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THE PUNJAB MASSTRANSIT AUTHORITY ACT 2015 (XXXIII of 2015)

CONTENTS

- 1. Short title, extent and commencement**
- 2. Definitions**
- 3. Punjab Masstransit Authority**
- 4. Qualifications of the members**
- 5. Functions of the Authority**
- 6. Managing Director**
- 7. Resignation and relieving of Managing Director**
- 8. Secretary of the Authority**
- 9. Committees**
- 10. Establishment of the Fund**
- 11. Delegation**
- 12. Appointment of officers and employees**
- 13. Accounts**
- 14. Budget**
- 15. Audit**
- 16. Causing damage to property and disobedience of orders**
- 17. Penalty for contravention**
- 18. Administrative penalties**
- 19. Procedure relating to offences**
- 20. Recovery of amounts due**
- 21. Public servants**
- 22. Immunity**
- 23. Act to prevail over other laws**

24. **Restriction on execution against property**
25. **Rules**
26. **Regulations**
27. **Removal of difficulties**
28. **Repeal and saving**
29. **Repeat**

THE PUNJAB MASSTRANSIT AUTHORITY ACT 2015
(XXXIII of 2015)

[26th June, 2015]

An
Act

to provide for the establishment of Punjab Masstransit Authority.

It is expedient to establish Punjab Masstransit Authority for purposes of construction, operation and maintenance of mass transit system in the major cities of the Punjab; for providing safe, efficient and comfortable urban transportation system; and, for ancillary matters;

Be it enacted by the Provincial Assembly of the Punjab as follows:

1. Short title, extent and commencement.— (1) This Act be cited as the Punjab Masstransit Authority Act 2015.

(2) Subject to subsection (4), it extends to whole of the Punjab.

(3) It shall come into force at once.

(4) It shall apply to the city of Lahore but the Government may, by notification in the official Gazette, extend its application to any other city of the Punjab.

2. Definitions.— In this Act:

(a) “AFC” means the automated fare collection system;

(b) “ancillary facility” means the facility and equipment provisioned or developed by the Authority including bridge, underpass, tunnel, yard, fence, escalator, elevator, sliding door, toilet turnstile, scheduling system, passenger information, signaling, power supply, surveillance, control room, telecom, electrical and mechanical system, generator, light or fan and other facility;

(c) “asset” means the movable or immovable property owned or controlled by the Authority; 4

(d) “Authority” means Punjab Masstransit Authority established under the Act;

(e) “Chairperson” means Chairperson of the Authority;

(f) “corridor” means the track or road or a portion of the track or road which has been constructed or modified or is planned to be constructed or modified for the purpose of enabling smooth operation of MTS;

(g) “depot” means the space or area provided for parking, repair, maintenance, fuelling servicing and cleaning of Masstransit vehicles.

- (h) "fare" includes all sums received or receivable and all sums charged or chargeable for the transportation of passengers;
- (i) "fund" means the Masstransit Authority Fund established under the Act;
- (j) "Government" means Government of the Punjab;
- (k) "licence" means a licence granted by the Authority to a service provider of the Authority;
- (l) "MTS" means mass transit system established and operated by the Authority for operation of the masstransit vehicles;
- (m) "member" means a member of the Authority;
- (n) "masstransit vehicle" means a vehicle operated by the Authority on the corridor or a public transport route;
- (o) "public transport route" means a route notified by the Authority for integrated urban and suburban public transport operations;
- (p) "regulations" mean the regulations framed by the Authority under the Act;
- (q) "rules" mean the rules made by the Government under the Act;
- (r) "service provider" means a service provider of the Authority like a masstransit vehicle operator, AFC operator, security, janitorial and housekeeping services provider and any entity providing any kind of services for the MTS; and
- (s) "station" means a place earmarked on the corridor or public transport route where masstransit vehicles travelling in either direction stop for a specified duration allowing passengers to board on or alight from Masstransit vehicles.

3. Punjab Masstransit Authority.— (1) The Government shall, by notification in the official Gazette, establish Punjab Masstransit Authority for carrying out the purposes of this Act.

