

*[Published in the Gazette of Pakistan, Extraordinary,
Part-I, dated the 26th November, 2009]*

ORDINANCE NO.XLIII OF 2009

AN

ORDINANCE

*to provide for the establishment of a National Disaster
Management System for Pakistan*

WHEREAS it is expedient to provide for an effective national disaster management system and for matters connected therewith or incidental thereto;

AND WHEREAS the Provincial Assemblies of Balochistan, the North-West Frontier Province, and the Punjab have passed resolutions under Article 144 of the

Constitution of the Islamic Republic of Pakistan to the effect that Majlise-e-Shoora (Parliament) may, by law, regulate the national disaster management system to overcome unforeseen situations;

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 National Disaster Management Ordinance, 2009

(2) It shall extend to the whole of Pakistan.

(3) It shall come into force on the at once.

2. **Definition.**— In this Ordinance, unless the context otherwise requires;

(a) “affected area” means an area or part of the country affected by a disaster.

(b) “disaster” means a catastrophe, or a calamity in an affected area, arising from natural or man made causes, or by accident which results in a substantial loss of life or human suffering or damage to, and destruction of, property;

(c) “disaster management” means managing the complete disaster spectrum including,—

(i) preparedness;

(ii) response;

(iii) recovery and rehabilitation; and

(iv) reconstruction;

(d) “District Authority” means the District Disaster Management Authority established under section 18;

- (e) "District Plan" means a Disaster Management Plan prepared for a particular district under section 21;
- (f) "Federal Government" means the Ministry or Division of the Federal Government having administrative control of disaster management;
- (g) "National Authority" means the National Disaster Management Authority established under section 8;
- (h) "National Plan" means the plan for disaster management for the whole of the country prepared under section 10;
- (i) "National Commission" means the National Disaster Management Commission established under Section 3;
- (j) "Prescribed" means prescribed by rules made under this Ordinance
- (k) "Provincial Authority" means the Provincial Disaster Management Authority established under section 15;
- (l) "Provincial Commission" means the Provincial Disaster Management Commission established under section 13; and
- (m) "Provincial Plan" means the plan for disaster management for a Province prepared under section 17.

CHAPTER II

THE NATIONAL DISASTER MANAGEMENT COMMISSION

3. Establishment of National Disaster Management Commission.—(1) As soon as may be after the commencement of this Ordinance the Federal Government may, by a notification in the Official Gazette, establish a Commission to be known as the National Disaster Management Commission.

- (2) The National Commission shall consist of,—
 - (a) The Prime Minister of Pakistan who shall be the Chairperson, *ex officio*;
 - (b) Leader of Opposition in the Senate;
 - (c) Leader of Opposition in the National Assembly;
 - (d) Minister for Defence;

- (e) Minister for Health;
- (f) Minister for Foreign Affairs;
- (g) Minister for Social Welfare and Special Education;
- (h) Minister for Communications;
- (i) Minister for Finance;
- (j) Minister for Interior;
- (k) Governor NWFP (for FATA)
- (l) Chief Ministers of all the Provinces;
- (m) Prime Minister, AJ&K;
- (n) Chief Executive, Northern Areas;
- (o) Chairman, JCSC or his nominee; and
- (p) Representatives of civil society or any other person appointed by the Prime Minister.

(3) The Director General, appointed under sub-section (3) of section 8 shall act as *ex officio* Secretary of the National Commission.

4. Meetings of the National Commission.—(1) The National Commission shall meet as and when necessary and at such time and place as the Chairperson of the National Commission may think fit.

(2) The Chairperson of the National Commission shall preside over the meetings of the National Commission.

5. Appointment of officers and other employees of the National Commission.— The Federal Government shall provide the National Commission with such officers, consultants and employees, as it considers necessary for carrying out its functions.

6. Powers and functions of National Commission.—(1) Subject to the provisions of this Ordinance, the National Commission shall have the responsibility for laying down the policies, plans and guidelines for disaster management.

