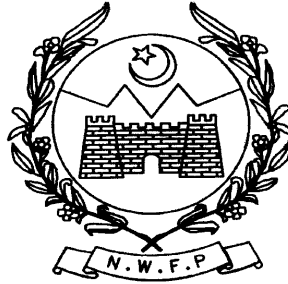


EXTRAORDINARY

REGISTERED NO. P.111

GOVERNMENT



GAZETTE

North. West Frontier Province

Published by Authority

PESHAWAR, WEDNESDAY, 24TH FEBRUARY, 1993.

**PROVINCIAL ASSEMBLY SECRETARIAT,
NORTH.WEST FRONTIER PROVINCE**

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**NOTIFICATION
24th FEBRUARY, 1993.**

No. PA/NWFP/Legis/93/4866. The Sarhad Hydel Development Organization Bill, 1993, having been passed by the Provincial Assembly of the North-West Frontier Province on the 14th February, 1993 and assented to by the Governor of the North-West Frontier Province on the 22nd February, 1993 is hereby published as an Act of the Provincial Legislature of North-West Frontier Province.

THE SARHAD HYDEL DEVELOPMENT ORGANIZATION ACT, 1993.

N.W.F.P. ACT NO. 1 OF 1993

[First published after having received the assent of the Governor of the North-West Frontier Province in the Gazette of North-West Frontier Province (Extraordinary), dated the 24th February, 1993].

To provide for the development of power resources of the North-West Frontier Province.

Preamble WHEREAS it is expedient to provide for the development of power resources of the North-West Frontier Province.

It is hereby enacted as follows:-

CHAPTER I Preliminary

Short title, Extent and Commencement.	1.	(1) This Act may be called the Pakhtunkhwa Hydel Development Organization (Amendment) Act, 2013	PHYDO (Amendments) Act 2013
		(2) It extends to the whole of the North-West Frontier Province	
		(3) It shall come into force at once.	
Definitions	2.	In this Act, unless there is anything repugnant in the subject or context:-	
	(i)	“Authority” means the Water and Power Development Authority established under the Pakistan Water and Power Development Authority Act, 1958 (W.P. Act XXXI of 1958);	
	(ii)	“Board” means the Board of Directors of the Pakhtunkhwa Hydel Development Organization;	PHYDO (Amendments) Act 2013
	(iii)	“Chairman” means the Chairman of the Board;	
	(iv)	“Federal Government” means the Government of Islamic Republic of Pakistan;	
	(v)	“Government” means the Government of the North-West Frontier Province;	
	(vi)	“land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;	
	(vii)	“local body” means a Local Council Constituted under the North-West Frontier Province Local Government Ordinance, 1979 (N.W.F.P. Ord. No. IV or 1979);	
	(viii)	“Managing Director” means the Managing Director of the Pakhtunkhwa Hydel Development Organization;	PHYDO (Amendments) Act 2013
	(ix)	“member” means a member of the Board;	
	(x)	“Organization” means the Pakhtunkhwa Hydel Development Organization established under section 3;	PHYDO (Amendments) Act 2013
	(xi)	“Officer” means an officer of the Organization including the Managing Director;	
	(xii)	“power” includes hydraulic power, electrical energy, steam, gas or any other power notified as such by Government in the Official Gazette;	

- (xiii) “prescribed” means prescribed by rules and regulations;
- (xiv) “Province” means the North-West Frontier Province;
- (xv) “regulations” means regulations framed under this Act;
- (xvi) “rules” means rules made under this Act;
- (xvii) “section” means a section of this Act, and
- (xviii) “Scheduled Bank” means a Bank for the time being included in list of Banks maintained under sub-section (1) of section 37 of the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

