

The Gazette of Pakistan



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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law
Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th August, 1980

No. F. 17 (1) 80-Pub.—The following Ordinance made by the President is hereby published for general information:—

ORDINANCE No. XLI of 1980

AN

ORDINANCE

further to amend the Pakistan Penal Code

WHEREAS it is expedient further to amend the Pakistan Penal Code (Act XLV of 1860), for the purpose hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. Short title and commencement.—(1) This Ordinance may be called the Pakistan Penal Code (Amendment) Ordinance, 1980.

(2) It shall come into force at once.

2. Amendment of section 415, Act XLV of 1860.—In the Pakistan Penal Code (Act XLV of 1860), in section 415, after the words "that person", the words "or any other person" shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

S. A. NUSRAT,
Secretary.

(419)

Price: Ps. 37

CORRIGENDUM

[to the *Gazette of Pakistan, Extraordinary*, Part I, dated the 14th July, 1980 containing Ordinance No. XXXVII of 1980].

Page 413 : In line 4, for "amendment" read "amend".

CORRIGENDA

[to the *Gazette of Pakistan, Extraordinary*, Part I, dated the 26th June, 1980 containing Ordinance Nos. XXVI to XXXII of 1980].

- Page 382 : In line 4, for "sub-clause (l)" read "sub-clause (i)".
- " " : In line 11, for "one corore of" read "one crore of" the words "thirty million" shall be substituted.
- " " : In line 2 from the bottom, for "omitted ; and" read "omitted;"
- " 383 : In line 10, for "(l)" read "(f)".
- " 384 : In line 4 from the bottom, for "inserted" read "substituted".
- " " : In lines 2 and 1 from the bottom, for "hpothecation" read "hypothecation".
- " 385 : In line 15, for "one" read "once".
- " " : In lines 30 and 31, for "purpose" read "purposes".
- " 388 : In line 6, for "expndient" read "expedient".
- " " : For line 9, read "AND WHEREAS the President is satisfied that circumstances exists which".
- " 389 : In line 3, for "Federal Government" read "Federal Government may,"
- " " : In line 11, for "condition" read "conditions".
- " 391 : In line 9, from the bottom, for "prepared" read "prepare".
- " 393 : In line 18, for "provision" read "provisions".
- " 394 : In line 6, from the bottom, for "(c)" read "(b)".
- " 395 : In lines 28 and 29, for "notification, in" read "notification in".
- " 396 : In line 7, from the bottom, for "may oppoint" read "or may appoint".
- " 397 : In line 13, from the bottom, for "thosand" read "thousand".

No. F. 17(2)80-Pub.—The following Order made by the President is hereby published for general information:—

**THE PAKISTAN DEFENCE OFFICERS HOUSING AUTHORITY ORDER,
1980**

PRESIDENT'S ORDER NO. 7 OF 1980

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all the powers enabling him in that behalf, the President is pleased to make the following Order:—

1. Short title, extent and commencement.—(1) This Order may be called the Pakistan Defence Officers Housing Authority Order, 1980.

(2) It extends to the specified area.

(3) It shall come into force at once.

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

- (a) "Administrator" means the Administrator of the Authority;
- (b) "Authority" means the Pakistan Defence Officers Housing Authority established under Article 4;
- (c) "Chairman" means the Chairman of the Governing Body;
- (d) "Club" means the Defence Society Club set up by the Society;
- (e) "Executive Board" means the Executive Board constituted under clause (2) of Article 5;
- (f) "Foundation" means the Defence Society's Educational Foundation registered under the Societies Registration Act, 1860 (XXI of 1860);
- (g) "Governing Body" means the Governing Body constituted under clause (1) of Article 5;
- (h) "prescribed" means prescribed by rules or regulations;
- (i) "President" means the President of the Executive Board;
- (j) "project" means any project of housing or development of land undertaken or planned by the Society or the Executive Board;
- (k) "regulations" means regulations made under this Order;
- (l) "rules" means rules made under this Order;
- (m) "scheme" means any financial scheme or development scheme undertaken, planned or made by the Society or the Executive Board;
- (n) "School" means the Defence Society Junior Model School established by the Society under the Memorandum of Association of the Foundation;
- (o) "Secretary" means the Secretary of the Authority;
- (p) "Society" means the Pakistan Defence Officers Co-operative Housing Society Limited, Karachi, registered under the Co-operative Societies Act, 1925 (Bombay Act VII of 1925); and