(2) The Authority shall be a body corporate, with perpetual succession and a common seal, with powers, subject to the provisions of this Act, to acquire, hold and dispose of property, and may by the said name, sue and be sued.

(3) The Government or any other entity may, by notification, transfer the ownership or possession of a corridor, station, depot and any other ancillary facility constructed or procured for the MTS to the Authority.

(4) The Authority shall not dispose of any immovable property without prior permission in writing of the Government.

(5) A person shall not enter upon or in any way use the assets without written approval of the Authority.

(6) The Authority shall consist of:

- (a) Chief Minister of the Punjab; Chairperson
- (b) Vice Chairperson to be nominated by the Vice Chairperson
Government on such terms and conditions

as it may determine;

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| (c) | Minister for Transport of the Government; | Member |
| (d) | four members of Provincial Assembly of the Punjab including at least one female member of the Assembly and two members of National Assembly of Pakistan nominated by the Government; | Members |
| (e) | three persons including at least one woman from the private sector nominated by the Government; | Members |
| (f) | Chairman, Lahore Transport Company; | Member |
| (g) | Chairman Planning and Development Board of the Government; | Member |
| (h) | Secretary to the Government, Finance Department; | Member |
| (i) | Secretary to the Government, Transport Department; | Member |
| (j) | Managing Director of the Authority; and | Member |
| (k) | Secretary of the Authority. | Member/Secretary |

(7) A member, other than an *ex officio* member, shall hold office for a term of three years and may again be nominated by the Government.

- (a) An act or proceedings of the Authority shall not be invalid merely for reason of any vacancy or defect in the constitution of the Authority.
- (b) The Authority shall meet at such time and place and shall observe such procedure in regard to transaction of business at its meetings as may be prescribed and until so prescribed as may be directed by the Chairperson.
- (c) The meetings of the Authority shall be presided over by:
the Chairperson; or
in the absence of the Chairperson, by the Vice Chairperson; or
in the absence of the Chairperson and the Vice Chairperson, by such other member of the Authority as the Chairperson may nominate.

4. Qualifications of the members.— No person shall be nominated or shall continue to be a member, if he:

- (a) is or, at any time, has been convicted of an offence involving moral turpitude; or
- (b) is or, at any time, has been declared insolvent; or

- (c) is found to be a lunatic or of unsound mind; or
- (d) is a minor; or
- (e) has a financial interest in any aspect of the MTS, or has a conflict of interest, directly or indirectly, with the Authority.

5. Functions of the Authority.– (1) Subject to the provisions of this Act and rules, the Authority may perform such functions as may be necessary for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the provision of subsection (1), the Authority shall:

- (a) own, control, maintain and develop a corridor, station, depot and any other ancillary facility which are transferred to it by the Government;
- (b) plan, construct, operate and maintain the corridors for future expansion;
- (c) enter into contracts including concession agreements, grant licenses, leases, make other arrangements and perform all tasks necessary for efficient functioning of the MTS; 7
- (d) collect fares as may be determined by the Government;
- (e) grant licences to mass transit operators and all other service providers;
- (f) incur all necessary expenditure for planning, construction, operation and maintenance of the MTS including administrative expenses;
- (g) collect and use fees, fines and all other revenues generated from the MTS infrastructure;
- (h) subject to this Act, acquire, hold and dispose of property;
- (i) ensure safe, efficient and comfortable mass transit operations on a corridor or a public transport route;
- (j) establish, operate and maintain AFC;
- (k) make adequate arrangements for effective security of a corridor, station, depot and any other ancillary facility;
- (l) establish and maintain an effective third party oversight mechanism for collection of revenues;
- (m) establish and maintain an effective system of janitorial and housekeeping services to keep a corridor and its entire ancillary facilities clean;
- (n) plan and operate integrated public transport routes;
- (o) plan, construct and maintain infrastructure for the public transport routes;
- (p) give directions to any other person or agency for establishing and operating feeder transport services for a corridor;
- (q) give directions to any agency to desist from issuing competing transportation route permits along a corridor or a public transport route notified by the Authority;

- (r) give directions to any person to desist from operating any competing transportation system along a corridor or a public transport route notified by the Authority;
- (s) give directions to any person or agency for not interfering in any way with a corridor, its ancillary facilities and their smooth functioning;
- (t) monitor and enforce contracts, agreements including concession agreements, licenses or leases entered into or granted by the Authority; and
- (u) establish subsidiary companies or to assume control of companies transferred to it by the Government.

