



THE KORANGI FISHERIES HARBOUR AUTHORITY ORDINANCE, 1982



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THE KORANGI FISHERIES HOURBOUR AUTHORITY ORDINANCE, 1982.

ORDINANCE No. XVI OF 1982

[12th July, 1982]

An Ordinance to provide for the establishment of Korangi Fisheries Hourbour Authority.

WHEREAS it is expedient to provide for the establishment of an Authority within the limits of Port Qasim for making all arrangements for the planning, construction, operation, management and maintenance of Korangi Fisheries Harbour for exploiting fisheries resources beyond territorial waters ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

CHAPTER I PRELIMINARY

1. Short title, extent and commencement. This Ordinance may be called the Korangi Fisheries Harbour Authority Ordinance, 1982.

- (2) It extends to the whole of the Korangi Fisheries Harbour.
- (3) It shall come into force at once.

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

- (a) “agency” means any department or organisation of the Federal Government or a Provincial Government and includes a corporation or other body set up or controlled by such Government ;
- (b) “Authority” means the Korangi Fisheries Harbour Authority established under section 4 ;
- (c) “Board” means the Board of Directors constituted under section 6 ;
- (d) “building” includes any factory, industrial or business establishment, shop, godown, warehouse, house, outhouse, hut, hutment, shed, garage, stable, well or platform and any other structure, whether meant for residential or business purposes or not, made of masonry, bricks, wood, mud, thatch, metal or any other material, but does not include a temporary structure made for purposes connected with agriculture ;
- (e) “Chairman” means the Chairman of the Board ;

- (f) “fish” means any species of fish or aquatic animal including whales, seals, porpoises, turtles, shell-fish, oyster, crustaceans, ascidians and spawn and eggs of such animals ;
- (g) “Harbour area” means the area falling within the limits of Korangi Fisheries Harbour as may be defined for the purposes of this Ordinance ;
- (h) “land” includes buildings and benefits arising out of land and things attached to the earth or permanently fastened to anything attached to the earth and the foreshore and the bed of sea ;
- (i) “local body” means a local council or council constituted under a law relating to local government ;
- (j) “member” means a member of the Board ;
- (k) “regulations” means regulations made under this Ordinance ;
- (l) “rules” means rules made under this Ordinance ; and
- (m) “vessel” includes any fishing boat and fishing craft of whatever size and in whatever way propelled which is for the time being employed in fishing.

3. Declaration of Harbour areas.—(1) The Federal Government may, by notification in the official Gazette, within the limits of Port Qasim, define the limits of Korangi Fisheries Harbour for the purposes of this Ordinance ; and may, from time to time, by a like notification, alter such limits.

(2) The limits defined under clause (1) may include any wharves, buildings and other works made on behalf of the public for convenience of traffic, for safety of vessels, or for the improvement, maintenance and good government of the Harbour.

CHAPTER II

ESTABLISHMENT OF THE AUTHORITY

4. Establishment of the Authority.—(1) There shall be established an Authority to be known as the Korangi Fisheries Harbour Authority for carrying out the purposes of this Ordinance.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire and hold property, both movable and immovable, and shall by its name sue and be sued.

5. Management.—(1) The general direction and administration of the Authority and its affairs shall vest in the Board, which may exercise all powers and do all acts and things which may be exercised or done by the Authority.

(2) The Board in discharging its functions shall act on sound principles of fisheries harbour planning, construction, operation, management and maintenance and shall be guided on questions of policy by such directions as the Federal Government may, from time to time, give.

(3) If any question arises as to whether any matter is a matter of policy or not, the decision of the Federal Government shall be final.

6. Constitution of the Board.—(1) The Board shall consist of not less than seven and not more than eleven members, including the Chairman, consisting of—

- (a) the Chairman, to be appointed by the Federal Government ;
- (b) the Managing Director of the Authority ;
- (c) a Representative of the Government of Sind ;
- (d) the Director, Marine Fisheries Department ;
- (e) the Director, Fisheries Department, Government of Sind ;
- (f) a nominee of the Fish Processors' Association ;
- (g) a nominee of local fishermen's association ; and
- (h) such other members as the Federal, Government may appoint.

(2) The Chairman and members, other than *ex-officio* members, shall, unless the Federal Government otherwise directs hold office for a period of three years.

(3) Any person ceasing to be Chairman or a member of the Board by reason of the expiry of the term of his office shall be eligible for re-appointment for another term of three years or for such shorter term as the Federal Government may decide.

