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ORDINANCE No. LX of 2009

AN

ORDINANCE

*to provide for establishment of Alternative Energy Development Board*

WHEREAS it is expedient to provide for the establishment of Alternative Energy Development Board (AEDB) as an autonomous body for the purpose of implementation of various policies, programmes and projects in the field of Alternative or Renewable Energy Technologies;

AND WHEREAS the objective of the Alternative Energy Development Board is to assist and facilitates development and generation of Alternative or Renewable Energy in order to achieve sustainable economic growth with transfer of technology

for development of an indigenous technological base through a diversified energy generation;

AND WHEREAS the National Assembly is not in session and the President is satisfied that the 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:—

## CHAPTER 1

### PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Alternative Energy Development Board 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 2nd February, 2008.

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

(a) “Alternative or Renewable Energy” means energy that is produced by alternative or renewable resources as compared to the conventional or that are replenished naturally, which do not deplete when consumed and are non-polluting and environmental friendly;

(b) “Board” means Alternative Energy Development Board (AEDB) established under section 3;

(c) “Chairman” means the Chairman of the Board;

(d) “Institute” means Institute of Alternative and Renewable Energy Technologies established under section 11;

(e) “Member” means Member of the Board;

(f) “Organization” means an organization of alternative and renewable energy established under section 10;

- (g) "prescribed" means prescribed by rules or regulations made under this Ordinance;
- (h) "President" means President of the Islamic Republic of Pakistan;
- (k) "regulations" means the regulations made under this Ordinance; and
- (l) "rules" means the rules made under this Ordinance.

## CHAPTER II

### ALTERNATIVE ENERGY DEVELOPMENT BOARD

3. **Establishment of the Board.**—(1) There shall be established an Alternative Energy Development Board for carrying out the purposes and objectives of this Ordinance.

(2) The Board shall be a body corporate having perpetual succession and a common seal, with administrative and financial powers, subject to the provisions of this Ordinance, to enter into agreements, contracts, acquire and hold property, both moveable and immoveable and to sue and be sued in its name.

(3) The head office of the Board shall be at Islamabad and the Board may set up sub-offices at such place or places as it may deem necessary.

(4) The Board shall comprise of the Chairman and Members.

4. **Chairman of the Board.**—The Chairman of the Alternative Energy Development Board shall be appointed by the Federal Government on such terms and conditions as may be determined by the Federal Government.

5. **Terms and conditions of office of the Chief Executive Officer (CEO).**—(1) The Chief Executive shall be appointed by the Federal Government. The terms and conditions of the Chief Executive Officer his remuneration and privileges shall be such as may be determined by the Federal Government.

(2) The Chief Executive Officer shall be an eminent engineering professional of known integrity, competence and expertise in handling development projects.

(3) The Chief Executive Officer shall hold office for a period of three years extendable for another term of three years.

(4) The Chief Executive Officer may resign from his office by giving one month notice by writing under his own hand, addressed to the Federal Government. The age of Chief Executive Officer shall not be more than 65 years.

(5) The Chief Executive Officer shall be answerable to the Board for all administrative and financial matters of the Board. The Board may delegate such administrative and financial powers to the Chief Executive Officer for carrying out day to day affairs of the Board.

6. **Members of the Board.**—(1) The composition of the Board shall be as follows:—

- (a) Chairman;
- (b) Secretary, Finance Division or his nominee not below the rank of Additional Secretary or equivalent;
- (c) Secretary, Ministry of Water and Power or his nominee not below the rank of Additional Secretary or equivalent;
- (d) Secretary, Planning and Development Division or his nominee not below the rank of Additional Secretary or equivalent;
- (e) Secretary, Ministry of Petroleum and Natural Resources or his nominee not below the rank of Additional Secretary or equivalent;
- (f) Secretary, Ministry of Science and Technology or his nominee not below the rank of Additional Secretary or equivalent;
- (g) Secretary, Ministry of Environment or his nominee not below the rank of Additional Secretary or equivalent;
- (h) six Members nominated by the Federal Government with the approval of the Prime Minister; and
- (i) the Chief Executive Officer of the AEDB.

(2) The Secretary of the Board shall be appointed by the Federal Government on the recommendations of the Board.

(3) The Federal Government may increase or decrease the number of Members of the Board from time to time as it may consider appropriate.

