

AS INTRODUCED IN THE NATIONAL ASSEMBLY

A

BILL

further to amend the Privatisation Commission Ordinance, 2000

WHEREAS it is expedient further to amend the Privatisation Commission Ordinance, 2000 (LII of 2000), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Privatisation Commission (Amendment) Act, 2026.

(2) It shall come into force at once.

2. Amendment of long title and preamble, Ordinance LII of 2000.—In the Privatisation Commission Ordinance, 2000 (LII of 2000), hereinafter referred to as the said Ordinance,—

(a) in the long title, after the word "Privatisation" the words "and Public Private Partnership" shall be inserted; and

(b) in the preamble,—

(i) in the first paragraph, after the word "Privatisation", occurring for the first time, the words "and Public Private Partnership" shall be inserted, and after the word "policy" the words "and the public private partnership policy" shall be inserted;

(ii) in the fifth paragraph, after the words "relating to privatisation" the words "and public private partnership" shall be inserted; and

(iii) after the fifth paragraph, amended as aforesaid, the following new paragraphs shall be inserted, namely:—

"WHEREAS it is expedient to create an enabling environment for development projects and the provision of public infrastructure and related services in Pakistan through private sector participation;

WHEREAS it is expedient to establish a regulatory framework for public private partnerships to mobilize private investment and expertise for the development, financing, operation and maintenance of public infrastructure and services, and to promote efficiency and transparency in such projects;

WHEREAS it is expedient to establish an effective institutional framework and mechanism for carrying out privatisation

and public private partnership transactions in an efficient and expeditious manner;".

3. Substitution of section 2, Ordinance LII of 2000.—In the said Ordinance, for section 2, the following shall be substituted, namely:—

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

- (a) "Below Threshold PPP Projects" means the category of PPP projects referred to in section 27L;
- (b) "Board" means the Board of the Commission;
- (c) "Chairman" means Chairman of the Commission;
- (d) "Commission" means the Privatisation and Public Private Partnership Commission established under section 3;
- (e) "Commission Fund" means the Commission Fund established under section 14;
- (f) "controlled by the Federal Government" means—
 - (i) in the case of a company, if the Federal Government directly or indirectly has the right to appoint a majority of directors or control over management or policy decisions, exercisable by a person individually or through any person acting in concert, directly or indirectly, whether by virtue of Federal Government shareholding, management right, shareholders agreement, voting agreement or otherwise; or
 - (ii) in the case of an entity established by or under an Act of the Majlis-e-Shoora, if the Federal Government has the power to appoint a majority of the persons who are directors of that entity or otherwise has the power to determine the outcome of decisions about the entity's management or financial and operating policies;
- (g) "government agency" means any of the line ministries, attached departments, body corporate, autonomous body of the Federal Government or any organization or corporation owned or controlled by the Federal Government;
- (h) "independent member" means a member who is not an ex-officio member of the Board, is not a member of the Majlis-e-Shoora or a Provincial Assembly, is not a holder of political office, is not in the service of Pakistan and is not an employee of a government agency;
- (i) "member" means a member of the Board;
- (j) "owned by the Federal Government" means—

- (i) in the case of a company, an entity in which the Federal Government directly or indirectly holds fifty percent or more shareholding; and
- (ii) in the case of an entity established by or under an Act of the Majlis-e-Shoora, an entity of, or vested in, the Federal Government;
- (k) "P3A" means the Public Private Partnership Authority established under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017);
- (l) "PPP agreement" means a written agreement between a government agency and a private party for implementation of a PPP project and any other agreement subsidiary or incidental to it;
- (m) "PPP concept proposal" means a PPP project conceptual proposal submitted in accordance with section 27B(6);
- (n) "PPP dispute" means any monetary claim or contractual dispute between a private party and government agency under a PPP agreement;
- (o) "PPP node" means the nodes established within government agencies in accordance with section 27J;
- (p) "PPP project" means a development project, provision of related services or both, under a public private partnership arrangement;
- (q) "PPP project development facility" means the facility established under section 16B;
- (r) "PPP project proposal" shall mean the detailed proposal submitted in the form and in the manner and such requirements as are prescribed from time to time;
- (s) "PPP project support" means the financial or non-financial support provided by the Federal Government, a government agency, or any other public sector entity in relation to a PPP project, which may include the following, namely:—
 - (i) administrative support to the private party consistent with the private party's responsibilities under the PPP agreement and applicable laws for obtaining licenses and clearances from the government, a public sector organization or a government agency, for the purposes of the PPP project on such terms and conditions as may be prescribed; provision of utility connections for power, gas and water at the project site, acquisition of land or rights of way necessary for the PPP project and rehabilitation and resettlement of displaced persons directly required to execute the PPP project,

environmental impact assessment, safeguards and approvals and any other local permitting and approvals;

(ii) asset-based support such as leasing, licensing or grant of right to mortgage and use of land and / or infrastructure facilities owned by the government or a government agency to the private party;

(iii) financial assistance through the viability gap fund;

(iv) guarantees for political or other risks, subject to evaluation under section 27G, including, where applicable, guarantees issued by the Federal Government in accordance with applicable law and the process applicable to the issuance of such guarantees; and

(v) any other support prescribed in respect of PPP projects;

(t) "PPP transaction execution committee" means the committee that may be set up pursuant to section 27H;

(u) "prescribed" means prescribed by rules or regulations made under this Ordinance;

(v) "private party" means a party who is eligible to bid for a PPP project with a government agency in accordance with this Ordinance, and includes a special purpose vehicle incorporated by such party under subsection (7) of section 27A;

(w) "private person" in connection with privatisation transactions, includes an individual, partnership, trust, company or association or body corporate or body of individuals, whether or not having separate legal personality, other than the Federal Government, a Provincial Government, or any entity owned or controlled by the Federal Government or a Provincial Government;

(x) "privatization" includes a transaction by virtue of which any property, right, or interest thereof is transferred to any private person from the Federal Government or any enterprise owned or controlled, wholly or partially, directly or indirectly, by the Federal Government;

Provided that no transaction will be considered for privatization if the value of the transaction is less than the amount as may be prescribed by the Commission or if the transaction has been exempted from the application the Ordinance by the Commission;

(y) "Privatisation Fund" means the Privatisation Fund established under section 16;

(z) "privatisation proceeds" means the proceeds of privatisation received by the Commission;

- (aa) "property" includes any right, title or interest in property, moveable or immovable and in whole or in part, and any means and instruments of production owned or controlled directly or indirectly by the Federal Government or any enterprise owned or controlled by the Federal Government whether in or outside Pakistan;
- (bb) "public contribution fund" means the fund established under section 16C;
- (cc) "public private partnership" means a commercial transaction between a government agency and a private party in terms of which the private party—
 - (i) performs part of a government agency's functions on behalf of it, provides or develops a public asset or service, or assumes the responsible use of public property for a PPP project;
 - (ii) assumes substantial financial, technical or other project risks in connection with performance of the government agency's functions, provision or development of a public asset or service, or the responsible use of public property; and
 - (iii) receives a benefit for performing the government agency's functions, providing or developing a public asset or service, or from using the public property for a PPP project, either by way of —
 - (a) consideration to be paid by the government agency from its budget or revenue; or
 - (b) charges or fees to be collected by the private party from users or customers of a service provided to them, or revenues derived from any approved commercial use of the PPP project or any associated rights or assets; or
 - (c) a combination of such consideration and such charges, fees, or revenues;
- (dd) "regulations" means the regulations made under section 41 of this Ordinance;
- (ee) "regulatory authority" means the Pakistan Telecommunication Authority established under the Pakistan Telecommunication (Re-Organisation) Act, 1996, (Act XVII of 1996), the National Electric Power Regulatory Authority established under the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act XL of 1997), the Oil and Gas Regulatory Authority established under the Oil and Gas Regulatory Authority Ordinance, 2002 (Ordinance XVII of 2002), and any other statutory authority or

body established under any law for the time being in force having regulatory, supervisory, licensing, approval or oversight functions;

(ff) “risk management unit” means the unit established under section 27G;

(gg) “rules” means the rules made under section 40 of this Ordinance;

(hh) “Secretary” means the Secretary of the Commission;

(ii) “staff” means the staff of the Commission and includes a deputationist and a contract employee;

(jj) “users” means users of a PPP project, whether upon payment of charges, fees or otherwise; and

(kk) “viability gap fund” means the fund established under section 16A.”.