(4) No act or proceeding of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of the Board.

(5) The Chairman and any member may, by writing under his hand addressed to the Federal Government, resign his office:

Provided that his resignation shall not take effect until accepted by the Federal Government.

7. Duties and Functions of Chairman and members.—(1) The Chairman and members shall discharge such duties and perform such functions as are assigned to them by or under this Ordinance.

(2) Until the Board is duly constituted, the Chairman shall, subject to such directions as the Federal Government may, from time to time give, exercise the powers, discharge the duties and perform the functions of the Board.

8. Headquarters of the Authority and meetings of the Board.—(1) Until the Authority establishes its headquarters elsewhere within the Harbour area, its headquarters shall be situated at Karachi.

(2) The meetings of the Board shall be held at such times and places and in such manner as the regulations may provide:

Provided that, until regulations are made in this behalf, the meetings of the Board shall be held as and when convened by the Chairman.

CHAPTER III

POWERS AND DUTIES OF THE AUTHORITY

9. Powers of the Authority.—(1) Subject to the other provisions of this Ordinance, the Authority may take such measures and exercise such powers as may be necessary for the carrying out of the purposes of this Ordinance.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), the Authority may—

- (a) incur any expenditure approved in the budget necessary for carrying out the purposes of this Ordinance ;
- (b) acquire any land in the Harbour area ;
- (c) hold, control and administer the property and the funds of the Authority including funds for specific purposes ;
- (d) enter into and perform all such contracts as it may consider necessary ;
- (e) cause removal of any works obstructing the execution of any of its schemes;
- (f) seek and obtain advice and assistance for the preparation of any planning scheme or for the execution of any schemes from any local body or agency and such local body or agency shall give the advice and assistance sought by the Authority to the best of its liability, knowledge and judgement, and additional expenditure, if any, involved in giving such advice or assistance shall be borne by the Authority ;
- (g) undertake the planning, detailed designing and supervision of the construction work required for the Harbour area ;
- (h) select and engage consultants to assist in the planning, detailed designing and supervision of the construction work required for the Harbour area ;
- (i) procure all goods and services necessary for construction of the Harbour area, and execute such construction work;
- (j) undertake the efficient operation of Harbour facilities and carry out maintenance and repairs or Harbour structures, buildings, installations, internal roads and equipment and undertake periodic inspection of all facilities to ensure that they meet statutory standards of safety and hygiene ;
- (k) ensure that essential utilities are provided and are maintained to a high standard ;

- (l) regulate traffic within the Harbour area and make necessary security arrangements ;
- (m) acquire, hold and dispose of property, both movable and immovable, provided that the Board shall not be competent to acquire or dispose of any immovable property without the previous approval of the Federal Government;
- (n) regulate, determine and administer all matters concerning the Authority and do all such acts and things as are necessary for the purpose ;
- (o) submit the budget of the Authority to the Federal Government for approval;
- (p) arrange for the Audit of the accounts of the Authority ;
- (q) with the previous approval in writing of the Federal Government, raise funds and borrow money on such terms as may be approved by the Federal Government; and
- (r) carry out any other important work not specified in this section, if necessary and appropriate for carrying out the purposes of the Authority.

(3) The Authority shall frame—

- (a) a scale of charges to be levied for the use of utility services, for registration of fishermen, producers, buyers, retailers, wholesalers, processors, ship-chandlers, exporters of fish and fish products, users of all types of vehicles and transport and hotel management, hawkers, shopkeepers, who may use the premises of the Harbour area, and also such other charges which the Board may deem fit and necessary to generate funds for the operation, repairs, maintenance, up-keep and effective management and control of the Harbour area ;
- (b) rules for appropriate arrangements for a wholesale auction of fish on the premises of the Harbour area, and cause the auction fees to be received therefrom to be credited to the account of the Authority for the purpose of funding of the operation, maintenance, repair and up-keep of the Harbour area ; and
- (c) regulations for the recovery of charges, fees or levies which may be due to the Authority for the use of its facilities and services.

10. Managing Director.—(1) The Federal Government shall select and appoint a whole-time Managing Director, to serve as a member of the Board, and to exercise effective control over, and make all decisions necessary for, the smooth functioning of the day to day affairs of the Authority, under the general supervision of the Board.