(4) The Federal Government may prescribe the qualifications and mode of appointment of Members from private sector in such manner as it may consider appropriate.

(5) The business of the Board shall be conducted as prescribed.

(6) One half of the total membership of the Board shall constitute the quorum and in case of equality of votes the Chairman shall have the casting vote.

(7) In the absence of the Chairman, one of the Technical Members designated by the Chairman shall preside over the Board meeting.

**7. Terms and conditions of office of Members.**—(1) A Member, other than an *ex-officio* Member, shall be appointed by the Federal Government for a period of three years, extendable for another term of three years.

(2) A Member, other than *ex-officio* Member, may at any time resign from his office by giving one-month notice, in writing under his own hand, addressed to the Federal Government.

(3) The Federal Government may remove any Member, other than *ex-officio* Member, on grounds of misconduct and physical incapacitation.

**8. Functions of the Board.**— The functions of the Board shall be as under, namely:—

(i) to develop national strategy, policies and plans for utilization of alternative and renewable energy resources to achieve the targets approved by the Federal Government in consultation with the Board;

(ii) to act as a forum for evaluating, monitoring and certification of alternative or renewable energy projects and products;

(iii) to act as a coordinating agency for commercial application of alternative or renewable technology;

(iv) to facilitate power generation through alternative or renewable energy resources by,—

(a) acting as one window facility for establishing, promoting and facilitating alternative or renewable energy projects based on wind, solar, micro-hydel, fuel cells, tidal, ocean, biogas, biomass etc;

- (b) setting up alternative and renewable energy power pilot projects on it's own or through joint venture or partnership with public or private entities in order to create awareness and motivation of the need to take such initiatives for the benefit of general public as well as by evaluating concepts and technologies from technical and financial perspective;
- (c) conducting feasibility studies and surveys to identify opportunities for power generation through alternative and renewable energy resources;
- (d) undertaking technical, financial and economic evaluation of the alternative or renewable energy proposals as well as providing assistance in filing of required licensing applications and tariff petitions to National Electric Power Regulatory Authority (NEPRA) established under the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);
- (e) interacting and co-ordinating with national and international agencies for promotion and development of alternative energy;
- (f) assisting the development and implementation of plans with concerned authorities and provincial governments for off-grid electrification of rural areas; and
- (g) making legislative proposals to enforce use and installation of equipment utilizing renewable energy.

9. **Committees of the Board.**—(1) The Board may, for carrying out its functions, constitute such committees, from time to time, as may be considered appropriate by the Board.

(2) The committees shall conduct their business in such manner as may be prescribed by the Board.

10. **Organization of the Board.**—(1) The Board may, for carrying out its functions for promotion of alternative and renewable energy, development of alternative and renewable energy technologies, certification of alternative and renewable energy products and projects and project management, may with the prior approval of the Federal Government establish one or more organizations, as it may consider necessary.

(2) The organization(s) established under sub-section (1) shall be subject to control and supervision of the Board and function within the framework of this Ordinance.

(3) An organization establish under sub-section (1) shall perform such business as may be prescribed by regulations by the Board.

**11. Institute of Alternative and Renewable Energy Technologies.—**

(1) The Board may, for carrying out its functions of commercial application of alternative or renewable energy and corresponding human resource development in the area of alternative and renewable energy, establish an Institute of Renewable Energy Technologies.

(2) Institute shall conduct the business in such manner as may be prescribed by regulations by the Board.

**12. Appointment of officers and staff of the Board.—**(1) The Board may appoint such officers, experts, advisors, consultants and members of staff as it may be consider necessary for the efficient performance of its functions on such terms and conditions as may be prescribed under the rules made with the prior approval of Federal Government.

(2) The officers, members of the staff, advisors, consultants and experts and other persons appointed by the Board shall not be deemed to be civil servants within the meaning of the Civil Servants Act, 1973 (LXXI of 1973).

(3) The Chairman and non-official Members of the Board, officers, advisors, consultants, employees and staff of the Board, when acting or purporting to act under any of the provisions of this Ordinance, or rules and regulations, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code 1860 (Act XLV of 1860).

