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# **THE PUNJAB HOUSING AND TOWN-PLANNING AGENCY ORDINANCE, 2002**

**(LXXVIII of 2002)**

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## TEXT

### **THE PUNJAB HOUSING AND TOWN-PLANNING AGENCY ORDINANCE, 2002**

**(LXXVIII of 2002)**

[4<sup>th</sup> November, 2002]

#### **An Ordinance**

*to provide for establishment of the Punjab Housing and Town-Planning Agency.*

**Preamble.– Whereas** it is expedient to establish the Punjab Housing and Town-Planning Agency in order to provide shelter to the shelterless and to establish a comprehensive system of Town Planning at provincial, regional, district, tehsil and union council level in order to ensure systematic, integrated growth of urban and rural areas in the Province of the Punjab and to make provisions for matters connected therewith and ancillary thereto;

**And whereas** the Provincial Assembly of the Punjab is dissolved and the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

**And whereas** under Article 4 of the Provisional Constitution (Amendment) Order No.9 of 1999, as amended by the Chief Executive Order No.11 of 2000, the Governor of a Province may issue and promulgate an Ordinance;

**Now, therefore**, in exercise of the aforesaid powers and all other powers enabling him in that behalf, the Governor of the Punjab 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 Punjab Housing and Town-Planning Agency Ordinance, 2002.

(2) It shall extend to the whole of the Punjab.

(3) It shall come into force at once.

**2. Definitions.–** In this Ordinance, unless the subject or context otherwise requires–

(a) “Agency” means the Punjab Housing and Town Planning Agency established under section 3 of this Ordinance;

(b) “area” means the area to which this Ordinance applies;

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<sup>1</sup>Promulgated by the Governor of the Punjab on 4 November 2002; and published in the Punjab Gazette (Extraordinary), dated 4 November 2002, pages 3131-3140. Under Article 4 of the Provisional Constitution (Amendment) Order 1999 (9 of 1999), it will remain in force notwithstanding the maximum limit of three months prescribed under Article 128 of the Constitution of the Islamic Republic of Pakistan.

- (c) "Chairman" means the Chairman of the Agency;
- (d) "Government" means the Government of the Punjab;
- (e) "Government Agency" includes–
  - (i) a division, department, bureau, section, commission, board, office, or unit of the Government;
  - (ii) District Government, Tehsil Municipal Administration and a Development Agency or any other body, company or corporation (whether autonomous or semi-autonomous) owned or controlled by Government;
- (f) "Housing and Physical Planning" means the Housing and Physical Planning Department, Government of the Punjab;
- (g) "land" includes earth, water and air, above, below or on the surface and any improvements in the structure customarily regarded as land and benefits arising out of land and things attached to earth or permanently fastened to earth;
- (h) "member" means a member of the Agency and includes its Chairman;
- (i) "person" includes an individual, company, firm, cooperative society or association of individuals whether incorporated or not; and
- (j) "prescribed" means prescribed by rules or regulations framed under this Ordinance.

## **CHAPTER-II PUNJAB HOUSING AND TOWN PLANNING AGENCY**

**3. Establishment of the Punjab Housing and Town Planning Agency.–** (1) As soon as may be, after the commencement of this Ordinance, the Government shall establish an Agency to be called the Punjab Housing and Town Planning Agency for carrying out the purposes of this Ordinance.

(2) The Agency shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire and hold property, both moveable and immovable, and may sue and be sued, by the said name.

- (3) The Agency shall consist of–
- |  |                 |
|--|-----------------|
| (a) Minister for Housing, Urban Development & Public Health Engineering Department;                                    | Member/Chairman |
| (b) Secretary for Housing, Urban Development & Public Health Engineering Department;                                   | Member          |
| (c) a representative of Planning & Development Department not below the rank of Additional Secretary/Chief of Section; | Member          |
| (d) a representative of Finance Department not below the rank of Additional Secretary;                                 | Member          |

- |     |   |                  |
|-----|---|------------------|
| (e) | a representative of Local Government and Rural Development Department not below the rank of Additional Secretary; | Member           |
| (f) | Secretary (Colonies), Board of Revenue;   | Member           |
| (g) | two representatives of the Builders / Construction Industry and architects <sup>2</sup> [preferably one woman];   | Members          |
| (h) | Director General of the Agency; and   | Member/Secretary |
| (i) | such other persons <sup>3</sup> [including at least two women] as may be appointed by the Government.             | Members          |

(4) The membership of the Agency may be altered, increased or decreased by the Government.