(2) Without prejudice to generality of the provisions in sub-section (1), the National Commission may.—

- (a) lay down policies on disaster management;
- (b) approve the National Plan;
- (c) approve plans prepared by the Ministries or Divisions of the Federal Government in accordance with the National Plan;
- (d) lay down guidelines to be followed by Federal Government and Provincial Authorities;
- (e) arrange for, and oversee, the provision of funds for the purpose of mitigation measures, preparedness and response;
- (f) provide such support to other countries affected by major disasters as Federal Government may determine; and
- (g) take such other measures for the prevention of disaster, or the mitigation, or for preparedness and capacity building for dealing with disaster situation as it may consider necessary.

(3) The Chairperson of the National Commission shall, in the case of emergency, have power to exercise all or any of the powers of the National Commission but exercise of such powers shall be subject to *ex post facto* ratification by the National Commission.

7. Constitution of advisory committees by National Commission.—

(1) The National Commission may constitute an advisory committee or committees as required, of experts in the field of disaster management.

(2) The members of the advisory committees shall be paid such allowances as may be prescribed by the Federal Government.

8. Establishment, of the National Disaster Management Authority.—(1) The Federal Government shall, immediately after issue of notification under sub-section (1) of section 3, establish an Authority to be known as National Disaster Management Authority (hereinafter referred to as the National Authority).

(2) The National Authority shall consist of such number of Members as may be prescribed and shall include as its Chairperson the Director General.

(3) There shall be a Director General of the National Authority, to be appointed by the Federal Government, on such terms and conditions, as may be prescribed.

9. Powers and functions of the National Disaster Management Authority.—The National Authority shall:

- (a) act as the implementing, coordinating and monitoring body for disaster management;
- (b) prepare the National Plan to be approved by the National Commission;
- (c) implement coordinate and monitor the implementation of the National policy;
- (d) lay down guidelines for preparing disaster management plans by different Ministries or Departments and the Provincial Authorities;
- (e) provide necessary technical assistance to the Provincial Governments and the Provincial Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Commission;
- (f) coordinate response in the event of any threatening disaster situation or disaster;
- (g) lay down guidelines for, or give directions to the concerned Ministries or Provincial Governments and the Provincial Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;
- (h) for any specific purpose or for general assistance requisition the services of any person and such person shall be a co-opted member and exercise such power as conferred upon him by the Authority in writing;
- (i) promote general education and awareness in relation to disaster management; and
- (j) perform such other functions as the National Commission may require it to perform.

10. **National Plan.**—(1) There shall be drawn up a plan for disaster management for the whole of the country to be called the National Plan.

(2) The National Plan shall be prepared by the National Authority having regard to the national policy and in consultation with the Provincial Governments and expert bodies or organizations in the field of disaster management, and approved by the National Commission.

(3) The National Plan shall include:

- (a) measures to be taken for the prevention of disasters or the mitigation of their effects;
- (b) measures to be taken for the integration of mitigation measures in the development plans;
- (c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster; and
- (d) roles and responsibilities of different Ministries or Divisions of the Federal Government in respect of measures specified in clauses (a), (b) and (c).

(4) The national plan shall be reviewed and updated annually.

(5) The Federal Government shall make appropriate provisions for financing the measures to be carried out under the national plan.

11. **Guidelines for minimum standards of relief.**— Subject to directions of the National Commission, the National Authority shall lay down guidelines for the minimum standards of relief to be provided to persons affected by disaster which shall include:—

- (a) the minimum requirements to be provided in the relief camps in relation to shelter, food, drinking water, medical cover and sanitation;
- (b) the special provisions to be made for vulnerable groups;
- (c) *ex gratia* assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood; and
- (d) such other relief as may be necessary.