(2) In particular and without prejudice to the generality of the foregoing power, the Managing Director shall—

- (a) be responsible for, and have the authority necessary for overseeing and implementing in an expeditious and efficient manner, the construction of the Harbour area ;

- (b) have effective control of the Harbour area as a wholesale fish market and all other water front installations and establishments to be built by the Authority ;
- (c) subject to the concurrence of the Federal Government and the Board, have the power to frame rules and regulations for the effective planning, construction, operation, management and maintenance of the Harbour area ;
- (d) subject to the rules, allot or lease suitable plots of land to private individuals or firms for the establishment of boat building yards, fish processing industries, ice plants, cold storage facilities and related ancillary activities ;
- (e) have the power and responsibility to—
 - (i) exercise administrative control over the personnel of the Authority ;
 - (ii) exercise, in respect of the Authority, such other management, administrative and financial powers as deemed appropriate by the Authority ;
 - (iii) submit the annual budget proposals of the Authority to the Board ;
 - (iv) maintain the accounts of the Authority ;
 - (v) prepare the annual report of the Authority for the Board and the Federal Government ;
 - (vi) exercise such powers as the Board may delegate to him ; and
 - (vii) act on behalf of the Authority, in any emergency, subject to the obligation to report such action to the Board at its next meeting and to seek the Board's ratification of any action so taken.

THE PARTISAN CODE

CHAPTER IV ESTABLISHMENT

11. Appointment and functions of Directors, etc.—(1) The Board shall appoint a Director of Administration, a Director of Operations, a Harbour Master and an Engineer having such qualifications and on such terms and conditions as may be prescribed by regulations.

(2) The Director of Administration shall supervise the personnel, accounts, public relations and general administration and shall also keep records and statistics.

(3) The Director of Operations shall supervise management of market, control maintenance of on-shore transport within the Harbour area and be responsible for general harbour management, including docking and quaywall activities, maintenance of navigational aids, operation of stores within the Harbour and supervision of the Harbour.

(4) The Harbour Master shall supervise the security services for on-shore facilities and shall assist the Director of Operations in the supervision of the Harbour.

(5) The Engineer shall assist the Managing Director during the period of construction work in the Harbour area in over seeing and monitoring the planning, designing and construction of the Harbour facilities.

12. Recruitment, conditions of service for officers, servants etc.—The Authority shall, by regulations made with the prior approval of the Federal Government, lay down the procedure for the appointment of its officers and servants, and the terms and conditions of their service, including the constitution and management of a provident fund for them, and shall be competent to take disciplinary action against them.

13. Members and officers to be public servants. The Chairman, members, officers and servants of Act the Authority shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

14. Indemnity. No suit, prosecution or other legal proceedings shall lie against the Authority, the Board, the Chairman, or any member, officer or servant of the Authority in respect of anything in good faith done or intended to be done under this Ordinance.

15. Delegation of powers to Chairman, etc. The Authority may by general or special order, delegate to the Chairman or a member or an officer of the Authority any of its powers, duties or functions under this Ordinance, subject to such conditions or limitations as may be specified in the order.

CHAPTER V

FINANCE

16. Korangi Fisheries Harbour Authority Fund.—(1) There shall be formed a fund to be known as the “Korangi Fisheries Harbour Authority Fund” which shall vest in the Authority and shall be utilized by the Authority to meet the charges in connection with its functions under this Ordinance.

(2) To the credit of the Korangi Fisheries Harbour Authority Fund shall be placed—

- (a) grants made by the Federal Government ;
- (b) loans obtained from the Federal Government ;
- (c) grants made by local bodies ;
- (d) sale proceeds of movable and immovable property and receipts for services rendered ;
- (e) loans obtained by the Authority with the special or general sanction of the Federal Government ;

- (f) foreign aid and loans obtained from any source outside Pakistan with the sanction of, and on such terms as may be approved by, the Federal Government ;
- (g) proceeds of all charges and recoveries made under this Ordinance ; and
- (h) all other sums receivable by the Authority.

17. Budget.—(1) In the month of November each year, the Authority shall submit to the Federal Government for approval a statement of the estimated receipts and expenditure in rupees in respect of the next financial year.

(2) In the manner prescribed by the Federal Government, the Authority shall also submit to the Federal Government for approval a statement of the estimated receipts and expenditure in foreign exchange in respect of the next financial year.