CHAPTER II

Constitution of Board

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| 3. | (1) | There shall be established an Organization to be Known as the Pakhtunkhwa Hydel Development Organization | Establishment of Organization | PHYDO (Amendments) Act 2013 |
| | (2) | The Organization shall be a body corporate having power to acquire, hold and sell property, both movable and immovable, shall have perpetual succession and a common seal and shall by the said name sue and be sued. | | PHYDO (Amendments) Act 2013 |
| | (3) | The head office of the Organization shall be at Peshawar | | |
| 4. | (1) | The powers, functions and management of the Organization shall vest in a Board constituted under sub-section (2) | Board of Directors | PHYDO (Amendment) Act, 2013 |
| | (2) | The Board shall consist of the following: | | |
| | i. | the Chief Minister of the Khyber Pakhtunkhwa | Chairman | |
| | ii. | the Minister for Energy and Power; | Member | |
| | iii. | the Minister for Finance | Member | |
| | iv. | the Minister for Planning & Development | Member | |
| | v. | the Chief Secretary to Government | Member | |
| | vi. | the Additional Chief Secretary to Government | Member | |
| | vii. | the Secretary to Govt. Finance department | Member | |
| | viii. | the Secretary to Govt. Energy & Power Department. | Member | |

	ix.	the Secretary to Govt. of Irrigation Department	Member	
	x.	one financial expert to be nominated by the Chairman of the Board	Member	
	xi.	one expert from hydro sector to be nominated by the Chairman of the Board	Member	
	xii.	the president of the Khyber Pakhtunkhwa Chamber of Commerce and Industry; and	Member	
	xiii.	the Managing Director of the Organization,	Member-cum-Secretary	
4 A.		Executive Committee-(1) There shall be an Executive Committee consisting of:-		PHYDO (Amendment) Act 2013
	i.	the Minister for Energy and Power;	Chairman	
	ii.	the Additional Chief Secretary to Government;	Member	
	iii.	the Secretary to Govt., Finance Deptt.	Member	
	iv.	the Secretary to Govt., Energy & Power Deptt.	Member	
	v.	the Managing Director of the Organization.	Member	
	(2)	The Executive Committee shall perform such functions as may be delegated to it by the Board from time to time.		
5.	(1)	Government shall appoint preferably a bonafide resident of the North-West Frontier Province with the prescribed experience as the Managing Director of the Organization.	Managing Director	
	(2)	The Managing Director shall be the Chief Executive of the Organization and shall be responsible for its day to day administration and management. He shall also be responsible to carry out and implement the orders and decisions of the Board.		
	(3)	The term of office of the Managing Director shall be four years. On expiry of his term of office, the Managing Director shall be eligible for re-appointment for a subsequent term or terms or for such shorter term as Government may determine in consultation with the Board.		
	(4)	The Managing Director may, at any time, resign from his office and by virtue of his resignation, he shall cease to be member of the Board. Or if		

he resigns from the membership of the Board,
he shall cease to be the Managing Director;

Provided that his resignation in either case shall
not take effect until accepted by Government.

6. There shall be a full-time Secretary of the Board, who shall, under the general supervision of the Managing Director, be responsible for dealing with the proceedings of the meetings and other matters entrusted by the Organization.

Secretary

7. (1) The Board may employ such experts, advisers, consultants and other officers, as it considers necessary for the efficient performance of functions of the Organization, on such terms and conditions as may be determined by the Board.

Other officers.

- (2) The Managing Director, in case of emergency, may appoint such experts, advisers, consultants and other officers as may be considered necessary;

Provided that every appointment made under this sub-section shall be reported to the Board without un-necessary delay and shall not continue beyond six months unless approved by the Board.

**PHYDO
(Amendments)
Act 2013**

8. Government may, by Notification, remove the Managing Director.

**Removal of
Managing
Director.**

- (a) If he refuses or fails to discharge or becomes, in the opinion of Government, incapable of discharging his responsibilities under this Act; or
- (b) if he has been declared insolvent; or
- (c) if he has been declared to be disqualified for the employment, or has been dismissed from, the service of Pakistan, or has been convicted of an offence involving moral turpitude; or
- (d) if he has knowingly acquired or continued to hold without the permission in writing of Government, directly or indirectly or through a partner, any share or interest in any contract or employment with, or on behalf of, the Organization or in any land or property which, in his knowledge, is likely to benefit or has benefited as a result of the operation of the Organization.