12. **Relief in loan repayment, etc.**— Subject to such directions as the National Commission may give, the National Authority may, in cases of disasters of severe magnitude give directions regarding relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

CHAPTER III

PROVINCIAL DISASTER MANAGEMENT AUTHORITIES

13. **Establishment of Provincial Disaster Management Commission.**—
(1) Each Provincial Government shall, as soon as may be after the issue of the notification under sub-section (1) of section 3, by notification in the Official Gazette, establish a Provincial Disaster Management Commission for the Province.

- (2) The Provincial commission shall consist of:
- (a) the Chief Minister of the Province who shall be Chairperson, *ex officio*;
 - (b) Leader of the opposition and one member nominated by him to be member of the provincial disaster commission;
 - (c) Other members to be nominated by Chief Minister; and
 - (d) the Chairperson of the Provincial Commission may designate one of the members nominated under clause (b) to be the Vice-Chairperson.

14. **Powers and functions of Provincial Authority.**—(1) Subject to the provisions of this Ordinance, a Provincial Commission shall have the responsibility for laying down policies and plans for disaster management in the Province.

(2) Without prejudice to the generality of provisions specified in sub-section (1), the Provincial Commission may:—

- (a) lay down the Provincial disaster management policy;
- (b) lay down the Provincial Plan in accordance with the guidelines laid down by the National Commission;
- (c) approve the disaster management plans prepared by the departments of the Provincial Government;
- (d) review the implementation of the plan;

- (e) oversee the provision of funds for mitigation and preparedness measures;
- (f) review the development plans of the different departments of the Province and ensure that prevention and mitigation measures are integrated therein; and
- (g) review the measures being taken for mitigation, capacity building and preparedness by the departments of the Provincial Government and issue such guidelines or directions as may be necessary.

(3) The Chairperson of the Provincial Commission shall, in the case of emergency, have power to exercise all or any of the powers of the Provincial Commission but the exercise of such powers shall be subject to *ex post facto* approval of the Provincial Commission.

15. Establishment of Provincial Disaster Management Authority.—

(1) Each Provincial Government shall as soon as may be after issue of the notification under sub-section (1) of section 3 by notification in the official Gazette establish a Provincial Disaster Management Authority for the Province.

(2) The Provincial Authority shall consist of such number of Members as may be prescribed and shall include as its Chairperson the Provincial Director General or Provincial Relief Commissioner.

(3) There shall be a Director General of the Provincial Authority, to be appointed by the Provincial Government on such terms and conditions, as may be prescribed by the Provincial Government.

16. Powers and Functions of Provincial Authority.—(1) Subject to the provisions of this Ordinance, a Provincial Authority shall be responsible for implementing policies and plans for disaster management in the Province.

(2) Without prejudice to the generality of the foregoing provisions, the Provincial Authority may:

- (a) formulate the provincial disaster management policy obtaining the approval of the Provincial Commission;
- (b) coordinate and monitor the implementation of the National Policy, National Plan and Provincial Plan;
- (c) examine the vulnerability of different parts of the Province to different disasters and specify prevention or mitigation measures;

- (d) lay down guidelines to be followed for preparation of disaster management plans by the Provincial Departments and District Authorities;
- (e) evaluate preparedness at all governmental or non-governmental levels to respond to disaster and to enhance preparedness;
- (f) coordinate response in the event of disaster;
- (g) give directions to any Provincial department or authority regarding actions to be taken in response to disaster;
- (h) promote general education, awareness and community training in this regard;
- (i) provide necessary technical assistance or give advice to district authorities and local authorities for conveying out their functions effectively;
- (j) advise the Provincial Government regarding all financial matters in relation to disaster management;
- (k) examine the construction in the area and if it is of the opinion that the standards laid down has not been followed may direct the same to secure compliance of such standards;
- (l) ensure that communication systems are in order and disaster management drills are being carried out regularly; and
- (m) perform such other functions as may be assigned to it by the National or Provincial Authority.

17. **Provincial Plan.**—(1) There shall be a plan for disaster management for every Province to be called the Provincial Disaster Management Plan.

(2) The Provincial Plan shall be prepared by the Provincial Authority having regard to the guidelines laid down by the National Authority after consultation with the District Government.