(5) The members, except the ex officio members, shall hold office for a term of three years.

(6) No act or proceeding of the Agency shall be invalid merely by reason of any vacancy in, or defect in the constitution of the Agency.

**4. Powers and functions of the Agency.**– (1) Subject to the provisions of this Ordinance and any rules framed thereunder, the Agency may exercise such powers and take such measures as may be necessary for carrying out the purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing sub-section, the Agency shall–

- (i) facilitate provision of housing inputs including land, finance, building materials through institutional and legal frame-work and develop indigenous and cost effective approaches;
- (ii) implement parameters of the national housing policy, coordinate and liaise with the Federal Government, District Governments, Tehsil Municipal Administrations, concerned departments and agencies;
- (iii) identify state and other lands for developing low income and low cost housing schemes;
- (iv) facilitate construction of multi storey flats (Low Cost Housing) in collaboration with the District Governments and Tehsil Municipal Administrations by arranging finances from the House Building Finance Corporation, Development Finance Institutions and commercialized banks;
- (v) provide affordable, cost efficient housing schemes especially for the low income group and families out of the Revolving Fund;

<sup>2</sup>Inserted by the Punjab Fair Representation of Women Act 2014 (IV of 2014); and published in the Punjab Gazette (Extraordinary), dated 12.3.2014, pages 2733-2744, see s.2 and the Schedule, at serial No.33.

<sup>3</sup>Inserted by the Punjab Fair Representation of Women Act 2014 (IV of 2014) ; and published in the Punjab Gazette (Extraordinary), dated 12.3.2014, pages 2733-2744, see s.2 and the Schedule, at serial No.33.

- (vi) facilitate public and private partnership or ventures in housing and development of recreational activities (Theme Parks);
- (vii) promote environment for friendly and standardized construction activities (Cluster Housing);
- (viii) prepare guidelines, long-term and short-term plans for implementing the low cost housing schemes and programmes in the Punjab;
- (ix) facilitate land availability through various innovative measures, develop a comprehensive land information system (Land Bank) to cater for the planning and development requirements for a period of five to ten years (Forward Planning);
- (x) mobilize resources and generate funds in order to provide finance for housing especially to the low income group;
- (xi) develop land disposal systems which are unified, transparent and market oriented with open auction policy and exception for special needs;
- (xii) develop packages in which prime state land occupied by katchi abadis, shall be offered to the private developers for commercial use; provided they arrange and finance upgradation or relocation of katchi abadis;
- (xiii) suggest measures to check growth of slums and katchi abadis, formulate resettlement and relocation plans;
- (xiv) propose suitable amendments in Land Acquisition laws to make provisions for unified, transparent and market oriented system of land acquisition;
- (xv) formulate provincial land use policy, plan and prepare regional development plans (Inter district spatial planning – Master plans) for an integrated, coordinated and systematic planning to ensure orderly growth and development of physical infrastructure such as highways, railways, industrial zones, conservation of forest reserves and provision of electricity, telephone, sui gas, etc.;
- (xvi) plan a comprehensive programme for the development of satellite, intermediate, secondary and industrial towns to reduce migration and drift to big settlements;
- (xvii) develop Geographic Information System (GIS) for efficient land documentation and information related to Housing and Town Planning;
- (xviii) provide technical assistance to the District Governments and Tehsil Municipal Administrations towards capacity building in all matters related to Housing and Town-Planning;
- (xix) coordinate with Federal, District Governments and Tehsil Municipal Administrations for implementing the development plans and programmes pertaining to Housing and Town Planning;
- (xx) assist provincial agencies such as Workers Welfare Board and Government Servants Housing Scheme, etc., in the areas of low cost housing;

- (xxi) formulate policy parameters to ensure liberalization in the existing regulatory measures, and to streamline the affairs of private housing schemes; and
- (xxii) perform such other functions as may be assigned to the Agency from time to time by the Provincial Government, the District Governments or, as the case may be, the Tehsil Municipal Administrations.

**5. Meetings.**– (1) The Agency shall meet at such place and at such time and shall observe such rules of procedure in regard to transaction of business in its meetings as may be prescribed.