CHAPTER III

FUND, ACCOUNTS AND AUDIT

**13. Alternative Energy Fund.—**(1) There shall be established a non-lapsable fund vesting in the Board to be known as the "Alternative Energy Fund (AEF)" for the purpose of meeting expenses in connection with the functions and operations of the Board, Institute and Organizations under this Ordinance, including payment of salaries and other remuneration payable to the Chairman, Members, members of its staff, experts, consultants, advisors and other officers and employees of the Board, Institute and the Organizations.

- (2) The fund shall consist of,—
- (a) funds provided by the Federal Government for payment of salaries, establishing infrastructure and running the day to day business of the Board;
  - (b) loans or grants is by the Federal Government or any Provincial Government or local authority;
  - (c) other loans or funds obtained by the Board;
  - (d) foreign aid, grants and loans negotiated and raised, or otherwise obtained, by the Board, directly or through the Economic Affairs Division;
  - (e) charges for services or for the provision of any information or report automated or otherwise to any government, private or any other person or entity;
  - (f) fees and commissions collected by the Board as prescribed from time to time;
  - (g) income from the sale of moveable or immoveable property;
  - (h) funds from floating bonds, shares, debentures, commercial papers, or other securities issued by the Board or through any other means; and
  - (i) all other sums received or earned by the Board.
- (3) The Alternative Energy Fund shall be kept in one or more accounts maintained by the Board, in local or foreign currency in any scheduled bank in Pakistan and shall be operated in accordance with the directions of the Board.
- (4) The Government shall fund all administrative, operational and any other expenses:

Provided that the responsibility of the Federal Government to exclusively fund the operations and functions of the Board shall cease at such appropriate time, when in the opinion of the Federal Government, the Board shall have become capable of funding its functions and operations envisaged under this Ordinance to be funded by the Board.

**14. Accounts and Audit.**—(1) The Board, Institute and Organization(s), shall prepare their own budget in respect of each financial year, in accordance with

the prescribed procedure and shall maintain complete and accurate books of accounts of their actual expenses, and receipts including that of the Alternative Energy Fund.

(2) The accounts of the Board, Institute and Organization(s), shall be audited by a reputable firm of Chartered Accountants, who are within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) appointed by the Board in consultation with the Auditor General of Pakistan, from a panel of Chartered Accountants proposed by the Board on such terms and conditions as the Board may determine.

(3) The Auditor appointed under sub-section (2) shall be provided access to the books, accounts and other documents as may be considered necessary by them for audit of the accounts.

(4) The Auditor General may conduct each year external audit of the Board as per Auditor General's (Functions, Powers and Terms and Conditions of Service) Ordinance, 2001 (XXIII of 2001).

#### CHAPTER IV

#### MISCELLANEOUS

15. **Delegation of powers.**— (1) The Board may delegate all or any of its powers and functions to the Chairman subject to such conditions and limitations, as it may prescribe.

(2) The Board may delegate all or any of its powers and functions under this Ordinance to any Member or Officer of the Board, subject to such Conditions and limitations, as may be prescribed.

16. **Issuance of policy directives.**—The Federal Government may, as and when it considers necessary, issue policy directives to the Board in respect of its activities and the compliance of such directives shall be binding on the Board.

17. **Annual Report.**—On conclusion of each financial year, the Chairman shall submit an annual report to the Federal Government in respect of all activities of the Board including the status of its existing programmes, projects and future plans formulated in furtherance of its aims and objectives.

18. **Rules.**— The Federal Government may on the recommendations of the Board make rules to carry out the purposes of this Ordinance.

19. **Regulations.**—(1) The Board, may make regulations, not inconsistent with this Ordinance and the rules, to carry out the purposes of this Ordinance.

(2). Without prejudice to the generality of the forgoing provisions, the regulations may provide for:—

- (a) disciplinary proceedings and award of punishments;
- (b) terms and conditions alongwith remuneration and privileges etc. appointment of officers, staff members, experts, advisors and consultants etc;
- (c) prescription of different scales and grades etc. for the remuneration and privileges of officers, staff members, experts, advisors and consultants etc. of the Board;
- (d) procedure for appointment of members of different committees and laying down regulations for the conduct of their business; and
- (e) all or any of the matters, which by this Ordinance are to be or may be prescribed, by the regulations.

20. **Authorities to aid the Board.**—All executive authorities in the Federation and in the Provinces shall render such assistance to the Board as may be necessary for the execution of its programmes and projects being carried out under this Ordinance.