4. Amendment of heading of Part II, Ordinance LII of 2000.—In the said Ordinance, in Part II, for the heading, the following shall be substituted, namely:—

**“PART II—PRIVATISATION AND PUBLIC PRIVATE PARTNERSHIP
COMMISSION”.**

5. Amendment of section 3, Ordinance LII of 2000.—In the said Ordinance, in section 3,—

(a) in sub-section (1), after the word “Privatisation”, occurring twice, the words “and Public Private Partnership” shall be inserted;

(b) after sub-section (1), amended as aforesaid, the following new sub-section shall be inserted, namely:—

“(1A) For the removal of doubt, upon the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), any reference to the Commission by its former name of the “Privatisation Commission” in any other law, rule, regulation, notification, order, contract, agreement, instrument or other document, whether made or executed before or after such commencement, shall, unless the context otherwise requires, be construed as a reference to the “Privatisation and Public Private Partnership Commission”.”;

(c) in sub-section (3), in clause (d), for the word “Account” the word “Fund” shall be substituted; and

(d) after sub-section (4), the following new sub-sections shall be added, namely:—

“(5) Upon the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) shall stand repealed, the P3A shall stand dissolved without any requirement of winding up or any further act or formality, and—

(a) all assets, rights, powers, authorities and privileges, and all property, moveable and immovable, cash and bank balances.

reserve funds, investment and all other interests and rights in, or arising out of, such property and all debts, liabilities and obligations of whatever kind of the P3A subsisting immediately before the dissolution shall stand transferred to and vest in the Commission;

- (b) notwithstanding anything contained in this Ordinance or any other law for the time being in force, or in any agreement or other instrument, all officers, consultants, advisers, auditors, employees and other staff of the P3A shall, upon the dissolution of the P3A, be retained by the Commission for a period of six months, or until the expiration of their respective contracts, whichever is earlier, on terms and conditions not less favourable than those applicable to them immediately before the dissolution, and upon the expiry of such period, the Commission may, having regard to its functional requirements, decide whether to reallocate any such person to a position within the organizational structure of the Commission, including by redesignating or reassigning such person, or to discontinue such person's engagement with the Commission, in which case such person shall be entitled to the notice period (or salary in lieu thereof) under the terms and conditions of his contract as applicable to such person immediately before the dissolution of the P3A, together with all dues accrued to him up to the date of such discontinuance;
- (c) the budget provision for the existing P3A shall stand transferred to the Commission Fund;
- (d) any balance standing to the credit of the P3A Fund immediately before the dissolution shall stand transferred to and vest in the Commission Fund;
- (e) all debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the P3A before its dissolution shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for the Commission;
- (f) all suits and other legal proceedings instituted by or against the P3A before its dissolution shall be deemed to be suits and proceedings by or against the Commission and shall be proceeded or otherwise dealt with accordingly; and
- (g) a reference to the P3A in any statutory instrument or document shall, unless the context otherwise requires, be read and construed as reference to the Commission.

(6) Notwithstanding the repeal of the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) and the dissolution of the P3A by sub-section (5), all rules, regulations, notifications, orders or instructions made or issued under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017), in force immediately before the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), shall, so far as they are not inconsistent with any of the provisions of this Ordinance, continue to remain in force and shall be deemed to have been made, issued or granted under this Ordinance until repealed, altered or replaced under this Ordinance:

Provided that, notwithstanding anything contained in this sub-section, the following shall stand repealed upon the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026):

- (a) the Public Private Partnership Authority Working Party Rules, 2021;
- (b) the Public Private Partnership Authority (P3WP) Regulations, 2025;
- (c) the Public Private Partnership Authority (Board Procedures) Regulations, 2024;
- (d) the Public Private Partnership Authority (Financial Management) Regulations, 2022;
- (e) the Public Private Partnership Authority (Approvals and Process Flow) Regulations, 2021;
- (f) the Public Private Partnership Authority (Human Resources) Regulations, 2022; and
- (g) the Public Private Partnership Authority (Qualified Project Criteria) Regulations, 2023:

Provided further that such repeal shall not affect the validity of any act done, action taken, approval granted, decision made, obligation incurred, right accrued, or proceeding commenced under the instruments specified in clauses (a) to (g), before the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026).”.

6. Amendment of section 5, Ordinance LII of 2000.—In the said Ordinance, in section 5,—

- (a) in clause (r), after the word “units” the words “to attract private sector investment or, where applicable,” shall be inserted;

(b) in clause (s), after the word "deregulation" a comma and the words "public private partnerships," shall be inserted, and the word "and", occurring at the end, shall be omitted;

(c) for clause (t), the following shall be substituted, namely:—

“(t) subject to the provisions of this Ordinance, take such measures and exercise such powers as may be necessary for promoting and facilitating realization of the concept and methods of public private partnership, and without prejudice to the generality of the aforesaid,—

- (i) advise the Federal Government, line ministries, and other government agencies on sectoral plans, policies and reforms for promoting private sector participation and investment;
- (ii) advise, facilitate and support government agencies in the identification, development, structuring, procurement and financial close of PPP projects;
- (iii) evaluate value for money by conducting an analysis to evaluate PPP projects;
- (iv) conduct appraisal and project risk analysis for PPP projects, including with respect to legal risk, taking into consideration the overall fiscal risk assessment and view submitted by the risk management unit;
- (v) conduct bankability assessments of PPP projects, including assessment of their commercial, financial, contractual and risk allocation aspects;
- (vi) assess funding requirements, including with respect to the PPP project development facility, the viability gap fund and the public contribution fund;
- (vii) standardize contractual provisions and develop sector specific provisions and templates including a model PPP agreement for PPP projects;
- (viii) perform functions for the efficient development, structuring and execution of public private partnership transactions;
- (ix) monitor PPP projects under implementation in such manner and to the extent as may be determined by the Board from time to time, for which purpose the government agencies shall be obligated to provide the Commission with such information, within such timelines, as may be prescribed;
- (x) interact, collaborate and liaise with international agencies;

- (xi) receive fees and charges as may be prescribed, including inter alia, fees payable upon or following the execution or financial close of a PPP project;
- (xii) issue directions and instructions to any government agency in respect of a PPP project included in the federal PPP pipeline on such administrative, financial, reporting, policy or other matters as may be necessary for the effective development, procurement, execution and implementation of such PPP project;
- (xiii) subject to the approval of the Federal Government and, where the financing constitutes public debt or debt guaranteed by the Federal Government, the concurrence of the Finance Division, taking into account the applicable legal framework governing public debt, facilitate raising of financing for PPP projects implemented under this Ordinance through financial instruments, including bonds, sukuk, securities and funds, and, subject to applicable laws, facilitate the establishment of an infrastructure finance company or such other funds, trusts, schemes, companies or facilities for purposes of facilitating public private partnership arrangements;
- (xiv) provide advisory services in the manner prescribed, either directly or by engaging such international or local consultants as may be deemed appropriate, to government agencies, provincial or other governments within Pakistan and entities owned or controlled by such governments, or to such other entities as may be determined by the Board, and may charge fees for the provision of the aforesaid services; and"; and

(d) after clause (t), substituted as aforesaid, the following new clause shall be added, namely:—

“(u) perform such other functions that are incidental or ancillary to the performance of its functions or the exercise of its powers under this Ordinance.”.