(3) The Authority shall obtain specific sanction of the Federal Government in respect of each individual scheme costing two million and five hundred thousand rupees non-recurring or five hundred thousand rupees recurring or more to be financed out of the Korangi Fisheries Harbour Authority Fund.

18. Audit and Accounts.—(1) The accounts of the Authority shall be maintained by the Authority in such forms as may be prescribed by the Auditor-General of Pakistan consistent with the requirements of this Ordinance.

(2) The accounts of the Authority shall be audited by not less than two auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961, appointed by the Federal Government in consultation with the Auditor-General of Pakistan, on such remuneration, to be paid by the Authority, as the Federal Government may fix.

(3) Notwithstanding the provisions of sub-section (2), the Auditor-General of Pakistan may, either of his own motion or upon request received in this behalf from the Federal Government, undertake such audit of the accounts of the Authority at such time as may be considered necessary, and the Authority shall, at the time of such audit, produce the account books and connected documents at such place or places as the Auditor General may fix, and furnish such explanations and information as the Auditor-General or an officer authorized by him in this behalf may ask for.

(4) Every auditor appointed under sub-section (2) shall be given a copy of the annual balance sheet of the Authority, and shall examine it together with the accounts and vouchers relating thereto and shall have a list delivered to him of all books kept by the Authority; and shall at all reasonable times have access to the books, accounts and other documents of the Authority, and may in relation to such accounts examine any officer of the Authority.

(5) The auditors shall report to the Federal Government upon then annual balance sheet and accounts and in their report state whether in their opinion the balance sheet is a full and fair balance sheet containing all necessary particulars and properly drawn up so as to exhibit a true and correct view of the state of the Authority's affairs, and, in case they have called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

(6) The Federal Government may at any time issue directions to the auditors requiring them to report to it upon the adequacy of measures taken by the Authority for the protection of the

interests of the Federal Government and of the creditors of the Authority or upon the sufficiency of their procedure in auditing the accounts of the Authority, and may at any time enlarge or extend the scope of the audit or direct that a different procedure in audit be adopted or that any other examination be made by the auditors if in its opinion the public interest so requires.

(7) The Authority shall comply with every direction issued by the Federal Government for the rectification of matters objected to in audit.

19. Account. The Authority shall, with the prior approval of the Federal Government, open an account in any scheduled Bank in Pakistan.

CHAPTER VI

PENALTY AND PROCEDURE

20. Penalty. Whoever contravenes any provision of this Ordinance or any rule or regulation made or scheme sanctioned thereunder shall, if no other penalty is provided for such contravention, be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

21. Penalty for evading rates, etc. Any person who removes or attempts to remove, or abets within the meaning of the Pakistan Penal Code (Act XLV of 1860), the removal of goods, vessel, animal or vehicle with the intention of evading r payment of tolls, dues, rates or charges lawfully payable in respect thereof shall be punishable with fine which may extend to two thousand rupees.

22. Compensation for damage to property of Board.—(1) In case damage or mischief is done to any wharf, dock, quay, jetty, pier or work constructed or acquired by the Authority under this Ordinance by any vessel through the negligence of the master thereof or of any of the mariners or persons employed therein, not being in the service of the Authority, any Magistrate of the first class having jurisdiction in the Harbour area may, on the application of the Board and on declaration by it that payment for such damage or mischief has been refused or has not been made on demand, issue a summons to the master or owners of such vessel, requiring him to attend on a day and at an hour named in the summons to answer questions touching such damage or mischief.

(2) If, at the time appointed in the summons, and whether the persons summoned appear or not, it is proved that the alleged damage was done through such negligence as aforesaid, and that the pecuniary amount of the same does not exceed two thousand rupees, the Magistrates may issue warrant of distress, under which a sufficient portion of the boats, masts, ropes, cables, anchors or stores of the vessel may be seized and sold to cover the expenses of and attending the execution of the distress, and the pecuniary amount of damage as aforesaid, and such amount shall be paid to the Authority out of the proceeds of the distress.

23. Cognizance of offences. No court shall take cognizance of any offence punishable under this Ordinance except on a complaint in writing made by the Authority or an officer authorized for the purpose by the Authority.

24. Recovery of dues as arrears of land revenue. All fees and sums due on account of property for the time being vested in the Authority and all arrears of tolls, charges, rates and dues

imposed under this Ordinance or any rules or regulations may be recovered as arrears of land revenue, in addition to the other modes provided by this Ordinance.

