

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

to provide for the establishment of institutions and enunciation of mechanisms and procedures so as to provide for effective conservation and efficient use of energy;

WHEREAS the conservation and efficient use of energy is pivotal for the development of Pakistan:

AND WHEREAS it is expedient and imperative to establish institutions and stipulate mechanisms and procedures for effective conservation and efficient use of energy in Pakistan and for matters connected therewith or incidental thereto:

It is hereby enacted as follows:-

1. **Short title, extent and commencement** - (1) This Act may be called the Pakistan Energy Efficiency and Conservation Act, ~~2010~~ ²⁰¹¹.

(2) It extends to the whole of Pakistan

(3) It shall come into force at once.

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

- (i) "accredited energy auditor" means any person accredited by the Federal Government or Provincial Government and designated by ENERCON to carry out energy audit in accordance with the provisions of this Act;
- (ii) "adverse energy and environment effect" means energy wastage and discharge of air pollutants due to energy waste practices;
- (iii) "agriculture and livestock sector" means activities or practices related to soil management, land preparation (tillage, plowing etc), harvesting,

threshing, mechanized livestock and agriculture farming, livestock and agriculture farm irrigation and drainage, livestock and agriculture farm management, livestock and agriculture farm produce transportation, agro-chemicals management, livestock, plant and agriculture food processing, preservation and value addition, bio-mass recycling, rangeland and forest management, livestock and poultry management, post harvest output management;

- (iv) "buildings sector" means private domestic household, commercial, industrial, public and community buildings;
- (v) "certified laboratory" means a laboratory duly accredited by the Federal or Provincial Government and designated by ENERCON to carry out such procedures and tests as are necessary for furtherance of the purposes of this Act;
- (vi) "Council" means the Pakistan Energy Conservation Council (PECC) established under section 3;
- (vii) "designated agency" means designated as such by the Council or the Provincial Government;
- (viii) "designated consumer" means a consumer designated as such by ENERCON;
- (ix) "efficiency" means the ratio of energy output to energy input in respect of energy consuming equipment, appliances or systems;
- (x) "ENERCON" means the National Energy Conservation Authority established under section 6;
- (xi) "energy" means conventional sources of energy including petroleum, coal, natural gas, liquefied petroleum gas or compressed natural gas, and electrical energy, and may also include such other new or renewable forms of energy as the Council may, by notification in the official Gazette, specify;

- (xii) "energy audit" means an examination of any energy consuming project about the way the energy is generated, transmitted, distributed or used there and identification of areas where energy waste can occur for improving energy efficiency and where scope for improving energy use efficiency may be possible;
- (xiii) "energy conservation" means improving generation, transmission, distribution or end use energy efficiency to avoid waste, creating additional energy supply at source, and effecting a reduction of undesirable emissions to the atmosphere or air due to better fuel combustion;
- (xiv) "energy use assessment" means a comprehensive review and analysis to determine the appropriateness of energy use in any energy consuming project;
- (xv) "energy waste" means amount of energy that remains unused or discarded due to incomplete burning or combustion; or due to use of inefficient energy consuming equipment, appliance or due to process; or inefficient operation, maintenance and management of a system;
- (xvi) "Executive Committee" means the Executive Committee established under section 5;
- (xvii) "industrial sector" means small scale, medium scale and large scale industry involving manufacturing, making, formulating, altering repairing, finishing, packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal;
- (xviii) "Managing Director" means the Managing Director of ENERCON;
- (xix) "person" means a natural or legal person, firm, association, partnership, society, group, company, corporation, co-operative society, Government agency, public body, non governmental organization, community based

organization, village organization, local council or local authority and, in the case of a vehicle, the owner or other person having for the time being the charge or control of the said vehicle;