7. Amendment of section 6, Ordinance LII of 2000.—In the said Ordinance, in section 6, in sub-section (1),—

- (a) for the words “Secretary and six other members, or such other higher number” the words “Secretary, the Secretary of the Division to which the business of the Commission is allocated, and not less than eight and not more than twelve other members,” shall be substituted; and
- (b) at the end, the following shall be added, namely:—

“Such additional members shall be independent members, of whom at least one shall have experience in public private partnership transactions, and at least two shall be women.”.

8. Amendment of section 7, Ordinance LII of 2000.—In the said Ordinance, in section 7,—

(a) in sub-section (1), after the word “and” the word “independent” shall be inserted;

(b) in sub-section (3),—

(i) after the word “privatisation”, occurring twice, the words “or public private partnerships” shall be inserted; and

(ii) for the word “other” the word “independent” shall be substituted;

(c) for sub-section (5), the following shall be substituted, namely:—

“(5) The Chairman, Secretary and independent members shall, unless they resign or are removed from office earlier by the Prime Minister on any of the grounds specified in sub-section (6), hold office for a term of three years and shall be eligible for re-appointment for a further term of three years:

Provided that the Chairman, Secretary or any independent member shall not hold office for more than two consecutive terms and, having completed two consecutive terms, shall not be eligible for re-appointment until the expiry of three years from the completion of the second term.”;

(d) in sub-section (6),—

(i) in clause (b), for the words “has been or is adjudged” the words “is an undischarged” shall be substituted;

(ii) in clause (c), the word “or”, occurring at the end, shall be omitted; and

(iii) in clause (d), for the full stop at the end, a semicolon shall be substituted and thereafter the following new clauses shall be added, namely:—

“(e) in case an independent member fails, without the prior consent of the Chairman, to attend more than two consecutive meetings of the Board or to attend at least seventy percent of the meetings of the Board held during any twelve month period following his appointment;

(f) contravenes the code of conduct for members of the Board, as may be prescribed;

(g) fails to meet the performance criteria applicable to his office, as may be prescribed by rules made by the Federal Government, and has been so determined in accordance with the procedure prescribed by such rules:

Provided that no determination under clause (g) shall be based on any vote cast, opinion expressed or dissent recorded by such member in the discharge of his functions under this Ordinance.”;

(e) in sub-section (7), for the words “a member”, occurring thrice, the words “an independent member” shall be substituted;

(f) in sub-section (8),—

(i) after the word “privatisation”, occurring for the first time, the words “or public private partnerships” shall be inserted; and

(ii) after the word “privatisation”, occurring at the end, the words “or public private partnership transaction undertaken under this Ordinance” shall be inserted;

(g) in sub-section (9), after the word “privatisation” the words “or public private partnership transactions undertaken under this Ordinance” shall be inserted; and

(h) in sub-section (10), the word “all” shall be omitted and for the full stop at the end, a comma and the words “subject to such powers and functions as the Board may, from time to time, determine or assign.” shall be substituted.

9. Amendment of section 8, Ordinance LII of 2000.—In the said Ordinance, in section 8,—

(a) for sub-section (2), the following shall be substituted, namely:—

“(2) The meetings of the Board shall be presided over by the Chairman, or where authorized by the Chairman, by the Secretary. Where the office of the Chairman is vacant or the Chairman is unable to perform the functions of his office due to illness, absence or any other cause, the meetings of the Board shall be presided over by the Secretary.”;

(b) in sub-section (3), for the word “third” the word “half” shall be substituted, and after the word “members” a comma and the words “or five members, whichever is higher.” shall be inserted;

(c) in sub-section (4), for the words “or a majority of members may from time to time” a comma and the words “or in his absence, the Secretary, may” shall be substituted;

(d) in sub-section (5), for the word “person” the word “member” shall be substituted; and

(e) in sub-section (6), for the word “Chairman” the words “member presiding over the meeting in accordance with sub-section (2)” shall be substituted.

10. Amendment of section 11, Ordinance LII of 2000.—In the said Ordinance, in section 11, for sub-section (2), the following shall be substituted, namely:—

“(2) Notwithstanding anything contained in the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002), any rules and regulations made thereunder or any similar laws, the decision to engage and the terms of such engagement of agents, advisers, and consultants shall be made by the Commission in accordance with prescribed regulations and such policy guidelines as the Commission may lay down from time to time.”.

11. Amendment of section 13, Ordinance LII of 2000.—In the said Ordinance, in section 13, in sub-section (2), after the word “Privatisation” the words “or public private partnership” shall be inserted.

12. Insertion of new section 13A, Ordinance LII of 2000.—In the said Ordinance, after section 13, the following new section shall be inserted, namely:—

“**13A. Administrative matters.**—Subject to this Ordinance and the rules and regulations made thereunder, the Board shall be competent to determine matters relating to the appointment of officers, experts, advisers, consultants and staff of the Commission, the determination of their terms and conditions of service, including at market-competitive levels, the approval of any expenses required for the performance of its functions under this Ordinance, within the approved budget of the Commission, subject to such administrative instructions as may be approved by the Federal Government from time to time.”.

13. Amendment of section 14, Ordinance LII of 2000.—In the said Ordinance, in section 14,—

(a) in sub-section (1),—

(i) in the opening paragraph, after the word “established” the words “a non-lapsable fund” shall be inserted, for the word “Account”, occurring twice, the word “Fund” shall be substituted, and for the words “funds of the Commission” the words “Commission Fund” shall be substituted;

(ii) in clause (a), after the word “from” a comma and the words “and funds allocated in the annual budget by,” shall be inserted;

(iii) in clause (e), the word “and”, occurring at the end, shall be omitted;

(iv) clause (f) shall be re-lettered as clause (g); and

(v) before clause (g), re-lettered as aforesaid, the following new clause shall be inserted, namely:—

“(f) grants from international donor agencies and other multilateral or bilateral partners; and”; and

(b) in sub-section (3), for the word “Account” the word “Fund” shall be substituted.

14. Amendment of section 15, Ordinance LII of 2000.—In the said Ordinance, in section 15,—

- (a) in the marginal heading and in the opening paragraph, for the word “Account”, wherever occurring, the word “Fund” shall be substituted;
- (b) in clause (d), the word “and”, occurring at the end, shall be omitted;
- (c) in clause (e), for the hyphen at the end, a semicolon and the word “and” shall be substituted; and
- (d) after clause (e), amended as aforesaid, the following new clause shall be added, namely:—

“(f) supporting privatisation and public private partnerships, including expenditure incurred on the identification, preparation, development, appraisal, structuring and monitoring of PPP projects and privatisation transactions, engagement of transaction advisers and other experts and service providers, capacity building, studies and research, promotion and awareness, marketing, consultations, seminars and conferences in relation to public private partnerships and privatisation;”.