CHAPTER VII MISCELLANEOUS

25. Submission of yearly reports and returns.—(1) The Authority shall submit to the Federal Government, as soon as possible after the end of every financial year but before the last day of December next following, a report on the conduct of its affairs for that year.

(2) The Federal Government may, after giving sufficient notice to the Authority, require it to furnish the Government with—

- (i) any return, statement, estimates, statistics, or other information regarding any matter under the control of the Authority ; or
- (ii) a report on any subject with which the Authority is concerned ; or
- (iii) a copy of any document in the charge of the Authority ; and the Authority shall comply with every such requisition.

26. Members not personally liable. No member shall be liable for any contract made or expense incurred by or on behalf of the Board; but the funds from time to time in the hands of the Board shall be liable for and chargeable with all contracts made in the manner provided in this Ordinance.

27. Limitation of suits, etc.—(1) No suit shall be commenced against any member, officer or servant of the Authority for anything done or purporting to have been done in pursuance of this Ordinance without giving to such person one month's previous notice in writing of the intended suit and of the cause thereof, nor after six months from the accrual of the cause of such suit ¹[:]

²[Provided that a suit instituted without such notice shall not be dismissed only on that ground, but the plaintiff shall not be entitled to any costs.]

(2) In the case of a suit for damages, if tender of sufficient amends shall have been made before the suit was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

28. Board not responsible for certain acts of its officers and servants. The Board shall not be responsible for any dis-feasance, malfeasance or non-feasance of any officer or servant appointed under this Ordinance or of any assistant or deputy of any such officer or of any person acting under the authority or direction of or in subordination to any such officer, assistant or deputy, nor for any damage sustained by any vessel in consequence of any defect in any of the moorings, hawsers or other things belonging to the Authority which may be used by such vessel:

Provided that nothing in this section shall protect the Board from a suit in respect of damages to or loss of goods landed or shipped by them or retained in their custody.

29. Power to dispose of land. The Authority may retain, or may lease, sell, exchange, rent or otherwise dispose of any land vested in it.

¹Subs. by the Korangi Fisheries Harbour (Amdt.) Act, 1985 (7 of 1985), s. 2, for full-stop.

²Proviso Added *ibid*.

30. Power of Authority to make rules and regulations. The Authority may, with the prior sanction of the Federal Government, make rules and regulations for carrying out the purposes of this Ordinance.

31. Control of Federal Government over acts and proceedings of Board. All acts and proceedings of the Board shall be subject to the control of the Federal Government, and the Federal Government may suspend or modify any such acts or proceedings.

32. Dissolution of Authority and transfer of its assets and liabilities.—(1) The Federal Government may, by notification in the official Gazette, declare that the Authority shall be dissolved on such date as may be specified in such notification, and the Authority shall stand dissolved accordingly.

(2) On and from the said date—

- (a) (i) all properties, funds and dues placed at the disposal of the Authority by the Federal Government ; and
- (ii) all properties, funds and dues exchanged for, derived from, or otherwise attributable to, the properties, funds and dues referred to in sub-clause (i), which immediately before the said date, were held by or were realisable by the Authority.

shall vest in, and be realisable by the Federal Government.

- (b) all properties, funds and dues, other than those referred to in clause (a), which, immediately before the said date, were vested in or were realisable by the Authority shall vest in and be realisable by the Federal Government or such agency as the Federal Government may determine and its decision thereon shall be final ;
- (c) all liabilities which immediately before the said date, were enforceable against the Authority shall be assumed by and be enforceable against the Federal Government or such agency as the Federal Government determines under clause (b), as the case may be ;
- (d) for the purpose of completing the execution of any scheme which has not been fully executed by the Authority and of realising properties, funds and dues referred to in clauses (a) and (b), the functions of the Authority under this Ordinance shall be discharged by the Federal Government or by the agency determined by the Federal Government under clause (b), as the case may be;
- (e) the agency referred to in clauses (b), (c) and (d) shall keep such accounts of all moneys respectively received and expended by it under this Ordinance as the Federal Government may prescribe.

33. Removal of difficulties. If any difficulty arises in giving effect to any of the provisions of this Ordinance, especially in respect of the adjustment of the powers, functions and jurisdiction of the Authority under this Ordinance and those of the Port Qasim Authority under the port Qasim Authority Act, 1973 the Federal Government may make such order as may appear to it to be necessary or expedient for the purpose of removing the difficulty.