- (q) "specified area" means all land acquired by or leased to the Society in any manner before the commencement of this Order and includes any land that may be acquired by or leased to the Authority after such commencement.

3. Order to over-ride other laws.—This Order shall have effect notwithstanding anything contained in any other law for the time being in force or the Memorandum and Articles of Association of the Society or of the Foundation.

4. Establishment of the Authority.—(1) Upon the commencement of this Order, there shall be established an Authority to be known as the Pakistan Defence Officers Housing Authority for carrying out the purposes of this Order.

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

5. Management.—(1) The general direction and administration of the affairs of the Authority shall vest in the Governing Body which shall consist of the Secretary-General, Ministry of Defence, Government of Pakistan, as its Chairman and the following officers as its members, namely:—

- (a) Vice Chiefs of Staff of the three Services or one Principal Staff Officer from each of the three Services to be nominated by the respective Chiefs of Staff;
- (b) the President;
- (c) the Director, Military Lands and Cantonments; and
- (d) the Administrator.

(2) There shall be an executive Board consisting of the Corps Commander posted at Karachi, or, if there is none at Karachi, the most senior serving Armed Forces officer posted at Karachi, as its President and the following officers as its members, namely:—

- (a) a serving Naval officer not below the rank of a Commodore posted at Karachi, to be nominated by the Chief of the Naval Staff;
- (b) a serving Air Force officer not below the rank of an Air Commodore posted at Karachi, to be nominated by the Chief of the Air Staff;
- (c) a serving Army officer not below the rank of a Brigadier posted at Karachi, to be nominated by the Chief of the Army Staff;
- (d) the Administrator; and
- (e) coopted members, to be appointed by the Executive Board for a period not exceeding two years at a time, provided that such coopted members shall not have any right of vote.

(3) The Executive Board shall exercise all administrative, executive and financial powers and do all acts and things which may be exercised or done by the Authority.

(4) The Executive Board in discharging its functions shall act on sound principles of development, town planning and housing, and shall be guided on questions of policy by such directions as may be given to it from time to time by the Governing Body which shall be the sole judge as to whether a question is a question of policy, and the Executive Board shall be bound to carry out such instructions.

6. Meetings of the Governing Body and Executive Board.—(1) The Governing Body shall meet at least once every year, on such date, time and place as may be fixed by the Chairman, and at such meeting it shall approve the budget and audit report of the Authority laid before it by the Executive Board and review the progress and activities of the Authority as well as lay down the matters of policy for the guidance of the Executive Board and transact such other business as may be laid before it by the Executive Board.

(2) The Executive Board shall meet as often as may be required or considered necessary by the Administrator in consultation with the President and at such meetings the Executive Board shall transact such business as may be laid before it by the Administrator.

(3) The meetings of the Governing Body shall be prescribed over by the Chairman and, in his absence, by the most senior Vice Chief of Staff or Principal Staff Officer.

(4) The meetings of the Executive Board shall be prescribed over by the President and, in his absence, by the next most senior serving officer on the Executive Board.

(5) All meetings of the Governing Body and the Executive Board shall be convened by the Secretary who shall record, maintain and keep the minutes of all such meetings.

7. Delegation of powers.—(1) The Governing Body may, from time to time, by resolution, delegate, subject to such conditions as it may impose, to the Executive Board all or any of its powers, duties and functions under this Order.