(3) The Provincial Plan shall include:

- (a) the vulnerability of different parts of the Province to different forms of disasters;
- (b) the measures to be adopted for prevention and mitigation of disasters;

- (c) the manner in which the mitigation measures shall be integrated with the development plans and projects;
 - (d) the capacity building and preparedness measures to be taken;
 - (e) the roles and responsibilities of each Department of the Government of the Province in relation to the measures specified in clauses (b), (c) and (d);
 - (f) the roles and responsibilities of different Departments of the Government of the Province in responding to any threatening disaster situation or disaster.
- (4) The Provincial Plan shall be reviewed and updated annually.

CHAPTER IV

DISTRICT DISASTER MANAGEMENT AUTHORITY

18. Constitution of District Disaster Management Authority.—(1) Each Provincial Government shall, as soon as may be after issue of notification under sub-section (1) of section 13, by notification in the Official Gazette, establish a District Disaster Management Authority for every district.

(2) The District Authority shall consist of such number of members, as may be prescribed by the Provincial Government, and unless the rules otherwise provide, it shall consist of the following members, namely:—

- (a) Nazim of the District who shall be Chairperson, *ex officio*;
- (b) the District Coordination Officer;
- (c) the District Police Officer, *ex-officio*;
- (d) the Executive District Officer Health; and
- (e) such other district level officers, to be appointed by the District Government.

19. Powers of Chairperson of District Authority.—(1) The Chairperson of the District Authority shall, in the case of an emergency, have power to exercise all or any of the powers of the District Authority but the exercise of such powers shall be subject to *ex post facto* approval of the District Authority.

20. Powers and functions of District Authority.—(1) The District Authority shall act as the district planning, coordinating and implementing body for disaster management and take all measures for the purposes of disaster management in the district in accordance with the guidelines laid down by the National Authority and the Provincial Authority.

(2) Without prejudice to the generality of the foregoing provisions, the District Authority may.—

- (a) prepare a disaster management plan including district response plan for the district;
- (b) coordinate and monitor the implementation of the National Policy, Provincial Policy, National Plan, Provincial Plan and District Plan;
- (c) ensure that the areas in the district vulnerable to disasters are identified and measures for the prevention of disasters and the mitigation of its effects are undertaken by the departments of the Government at the district level as well as by the local authorities;
- (d) ensure that the guidelines for prevention, mitigation, preparedness and response measures as laid down by the National Authority and the Provincial Authority are followed by all departments of the Government at the district level and the local authorities in the district;
- (e) give directions to different authorities at the district level and local authorities to take such other measures for the prevention or mitigation of disasters as may be necessary;
- (f) lay down guidelines for preparation of disaster management plans by the departments of the Government at the districts level and local authorities in the district;
- (g) monitor the implementation of disaster management plans prepared by the Departments of the government at the district level;
- (h) lay down guidelines to be followed by the Departments of the Government at the district level;
- (i) organize and coordinate specialized training programmes for different levels of officers, employees and voluntary rescue workers in the district;

- (j) facilitate community training and awareness programmes for prevention of disaster or mitigation with the support of local authorities, governmental and non-governmental organizations;
- (k) set up, maintain, review and upgrade the mechanism for early warnings and dissemination of proper information to public;
- (l) prepare, review and update district level response plan and guidelines;
- (m) coordinate with, and give guidelines to, local authorities in the district to ensure that pre-disaster and post-disaster management activities in the district are carried out promptly and effectively;
- (n) review development plans prepared by the Departments of the Government at the district level, statutory authorities or local authorities with a view to make necessary provisions therein for prevention of disaster or mitigation;
- (o) identify buildings and places which could, in the event of disaster situation be used as relief centres or camps and make arrangements for water supply and sanitation in such buildings or places;
- (p) establish stockpiles of relief and rescue materials or ensure preparedness to make such materials available at a short notice;
- (q) provide information to the Provincial Authority relating to different aspects of disaster management;
- (r) encourage the involvement of non-governmental organizations and voluntary social-welfare institutions working at the grassroots level in the district for disaster management;
- (s) ensure communication systems are in order, and disaster management drills are carried out periodically; and
- (t) perform such other functions as the Provincial Government or Provincial authority may assign to it or as it deems necessary for disaster management in the District.