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| 9. | (1) | The Board shall meet at least once in every six months in such manner and at such time and place as may be prescribed by the Chairman; | Meeting of the Board | PHYDO (Amendments) Act 2013 |
| | (2) | The Chairman, or in his absence, a member authorized by him to preside over the meeting and three other members shall be present to constitute a quorum at meeting of the Board. | | PHYDO (Amendments) Act 2013 |

CHAPTER III

Power and duties of the Organization

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| 10. | (1) | Subject to any other law for the time being in force, the Organization shall prepare, for the approval of Government, a comprehensive plan for the development and utilization of the power and energy resources of the Province. The Organization may also undertake such other schemes as Government may direct. | General powers and duties of the Organization and framing of schemes |
| | (2) | Without prejudice to the provisions of sub-section (1), the Organization may frame a scheme or schemes for the Province or any part thereof providing for all or any of the following matters, namely:- | |
| | (i) | the generation, transmission and distribution of power; | |
| | (ii) | the construction, maintenance and operation of power houses, grids and microgrids, transmission and distribution lines specially in the remote mountainous areas of the Province. | |
| | (3) | Every scheme prepared by the Organization under sub-sections (1) and (2) shall be processed in accordance with Government procedures or instructions, which may be issued to the Organization from time to time. The Organization will submit to the Government periodical reviews and other reports required by it. | |
| | (4) | Government may sanction or may refuse to sanction or may return for reconsideration or further examination any scheme submitted to it under sub-section (3), or may call for such further details or information about any such scheme as it may consider necessary. | |

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- (5) The Organization will act as adviser to the Government on all matters regarding issuance of licenses and joint ventures in the power sector.
- (6) The Chairman may request the Government to provide assistance for the efficient functioning of the organization.
11. The Organization, if it considers necessary or expedient for carrying out the purposes of this Act, may:-
- Survey and experiments.**
- (a) cause studies, pre-feasibility studies, detailed feasibility studies, surveys experiments of technical research to be made, or
- (b) contribute towards the cost of any such studies surveys, experiments or technical research made by any other agency.
12. Consequent upon the winding up of the Small Hydel Development Organization under section 12 of the Sarhad Hydel Development Organization Ordinance, 1992 (NWFP Ordinance II of 1992), having since been repealed with effect from the 3rd June, 1992, all officers, servants and other employees of the aforesaid Organization transferred to the Organization established under the repealed Ordinance shall be officers, servants and employees of the Organization established under this Act and shall continue to work on the same terms and conditions as applicable to them immediately before the commencement of this Act.
- Winding up of the Hydel Development Organization and transfer of assets liability.**
- 13 (1) Subject to the provisions of any other law for the time being in force, the Organization.
- Control over power houses, grids and transmission and distribution lines.**
- (i) shall have control over the operation of all power houses, grids, transmission and distribution lines in the Province constructed by, or transferred to, the Organization, including such ancillary works as may be considered necessary for their proper operation;
- (ii) may make recommendations to Government for prescribing standards for the maintenance of power houses, grids, micro-

grids and transmission and distribution lines of the Organization; and

- (iii) may make recommendations to Government for promoting simplification of methods of charge for supplies of electricity and standardization of the system of supply.
- (2) Before the Organization exercises any control under clause (i) of sub-section (1), the area over which and the extent to which control is intended to be exercised shall be agreed to and notified by Government in the official Gazette.

14. The Organization shall, for the purposes of the Electricity Act, 1910, be deemed to be a licensee and shall have all the powers and discharge all the obligations of a licensee under the said Act:

Organization to have powers and obligations of licensee under Electricity Act, 1910.

Provided that nothing in sections 3 to 11, sub-sections (2) and (3) of section 21 and sections 22, 23 and 27 of the said Act, or in clauses I to XII of the Schedule to the said Act, relating to the duties and obligations of a licensee shall apply to the Organization.