21. **Immunity of the Board.**—No suit, prosecution or other legal proceeding shall lie against the Board, the Chairman, Members, officers, advisors, consultants, and other persons and employees of the Board, in respect of anything done or intended to be done in good faith under this Ordinance.

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

23. **Dissolution of Board.**—Upon the commencement of this Ordinance, the Alternative Energy Development Board established *vide* notification No. F.1/7/2003- Admn.II dated 12th May 2003, hereinafter referred to as the former Board, shall stand dissolved and upon such dissolution,—

(1) all assets, rights, powers, authorities and privileges and property, moveable and immoveable, cash and bank balance, reserve funds, investments and all other interests and rights in, or arising out of such property and all debts, liabilities and obligations of whatever kind of the former Board subsisting immediately before its dissolution shall stand transferred to and vest in the Board;

(2) all officers and other employees of the former Board shall, notwithstanding anything contained in any law or in any agreement, deed, document

or other instrument, stand transferred to the Board and shall be deemed to have been appointed or engaged by the Board in accordance with the terms and conditions of service applicable to them; and no officer or other employee whose services are so transferred shall be entitled to any compensation because of such transfer;

(3) all debts and obligations incurred or contracts entered into, rights acquired and all matters and things engaged to be done by, with or for the former Board before its dissolution shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for the Board; and

(4) all suits and other legal proceedings instituted by or against the former Board before its dissolution shall be deemed to be suits and proceedings by or against the Board and may be proceeded or otherwise dealt with accordingly.

24. **Exemption from taxes.**—Notwithstanding anything contained in the Income Tax Act 2001 (XLIX of 2001) or any other law for the time being in force relating to income tax, the Board shall not be liable to pay any such tax on its income, capital profit, wealth, gifts or gains.

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### **Statement of Objects & Reasons**

- Whereas conventional energy resources comprises of oil, gas, hydro-power, nuclear and fuel; however, Alternative/Renewable Energy (Solar, Wind, Biomass, Waste-to-Energy, Micro Hydro, Bio-fuels, Geothermal, Tidal Ocean etc.) had been receiving world-wide attention in order to broaden fuel diversity to safeguard against vulnerable shortages or price increase of conventional fuels, to promote indigenous forms of energy, to reduce environmental damages and to explore possibilities of providing power to remote areas beyond easy reach of the grid.
- Whereas in the Mid Term Review of Medium Term Development Framework, 2005-10 target fixed for the development of wind and solar energy be encouraged and at least 5% of total national power generation capacity be met through these resources by 2030 i.e. 9700 MW.
- In order to achieve the objective, the Government of Pakistan established Alternative Energy Development Board, as an attached department of the Cabinet Division in 2003. In 2005, Alternative Energy Development Board was declared as an autonomous body through an ordinance, and continued to remain under the Cabinet Division. However, in 2007 the Board was placed under the administrative control of Ministry of Water and Power.

In 2007, Alternative Energy Development Board Bill was passed by the National Assembly of Pakistan; nevertheless, it was lapsed pending passage from the upper house, the Senate of Pakistan within 90 days, as required under the rules; subsequently, another ordinance, Alternative Energy Development Board Ordinance, 2007 was promulgated, which had been dissolved as per the Supreme Court of Pakistan decision instructions.

- Whereas the policy for Development of Alternative/Renewable Energy for Power Generation 2006 included the development of Alternative/Renewable Energy sources, which envisages mainstreaming of Alternative/Renewable Energy in the development plans of the country, which underlines the need for devising pragmatic plans and coordination and implementation system to be put in place.
- And whereas Alternative Energy Development Board Ordinance, 2009 instrumental in implementation of various policies, programs and projects in the field of Alternative/Renewable Energy Technologies served as a basic legal framework for achievement of above targets.
- Therefore, the objective of the Alternative Energy Development Board is to assist and facilitate development and generation of Alternative/Renewable Energy in order to achieve sustainable economic growth with transfer of technology for development of an indigenous technological base through a diversified energy generation, the elected government intends to substitute the Alternative Energy Development Board Ordinance, 2009 (LX of 2009) by a democratic and people friendly Act of the Parliament, "Alternative Energy Development Board Act, 2009" to ensure generation of Alternative/Renewable Energy keeping in view its potential in the country.

**Raja Pervez Ashraf**  
Minister of Water and Power  
Member-in-charge