21. **District plan.**—(1) There shall be a plan for disaster management for every district of the Province.

(2) The District Plan shall be prepared by the District Authority having regard to the national Plan and the Provincial Plan.

(3) The District plan shall be reviewed and updated annually.

22. Additional Powers of District Authority.— For the purpose of assisting, protecting or providing relief to the community, in response to any disaster, the District Authority may:—

- (a) give directions for the release and use of resources available with any department of the Government and the local authority in the district;
- (b) control and restrict vehicular traffic to, from and within, the vulnerable or affected area;
- (c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;
- (d) remove debris, conduct search and carry out rescue operations;
- (e) provide shelter, food, drinking water and essential provisions, healthcare and services;
- (f) establish emergency communication systems in the affected area;
- (g) make arrangements for the disposal of the unclaimed dead bodies;
- (h) direct any Department of the Government of the Province any authority or body under that Government at the district level to take such measures as are necessary in its opinion;
- (i) require experts and consultants in the relevant fields to advise and assist as it may deem necessary;
- (j) procure exclusive or preferential use of amenities from any authority or person;
- (k) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to public or aggravate the effects of the disaster;
- (l) ensure that the non-governmental organizations carry out their activities in an equitable and non-discriminatory manner;

- (m) take such other steps as may be required or warranted to be taken in such a situation.

CHAPTER V

MEASURES BY THE GOVERNMENT FOR DISASTER MANAGEMENT

23. **Federal Government to take measure.**—(1) Subject to the provisions of this Ordinance, the Federal Government may take all such measures as it deems necessary or expedient for the purpose of disaster management.

(2) In particular and without prejudice to the generality of the foregoing provisions, the measures which the Federal Government may take shall include measures with respect to all or any of the following matters, namely:—

- (a) coordination of actions of the Ministries and Divisions of the Federal Government, Provincial Governments, National Authority, Provincial Authorities, governmental and non-governmental organizations in relation to disaster management;
 - (b) cooperation and assistance to Provincial Governments, as requested by them or otherwise deemed appropriate by it;
 - (c) requisition and deployment of armed forces, civil armed forces or any other civilian personnel or foreign contingents required for the purposes of this Ordinance;
 - (d) coordination with the United Nations agencies, international organizations and governments of foreign countries for the purposes of this Ordinance;
 - (e) establish institutions for research, training, and developmental programmes in the field of disaster management; and
 - (f) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Ordinance.
- (3) The Federal Government may extend such support to other countries affected by major disaster as it may deem appropriate.

24. **Provincial Government to take measures.**—Subject to the provisions of this Ordinance, each Provincial Government shall take all measures

specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.

CHAPTER VI

LOCAL AUTHORITIES

25. **Functions of the local authority.**—(1) Subject to the directions of the District Authority, a local authority shall :—

- (a) ensure that its officers and employees are trained for disaster management;
- (b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatening disaster situation or disaster;
- (c) ensure that all construction projects under it or within its jurisdiction conform to the standards and specifications laid down for prevention of disasters and mitigation by the National Authority, Provincial Authority and the District Authority; and
- (d) carry out relief, rehabilitation and reconstruction activities in the affected area in accordance with the Provincial Plan and the District Plan.

(2) The local authority may take such other measures as may be necessary for the disaster management.

CHAPTER VII

NATIONAL INSTITUTE OF DISASTER MANAGEMENT

26. **National Institute of Disaster Management.**—(1) With effect from such date as the Federal Government may, by notification in the Official Gazette appoint in this behalf, there shall be established an institute to be called the National Institute of Disaster Management.