15. Amendment of section 16, Ordinance LII of 2000.—In the said Ordinance, in section 16, in sub-section (1),—

- (a) after the first sentence, the following shall be inserted, namely:—

“Upon deposit of the privatisation proceeds of a privatisation transaction in the Privatisation Fund—

(a) the fee payable to the Commission in respect of that privatisation transaction; and

(b) any expenditure incurred, or liabilities assumed, by the Commission in respect of the privatisation of the property;

may be transferred from the Privatisation Fund to the Commission Fund.”;

- (b) for the words “shall, out of” the words “may thereafter, out of” shall be substituted;

(c) for the words “so deposited” the words “remaining in the Privatisation Fund” shall be substituted;

(d) for the words “Commission’s Account” the words “Commission Fund” shall be substituted;

(e) the words “but only” shall be omitted; and

(f) after the words “remaining privatisation proceeds” the words “after the aforementioned transfers and withdrawals” shall be inserted.

16. Insertion of new sections 16A, 16B and 16C, Ordinance LII of 2000.—In the said Ordinance, after section 16, the following new sections shall be inserted, namely:—

“16A. Viability gap fund.—(1) There shall be established a non-lapsable fund through upfront grant-in-aid vested in the Commission known as the “viability gap fund” which shall be managed, controlled and administered by the Commission in the prescribed manner.

(2) The viability gap fund shall comprise the following, namely:—

- (a) an initial amount as specified by the Board;
- (b) such sums as the Federal Government may, from time to time, allocate to it in the annual budget;
- (c) grants-in-aid from the Federal Government;
- (d) grants from international donor agencies and other multilateral or bilateral partners;
- (e) income from investments; and
- (f) any other sources as may be prescribed from time to time.

(3) The viability gap fund shall be established by an amount specified by the Board and the fund may be replenished from time to time in the prescribed manner.

(4) The viability gap fund shall be utilized, inter alia, to provide support to those PPP projects for which a feasibility study has found them to be economically or socially justified but not financially viable.

(5) The criteria for eligibility, approvals, and disbursement mechanism and any other conditions applicable to the viability gap fund shall be as may be prescribed.

16B. PPP project development facility.—(1) There shall be established a non-lapsable facility through upfront grant-in-aid vested in the Commission known as the “PPP project development facility” which shall be managed, controlled and administered by the Commission in the prescribed manner.

(2) The PPP project development facility shall comprise the following, namely:—

- (a) such sums as the Federal Government may, from time to time, allocate to it in the annual budget;
- (b) grants-in-aid from the Federal Government;
- (c) grants from international donor agencies and other multilateral or bilateral partners;
- (d) income from investments;
- (e) fees; and

(f) any other sources as may be prescribed from time to time.

(3) The PPP project development facility shall be utilized, inter alia, to support the preparation of any proposals for PPP projects by a government agency.

(4) The criteria for eligibility, approvals, and disbursement mechanism and any other conditions applicable to the PPP project development facility shall be as may be prescribed.

(5) Subject to such criteria, conditions and exceptions as may be prescribed or determined by the Board, the Commission may recover any amount disbursed from the PPP project development facility from the successful private party or the relevant government agency, as the case may be. Where the relevant government agency is required to reimburse such amount but is unable to do so from its own resources, funds equivalent to such amount shall be reimbursed through additional budgetary allocation to the Commission.

16C. Public contribution fund.—(1) There shall be established a non-lapsable fund vested in the Commission known as the “public contribution fund” which shall be managed, controlled and administered by the Commission in the prescribed manner.

(2) The public contribution fund shall comprise the following, namely:—

(a) such sums as the Federal Government may, from time to time, allocate to it in the annual budget;

(b) grants-in-aid from the Federal Government;

(c) grants from international donor agencies and other multilateral or bilateral partners; and

(d) any other sources as may be prescribed from time to time.

(3) The public contribution fund shall be utilized, inter alia, to meet government agency obligations in respect of PPP projects, including land acquisition, site handover, right of way, and such other enabling actions as may be required in connection with the project in accordance with the terms of the PPP agreement, but shall not be utilized for viability gap funding.

(4) The public contribution fund shall be made available only for such PPP projects as may be selected by the Board on a case-to-case basis.”.

17. Amendment of section 19, Ordinance LII of 2000.—In the said Ordinance, in section 19, after sub-section (3), the following new sub-section shall be added, namely:—

“(4) The Commission may open and maintain one or more bank accounts in respect of any fund, account or facility established under this Ordinance, including separate bank accounts for monies received for specified purposes or subject to specified terms and conditions.”.

18. **Amendment of section 25, Ordinance LII of 2000.**—In the said Ordinance, in section 25,—

- (a) in clause (d), at the end, the word “or” shall be added;
- (b) clause (e) shall be omitted; and
- (c) clause (f) shall be re-lettered as clause (e).

19. **Amendment of section 27, Ordinance LII of 2000.**—In the said Ordinance, in section 27, in sub-section (1), after the word “may” a comma and the words “where there are reasonable grounds to believe that a privatisation transaction involves corruption, collusion or material violation of applicable law,” shall be inserted.

20. **Insertion of new Part V-A, Ordinance LII of 2000.**—In the said Ordinance, after section 27, the following new Part shall be inserted, namely:—

“PART V-A—PUBLIC PRIVATE PARTNERSHIP

27A. PPP Legal and Contractual Framework.—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, government agencies shall be authorized to seek participation from the private sector in appropriate PPP projects in accordance with this Ordinance.

(2) Subject to the provisions of this Ordinance and the rules and regulations made thereunder, government agencies shall be fully empowered to enter into PPP agreements and arrangements with private parties under mutually agreed terms and conditions in one or several PPP projects and may provide PPP project support to private parties on such conditions as deemed fit for the purposes of such PPP projects.

(3) The government agencies shall be competent to pay any fees for services performed by private parties under duly authorized PPP agreements.

(4) A private party may submit a proposal for a PPP project on an unsolicited basis to the Commission or a government agency in the manner meeting such requirements as prescribed, provided that procurement in respect of such PPP project shall be undertaken on a competitive basis and in accordance with the procurement procedures prescribed from time to time, which procedures may contain such incentives for proponents of unsolicited proposals as may be prescribed.

(5) Unless otherwise provided in the PPP agreement, every PPP agreement shall be governed, construed and interpreted in accordance with the laws of Pakistan.

(6) The contents of a PPP agreement relating to PPP projects may be prescribed by regulations from time to time.

(7) For the purposes of implementation of the PPP project, unless otherwise approved by the Board, the private party shall, with or without the participation of the government agency, incorporate a company as a special purpose vehicle to undertake the PPP project.

(8) Subject to applicable laws, the government agency and a private party may enter into any contractual relationship that is capable of providing value for money and affordability for the government agency and the users of the PPP project.

(9) Notwithstanding anything contained in any other law for the time being in force and subject to compliance with the provisions of this Ordinance and the rules and regulations made thereunder, the government agency may, in respect of a PPP project to which this Ordinance applies, —

- (a) transfer an interest, or part of an interest, of the government agency in any present or future assets comprised in the PPP project to the private party;

Provided that the title of any immovable property of a government agency shall not be transferred to the private party undertaking the PPP project;

- (b) transfer to the private party the right to receive directly revenues or receivables of the PPP project during the subsistence of PPP agreement and as provided in the said agreement;
- (c) permit the private party to create security interests over or in respect of the present or future assets created by it, revenues, or receivables, comprised in or expected, in connection with the PPP project in favour of any lender providing loans for the PPP project as provided in the PPP agreement; and
- (d) enter into agreements with lenders to the PPP project in accordance with applicable law.

