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ORDINANCE NO.XXXIX OF 2009

AN

ORDINANCE

*to provide for the establishment of the Earthquake  
Reconstruction and Rehabilitation Authority (ERRA)*

WHEREAS it is expedient to constitute an autonomous organization for post disaster damage assessment, recovery, reconstruction and rehabilitation of the areas affected by the earthquake, and to provide for matters connected therewith or incidental thereto;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Earthquake Reconstruction and Rehabilitation Authority Ordinance, 2009.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the 12th July, 2007.

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

(a) “affected areas” means areas affected by the earthquake and its aftershocks and notified as such by the Federal Government;

(b) “Authority” means the Earthquake Reconstruction and Rehabilitation Authority (ERRA);

(c) “Board” means the Board of the Authority established under section 12;

(d) “Chairman” means Chairman of the Authority;

(e) “Council” means the Earthquake Reconstruction and Rehabilitation Council constituted under section 8;

(f) “Deputy Chairman” means Deputy Chairman of the Authority;

(g) “ECNEC” means Executive Committee of the National Economic Council;

(h) “fund” means the fund established under section 15;

(i) “regulations” means regulations made under this Ordinance; and

(j) “rules” means rules made under this Ordinance.

**3. Establishment of the Earthquake Reconstruction and Rehabilitation Authority.**—(1) Immediately after commencement of this Ordinance, the Federal Government shall, by notification in the official Gazette, establish the Earthquake Reconstruction and Rehabilitation Authority (ERRA) for carrying out the purposes of this Ordinance.

(2) Subject to the provisions of this Ordinance, the Authority shall be autonomous in its functions and operations and shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both moveable and immovable, and enter into contracts and shall by its name sue and be sued.

(3) For the purpose of coordination, the Authority will be administratively attached with the Prime Minister's Secretariat.

**4. Principal office.**—The principal office of the Authority shall be in Islamabad and it may establish regional offices at such other place or places as it considers necessary.

**5. Functions of Authority.**—Subject to the provisions of this Ordinance, the Authority shall be responsible for all reconstruction, rehabilitation and early recovery programs and projects in the affected areas and, towards this end, may perform the following functions, namely:—

- (a) to conduct surveys to assess damage and carry out future planning in the affected areas;
- (b) to formulate a comprehensive umbrella development program to provide for—
  - (i) reconstruction of the government buildings and offices, utilities and services, infrastructure, roads, subways and bridges, potable water; drainage systems, health and education facilities, tourism, irrigation and agriculture facilities in the affected areas;
  - (ii) environmental protection and rehabilitation; and
  - (iii) restoration of economic activities and livelihoods;
- (c) to prepare resettlement and rehabilitation plan for the affected population in consultation with the respective Governments of the affected areas;

- (d) to approve projects, programs and schemes identified, prepared and submitted by the respective Governments of the affected areas;
- (e) to take steps for monitoring and evaluation of the approved projects, programs and schemes;
- (f) to prescribe cost-effective technology, building codes or construction guidelines, architectural designs, specifications, and construction materials for housing and other buildings in the affected areas to safeguard against future seismic threats;
- (g) to facilitate the establishment of the reconstruction-related industry and businesses in the affected areas in consultation with the respective Governments; and
- (h) to perform such other functions supplemental, incidental or consequential to the purposes and functions aforesaid and any other function assigned to it by the Federal Government in accordance with the purposes of this Ordinance.

6. **Powers of the Authority.**—To perform its functions the Authority may—

- (a) undertake any work, incur any expenditure, procure plant, machinery, services, equipment, vehicles and any other moveable and immoveable property, and procure stores required for the implementation of approved development projects, programs and schemes;
- (b) dispose of such plant, machinery, equipment, vehicles, property and stores as are no longer required in the manner as prescribed by rules;
- (c) seek or call for any information from any person or any institution, department or agency, as may be required for carrying out its purposes;
- (d) seek and obtain from any department or agency (including the armed forces) advice and assistance to discharge its functions and for execution of its approved projects, programs and schemes;
- (e) approve individual projects, programs and schemes, within the scope of the approved umbrella program;

- (f) transfer any project on its completion to any department or agency of the Federal Government or respective Governments of the affected areas; and
- (g) re-appropriate funds from one project, program, scheme etc. to another project program or scheme.

7. **Management and administration.**—(1) The general direction in all matters of policy and administration of the Authority and its affairs shall vest in the Council.

(2) The Council may, by general or special order, delegate to any body or an officer of the Authority to exercise any of its powers, duties or functions under this Ordinance, subject to such conditions as it may deem fit.

