including but not limited to sanitation, sewerage within the Galiyat areas, shall be liable to a fine which may extend to rupees one (01) million.

(2) Whoever, uses any property in the Galiyat areas for any purpose, other than permitted by the terms of lease under this Act, shall be liable to fine which may extend to rupees two (02) million and its repetition for the second time may lead to the cancellation of the lease agreement.

(3) Whoever illegally installs or alters the water supply line to any property shall be liable for a fine which may extend to rupees five hundred thousand.

29. Consequences of non-payment of fines.---(1) The amount of fine shall be paid to the Authority within thirty (30) days and in the event of delay in payment of such fine, such person shall be liable to a further fine of rupees five (05) thousand per day for each day defaulted:

Provided that no fine shall be imposed until an opportunity of hearing is given to the person liable to such fine.

(2) In the event a fine imposed under this Act, remains unpaid for a period exceeding sixty (60) days, the Authority shall, without the need for further notice or proceedings, seal the property, demolish, remove or repair the encroachment, as the case may be, at the cost of the person in whose favour the lease agreement has granted.

30. Offences to be cognizable and non-bailable.---The offences mentioned in this Act shall be deemed to be cognizable and non-bailable. No Court shall take cognizance of any offence punishable under this Act except upon a complaint by an officer authorized by the Director General in this behalf.

31. Application of the Code.---The provisions of the Code of Criminal Procedure, 1898 (V of 1898), relating to the trial of offences, shall mutatis mutandis be applicable to the offences under sections 25, 26 and 27 of this Act.

32. Appeals against the orders of the Authority.---(1) Any person aggrieved by any decision or order of the Director General or any other officer of the Authority, acting under delegated powers of the Authority may, within fifteen (15) days of the receipt of such decision or order, appeal to a Tribunal to be constituted in a prescribed manner to decide the issue within a period of sixty (60) days.

(2) The Tribunal shall conduct its procedures in such a manner as may be prescribed by regulations.

(3) The decision made in appeal shall be final.

33. Application on corporate bodies.---Where the person guilty of an offence under this Act is a company or other body corporate, every director, manger or other officer responsible for the conduct of affairs of such person shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed guilty of the offence.

CHAPTER-X **SUPPLEMENTAL PROVISION**

34. Public servant.---Every person acting or purporting to act under this Act shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

35. Bar to proceedings.----No suit, prosecution or other legal proceedings shall lie against the Authority or any of its employees for anything in good faith done or intended to be done under this Act.

36. Indemnity.---The Chairman, members, Director General, Directors, advisors, consultants, officers, officials or employees of the Authority shall be indemnified by the Authority against all losses and expenses incurred by him in the discharge of his duties, except as are caused by his own willful act, negligence or default.

37. Power to make rules and regulations.---(1) Government may, make rules for carrying out the purposes of this Act.

(2) Subject to this Act or the rules, the Authority may make regulations for carrying out the purposes of this Act.

38. Act to override other laws.---The provisions of this Act shall have effect, notwithstanding anything to the contrary, contained in any other law for the time being in force.

39. Removal of difficulties.---If any difficulty arises in giving effect to the provisions of this Act, the Authority may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

40. Repeal and saving.---(1) The Galiyat Development Authority Act, 1996 (Khyber Pakhtunkhwa Act No. VII of 1996) is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act, and shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

41. Repeal of Khyber Pakhtunkhwa Ordinance No. VII of 2016.---The Galiyat Development Authority Ordinance 2016 (Khyber Pakhtunkhwa Ordinance No. VII of 2016) is here by repealed.