(2) The Executive Board may, from time to time, by resolution, delegate, subject to such conditions as it may impose, to the Administrator all or any of its powers, duties and functions under this Order including those delegated to it under clause (1).

8. Annual report and accounts.—The Executive Board shall submit to the Governing Body, as soon as may be after the end of every financial year but before the thirty first day of December next following, a general report on its affairs including accounts, balance-sheet and audit report for that year.

9. Powers duties and functions of Executive Board.—(1) Subject to other provisions of this Order, the Executive Board may take such measures and exercise such powers as may be necessary for carrying out the purposes of this Order.

(2) Without prejudice to the generality of the foregoing powers, the Executive Board may—

- (i) acquire any land in accordance with the law for the time being in force in the Province of Sind.

- (ii) undertake any works in pursuance of any scheme or project;
- (iii) incur and expenditure;
- (iv) procure plant, machinery, instruments and materials;
- (v) impose and recover, alter, vary or enhance development charges, instalments, cost of apartments, housing units of schemes and projects and transfer fees and other charges;
- (vi) enter into and perform all such contracts on behalf of the Authority as it may consider necessary;
- (vii) retain, lease, sell, exchange, rent or otherwise dispose of any land vested in the Authority;
- (viii) cancel any housing unit in a planned housing project or scheme, either in default of payment of instalments called, for or on violation of any terms and conditions for such project or scheme by allottees, transferees or lessees; and
- (ix) do all such acts, deeds and things which may be necessary or expedient for the proper planning and development of the specified area

(3) No master plan, planning or development scheme shall be prepared by any local body or agency for the specified area without prior consultation with, an approval of, the Executive Board.

10. Powers of the Executive Board to raise funds.—The Executive Board may raise funds for the purpose of raising its working capital in such manner as it may think proper, through loans or levy of any charges which may be prescribed by it under the rules.

11. Administrator, his duties, functions and powers.—(1) The administrator shall be the Chief Executive of the Authority and shall exercise all executive powers, delegated or otherwise, in accordance with the policy laid down by the Governing Body and the directions or decisions of the Executive Board subject to the provisions of this Order, the rules and regulations.

(2) The Administrator shall, either by himself or through an officer appointed by the Executive Board in this behalf, carry on the correspondence of the Authority and shall sign, verify, pursue and file all plaints, written statements, appeals, affidavits, petitions, applications, vakalatnamas and such other documents on behalf of the Authority in any court, tribunal or authority, in the prosecution or defence of any suit, appeal, petition and proceedings which may be instituted by or against the Authority in or before any court, tribunal or authority.

12. Schemes, projects, works to be for public purposes.—All schemes, projects and works undertaken by or on behalf of the Authority under this Order shall be deemed to be schemes, projects and works for public purposes.

13. Appointment of officers, etc.—The Authority may appoint such officers, functionaries, employees, experts, consultants and advisers as it may consider necessary for the performance of its functions under this Order and in such manner and on such terms and conditions as may be prescribed by rules.

14. Transfer of the employees, etc., of the Society, School and Club.—(1) Notwithstanding anything to the contrary in any contract or agreement or in the conditions of service, every employee, functionary, officer, expert, consultant and adviser of the Society, School and Club shall, on the commencement of this Order, stand transferred to the Authority on the same terms and conditions as were applicable to him before the commencement of this Order until his employment under the Authority is terminated in accordance with his conditions of service or his terms and conditions of service are altered by rules.

(2) Notwithstanding anything contained in clause (1) or in any contract of service, the Authority may alter the terms and conditions of service of the employees, functionaries, officers, experts, consultants and advisers in such manner as may be prescribed by rules; and if the alteration is not acceptable to any such employee, functionary, expert, consultant or adviser, the Authority may terminate his employment and on such termination he shall be entitled to claim only gratuity and other dues as may be admissible to him under the rules applicable to him before the commencement of this Order.