8. **The Council.**—(1) There shall be established the Earthquake Reconstruction and Rehabilitation Council which shall consist of the following members, namely: —

(a) Prime Minister of Pakistan	<i>Chairperson</i>
(b) Prime Minister of Azad Jammu and Kashmir	<i>Member</i>
(c) Chief Minister of NWFP	<i>Member</i>
(d) Minister of Kashmir Affairs and Northern Areas, in the Federal Government of Pakistan	<i>Member</i>
(e) Advisor to the Prime Minister on Finance	<i>Member</i>
(f) Deputy Chairman, Planning Commission	<i>Member</i>
(g) Chairman of the Authority	<i>Member</i>
(h) Deputy Chairman of the Authority	<i>Member</i>

(2) The Deputy Chairman of the Authority shall also act as Secretary of the Council.

(3) The Council may co-opt such other members as it deems necessary for the conduct of its business.

(4) The Federal Government may, by notification in the official Gazette increase or decrease the membership of the Council and for that matter amend sub-section (1) so as to add any entry thereto or modify or omit any entry therein.

9. **Functions of the Council.**—The Council shall provide policy guidelines and approve the policies, plans, programs, projects and schemes, submitted by the Chairman or the Board.

10. **Chairman of the Authority.**—(1) The Federal Government shall appoint a Chairman of the Authority who shall be responsible for the policy matters for such period and on such terms and conditions as it may determine.

(2) The Chairman shall perform such functions and carry out such responsibilities as may be delegated to him by the Council or the Board.

11. **Deputy Chairman of the Authority.**—(1) The Federal Government shall appoint a Deputy Chairman for such period and on such terms and conditions as the Federal Government may prescribe.

(2) The Deputy Chairman shall be responsible for the day to day administration of the Authority and may exercise such administrative and financial powers as are delegated to him by the Council or the Board.

12. **The Board.**—(1) There shall be a Board which shall be responsible for the implementation of the approved policy decisions, plans, programs, projects and schemes and shall have such administrative and financial powers as may be delegated to it by the Council.

(2) The Board shall consist of the following members, namely:—

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|---|-----------------|
| (a) Chairman of the Authority   | <i>Chairman</i> |
| (b) Deputy Chairman of the Authority  | <i>Member</i>   |
| (c) Additional Finance Secretary  | <i>Member</i>   |
| (d) Additional Secretary Defence  | <i>Member</i>   |
| (e) Additional Secretary, Planning Division   | <i>Member</i>   |
| (f) Additional Secretary; EAD   | <i>Member</i>   |
| (g) Chief Secretary, NWFP   | <i>Member</i>   |
| (h.) Chief Secretary, AJ&K  | <i>Member</i>   |
| (i) four representatives of civil society to be nominated by the Federal Government         | <i>Members</i>  |
| (j) a representative of civil society to be nominated by the Government of NWFP             | <i>Member</i>   |
| (k) a representative of civil society to be nominated by the Government of an affected area | <i>Member</i>   |

(3) The Deputy Chairman of the Authority shall also act as Secretary of the Board.

(4) The Board may co-opt such other members as are deemed necessary for the conduct of its business.

(5) The terms and conditions of the non-official members and their privileges will be such as may be determined by the Council.

(6) The Federal Government may, by notification in the official Gazette, increase or decrease the membership of the Board and for that matter amend Sub-section (2) so as to add any entry thereto or modify or omit any entry therein.

**13. Powers and functions of the Board.**—(1) The Board shall exercise such powers and perform such functions as the Council may assign to it.

(2) Subject to the provision of sub-section (1) and subject to the overall supervision and control of the Council, the Board shall perform the following functions, namely:—

- (a) approve projects upto five hundred million rupees and any project beyond that limit shall be submitted to ECNEC for approval;
- (b) approve the budget and accounts;
- (c) consider the quarterly and annual reports of the Authority for making recommendations to the Council;
- (d) appoint advisors and consultants and determine their conditions of appointment; and
- (e) constitute such committees as it may consider appropriate.

**14. Meetings.**—(1) Meetings of the Council and of the Board shall be held at such time, place and in such manner as may be specified.

(2) The Council may meet as often as the Chairperson of the Council may direct.

(3) The Board shall meet as often as is expedient to discharge its responsibilities and shall prescribe procedure for regulating its proceedings.

(4) The decisions of the Council and of the Board shall be taken by the majority of members present and, in the event of a tie, the Chairperson or, as the case may be, the Chairman shall have a casting vote.