- (xx) "pollution" means contamination of air and water due to discharge of air pollutants as a consequence of incomplete or inefficient combustion of energy resources that alters unfavorably the chemical, physical, biological, radiation, thermal, radiological or aesthetic properties of air, water or atmosphere;
- (xxi) "power sector" means generation, transmission and distribution system of electricity;
- (xxii) "prescribed" means prescribed by rules or, as the case may be, the regulations made under this Act;
- (xxiii) "project" means any activity, scheme, proposal or undertaking in any sector of economy involving use of energy;
- (xxiv) "regulations" means the regulations made under this Act : and
- (xxv) "rules" means the rules made under this Act .
- (xxvi) "sectors of economy" include power sector, industrial sector, transport sector, agriculture and livestock sector and the buildings sector;
- (xxvii) "standards" means numeric values for optimum level of energy units required to produce a unit of output, or desirable energy efficiency levels assigned to any process, object, equipment or appliance either for general applicability or for specific application established under the provisions of this Act; and
- (xxviii) "transport sector" means road transport, railways, aviation and such other means of transportation as the Council may determine.

3. Establishment of the Council. (1) As soon as may be after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish a Council to be known as the Pakistan Energy Conservation Council (PECC) consisting of the following members, namely:-

(a)	Prime Minister of Pakistan	Chairman
(b)	Minister for Environment	Senior Vice Chairman
(c)	Deputy Chairman, Planning Commission	Vice Chairman
(d)	Chief Ministers of Provinces or their nominees	Members
(e)	Minister for Finance	Member
(f)	Minister for Water and Power	Member
(g)	Minister for Industries	Member
(h)	Minister for Petroleum and Natural Resources	Member
(i)	Minister for Science and Technology	Member
(j)	Minister for Housing and Works	Member
(k)	Secretaries of the Federal Ministries of	
	(i) Environment;	
	(ii) Food, Agriculture and Live Stock;	
	(iii) Communications;	
	(iv) Finance;	
	(v) Housing and Works;	
	(vi) Planning and Development;	
	(vii) Petroleum and Natural Resources;	
	(viii) Industries;	
	(ix) Science and Technology;	
	(x) Water and Power	Members

(l) Chief Secretaries of Provincial Governments	Members
(m) Chairman Atomic Energy Commission	Member
(n) Four nominees from the private sector-	
(i) two of them nominated by FCCPI	Members
(ii) two to be appointed by the Council	Members
(o) Two nominees from civil societies	Members
to be appointed by the Council	
(p) Managing Director, ENERCON	Member

(2) The Managing Director ENERCON shall also act as Secretary of the Council.

(3) The Federal Government may increase or decrease the number of the members of the Council and prescribe the qualifications and mode of appointment of members other than the *ex officio* members. However, a member of the Council, other than an *ex officio* member, shall hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment on such terms and conditions as may be prescribed.

(4) The headquarters of the Council shall be at Islamabad, but it may hold its meetings anywhere in Pakistan as and when deemed necessary.

(5) The Council shall hold not less than one meeting during a year and may co-opt members for particular meetings or generally as may be necessary.

(6) A meeting of the Council shall be presided over by the Chairman of the Council or, in his absence, by the Senior Vice Chairman of the Council or, in his absence, by Vice Chairman or in his absence by any member designated to the effect thereof by the Chairman.

(7) The Council may make its own rules of procedure and conduct its business accordingly.

(8) A member of the Council, other than an *ex officio* member, may at any time, by writing under his hand, resign from his office, provided that no resignation shall take effect until it has been accepted by the Council

(9) The presence of not less than half of the total members of the Council shall be necessary to constitute a quorum for its meetings and its decisions shall be expressed in terms of the opinion of the members present and voting. In case of a tie, the vote of the presiding officer shall be the casting vote.

(10) The Council may delegate any of its function, other than the making of regulations, to any committee set up by it or to any of its member, subject to such conditions, if any, as it may specify. The recommendations of the committees shall be submitted to the Council for approval.

(11) The Council or any of its committees may invite any technical expert or representative of any Government Agency or Non-Governmental Organization or other person possessing specialized knowledge of any subject for assistance for the performance of its functions.

(12) The Council may recommend to the Federal Government or a Provincial Government to establish advisory committees for various sectors for assisting ENERCON in the discharge of its functions.