15. Industrial Relations Ordinance, 1969, etc., not to apply.—Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), or in any other law relating to labour for the time being in-force shall apply in relation to the Authority or any of the employees, functionaries, officers, experts, consultants or advisers of the Authority.

16. Employees of the Authority to be public servants.—The employees, functionaries, officers, experts, consultants and advisers of the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Order, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

17. Dissolution of the Society, etc.—Upon the commencement of this Order, the Society, the Executive Committee of the Club and the Foundation together with its Board of Governors shall stand dissolved and upon such dissolution,—

- (a) all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash and bank balance, reserve funds, investments and all other interests and rights in or arising out of such property and all liabilities and obligations of whatever kind of the Society, Club or Foundation shall be transferred to and vest in the Authority;
- (b) all contracts and agreements entered into, all rights acquired and all matters and things engaged to be done by, with or for the Society, Club or Foundation before such dissolution shall be deemed to have been entered into, acquired or engaged to be done by, with or for the Authority;
- (c) all leases executed and all grants made of all lands in the name of the Society, Club or Foundation before such dissolution shall be deemed to be leases executed and grants made in the name of the Authority;
- (d) all contracts, projects, schemes, work (whether in progress or not) and all guarantees, undertakings, obligations, liabilities and mortgages, executed or subsisting in the name of the Society, Club or Foundation before such dissolution shall be deemed to be contracts,

projects, schemes, works, guarantees, undertakings, obligations, liabilities and mortgages of the Authority :

- (e) all pending disputes in respect of the Society under section 54 or any other provision of the Co-operative Societies Act, 1925 (Bombay Act VII of 1925), shall stand transferred to and be decided by the Administrator and any party aggrieved by his decision shall have the right of appeal to the Executive Board whose decision thereon shall be final and shall not be liable to be called in question in any Civil or Revenue Court :
- (f) all appeals and revisions pending either before the Registrar or the Provincial Government under the provisions of the aforesaid Act shall stand transferred to the Executive Board whose decision thereon shall be final and shall not be liable to be called in question in any Civil or Revenue Court :
- (g) all suits, petitions and other legal proceedings instituted by or against the Society, Club or Foundation before such dissolution shall be deemed to be suits, petitions, and proceedings by or against the Authority and shall proceed or otherwise dealt with accordingly : and
- (h) all allotments and transfers of plots, whether residential, commercial or otherwise, made by the Society before such dissolution shall be deemed to be allotments and transfers made by the Authority :

Provided that the Executive Board may—

- (i) cancel such allotments which were made or issued in contravention of the bye-laws of the Society or the resolution of the Managing Committee of the Society ;
- (ii) alter the area of any plot involving duplicate allotments and re-allot the same in such manner as it may consider appropriate ; and
- (iii)* pass such orders in respect of transfer of plots involving duplicate allotments as it may deem fit.

18. Power to cancel allotments, etc.—(1) The Executive Board may cancel any allotment, transfer, licence or lease in respect of any plot or housing unit in any project or scheme in the specified area if the allottee, transferee, licensee or lessee fails to pay the dues or instalments including development charges in respect of such plot or housing unit, within six months from the date of receipt of the demand in writing or within such extended time as the Executive Board may, in special case, fix, and thereupon the plot or the housing unit, with or without construction thereon, shall be resumed by the Authority.

(2) When a plot or a housing unit is resumed by the Authority under clause (1), the Authority shall sell it by public auction or otherwise and refund the sale proceeds, after deducting its dues and the expenses incurred on the public auction, to the defaulting allottee, transferee, licensee or, as the case may be, lessee.

19. Indemnity.—No suit, prosecution or other legal proceedings shall lie against the Chairman, President, Administrator, member of the Governing Body or the Executive Board, or any officer, employee, functionary, expert, consultant or adviser of the Authority for anything which is in good faith done or intended to be done under this Order or under the rules or regulations.