(10) The Federal Government, the Board, the Commission or the government agency shall not be held liable for any claim of the private party for a risk, which is not specified in the PPP agreement.

(11) Notwithstanding anything contained in PPP agreement or in any other law for the time being in force, the Federal Government or the government agency may recover any undisputed sums due and payable from a private party, or any sums finally determined to be due and payable from a private party in accordance with the PPP agreement, as arrears of land revenue under the provisions of the West Pakistan Land Revenue Act, 1967 (W. P. Act No. XVII of 1967).

(12) The PPP agreement shall be a public document. Any interested person shall be entitled to obtain a copy of it in accordance with the applicable laws.

(13) Subject to the rules and regulations prescribed under this Ordinance, a government agency may enter into a negotiated procurement of a PPP project in case the Federal Government authorizes such an exception, for reasons to be recorded in writing, in the public interest:

Provided that, for the avoidance of doubt, any PPP project so authorized shall be evaluated and shall obtain all other applicable approvals required under this Ordinance, including under section 27C.

(14) Where a government agency considers it necessary to change the scope of a project under implementation beyond the level permissible under the PPP agreement, such change in scope shall not exceed fifteen percent of the scope of the original project as awarded to the private party, and shall require the prior approval of the competent forum of the government agency which originally approved the PPP project, followed by evaluation by the risk management unit and approval of the Board. Where the change in scope results in an increase in the financial entitlement of the private party, the additional financial benefit shall not exceed fifteen percent of the financial entitlement originally provided under the PPP agreement and shall be subject to validation by an independent expert as reasonable and justified.

(15) In exceptional circumstances, a change in scope exceeding the limit specified in sub-section (14) but not exceeding thirty percent of the scope of the original project as awarded to the private party may be approved in accordance with the procedure specified in sub-section (14), and shall thereafter be submitted to the Federal Government for approval, along with the reasons recorded in writing justifying such change. Where such change in scope results in an increase in the financial entitlement of the private party, the additional financial benefit shall not exceed thirty percent of the financial entitlement originally provided under the PPP agreement and shall be subject to validation by an independent expert as reasonable and justified.

(16) Any change in scope approved under sub-section (14) or (15) shall take effect only upon being agreed in writing between the government agency and the private party.

27B. PPP project identification and federal PPP pipeline.—(1) A government agency shall identify and conceptualize potential PPP projects considering, inter alia, its sectoral policies, master plans and other planning documents, and submit such PPP projects to the Board for its consideration. The government agency shall prioritize identification and conceptualization of potential PPP projects within its sector using criteria including supply and demand gaps, social and economic benefits, financial attractiveness, risks and uncertainties involved, and readiness for implementation.

(2) Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the Commission may identify PPP projects having the potential to be implemented on a public private partnership basis and submit such PPP projects to the Board for its consideration. Further, in the event the Central Development Working Party considers that a project placed before it is more suitable to be undertaken on a public private partnership basis, it may forward such project to the Commission for further consideration under this Ordinance.

(3) For the purposes of sub-section (2), the Commission may, by notice in writing, require any government agency to submit a complete list of its existing, proposed and planned projects, including projects under consideration or development, whether or not identified as PPP projects, within fifteen days of receipt of the notice or such longer period as may be specified therein. The government agency shall be obligated to comply with the requirement, and the officer authorized to submit the list shall ensure its accuracy and completeness. The Commission may at any time require such further information, documents or particulars concerning any project as it considers necessary, and the government agency shall provide the same within the period specified by the Commission. Where a government agency fails to comply with any requirement under this sub-section, the Chairman may refer the matter to the concerned Ministry or Division, the Federal Government, or any committee thereof, for ensuring compliance.

(4) For the purposes of considering PPP projects for inclusion in the federal PPP pipeline, the Board shall constitute a committee comprising such members of the Board, officers of the Commission, at least one representative of the Planning Commission, and representatives of such other Divisions or government entities as the Board may consider appropriate, and shall determine the procedure to be followed by such committee. The chairperson of the committee shall invite the head of the government agency relevant to the PPP project under consideration, or his nominee not below the rank of BS-21 or equivalent, to present the views of the government agency in respect of such project. Where considered appropriate, the chairperson of such committee may invite representatives of the relevant Provincial Governments to present their views in respect of the PPP project under consideration. The committee may review potential PPP projects proposed for inclusion in the federal PPP pipeline and shall provide its recommendations, which shall be placed before the Board for consideration and may be accepted, rejected or modified by the Board.

(5) The Commission shall, in respect of each PPP project proposed for inclusion in the federal PPP pipeline, seek in writing the views of the Planning Commission as to whether the proposed PPP project duplicates any project included in the Federal Government's public investment portfolio or conflicts with the Federal Government's development priorities. The Planning Commission may, within seven working days of receipt of the request, provide its views and recommendations in writing to the Commission, which shall be placed before the Board for its consideration. Where no such views or recommendations are received in writing within such period, the PPP concept proposal may thereafter be considered and decided by the Board in accordance with sub-section (6).

(6) The government agency, in accordance with sub-section (1), or the Commission, in accordance with sub-section (2), shall submit a PPP concept proposal to the Board for its review and consideration, in such form and manner and meeting such requirements as may be prescribed from time to time. The head of the

government agency and the Secretary of the concerned line ministry, or their nominees not below the rank of Additional Secretary or equivalent rank, may be invited to attend the meeting of the Board at which potential projects within the relevant sector are considered. Following its review—

- (a) where the PPP concept proposal has been submitted by the government agency, the Board may approve its inclusion in the federal PPP pipeline;
- (b) where the PPP concept proposal has been submitted by the Commission and is endorsed by the relevant government agency, the Board may approve its inclusion in the federal PPP pipeline; and
- (c) where the PPP concept proposal has been submitted by the Commission but is not endorsed by the relevant government agency, the Board may, if it considers the proposal appropriate, recommend its inclusion in the federal PPP pipeline to the Federal Government and, upon approval by the Federal Government, the project shall stand included in the federal PPP pipeline;

Provided that where the Planning Commission has, in the manner and within the period specified in sub-section (5), expressly recommended against the inclusion of a PPP project in the federal PPP pipeline on either of the grounds specified in that sub-section, the Board may, if it considers the project appropriate, recommend its inclusion in the federal PPP pipeline to the Federal Government and, upon approval by the Federal Government, the project shall stand included in the federal PPP pipeline.

(7) A PPP project included in the federal PPP pipeline in accordance with this section shall be developed and implemented only through a public private partnership under this Ordinance and shall not be considered for implementation through any other mode, including through funding from public money under the Public Sector Development Programme:

Provided that nothing in this sub-section shall preclude the provision of viability gap funding, the financing of land acquisition or rights of way, or any other form of government support for such PPP project, including where such funding or support is sourced from, or budgeted under, the Public Sector Development Programme.

(8) Notwithstanding sub-section (7), the Federal Government may, upon a written request by the government agency, upon the recommendation of the Board, or where it otherwise considers it appropriate, approve the removal of a project from the federal PPP pipeline, or its implementation through any other mode, where the Federal Government is satisfied that the project is no longer suitable or viable for implementation as a public private partnership.