(2) The Chairman shall preside over the meetings of the Agency and in his absence any other member of the Agency, elected by the members present, shall preside over the meeting.

### **CHAPTER-III DIRECTOR GENERAL AND COMMITTEES**

**6. Appointment and term of office.**– (1) The Director General shall be appointed by Government for a period of four years.

(2) The Director General shall be the Chief Executive of the Agency and shall perform such duties as may be assigned to him and exercise such powers as may be delegated to him by the Agency.

**7. Delegation.**– The Agency may, by general or special order, delegate to the Director General, a Committee constituted under section 9, a member or an officer of the Agency, any of its powers, duties or functions under this Ordinance or the rules made thereunder subject to such conditions as it may deem fit.

**8. Appointment of officers and employees.**– The Agency may appoint such officers, advisers, experts, consultants and employees, as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit. Qualified women shall be given fair representation in the Agency.

**9. Committees.**– The Agency may constitute such financial, technical and advisory committees as may be deemed necessary for carrying out the purposes of this Ordinance and such committees shall exercise such powers and perform such functions as may be delegated or assigned to them by the Agency.

### **CHAPTER-IV PREPARATION AND EXECUTION OF SCHEMES**

**10. Preparation of schemes.**– (1) The Agency in consultation with the Government Agency concerned shall, in such form and in such manner as may be prescribed, prepare schemes for the area or any part thereof.

(2) All schemes prepared by the Agency shall be submitted to the Government for approval, except those schemes, the estimated costs whereof do not exceed such limit as may be prescribed by rules or for which no loan or grant is required from the Government.



(3) The Agency shall publish the sanctioning of any scheme in the official Gazette and shall forthwith proceed to execute the scheme in collaboration with the Government Agency concerned.

(4) The publication of a sanction under sub-section (3), shall be conclusive evidence that the scheme has been duly framed and sanctioned.

**11. Modification of schemes.**— Any scheme prepared under this Ordinance may, at any time, be amended or modified by the Agency in consultation with the Government Agency concerned in the same manner as may be prescribed for the preparation of a scheme.

**12. Power to give directions.**— (1) The Agency may require a Government Agency within whose jurisdiction any particular locality or aspect of development covered by the scheme lies—

- (i) to execute a scheme in consultation with the Agency;
- (ii) to take over and maintain any of the works and services in that area; and
- (iii) to provide any amenity in relation to the land which in the opinion of the Agency ought to be provided.

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

**13. Power to execute any scheme.**— (1) Where the Agency is satisfied that any direction given by it under sub-section (1) of section 12 with regard to any scheme has not been carried out by the Government Agency concerned, the Agency may itself undertake any work for the execution of that scheme and the cost thereof shall be borne as may be agreed between the Agency and the Government Agency concerned and in the event of disagreement, as may be determined by the Government.

(2) Where any work is undertaken by the Agency under sub section (1), it shall be deemed to have, for the purposes of execution of such work, all the powers which may be exercised, under any law for the time being in force, by the Government Agency concerned.

## **CHAPTER-V GENERAL**

**14. Directions by Government.**— The Agency shall, in discharging its functions, act and be guided by such directions as the Government may give to it from time to time.

**15. Controlled Area.**— The Agency may, by notification in the official Gazette, declare any locality to be a Controlled Area, for the purposes of this Ordinance and may issue in respect of such locality such directions as it considers fit and appropriate and do all such things as may be necessary for the prevention of haphazard growth, encroachments and unauthorized construction in such area.

**16. Borrowing money.**— (1) The Agency shall be deemed to be a local authority for the purpose of borrowing money and any scheme or project prepared or undertaken by the Agency 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 Agency without the previous sanction of the Government.

(2) The Agency may, in consultation with the Finance Department, Government of the Punjab, borrow money or raise funds by issuing bonds or debentures or otherwise for carrying out the purposes of this Ordinance, at such rate of interest as may be approved by the Government.

## **CHAPTER-VI ACQUISITION**

**17. Liability to acquisition.**— Notwithstanding anything to the contrary contained in the Land Acquisition Act, 1894, all land within the area shall be liable to acquisition at any time in accordance with the provisions of this Ordinance.