(13) The Provincial Government may notify a specific public department as focal point for the proper co-ordination facilitation and enforcement of the provisions of this Act.

4. Functions and powers of the Council.— (1) The functions of the Council shall be to-

- (a) be custodian of national policy for energy conservation and ensure proper utilization, planning and management of energy in all sectors of national economy;

- (b) coordinate, supervise and carry out enforcement of the provisions of this Act;
- (c) create awareness and disseminate information related to efficient use of energy resources;
- (d) coordinate integration and inculcation of energy conservation concerns in national development plans and policies;
- (e) approve energy efficiency standards and ensure their enforcement and compliance;
- (f) direct the Authority in the conduct of research and development, and preparation and execution of demonstration projects and national programs on energy conservation;
- (g) recommend to the Federal Government the adoption of measures directly or indirectly conducive to energy conservation;
- (h) promote investment by the public and private sectors in energy conservation through partnership or otherwise;
- (i) encourage and facilitate import and local manufacture and indigenous technologies for the promotion of energy conservation through all legal and policy support; and
- (j) institute National energy conservation and management awards for various categories of energy consumers for the promotion and encouragement of energy conservation.

(2) The Council may, either itself or upon the request of any person or organization, direct ENERCON or any Provincial Agency or any Government body to prepare, submit, promote or implement projects for energy conservation in a specific sector of economy.

(3) The Council, or a Provincial Government with the concurrence of the Council, may establish any suitable structure or mechanism for enforcement of this Act

including energy efficiency standards, labeling, incentives, fines and other related requirements under this Act with effect from the date to be determined by the Council.

(4) The Council may approve appropriate strengthening, restructuring, capacity building, terms and conditions of employees, and compensation or protection of service benefits for ENERCON and its employees, in accordance with instructions and policies of the Federal Government, to effectively carry out the functions under the provisions of this Act.

5. Executive Committee of the Council .- (1) The Council shall be assisted by an Executive Committee consisting of the following members, namely:-

(a)	Deputy Chairman Planning Commission	Chairperson
(b)	Chief Secretaries of all Provinces	Members
(c)	Federal Secretary Finance	Member
(d)	Federal Secretary Environment	Member
(e)	Federal Secretary Petroleum and Natural Resources	Member
(f)	Federal Secretary Water and Power	Member
(g)	Director General Pakistan Standards and Quality Control Authority	Member
(h)	Managing Director SNGPL	Member
(i)	Managing Director SSGPL	Member
(j)	Chairman Alternative Energy Development Board	Member
(k)	One nominee from FCCIP	Member
(l)	Managing Director ENERCON	Member/Secretary

(2) The Federal Government may increase or decrease the number of the members of the Executive Committee of the Council and prescribe the qualifications and mode of appointment of members other than the *ex officio* members.

(3) The Executive Committee shall exercise powers on behalf of the Council for carrying out day to day policy matters or decisions, as may be considered appropriate by the Council. Presence of one-third of the total members will constitute quorum of the Executive Committee.

(4) All the decisions of the Executive Committee shall be submitted to the Council for ratification.

6. Establishment of ENERCON.- (1) As soon as may be after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish an Authority to be called the National Energy Conservation Authority.

(2) ENERCON 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 dispose of property, both moveable and immovable and shall have the capacity to sue and be sued.

(3) The general direction and administration of ENERCON and its affairs shall vest in the Managing Director, who shall be appointed by the Federal Government on such terms and conditions as may be prescribed. The Managing Director may exercise all powers and do all acts and things which may be exercised or done by ENERCON.