(9) Upon inclusion of a PPP project in the federal PPP pipeline, its timely development and implementation shall constitute a key performance indicator for

the concerned government agency, line ministry and persons responsible therein, and shall be taken into consideration for their respective performance evaluations. For this purpose, the Board shall take necessary steps to compile and share appropriate feedback with the relevant Divisions of the Federal Government.

27C. Approval of PPP projects and related matters.—(1) For PPP projects other than Below Threshold PPP Projects, subject to the rules and regulations made under this Ordinance, the following approvals shall be required prior to the execution of the PPP agreement by the government agency, namely:—

- (a) the PPP project proposal shall require approval of the Board;
- (b) in the event the PPP project meets the criteria as may be determined by the Federal Government, the PPP project shall also require approval of the Federal Government;
- (c) any other approvals as may be prescribed from time to time:

Provided that the evaluation by the risk management unit pursuant to sub-section (2) of section 27G shall be provided at such stage and in such manner as may be prescribed:

Provided further that the approval of the Board shall, with respect to compliance with any limits applicable to the fiscal obligations or commitments of the Federal Government under any applicable law or other legally binding instrument, be subject to the concurrence of the risk management unit, to be provided within such period as may be prescribed, and where such concurrence is not provided within such period or is declined, the matter may be placed before the Federal Government for resolution:

Provided further that, in respect of any matter other than the compliance referred to in the preceding proviso, the evaluation of the risk management unit shall only be advisory in nature.

(2) Prior to the execution of the PPP agreement, any change to the proposals, documents or conditions approved under sub-section (1) shall not require fresh approval if the change remains within the thresholds, limits or parameters approved by the relevant approving entity. Any change beyond such thresholds, limits or parameters shall require fresh approval in such manner as may be prescribed.

(3) The process flow for approvals, bidding and contract award shall be as may be prescribed from time to time.

(4) Until the procedure for selection of private parties for PPP projects is prescribed under this Ordinance, the procedure set forth under the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002) and the rules made thereunder shall, mutatis mutandis, apply to such selection, bidding and procurement process, and upon prescription of such procedure under this Ordinance.

the procedure so prescribed shall exclusively govern the bidding and selection process for PPP projects.

(5) Where the implementation of a PPP project requires any approval, budgetary allocation, release, disbursement or other action under any applicable law or governmental approval framework, including the applicable development project approval framework, the government agency shall initiate and diligently pursue such approval or action in parallel with the development of the PPP project. Where the Commission or the government agency considers that any delay or impediment in relation to the foregoing may materially affect the timely implementation of the PPP project, the matter may be placed before the Board, which may make recommendations to the Federal Government for resolution of the matter, and the Federal Government may, subject to applicable law, take such measures or issue such directions as it considers necessary for such purpose.

27D. Savings and transitional provisions with respect to PPP projects.—

(1) Notwithstanding the repeal of the Public Private Partnership Authority Act, 2017 (Act VIII of 2017), or anything contained in this Ordinance or any other law for the time being in force,—

- (a) where, prior to the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), a public private partnership agreement had been validly executed under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) in respect of a PPP project, no further approval shall be required under this Ordinance in respect of such PPP project, and such public private partnership agreement shall be deemed to have been approved and validly executed under this Ordinance, provided that all matters arising after such execution shall be governed by this Ordinance and the rules and regulations made under this Ordinance;
- (b) where, prior to the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), all approvals required under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) had been obtained in respect of a PPP project, or, in the case of a project not falling within the category of qualified projects under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017), all approvals otherwise required had been obtained, such PPP project shall be deemed to have been approved under this Ordinance and may proceed to procurement, selection of the successful bidder or execution of the PPP agreement, unless the Board, at any time before the execution of the PPP agreement, for reasons to be recorded in writing, decides otherwise on the ground of material non-compliance or a fundamental and unforeseen change of circumstances;
- (c) where, prior to the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), a PPP project falling

within the category of qualified projects under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) had obtained the approval of the Board of the P3A, but further approvals required under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) had not been obtained, such approval of the Board of the P3A shall be deemed to be the approval of the Board under this Ordinance in respect of such PPP project, and the project shall thereafter be subject to such further approvals as may be required under this Ordinance:

Provided that where, at any time before the execution of the PPP agreement, any material change is proposed to such PPP project after such deemed approval, the project shall first be submitted to the Board for its approval and shall thereafter be subject to such further approvals as may be required under this Ordinance; and

(d) in any case not falling within clause (a), (b) or (c), where, prior to the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), all approvals required under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) had not been obtained in respect of a PPP project, or, in the case of a project not falling within the category of qualified projects under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017), all approvals otherwise required had not been obtained, such PPP project shall be subject to the approvals required under this Ordinance.

(2) Where any question, difficulty, ambiguity or issue arises in respect of the transition, continuation, approval, procurement, execution or implementation of any PPP project under sub-section (1), the Board may, by resolution and for reasons to be recorded in writing, issue such directions or make such determination as may be necessary to resolve the same, and any such direction or determination shall, without prejudice to any rights or remedies available under section 27K, be final and binding for the purposes of this Ordinance.

(3) Where, prior to the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), a transaction adviser had been engaged by the Commission in respect of any project in the nature of a lease, management contract or concession contract, such project shall continue to be processed, approved, procured and awarded in accordance with the provisions of this Ordinance as in force immediately before the commencement of the Privatisation Commission (Second Amendment) Act, 2026 (of 2026), as if the said Act had not come into force, and all actions taken, decisions made, approvals granted, processes undertaken and engagements made in respect of such project, including the engagement of transaction advisers, shall continue to have full force and effect.

27E. Vesting of PPP project.—(1) Subject to the PPP agreement, the PPP project along with all the movable and immovable properties, the PPP project's

physical assets, licenses, goodwill, trademarks, patents, leases, all rights including intellectual property rights and interests associated with the PPP project shall vest in the private party or the government agency during the tenure of the PPP agreement as provided for in the said agreement:

Provided that in respect of a PPP project the private party shall not create any lien, charge or encumbrance, in favor of the lenders, over the immovable properties of the government agency as collateral, except with the prior consent and approval of the government agency and the Board or except as may have been approved as part of the PPP project proposal;

Provided further that after the expiry of the PPP agreement all the properties as aforesaid shall stand transferred, without any lien, charge or encumbrance, to the government agency or the private party in accordance with the provisions of the PPP agreement;

Provided further that, to the extent any lien, charge or encumbrance referred to in the first proviso has been created with the prior consent and approval of the government agency and the Board, or has been approved as part of the PPP project proposal, any such subsisting lien, charge, encumbrance or security interest in favour of lenders shall be discharged in the manner provided in the PPP agreement.

27F. Responsibility of government agency.—(1) The responsibilities of the government agency in relation to the planning, development, procurement, implementation, execution and monitoring of a PPP project shall be such as may be prescribed under this Ordinance.