15. **ERRA Fund.**—(1) There shall be established a Fund for reconstruction and rehabilitation to be known as the ERRA Fund which shall vest in and be utilized by the Authority to meet the expenses and carry out the objectives of this Ordinance.

(2) The Fund shall consist of—

- (a) such sums as the Federal Government may, from time to time, allocate to it; and
- (b) all other sums or properties which may in any manner become payable to or vest in Authority.

16. **Annual budget.**—The Authority shall prepare the annual budget for each financial year and after its approval by the Board submit the same to the Council.

17. **Accounts.**—The Authority shall maintain complete and accurate books of accounts and shall, after the end of each financial year, prepare for the financial year a statement of accounts of the Authority in such form as may be prescribed by the Controller General of Accounts for submission to the Federal Government.

18. **Audit.**—(1) The accounts of the Authority shall be audited annually by the Auditor-General of Pakistan.

(2) The Authority, in addition to the audit by the Auditor General, may cause its accounts to be audited by internal auditors and arrange for third party validation of the projects on need basis.

19. **Exemption from taxes.**—Notwithstanding anything contained in the income Tax Ordinance, 2001 (XLIX of 2001), or in other law for the time being in force relating to income-tax, capital gains-tax, the Authority shall not be liable to pay and shall be exempt from paying any such taxes as aforesaid on its incomes, profits or gains.

20. **Appointment of officers, etc.**—(1) The Board may, from time to time, appoint such officers, employees, experts and consultants as it may consider necessary for the performance of its functions.

(2) The Board shall, prescribe by regulations the procedure for appointment of its officers, employees, experts and consultants and the terms and conditions of their service.

21. **Recovery of dues.**—Any sum due to the Authority shall be recoverable as arrears of land revenue.

22. **Validity of proceedings.**—No act, decision or proceeding of the Authority or its Council or Board shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Authority or its Council or Board.

23. **Indemnity.**—No suit, prosecution, or other legal proceedings shall lie against the Authority, the Council, the Board, the Chairperson, the Chairman, or any member, officer, servant, advisor, consultant or expert of the Authority, for anything done in good faith under this Ordinance.

24. **Officers etc., to be public servant.**—Every officer, employee, expert, and consultant of the authority shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

25. **Ordinance XCI of 2002 not to apply to the Authority.**—Nothing contained in the Industrial Relations Ordinance, 2002 (XCI of 2002), shall apply to, or in relation to, the Authority or its establishments or in its officers or employees.

26. **Winding up of the Authority.**—No provision of any law relating to winding up of bodies corporate shall apply to the Authority and the Authority shall not be wound up except by order of the Federal Government and in such manner as the Federal Government may direct.

27. **Powers to make rules.**—The Council may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

28. **Powers to make regulations.**—The Board may make regulations not inconsistent with this Ordinance and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for carrying out the purposes of this Ordinance.

29. **Removal of difficulties.**—If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Federal Government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to be necessary, for the purpose of removing the difficulty.

30. **Power of the Federal Government to issue directives.**—The Federal Government may, as and when it considers necessary, issue directives to the Authority on matters of policy, and such directives shall be binding on the Authority, and if a question arises whether any matter is a matter of policy or not, the decision of the Federal Government shall be final.

31. **Ordinance to override other law.**—The provisions of this Ordinance shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force 'and any such law, rule or regulation shall, to the extent of any inconsistency, cease to have effect from the date this Ordinance comes into force.

32. **Repeal and savings.**—Upon the commencement of this Ordinance—

- (a) the Prime Minister's Secretariat's Notification No.F.1(4)/2005-Admn., dated the 24th October, 2005, shall stand rescinded;
- (b) all funds, properties, rights and interests of whatsoever kind issued, used, enjoyed, possessed or owned, vested in the Earthquake Reconstruction and Rehabilitation Authority (ERRA) in existence before such commencement and of liabilities legally subsisting against the said Authority shall pass to the Authority established under this Ordinance; and
- (c) all employees, advisors, consultants and experts appointed by the Authority in existence before the commencement of this ordinance shall become employees, advisors, consultants and experts of the Authority established under this Ordinance.

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### **Statement of Objects and Reasons**

The aim and objective of Earthquake Reconstruction and Rehabilitation Authority Ordinance, No. XXXIX of 2009 is to constitute an autonomous organization i.e. Earthquake Reconstruction & Rehabilitation Authority for post disaster damage assessment, recovery, reconstruction and rehabilitation of the areas affected by the October, 2005 earthquake, and to provide for matters connected therewith or incidental thereto.

**DR. ZAHEERUDDIN BABAR AWAN**  
Minister for Law, Justice and Parliamentary Affairs  
Member-in-Charge