20. **Power of the Governing Body to issue directions in certain cases.**—When any act or thing is required by this Order to be done but no provision or sufficient provision has been made in respect of the functionary of the Authority by whom, or the manner in which, it shall be done, then it shall be done by such functionary of the Authority and in such manner as the Governing Body may direct.

21. **Transitional provisions.**—(1) The person working as Managing Director of the Society at the commencement of this Order shall continue to exercise the powers and perform the functions of the Administrator in accordance with such directions as the President may give till such time as the Administrator is appointed under this Order.

(2) The person working as Secretary of the Society at the commencement of this Order shall continue to exercise the powers and perform the functions of the Secretary of the Authority till such time as the Secretary of the Authority is appointed under this Order.

(3) Until rules are made for the management and running of the Club and School, the President shall appoint committees to manage and run the Club and School in accordance with such directions as may be issued by him from time to time.

22. **Power to make rules.**—The Governing Body may, by notification in the official Gazette make rules for carrying out the purposes of this Order.

23. **Power to make regulations.**—The Executive Board may make such regulations not inconsistent with the provisions of this Order and the rules as it may consider necessary or expedient for the administration and management of the affairs of the Authority.

24. **Bifurcation of Karachi Cantonment into two, etc.**—(1) On the commencement of this Order, the Karachi Cantonment in existence immediately before such commencement, hereinafter referred to as the existing Cantonment, shall stand bifurcated into two cantonments as follows:—

- (a) the Karachi Cantonment, comprising all areas of the existing Cantonment lying to the North of the Karachi—Drigh Road main railway line; and
- (b) the Clifton Cantonment, comprising all areas of the existing Cantonment other than those specified in paragraph (a).

(2) Until the Federal Government otherwise directs, by notification in the official Gazette, the two cantonments referred to in clause (1) shall be deemed to be Class II cantonments for the purposes of the Cantonments Act, 1924 (II of 1924), hereinafter referred to as the Act, which shall apply to the said cantonments subject to the provisions of this Order.

(3) The elected members of the Board of the existing Cantonment elected from the wards lying to the North of the aforesaid railway line and the elected members of the said Board representing women, workers and peasants, shall become members of the Board for the Karachi Cantonment while those elected from the wards lying to the South of the aforesaid railway line shall become members of the Board for the Clifton Cantonment, and shall hold office therein for the unexpired period of their term as members of the Board of the existing Cantonment.

(4) In the Board for the Clifton Cantonment, one seat shall be reserved for women and one for peasants, workers and minority communities and steps shall be taken for the election of members to those seats in accordance with the Act.

(5) The wards into which the existing Cantonment stands divided shall become the wards of the Karachi Cantonment or, as the case may be, the Clifton Cantonment so, however, that the portion of ward No. 6 of the existing Cantonment falling to the North of the aforesaid railway line shall become a part of ward No. 1 of the Karachi Cantonment and the portion of ward No. 5 of the existing Cantonment falling to the South of the aforesaid railway line shall become a part of ward No. 6 of the Clifton Cantonment.

(6) On the commencement of this Order, such portion of the cantonment fund and other property vesting in the Board for the existing Cantonment, and such portion of the liabilities of the said Board, as the Federal Government may by order direct shall stand transferred to the Board for the Clifton Cantonment.

(7) All taxes, fees, rates and cesses imposed or levied in the existing Cantonment immediately before the commencement of this Order shall continue to be imposed or levied in the Karachi Cantonment and the Clifton Cantonment until abolished or altered in accordance with the provisions of the Act.

(8) All rules and bye-laws made under the Act and in force in the existing Cantonment immediately before the commencement of this Order shall continue to be in force in the Karachi Cantonment and the Clifton Cantonment until they are repealed, amended or modified in accordance with the provisions of the Act.

(9) If any difficulty arises in giving effect to any of the provisions of this Order, the Federal Government may make such provision for the removal of the difficulty as it may deem fit.

GENERAL
M. ZIA-UL-HAQ.
President.

S. A. NUSRAT.
Secretary.