(2) Subject to the provisions of this Ordinance, the National Institute of Disaster Management shall be responsible for planning and promoting training and research and developing core competencies in the area of disaster management, documentation and development of national level information base relating to disaster management policies, prevention mechanisms and mitigation measures.

(3) Without prejudice to the generality of the foregoing provisions, the National Institute, for the discharge of its functions, may:—

- (a) develop training modules, undertake research and documentation in disaster management and organize training programmes;
- (b) formulate and implement a comprehensive human resource development plan covering all aspects of disaster management;
- (c) provide assistance in national level policy formulation.
- (d) provide required assistance to the training and research institutes for development of training and research programmes for stakeholders including Government functionaries;
- (e) provide assistance to the Provincial Governments in the formulation of Provincial level policies, strategies, disaster management framework and any other assistance as may be required by the Provincial Governments for capacity-building of stakeholders, Government including its functionaries, civil society members, corporate sector and people's elected representatives;
- (f) develop educational materials for disaster management including academic and professional courses;
- (g) promote awareness among stakeholders including college or school teachers and students, technical personnel and others associated with multi-hazard mitigation, preparedness and response measures;
- (h) do all such other lawful things as are conducive or incidental to the attainment of the above objects; and
- (i) undertake any other function as may be assigned to it by the Federal Government.

CHAPTER VIII

NATIONAL DISASTER RESPONSE FORCE

27. **Establishment of National Disaster Response Force.**—(1) There shall be established a National Disaster Response Force for the purpose of specialist response to a threatening disaster situation or disaster.

(2) Subject to the provisions of this Ordinance, the force shall be constituted in such manner and the conditions of service of the members of the Force shall be such as may be prescribed.

28. **Control, direction, etc.**— The general superintendence, direction and control of the National Disaster Response Force shall vest in, and exercisable by, the National Authority.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

29. **National Fund for Disaster Management.**—(1) The Federal Government may, by notification in the Official Gazette, constitute a Fund to be called the National Disaster Management Fund for meeting any threatening disaster situation or disaster.

(2) The National Disaster Management Fund shall be financed from the following sources, namely:—

- (a) grants made by the Federal Government;
- (b) loans, aid and donations from the national or international agencies; and
- (c) donations received from any other source.

(3) On commencement of this Ordinance, the following Funds shall become part of the National Disaster Management Fund, namely:—

- (a) Prime Minister's Disaster Relief Fund; and
- (b) any other fund relatable to natural calamities established at Federal level as the Federal Government may determine

(4) The National Disaster Management Fund shall be kept in one or more accounts maintained by the National Authority, in local or foreign currency, in any scheduled bank in Pakistan and shall be operated in accordance with the directions of the National Authority.

(5) The National Disaster Management Fund shall be administered by the National Authority towards meeting the expenses for emergency preparedness, response, mitigation, relief and reconstruction.

30. Establishment of funds by Provincial Governments.—(1) The Provincial Governments shall, immediately after notifications issued for constituting the Provincial Authority and the District Authorities, establish for the purposes of this Ordinance the Fund to be called the Provincial Disaster Management Fund.

(2) The Provincial Disaster Management Fund shall be financed from the following sources, namely:—

- (a) grants made by the Federal Government or Provincial Governments; and
- (b) loans, aid and donations from the national or international agencies provided in accordance with prescribed procedure.

(3) The Provincial Disaster Management Fund shall be kept in one or more accounts maintained by the Provincial Authority, in local or foreign currency, in any scheduled bank in Pakistan and shall be operated in accordance with the directions of the Provincial Authority.

(4) The Provincial Disaster Management Fund shall be administered by the Provincial Authority towards meeting the expenses for emergency preparedness, response, mitigation, relief and reconstruction in the Province.

31. Allocation of funds by Federal and Provincial Governments.— The Federal Government and Provincial Governments shall, in their annual budgets, make provisions for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

32. Emergency procurement and accounting.— Where by reason of any impending disaster situation or disaster, the National Authority or Provincial Authority or District Authority is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief it may authorize the concerned department or authority to make the emergency procurement and in such case, the standard procedure requiring inviting of tenders shall be deemed to be waived.