(2) Without prejudice to the generality of sub-section (1) in respect of PPP projects, the government agency shall, inter alia, for the purpose of this Ordinance,

- (a) identify, conceptualize and develop the PPP project;
- (b) develop and submit to the Commission a PPP concept proposal for the Board's approval or otherwise;
- (c) undertake or cause to be undertaken a feasibility study for a PPP project, or facilitate the PPP transaction execution committee to undertake or cause to undertake the feasibility study for a PPP project;
- (d) develop and submit to the Commission a PPP project proposal for approval by the Board, and, where a PPP transaction execution committee has been constituted in respect of the PPP project, do so under the direction and guidance of such committee;
- (e) develop and issue, or cause to be developed and issued, a request for proposal including draft of the PPP agreement, and where a PPP transaction execution committee has been constituted in respect of the PPP project, do so under the direction and guidance of such committee;

- (f) subject to requisite approvals, procure and conduct competitive bidding for a PPP project in accordance with this Ordinance and the rules and regulations made under this Ordinance, including negotiation of the PPP agreement to the extent permitted by the Board, and, where a PPP transaction execution committee has been constituted in respect of the PPP project, undertake such procurement, bidding and negotiation under the direction and guidance of such committee;
- (g) following award of a PPP project to the successful private party, execute the PPP agreement and any ancillary or related project documents as the contracting authority, subject to such approvals as may be required under this Ordinance and the rules and regulations made hereunder;
- (h) implement and monitor the project in accordance with the PPP agreement; and
- (i) provide such information to the Commission as may be prescribed from time to time in respect of PPP projects of the government agency.

(3) Where a PPP transaction execution committee has been constituted under section 27H in respect of a PPP project, the functions of the government agency in relation to the development, procurement, award and financial close of such project shall be performed subject to the actions taken and directions issued by the PPP transaction execution committee under section 27H.

27G. Risk management unit.—(1) The risk management unit established under the Public Private Partnership Authority Act, 2017 (Act VIII of 2017) shall be deemed to have been established under this Ordinance, and shall continue to be managed, controlled and administered by the Finance Division.

(2) The risk management unit shall be responsible for fiscal oversight and for evaluation of fiscal and contingent liability exposure for PPP projects. The evaluation shall be required to be undertaken as may be determined by Finance Division in consultation with the Commission.

27H. PPP transaction execution committee.—(1) Where the Chairman considers it appropriate, he may approve the constitution of a PPP transaction execution committee for any PPP project. The Chairman shall consider whether such committee is required at the time of approving the PPP concept proposal, and may, in his discretion, constitute such committee at any stage of the PPP project life cycle up to the financial close of the PPP project.

(2) The PPP transaction execution committee shall consist of an odd number of persons, the majority of whom shall be nominees of the Commission, and the remainder shall be nominees of the relevant government agency.

(3) The nominees of the Commission shall be nominated by the Chairman, who shall also designate one such nominee as chairperson of the committee and the transaction manager of the PPP project, and another as secretary of the committee.

For the purposes of this sub-section, a nominee of the Commission may be an employee, adviser, consultant or any other person nominated by the Chairman.

(4) The quorum for a meeting of the PPP transaction execution committee shall be a majority of the persons constituting the committee, and decisions of the committee shall be made by a majority of those present and voting.

(5) The PPP transaction execution committee shall function as the steering committee for the PPP project and shall perform such functions and make such decisions as may be prescribed for the efficient development, procurement, award and financial close of the PPP project. Without prejudice to the foregoing, such functions may include the procurement, engagement, management and supervision of transaction advisers and other consultants or experts required for the PPP project.

(6) In relation to the development, procurement, award and financial close of the PPP project, the transaction manager shall perform such functions, take such actions and exercise such powers as may be prescribed for the day-to-day management of the PPP transaction.

(7) Where, at any stage of the process, the government agency or its line ministry fails to properly coordinate or cooperate with the PPP transaction execution committee, the chairperson of the PPP transaction execution committee may bring the matter to the notice of the Chairman, who may notify the concerned person to ensure compliance within such time as may be specified. If the matter is not resolved within the specified time, the Chairman may, in his discretion, escalate the matter to an appropriate higher forum including, without limitation, the line ministry, any other concerned Ministry or Division, the Federal Government, or any committee thereof, for purposes of ensuring compliance.

27I. Hiring of consultants and experts.—(1) Notwithstanding anything contained in the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002), any rules and regulations made thereunder or any similar laws, the Board may, by regulations, prescribe the manner, method and procedures for—

- (a) the hiring of transaction advisers by the Commission or government agencies in connection with PPP projects or certain classes thereof, and such prescribed conditions, once notified, shall govern the hiring of consultants by the Commission or government agencies for providing such transactional advisory services to the extent prescribed therein, including with respect to the direct contracting of international financial institutions as transaction advisers for certain PPP projects or classes of PPP projects, to the extent and on such terms and conditions as prescribed therein; and
- (b) the hiring of international and local consultants and experts by the Commission, and such prescribed conditions, once notified, shall exclusively govern the hiring of consultants and experts by the Commission.

(2) Any regulations made under section 31 of the Public Private Partnership Authority Act, 2017 (Act VIII of 2017), including the Public Private Partnership Authority (Direct Contracting of IFIs as Transaction Advisers) Regulations, 2023, shall be deemed to have been made under this section and shall remain in force until amended, repealed or replaced. Any consultants, experts or transaction advisers engaged under such regulations shall be deemed to have been validly engaged under this Ordinance and shall continue to be governed by their respective contractual arrangements.

27J. Public private partnership nodes.—(1) The Board may, in consultation with the relevant line ministry, approve the establishment of a PPP node within any government agency that, in the opinion of the Board, has the potential to undertake PPP projects.

(2) A PPP node may comprise one or more officers, employees, consultants or other persons from the government agency concerned, the Commission, or both, as may be determined by the Board.

(3) The composition, functions, powers, procedures, reporting requirements and administrative support for PPP nodes shall be such as may be prescribed, including matters relating to PPP project identification, preparation, procurement, award, execution, implementation, monitoring and coordination with the Commission.

27K. Settlement of disputes.—(1) All disputes arising between a government agency and a private party shall be decided in accordance with the terms and conditions of the PPP agreement:

Provided that the Federal Government may, subject to such conditions as it may deem appropriate to prescribe (including with respect to any time limit), and subject to any obligations under applicable law, require that the private party submit its claim before the relevant domestic courts or administrative bodies in order to exhaust domestic remedies before seeking recourse to international arbitration:

Provided further that the aforesaid requirement shall be applicable only to PPP agreements executed after the Federal Government has prescribed the requirement.

(2) PPP disputes may also be referred to the Commission to facilitate their resolution and settlement by mediation. Recourse to such mediation shall be governed by prescribed rules or regulations.

(3) Where a PPP agreement provides for resolution of PPP disputes between the parties through arbitration, such disputes shall be resolved in accordance with the arbitration mechanism and the applicable arbitration law specified in the PPP agreement. In all other cases, the Privatization Appellate Tribunal constituted under section 28 shall have exclusive jurisdiction to hear and determine such disputes. For avoidance of doubt, in either case, the dispute may be referred to mediation in accordance with sub-section (2).

(4) Neither the private party nor its agents, its contractor or sub-contractors, shall stop, impede, suspend, either in whole or in part, or cause the suspension of or otherwise delay the provision of, the services to the users on account of pendency of any dispute under the PPP agreement.

27L. Below Threshold PPP Projects.—(1) Notwithstanding anything contained in this Ordinance, an alternative process may be prescribed for the identification, development, approval, procurement, award, execution and implementation of certain categories of PPP Projects, to be called “Below Threshold PPP Projects”, which—

- (a) fall below such monetary threshold, whether by reference to estimated capital cost, project value, public contribution, fiscal exposure or any other financial metric, as may be prescribed; or
- (b) satisfy such other criteria as may be prescribed.