## **CHAPTER-VII FINANCE, ACCOUNTS AND AUDIT**

**18. Housing and Town Planning Fund.**— (1) There shall be formed a fund to be known as Revolving Fund which shall vest in the Agency and shall be utilized by the Agency in connection with its functions under this Ordinance including the payment of salaries and other remunerations to the members, officers, servants, experts and consultants of the Agency.

(2) To the credit of the Agency Fund, shall be credited—

- (i) grants and loans by the Government;
- (ii) all moneys received from Federal Government or any international agency by way of grants, loans, advances or otherwise;
- (iii) all fees, rates and charges received by the Agency under this Ordinance;
- (iv) all moneys received by the Agency from the disposal of lands, buildings and other properties moveable and immovable;
- (v) proceeds from the self financing schemes; and
- (vi) all other sums receivable by the Agency.

(3) In case of deficit revenue of the Agency, Government shall provide from its own revenues or from any other source, such sum as may be necessary for the efficient performance of functions of the Agency under this Ordinance.

(4) The Agency may keep in current account of any scheduled bank such sum as may be prescribed and any amount in excess of the said amount shall be invested in Government securities, Government sponsored saving schemes or in such manner as may be determined by the Agency.

**Explanation.**— For the purpose of this sub-section, Government includes Federal Government.

**19. Rates and fees.**– (1) With the previous consent of the Government adequate funds may be raised by the Agency from time to time, to meet the cost of its schemes by imposing rates, fees and other charges.

(2) The rates, fees and other charges shall be such as to provide sufficient revenues–

- (i) to cover the operating expenses including taxes if any, an interest to provide adequate maintenance and depreciation;
- (ii) to meet repayments on long term indebtedness to the extent that such repayments exceed the provision of depreciation; and
- (iii) to finance the normal year to year extension of any of such schemes and to provide a reasonable portion of the cost of future major expansion of such schemes.

**20. Accounts.**– The Agency shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed.

**21. Budget.**– The Agency shall prepare every year, in such form and at such time as may be prescribed, a budget in respect of the financial year next ensuing showing the estimated receipt and expenditure of the Agency and shall submit the same to the Government for approval. If the Government does not approve or modify the budget within thirty days of its receipt, the budget as prepared by the Agency shall be deemed to be the approved budget.

**22. Audit.**– The accounts of the Agency shall be audited annually by duly qualified auditors appointed by the Agency in addition to the pre-audit by the Government Auditors.

## **CHAPTER-VIII PENALTY AND PROCEDURE**

**23. Offences.**– An act or omission specified in the Fourth Schedule to the Punjab Local Government Ordinance, 2001 (XIII of 2001) shall be an offence liable to punishment by way of imprisonment or penalty under this Ordinance.

**24. Notice and Authorization.**– The Agency or Government Agency, as the case may be, shall authorize an officer or officers under its administrative control–

- (a) to issue legal notices for violation or commission of any offence under this Ordinance, rules or byelaws;
- (b) to take such measures and actions for compliance of directions contained in the notices issued restraining violation or commission of any offence under this Ordinance, rules or byelaws; and
- (c) to initiate legal proceedings, defend any legal proceedings initiated against the Agency or Government Agency, as the case may be, attend court proceedings and represent the concerned Agency or Government Agency as the case may be.

**25. Cognizance of offences.**— No court shall take cognizance of any offence under this Ordinance except on a complaint in writing received from the agency or an officer or a person generally or specifically authorized by the Agency or on a complaint filed by an affected citizen if no action is taken on the complaint made by him under sub section (2).

(2) The Agency on its own motion, or an officer or any other person generally or specially authorized by the agency on his own motion, or on the complaint of any affected citizen, may institute any suit or initiate prosecution or any other legal action against a person committing an offence under this Ordinance.

**26. Punishments and penalties.**— (1) Whoever commits any of the offences specified in Part-I of the Fourth Schedule to the Punjab Local Government Ordinance, 2001 shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to fifteen thousand rupees, or with both and, if the offence is continued, with a further fine which may extend to one thousand rupees for every day after the date of the first commission during which period the offender has persisted in the offence.

(2) Whoever commits any of the offences specified in Part-II of the Fourth Schedule of the Punjab Local Government Ordinance, 2001 shall be punishable with imprisonment which may extend to six months and with fine of one thousand rupees for every day after the date of the first commission during which period the offender has persisted in the offence.