(4) The Managing Director, officers, employees, servants of ENERCON shall, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules and regulations made thereunder, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

7. Powers and functions of ENERCON. - The functions of the ENERCON shall be to-

(i) serve as the sole focal Federal Authority for initiating, catalyzing carrying out and coordinating the implementation of all energy conservation programs in all sectors of economy;

- (ii) administer, implement and enforce the provisions of this Act and the rules and regulations made thereunder;
- (iii) prepare or update national energy conservation policy for the approval of the Council;
- (iv) prepare draft regulations to be approved and issued by the Council pursuant to the provisions of this Act;
- (v) recommend national energy efficiency standards to the Council and ensure implementation of these standards;
- (vi) coordinate energy conservation policies and programs nationally and internationally;
- (vii) establish protocols of coordination between relevant functionaries of the Government and serve as the information house on energy conservation and management;
- (viii) initiate demonstration and research and development programs in support of its functions;
- (ix) establish infrastructure and take appropriate institutional development and capacity building measures for effective implementation of the provision of this Act;
- (x) establish systems and procedures for surveys, surveillance, monitoring, inspection and audits to prevent the inefficient use of energy resources and recommend implementation of specific energy conservation measures;
- (xi) establish, maintain and certify one or more laboratories as approved laboratories for conducting tests and analysis to help ENERCON in the performance of its functions and to conduct research in various aspects of energy conservation;
- (xii) seek information or data relevant to its functions from any person or organization for quantitative or technological analysis;
- (xiii) recommend to the Federal Government the adoption of financial and fiscal incentives or schemes for achieving energy conservation objectives;

- (xiv) initiate requests for foreign technical and financial assistance for the purposes of this Act, enter into arrangements with foreign agencies and organizations for exchange of information and materials and participate in international meetings and seminars;
- (xv) obtain information or data relevant to the functions of the ENERCON from any person in such form as the ENERCON may specify;
- (xvi) undertake inquiry or investigation into energy conservation issues, either on its own accord or upon complaint from any person or on the advice of the Council;
- (xvii) summon and enforce the attendance of any person or an officer, employee, proprietor, partner, manager, director or chief executive of an entity and require him to supply any information or document needed for the conduct of an inquiry or investigation into any issue being carried out pursuant to the provisions of this Act;
- (xviii) direct an initial energy use assessment to be carried out for any upcoming project and submitted to the ENERCON before commencement thereof;
- (xix) carry out energy audits either by itself or direct any person to receive an energy audit by any accredited or designated energy auditor for any facility, enterprise, factory, building or object for the purpose of identification of energy conservation issues and making recommendations for corrective measures thereof;
- (xx) request for tests and analysis from its own laboratory or from a certified laboratory of an equipment, gadget, accessory or hardware to measure its energy characteristics;
- (xxi) fix and realize fee, rates and charges for rendering any service or providing any facility or information or data audit or assessment or test carried out pursuant to the provisions of this Act and the rules and regulations made thereunder;
- (xxii) appoint such technical and legal experts and administrative staff as it considers necessary for the efficient performance of its functions on such terms and conditions as may be prescribed; and
- (xxiii) perform any other function assigned to it by the Federal Government or the Council.

8. Indemnity.- No suit, prosecution or other legal proceedings shall lie against the Federal or Provincial Government or officers thereof, Managing Director or any member or officer or employee of the ENERCON or any person exercising any power or performing any act carried or contemplated to be carried out in good faith in furtherance of the provisions of this Act or the rules or regulations made thereunder.

9. Fund of ENERCON.- (1) There shall be formed a Fund to be known as the ENERCON Fund, which shall vest in the ENERCON and shall be utilized by the ENERCON to meet charges in connection with its functions under this Act including, *inter alia*, the payment of salaries and other remuneration to the Managing Director, members, officers, servants, experts and consultants of the ENERCON.

(2) The Fund shall be administered in the manner as may be prescribed.

(3) To the credit of the ENERCON Fund, shall be placed,-

(i) initial seed money grant of one billion rupees by Federal Government, for the purpose of meeting expenses in connection with the functions and operations of the Council and ENERCON, institute and organizations under this Act, including payment of salaries and other remunerations, payable to employees of ENERCON as well as consultants and advisors;

(ii) revenue budget allocations by the Federal Government till such time that an adequate ENERCON Fund is in place;

(iii) grants made by the Federal Government, whether annually or otherwise;

(iv) aid and assistance, grants, advances, donations and other non obligatory funds received from foreign governments, local or international agencies, and non-governmental organizations;

(v) levy that may be collected by the Federal Government for the purposes of energy conservation and efficiency enhancement.