6. Managing Director.– (1) The Government shall appoint Managing Director of the Authority on such terms and conditions as the Government may determine.

(2) A person shall not be eligible for the post of Managing Director unless the person:

- (a) holds Masters Degree;
- (b) possesses at least twenty years experience of management in public or private sector; and
- (c) is less than sixty five years of age.

(3) The Managing Director shall be the chief executive of the Authority and shall:

- (a) be a whole-time officer of the Authority;
- (b) perform such duties as may be assigned to him and exercise such powers as may be delegated to him by the Authority; and
- (c) hold office for each term of three years and shall remain in office for six months thereafter or until a successor in that office is appointed, whichever is earlier.

7. Resignation and relieving of Managing Director.– The Managing Director may, at any time before the expiry of his term and upon three months prior notice, resign his office, or upon similar notice, or payment of three months' salary and allowances in lieu of the notice, be relieved by the Government without assigning any reason.

8. Secretary of the Authority.– (1) The Government shall appoint a Secretary of the Authority for a term of three years on such terms and conditions as the Government may determine.

(2) The Secretary shall be a whole-time officer of the Authority and shall perform such functions as may be assigned to him by the Authority or the Managing Director.

(3) The Government may extend the term of the Secretary beyond three years.

9. Committees.– The Authority may constitute such committees as it may deem necessary for carrying out the purposes of this Act.

10. Establishment of the Fund.— (1) There shall be established a Fund known as the Masstransit Authority Fund which shall vest in the Authority and shall be utilized by the Authority to meet all its expenses and charges in connection with its functions and powers under this Act including the payment of salaries and remuneration to its employees.

(2) The Authority shall establish an escrow account in a scheduled bank approved by the Government and the account shall be collectively operated by the authorized representatives of the Authority and such service provider, as may be determined by the Authority.

(3) All monies credited in the Fund shall be deposited with the bank approved by the Government.

(4) The Fund shall be financed by:

(a) fees, fines and other amounts received by the Authority;

(b) grants from the Government or any other body or organization;

(c) foreign aid and foreign loans obtained or raised by the Authority with the sanction of, and on such terms and conditions as may be approved by, the Government;

(d) proceeds of all charges and income from sale of assets, and any recovery made under this Act; and

(e) such other sums as may be received by the Authority.

11. Delegation.— The Authority may, subject to such conditions as it deems appropriate, delegate to the Managing Director or an officer of the Authority any of its powers or functions under this Act, rules or regulations.

12. Appointment of officers and employees.— The Authority may appoint such officers, experts, consultants and employees as it considers necessary for the efficient performance of its functions in such manner and on such terms and conditions as may be prescribed by regulations.

13. Accounts.— The Authority shall maintain proper accounts and other relevant records and prepare annual statements of accounts in such form as may be prescribed.

14. Budget.— (1) The Authority shall prepare, every year, in such form and at such time as may be prescribed a budget in respect of the next financial year showing the estimated receipts and expenditures of the Authority and shall submit the same to the Government for approval.

(2) If the Government fails to approve or modify the budget within thirty days of its receipt, the budget as prepared by the Authority shall be deemed to have been approved.

15. Audit.— (1) The Auditor General of Pakistan shall audit the annual accounts of the Authority.

(2) In addition to the audit in terms of subsection (1), the Authority shall appoint or hire services of a chartered accountant or a firm of chartered accountants for purposes of annual audit of its accounts.

(3) The Managing Director shall, within six months of the close of a financial year, submit the annual statement of accounts along with the report of the auditor to the Authority.

16. Causing damage to property and disobedience of orders.— (1) A person who willfully causes damage or allows damage to be caused to any property which vests in or is possessed by the Authority, or which is intended to be acquired by the Authority, or unlawfully converts it to his own or any other person's use, shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) A person who, without lawful excuse, fails or refuses to comply with any direction or order issued by the Authority under this Act, shall be guilty of an offence punishable under this section.