(3) Whoever commits any of the offence, specified in Part-III to the Fourth Schedule to the Punjab Local Government Ordinance, 2001 shall be punishable with imprisonment which may extend to one month, or with fine which may extend to five thousand rupees, or with both and, if the offence is continued, with a further fine which may extend to one hundred rupees for every day after the date of first commission during which period the offender has persisted in the offence.

**27. Compounding of offences.**— Subject to the provision of section 345 of the Code of Criminal procedure, 1989 (V of 1989), except as otherwise provided, the Agency or Government Agency, as the case may be, or an officer or any other person generally or specially authorized by the Agency in this behalf, may, at any time or after the commission of the offence but before the conclusion of proceedings in the court, compound any offence punishable under this Ordinance.

**28. Rights of citizens not affect.**— Nothing contained in section 25 shall restrict or limit the rights of the citizens or residents of a local area to bring any suit or other legal proceedings against the Agency or Government Agency, as the case may be, its officers or other functionaries violating the rights available to them under any law for the time being in force.

## **CHAPTER-IX MISCELLANEOUS**

**29. Annual Report.**— The Agency shall prepare for every year a report of its activities during that year and submit the report to the Government in such form and on or before such date, as may be prescribed.

**30. Recovery of dues.**— Any sum due to the Agency from, or any sum wrongly paid by the Agency to, any person under this Ordinance, shall be recoverable as arrears of land revenue.

**31. Conversion of property to a different use.**— Any conversion of property to a different use or purpose than the one provided under a scheme, by a person or agency, without the previous approval of the Agency in writing, shall be punishable with a fine which may extend to rupees five hundred per day from the date of its conversion till the default continues or with imprisonment for a term which may extend to one year, or with both.

**32. Summary ejectment of unauthorized occupant.**— Any person authorized by the Agency, in this behalf may summarily eject any person in unauthorized occupation of any land or property vested in the Agency, and may for such ejectment use such force as may be necessary:

Provided that no action under this section shall be taken without providing an opportunity of being heard to the persons to be affected thereby.

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

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

**34. Members, officers and employees to be public servants.**— The Chairman, members, Director General, officers, servants, experts and consultants of the Agency shall, when acting or purporting to act in pursuance of any provision of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860.

**35. Indemnity.**— No suit, prosecution or any other legal proceedings shall lie against the Agency, the Chairman, the Director General, any member, officer, servant, expert or consultant of the Agency, in respect of anything done or intended to be done in good faith under this Ordinance.

**36. Jurisdiction of courts barred.**— Save as otherwise provided by this Ordinance, no Court or other Agency shall have jurisdiction to question the legality of anything done or any action taken under this Ordinance by or at the instance of the Agency.

**37. Power to make rules.**– Subject to the provisions of this Ordinance, Government may make rules for carrying into effect the purposes of this Ordinance.

**38. Power to make regulations.**– Subject to the provisions of this Ordinance, and the rules framed thereunder, the Agency may make regulations as may be necessary to carry out the purposes of this Ordinance.

**39. Overriding effect.**– Subject to the Constitution, in the event of any conflict or inconsistency between the provisions of this Ordinance and the provisions of any other law for the time being in force, the provisions of this Ordinance shall, to the extent of such conflict or inconsistency, prevail.

**40. Succession.**– On the establishment of the Agency under this Ordinance–

- (i) all functions and powers with respect to the formation, sanction and execution of schemes by the Housing and Physical Planning shall be exercised and performed by the Agency in collaboration with the Government Agency concerned; and
- (ii) all properties, assets and liabilities pertaining to the Housing and Physical Planning shall vest in and be the liabilities, as the case may be, of the Agency.

<sup>4</sup>[**41. Government servants in the Agency.**– (1) All employees of the Government serving in the Agency shall remain employees of the Government unless absorbed in the service of the Agency under this section.

(2) An employee of the Government serving in the Agency may opt for absorption in the service of the Agency in such manner as may be prescribed.

(3) Notwithstanding anything contained in any law, the Government may delegate disciplinary, administrative and financial powers on various functionaries of the Agency to deal with the matters relating to terms and conditions of service of the employees of the Government serving in the Agency.]

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<sup>4</sup>Inserted by the Punjab Housing and Town Planning Agency (Amendment) Act 2012 (IX of 2013); and published in the Punjab Gazette (Extraordinary), dated 5.1.2013, pages 2011-2012, s.2.