CHAPTER X

OFFENCES AND PENALTIES

33. Punishment for obstruction, etc.—Whoever, without reasonable cause:—

- (a) obstructs any officer or employee of the Federal Government or a Provincial Government, or a person authorized by the National

Authority or Provincial Authority or District Authority in the discharge of his functions under this Ordinance; or

- (b) refuses to comply with any direction given by or on behalf of the Federal Government or Provincial Government under this Ordinance;

shall be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with such directions results in loss of lives or imminent danger thereto, shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

34. **Punishment for false claim.**—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief or assistance for repair, reconstruction or other benefits consequent to disaster from any officer of the Federal Government, Provincial Government, the National Authority, Provincial authority or District Authority, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

35. **Punishment for false warning.**—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude leading to panic shall be punishable with imprisonment which may extend to one year or with fine.

36. **Failure of officer in duty or his connivance at the contravention of the provisions of this Ordinance.**—Any officer, on whom any duty has been imposed by or under this Ordinance and who refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

CHAPTER XI

MISCELLANEOUS

37. **Prohibition against discrimination.**—While providing compensation and relief to the victims of disaster, there shall be no discrimination on the ground of sex, caste, community, descent or religion.

38. **Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.**—If it appears to the National Authority, Provincial

Authority or District Authority or any officer as may be authorized by it in this behalf that:—

- (a) any resources with any authority or person are needed for the purpose of prompt response;
- (b) any premises are needed or likely to be needed for the purpose of rescue operations; or
- (c) any vehicle is needed or likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction;

such authority may, by order in writing, requisition such resources or premises or vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection.

39. Payment of compensation.—Whenever any authority requisitions any premises there shall be paid to its owner compensation the amount of which shall be determined by taking into consideration the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality:

Provided that any owner of premises being aggrieved by the amount of compensation so determined may within thirty days make an application to the Federal Government or the Provincial Government, as the case may be.

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred to the Federal Government or the Provincial Government, as the case may be.

40. Direction to media for communication of warnings, etc.—The National Authority, the Provincial Authority, or a District Authority may give direction to any authority or person in control of any audio or audio-visual media or such other means of communication as may be available to carry and warnings or advisories regarding any impending disaster situation or disaster, and such authority or forum shall comply with such direction.

41. Annual report.—(1) The National Authority shall prepare once every year, in such form and at such time as may be prescribed by rules, an annual report

giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Federal Government which shall lay it before the National Assembly and the Senate.

(2) The Provincial Authority and the District Authority shall prepare once every year, in such form and at such time as may be prescribed by rules, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Provincial Government which shall lay it before the Provincial Assembly.

42. **Bar of jurisdiction.**—No court or tribunal shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Federal Government, National Authority, Provincial or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Ordinance.

43. **Indemnity.**—Officers and employees of the Federal Government, National Authority, Provincial Government, Provincial Authority or District Authority shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or, any action taken or direction issued by them in pursuance of such communication or dissemination.

44. **Action taken in good faith.**— No suit or prosecution or other proceeding shall lie in any court against the Federal Government or the National Authority or the Provincial Government or the Provincial Authority or the District Authority or local authority or any officer or employee of the Federal Government or the National Authority or the Provincial Government or the Provincial Authority or the District Authority in respect of any work done or purported to have been done or intended to be, in good faith, done by such authority or Government or such officer or employee or such person under the provisions of this Ordinance or the rules made hereunder.

45. **Delegation of powers to the Authority.**—The Commission may, for effective implementation of the national policy on disaster management, by general or special order delegate to the National Authority any of its powers or functions under this Ordinance subject to such conditions as it may think fit to impose.

46. **Act to override other laws.**—The provisions of this Ordinance, shall have effect, notwithstanding anything in any other law for the time being in force.