17. Penalty for contravention.— If a person contravenes any provision of this Act or any rule or regulation, he shall, if no other penalty is provided under the Act, be punishable with imprisonment for a term which may extend to three years or with fine or with both.

18. Administrative penalties.— (1) Notwithstanding anything contained in this Act or any other law, a person who, without permission of the Authority, enters into a corridor or in any manner interferes or obstructs any corridor, masstransit vehicle or ancillary facility, or travels or attempts to travel on a masstransit vehicle without payment of fare, shall be liable to punishment of such fine as may be prescribed by the rules.

(2) If a person commits an offence under subsection (1), an officer or agent of the Authority authorized in this behalf may, at the spot, impose the prescribed fine on such person.

(3) If the person fails to pay or deposit the fine at the spot or in the prescribed manner, the officer authorized by the Authority may submit a complaint against such person in the Court and such person shall be deemed to have committed an offence under section 17 of the Act.

19. Procedure relating to offences.— (1) An offence under this Act shall be non-cognizable and a Court shall not assume jurisdiction for the offence unless an officer authorized by the Authority submits a complaint to the Court.

(2) No Court other than the Magistrate of first class shall try an offence under this Act.

(3) The Court shall try an offence under this Act in a summary manner in terms of Chapter XXII of the Code of Criminal Procedure, 1898 (V of 1898) but notwithstanding anything contained in the Code, the Court may impose a punishment of imprisonment for a term not exceeding six months or fine not exceeding one hundred thousand rupees or both.

(4) The Authority or an officer authorized by the Authority may compound of an offence under this Act subject to the payment of the prescribed compensation.

(5) The fine or compensation recovered from a person under this Act shall form part of the Fund.

20. Recovery of amounts due.— Any fine, compensation or other amount payable to the Authority may be recovered by an officer authorized by the Authority as arrears of land revenue and such officer shall be deemed to be a Collector for purposes of recovery of fine, compensation or other amount.

21. Public servants.— The Chairperson, Vice Chairperson, members, Managing Director, Secretary, officers, servants, experts and consultants of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

22. Immunity.— No suit, prosecution or any other legal proceedings shall lie against the Authority, the Chairperson, Vice Chairperson, the Managing Director, any member, officer, servant, agent, expert or consultant of the Authority, in respect of anything done or intended to be done in good faith under this Act.

23. Act to prevail over other laws.— In the event of any conflict or inconsistency between a provision of this Act and a provision of any other law, the provisions of this Act shall, to the extent of such conflict or inconsistency, prevail.

24. Restriction on execution against property.— No property of the Government, the Authority or any service provider which is deployed in the MTS shall be liable to be taken in execution of any decree or order of any court or of any local authority or person having by law the power to attach or otherwise to cause the property to be taken in execution without the previous sanction of the Authority.

25. Rules.— The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

26. Regulations.— (1) Subject to this Act and the rules, the Authority may frame regulations for giving effect to the provisions of the Act.

(2) Without prejudice to the foregoing powers, such regulations may provide for appointment of its officers, staff, employees and other persons, terms and conditions of their service and performance of functions by the Authority.

27. Removal of difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by notification, not inconsistent with the provisions of this Act, remove the difficulty.

28. Repeal and saving.— (1) The Punjab Metrobus Authority Act 2012 (LVI of 2012) is hereby repealed.

(2) Notwithstanding the repeal of the Punjab Metrobus Authority Act 2012 (LVI of 2012), anything done or action taken under the repealed Act, shall have the effect as if the thing is done or action taken under the Act.

(3) The Authority shall be successor in interest of the Punjab Metrobus Authority established under the Punjab Metrobus Authority Act 2012 (LVI of 2012)

and all assets, liabilities, employees, agents and service providers of the Punjab Metrobus Authority shall stand transferred to the Authority.

29. Repeal.— The Punjab Masstransit Authority Ordinance, 2015 (XIII of 2015) is hereby repealed.