Provided that the Board may, for reasons to be recorded in writing, determine that any PPP project shall not be treated as a Below Threshold PPP Project notwithstanding that it falls below the prescribed monetary threshold or otherwise satisfies the prescribed criteria.

(2) For the avoidance of doubt, where an alternative process is prescribed under sub-section (1), Below Threshold PPP Projects shall be identified, developed, approved, procured, awarded, executed and implemented only in accordance with the process so prescribed, and the procedures set forth in this Ordinance for PPP projects shall not apply to such projects except to the extent expressly provided in the prescribed process.

27M. PPP-related investigations.—(1) The Federal Government or any agency authorized by it may, where there are reasonable grounds to believe that the process for the selection of the private party, or the execution of the PPP agreement, in respect of a PPP project involved corruption, collusion or material violation of applicable law, on its own motion or on a complaint, scrutinize or investigate such process within one year of the financial close pursuant to terms of the PPP agreement.

(2) After the expiry of the period referred to in sub-section (1), no scrutiny or investigation shall be carried out under this section in respect of the process for the selection of the private party or the execution of the PPP agreement.

(3) The Federal Government or any agency authorized by it may scrutinize or investigate, under applicable law, any corruption, collusion or violation of applicable law arising during the implementation, operation or administration of a PPP project, and the limitation period, if any, applicable to such scrutiny or investigation shall be as specified under such applicable law:

Provided that no such scrutiny or investigation shall be carried out after the expiry of one year from the conclusion of the PPP project in accordance with the terms of the PPP agreement.”.

21. Amendment of section 28, Ordinance LII of 2000.—In the said Ordinance, in section 28,—

- (a) for the words “this Act”, wherever occurring, the words “this Ordinance” shall be substituted; and
- (b) in sub-section (1), amended as aforesaid, the following proviso shall be added, namely:—

“Provided that, where an agreement made pursuant to this Ordinance provides for resolution of disputes between the parties through arbitration, such disputes shall be resolved in accordance with the arbitration mechanism and applicable arbitration law specified in such agreement.”.

22. Amendment of section 36, Ordinance LII of 2000.—In the said Ordinance, in section 36, in sub-section (1), after the word “privatisation” the words “or public private partnership” shall be inserted.

23. Amendment of section 37, Ordinance LII of 2000.—In the said Ordinance, in section 37, in sub-section (2), in clause (b), after the word “programme” the words “and the federal PPP pipeline” shall be inserted.

24. Amendment of section 39, Ordinance LII of 2000.—In the said Ordinance, in section 39,—

- (a) for sub-section (2), the following shall be substituted, namely:—

“(2) No current or former Chairman, Secretary, member, officer, official, employee, adviser, consultant or other person who performs or has performed functions for or on behalf of the Commission or the P3A shall be liable in his personal capacity for any act of omission or commission undertaken in good faith in the exercise or purported exercise of any power, or the performance or purported performance of any function, under this Ordinance, the Public Private Partnership Authority Act, 2017 (Act VIII of 2017), or the rules or regulations made thereunder.”; and

- (b) after sub-section (2), substituted as aforesaid, the following new sub-sections shall be added, namely:—

“(3) In the event of any suit, prosecution, inquiry, investigation, complaint or other legal proceeding in respect of any such act or omission, the Commission shall, in accordance with prescribed regulations, provide for such person to be indemnified, including by bearing or reimbursing legal fees, costs and other expenses, unless the relevant act or omission is subsequently determined to have been undertaken in bad faith and with mala fide intent.

(4) Notwithstanding anything contained in any law for the time being in force, no legal action shall be initiated against any current or former Chairman, Secretary, member, officer, official, employee, adviser, consultant or other person who performs or has performed functions for or on behalf of the Commission or the PJA by any government agency for acts of omission or commission in his official capacity, pertaining to this Ordinance, the Public Private Partnership Authority Act, 2017 (Act VIII of 2017), or the rules or regulations made thereunder, unless the said agency obtains prior consent of the Board by an intimation in writing to the Board along with supporting evidence in respect of the charges. The Board shall cause an independent inquiry to be conducted by either a committee comprising at least three persons or an independent firm, appointed or engaged by the Board, in either case not including any member, officer or employee of the Commission, for the purpose of determining whether there is prima facie cause for the legal action on the charges. The committee or firm conducting such inquiry shall provide its findings and recommendations to the Board, and the decision of the Board as to whether to allow the proposed legal action or not, shall be deemed to be final."

25. Amendment of section 41, Ordinance LII of 2000.—In the said Ordinance, in section 41,—

(a) in sub-section (1), at the end, the following shall be added, namely:—

"For the avoidance of doubt, the power to prescribe regulations under any provision of this Ordinance may be exercised whether or not rules have been made under such provision; provided that, where rules have been made, the regulations shall not be inconsistent with such rules and, to the extent of any inconsistency, the rules shall prevail."; and

(b) in sub-section (2), the words "members of" shall be omitted.

26. Amendment of section 42, Ordinance LII of 2000.—In the said Ordinance, in section 42,—

(a) after the words "any other" the word "Federal" shall be inserted; and

(b) after the words "for the time being in force" a comma and the words "which, for the avoidance of doubt, includes, but is not limited to, the Public Procurement Regulatory Authority Ordinance, 2002 (XXII of 2002) and the rules and regulations made thereunder," shall be inserted.

27. Amendment of section 45, Ordinance LII of 2000.—In the said Ordinance, in section 45, after the word "Commission" a comma and the words "or as may otherwise be provided in any agreement executed in accordance with this Ordinance" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Privatisation Commission Ordinance, 2000 (LII of 2000) provides for the establishment of the Privatisation Commission for implementing the privatisation policy of the Federal Government. Public private partnerships at the federal level are, however, governed by a separate statute, namely the Public Private Partnership Authority Act, 2017 (VIII of 2017), and administered by a separate body, the Public Private Partnership Authority. Both frameworks are concerned with mobilizing private sector capital and expertise in relation to public assets, infrastructure and services, and their administration through two separate institutions entails duplication of institutional functions and processes.

2. With a view to establishing a single, effective institutional framework and mechanism for carrying out privatisation and public private partnership transactions in an efficient and expeditious manner, it is proposed to reconstitute the Privatisation Commission as the Privatisation and Public Private Partnership Commission, to repeal the Public Private Partnership Authority Act, 2017 and dissolve the Public Private Partnership Authority, and to vest its assets, liabilities, and functions in the Commission.

3. The Bill, inter alia, provides for—

- (a) the renaming of the Commission and the repeal of the Public Private Partnership Authority Act, 2017, with the transfer of the assets, liabilities, funds and pending proceedings of the Public Private Partnership Authority to the Commission;
- (b) the reconstitution of the Board with a majority of independent members, including members with public private partnership experience and at least two women, fixed terms of office, and clear grounds for disqualification and removal;
- (c) conferring on the Commission the functions of advising on, appraising, structuring, facilitating and monitoring public private partnership projects;
- (d) the establishment of the viability gap fund, the PPP project development facility and the public contribution fund;
- (e) a comprehensive legal framework for public private partnerships in a new Part V-A, including the contractual framework for PPP agreements, a federal PPP pipeline, the approval process, the risk management unit, PPP transaction execution committees, PPP nodes within government agencies, settlement of disputes and an alternative process for below threshold projects; and
- (f) savings and transitional provisions for public private partnership projects initiated under the Public Private Partnership Authority Act, 2017.

4. The Bill is designed to achieve the aforesaid objectives.



Minister-in-Charge