47. **Power to make rules.**—The Federal Government and Provincial Governments may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

48. **Removal of difficulties.**—If any difficulty arises in giving effect to the provisions of this Ordinance, the Federal Government or the Provincial Government, as the case may be, may, by notification in the Official Gazette, make such order, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary or expedient for the removal of the difficulty.

STATEMENT OF OBJECTS AND REASONS

A reactive, emergency response approach remained the predominant way of dealing with disasters in Pakistan till end 2006. The Calamity Act of 1958 was mainly concerned with organizing emergency response. A system of relief commissionrate at provincial level was established. An Emergency Relief Cell (ERC) in the Cabinet Division was responsible for organizing disaster approach towards disaster risk management.

2. The loss of life and property and the challenges that were faced in the aftermath of October 2005 Earthquake affecting Azad Jammu and Kashmir and the NWFP province exhibited the need for establishing appropriate policy and institutional arrangements to reduce losses from disasters in future.

3. The need for strong institutional and policy arrangements was fulfilled with the promulgation of the National Disaster Management Ordinance, 2006, after passage of resolutions by all the four provinces under Article 144 of the Constitution. The promulgation of the Ordinance led to the consequential establishment of the National Disaster Management Commission (NDMC), and the National Disaster Management Authority (NDMA). Likewise, Provincial Disaster Management Commissions (PDMCs) and Provincial Disaster Management Authorities (PDMAs) have been established at the provincial levels while District Disaster Management Authorities (DDMAs) have been notified in each district. Similar institutional arrangements have been made for the Northern Areas, FATA and AJ&K. Besides, the National Disaster Risk Management Framework was formulated to guide the work of entire system in the area of disaster risk management. Nine priority areas have been identified within this Framework to establish and strengthen policies, institutions and capacities over the next five years.

4. Under the new system, as envisaged under the Ordinance and the National Disaster Risk Framework, a paradigm shift has been effected from the conventional reactionary and relief oriented approach to mitigation and preparedness approach. This is in line with the international best practices and Hyogo Framework for Action (HFA) to which Pakistan is one of the signatory state. The disaster management institutions at the respective levels are mandated under the law to deal with the whole spectrum of disaster management i.e Prevention, Mitigation, Response, Reconstruction and Rehabilitation. Different capacity building initiatives are currently in progress under the auspices of the National Disaster Management Authority (NDMA) to enhance institutional capacities in the field of disaster management.

5. The Supreme Court of Pakistan in its Judgment in Petition No.9/2009 and No. 8/2009 on 31st July 2009, held that all Ordinances promulgated by the President before 03-11-2007, which were given permanence by the Provisional constitutional Order No.1 of 2009 stand shorn of their purported permanence. The Supreme Court of Pakistan has further observed that these Ordinances be placed before the Parliament and allowed 120 days time in terms of Article 89 of the Constitution to commence from 31st day of July 2009 for placement of the said Ordinances before the parliament in accordance with law. The National Disaster Management Ordinance, which was last re-promulgated on 3rd October, 2007, was one such Ordinance affected by the aforesaid Judgment of the Supreme Court of Pakistan, hence required to be laid before the Parliament. In pursuance of the said decision of the Supreme Court, the Government has already placed the National Disaster Management Ordinance, 2007 before the Parliament in the form of a Bill for further processing as per prescribed legislative procedures.

6. In the meanwhile, the Ministry of Law and Justice informed the NDMA that it was difficult to get the Bill passed from both the Houses within the deadline i.e. 28-11-2009, and advised that in case the later wanted continuation of the NDMO, summary for promulgation of the Ordinance be sent to that Ministry. Accordingly, a summary for promulgation of the Ordinance was sent by the NDMA to the Ministry and the Ordinance was re-promulgated on 26th November, 2009.

7. The Ministry of Law, Justice and Parliamentary Affairs has now informed (**Annexure-I**) that the re-promulgated Ordinance (2009) is required to be laid in the National Assembly.

8. The Bill seeks to achieve the aforesaid object.

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