(vi) contributions from private organizations, and other persons;

(vii) fees received under the provisions of this Act and the rules and regulations made thereunder;

(viii) income from investments and commercially viable energy conservation programs; and

(ix) receipts of the ENERCON from any other source;

(4) ENERCON may invest its funds in such profit-earning projects, and maintain saving accounts in such banks or financial institutions, as may be approved by the Council.

10. Powers and Functions of Provincial Governments to facilitate and enforce efficient use of energy and its conservation.- (1) The Provincial Governments may, after approval of proposals to the effect thereof from the Council, and in consultation with the ENERCON, by notification-

(a) amend the energy conservation building codes to suit the regional and local climatic conditions and may, by rules made by it, specify and notify energy conservation building codes with respect to use of energy in the buildings;

(b) direct every owner or occupier of a building or building complex being a designated consumer to comply with the provisions of the energy conservation building codes;

(c) direct, if considered necessary for efficient use of energy and its conservation, any designated consumer referred to in clause (b) to get energy audit conducted by an accredited energy auditor in such manner and at such intervals of time as may be specified by regulations; and

(d) direct, any designated consumer to furnish to the designated agency, in such form and manner and within such period as may be specified by rules made by it, information with regard to the energy consumed by such consumer.

(2) Each Provincial Government may establish a Fund to be called the Provincial Energy Conservation Fund for the purposes of promotion of efficient use of energy and its conservation within the Province.

(3) To the Fund shall be credited all grants and loans that may be made by the Provincial Government or Federal Government or any other organization or individual for the purposes of this Act.

(4) The Fund shall be applied for meeting the expenses incurred for implementing the provisions of this Act.

(5) The Fund established under sub-section (2) shall be administered by such persons or authority and in such manner as may be specified in the rules made by the Provincial Government in respect thereof.

(6) The Provincial Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act, which shall not be inconsistent with the rules, if any, made by the Federal Government.

(7) The Provincial Government shall nominate a specific department under its control to coordinate with the ENERCON and facilitate implementation of the provisions of the Act within the jurisdiction of the said Province. ENERCON upon receiving the nomination from Provincial Government, may declare the nominated department as the designated agency. The designated agency may appoint, as many inspecting officers as may be necessary for the purpose of ensuring compliance of this Act.

(8) Subject to any rules made under this Act, an inspecting officer shall have such powers as vested in him by the Council.

(9) The Federal Government or the Provincial Government may, in the exercise of their powers and performance of their functions under this Act and for efficient use of energy and its conservation, issue such directions in writing to any person, officer, authority or any designated consumer as they deem fit for furthering the purposes of this Act and such person, officer or authority or any designated consumer shall be bound to comply with such directions.

Explanation.— The power to issue directions under this sub-section includes the power to direct in respect of

- (a) regulating the norms for process and energy consumption standards in any industry or building or building complex; and

- (b) regulating the energy consumption standards for equipment and appliances.

11. Procedure for conducting inquiry, investigation and energy audit.-(1) ENERCON or a designated agency may on its own initiative or upon a complaint require any person to get energy audit carried out within the time stipulated by such agency.

(2) ENERCON or a designated agency shall bring the wastage of energy into notice of that person and give reasonable time to that person for taking corrective measures thereof.

(3) After the expiry of the stipulated time, ENERCON or a designated agency shall require that person to get second energy audit.

(4) If that person is again found to be contravening the provisions of this Act, he shall be subject to a fine, to be imposed by ENERCON or a designated agency, in accordance with section 13, after providing a reasonable opportunity of hearing to that person.

12. Imposition of fine.-(1) Failure on part of any person to comply with the provisions of this Act shall constitute an offence which shall entail a fine not exceeding five hundred thousand rupees. An additional amount of fine of ten thousand rupees shall be imposed for every single day of continued breach.

(2) The amount of fine imposed, in case of default, may be recovered as arrears of land revenue.

13. Appellate Tribunal for Energy Conservation.-(1) The Provincial Government shall, by notification, establish an Appellate Tribunal to be known as Appellate Tribunal for Energy Conservation to hear appeals against the orders of the energy conservation officers or the Federal Government or the Provincial Government or any authority under this Act.

(2) The Tribunal shall consist of a Chairman and not less than two members.

(3) Every appeal against an order of ENERCON shall be filed in writing, accompanied by a copy of the order appealed against and shall be presented within three months of the date of such order

(4) The Provincial Government may prescribe the number of members of which the Tribunal shall be constituted, the manner of appointment and other terms and conditions of service and terms of references of such members.

(5) The Tribunal may adopt such procedure to hear and dispose of the appeals as may be considered expedient in the circumstances of the case to ensure justice.

(6) The proceedings of the Tribunal shall be presided over by the Chairman and the hearing of the appeal shall be conducted by him in the presence of at least two members.

(7) The decision of the Tribunal shall be taken by the majority of its members present and in case of a tie, the Chairman shall have a casting vote.

(8) The Tribunal shall be competent to depute any technical person to visit any premises or place for ascertaining the facts and obtaining such information as may be considered necessary for the disposal of the appeal.

(9) The Tribunal shall, preferably, dispose of the appeal within a period of ninety days from the date of its filing. In case the Tribunal fails to dispose of the same within the stipulated period, it shall decide within a reasonable period, after recording reasons for such delays.

(10) The Tribunal may co-opt any additional member to assist the Tribunal in technical matters.

14. Power to make rules.- The Federal Government may, by notification in the official Gazette, make such rules for carrying out the purposes of this Act, as approved by the Council.

15. Power to make regulations.- The Council may make regulations, in consultation with ENERCON, to achieve the purposes of this Act.

16. Delegation of powers.- (1) The ENERCON may, by general or special order in writing, delegate to any of its officer, consultant, advisor or any other person such of its

powers and functions under this Act and subject to such conditions, as may be specified in the order.

17. Power to exempt.- (1) In case ENERCON is of the opinion that it is expedient so to do in the public interest, it may, by notification and subject to such conditions as may be specified therein, exempt any designated consumer or class of designated consumers from application of all or any of the provisions of this Act:

Provided that ENERCON shall not grant exemption to any designated consumer or class of designated consumers for a period exceeding five years.

(2) After the expiry of the period specified in the proviso to sub-section (1), the designated consumer or class of designated consumers shall not be entitled for exemption for any further period.

18. Act not to be derogatory.- The provisions of this Act shall be in addition to, and not in derogation to the provisions of any other law for the time being in force.

19.- Transitional.- (1) All existing officers, employees and servants held on the authorized strength of ENERCON on the date of coming into force of this Act, shall be deemed to be on deputation in ENERCON. All such deputationists with the exception of the MD may within six calendar months from the date of coming into force of this Act, exercise a one time irrevocable option to be absorbed as the employees of ENERCON.

(2) All such employees who do not exercise the option of getting absorbed in ENERCON under sub-section (1), shall continue enjoying the status as was conferred on them before the commencement of this Act.

20.- Removal of difficulty.- If any difficulty arises in giving effect to the provisions of this Act, the Federal Government may, by order in the official Gazette, make such provisions, not being inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty.

STATEMENT OF OBJECTS AND REASONS

The conservation and efficient use of energy is pivotal for the development of Pakistan. It has great potential to alleviate the adverse effects of shortage of energy supply causing serious energy crisis in the country and for this purpose it is imperative to establish

institutions and stipulate mechanisms and procedures for effective conservation and efficient use of energy in Pakistan.

2. In order to achieve the aforesaid objectives an Authority under the name National Energy Conservation Authority (ENERCON) is established under the Bill. ENERCON shall act as focal Federal agency for initiating, catalyzing and coordinating the implementation of energy conservation activities in all sectors of the economy under the auspices of the Pakistan Energy Conservation Council (PECC) headed by the Prime Minister of Pakistan.

3. The Bill seeks to achieve the aforesaid objects.

HAMEED ULLAH JAN AFRIDI,
Member-in-Charge
Minister for Environment