15. (1) The Organization may take such measures and exercise such powers as it considers necessary or expedient for carrying out the purposes of this Act.
- (2) Without prejudice to the generality of the powers conferred by the preceding sections and the provisions of sub-section (1), the Organization may, in the prescribed manner and subject to the provisions of this Act.
- (a) undertake any work, incur any expenditure, procure plant, machinery and materials required for its use and enter into and perform all such contracts as it may consider necessary or expedient to carry out the purposes of this Act:
- (b) acquire by purchase, lease, exchange or otherwise and dispose of by sale, lease, exchange or otherwise, any immoveable

Powers regarding certain matters

**PHYDO
(Amendments)
Act 2013**

property or any interest in such property;

- (c) place wires, poles, wall brackets, stays, apparatus and appliances for the transmission of electricity or for the transmission of telegraphic or telephone communications necessary for the proper execution of a scheme;
- (d) undertake any anti-corrosion operations;
- (e) restrict or prohibit by general or special Order, the clearing and breaking up of land in the catchments area of any river; and
- (f) seek and obtain advice and assistance in the preparation or execution of a scheme from any local body or agency of the Government, and such local body or agency shall give the advice and assistance so sought to the best of its ability, knowledge and judgment;

Provided that the Organization shall pay the cost of such advice and assistance, if the giving of such advice and assistance entails additional expenditure to the local body or the agency concerned.

- (3) The acquisition of any land or any interest in land for the Organization under this section, or for any scheme under this Act, shall be deemed to be an acquisition for a public purpose within the meaning of the land acquisition Act, 1894, and the provisions of the said Act shall apply to all such proceedings.

16. The Chairman or any person authorized by him in writing may enter upon and survey any land, erect pillars for the determination of intended lines of works, make boring and excavations and do all other acts which may be necessary for the preparation of any scheme.

Right of entry.

Provided that when the affected land does not vest in the Organization the power conferred by this sub-section shall be exercised to such manner as to cause the least interference with, and the least damage to the rights of the owner thereof.

17. A scheme framed and sanctioned under this Act may be amended or modified by the Board at any time, but if a material change is made in the scheme and its cost or the revised cost exceeds the sanctioning limit of the Organization, then sanction of Government shall be

Sanction of Government.

obtained afresh.

- 18 (1) As soon as any scheme has been carried out by the Organization or at a later date, the Board may arrange by a written agreement with a local body or other agency within whose jurisdiction any particular area covered by the scheme lies, to take over and maintain any of the works and services in that area. If the Board fails to obtain the assent of such a local body or other agency, it may refer the matter to Government, and Government may give such directions to the local body or other agency as it may deem fit.
- (2) Government shall have the power to direct the Organization to hand over any scheme other than a power scheme or the power part of a multi-purpose scheme carried out by it to any agency of Government or a local body. In such a case the Organization shall be entitled to receive audited total cost incurred on that scheme.
- Arrangement with local body or other agency.**

CHAPTER IV **Establishment**

19. (1) The Board may from time to time employ directly or by induction, transfer, deputation or by absorption from Federal or other Provincial Governments, semi-autonomous and autonomous bodies, such officers and servants, as it may consider necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit;
- Provided that the terms and conditions of service of any such person as aforesaid shall not be varied by the Board to his disadvantage.
- (2) Appointment and promotion of officers and employees upto and including BPS-16 shall be made by the Managing Director in the prescribed manner. Appointments and promotions in BPS-17 and above shall be made by the Board in the prescribed manner.
- Employment of Officers and servants.**

20. Deleted.

**SHYDO (Amendment)
Act, 1996**

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| 21. | (1) The Chairman, member, Managing Director, officers and servants of the Board or the Organization shall, when acting or purporting to act in pursuance of any of the provisions of this Act be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code. | Immunity | |
| | (2) No suit, prosecution or other legal proceedings shall lie against the Chairman, Managing Director, members or officers and servants in respect of anything done or intended to be done, in good faith under this Act. | | |
| 22. | The Board may, by general or special order, delegate to the Executive Committee, the Managing Director, a member or any officer of the Organization any of its Powers, duties or functions under this Act, subject to such conditions as it may think fit to impose. | Delegation of Powers | PHYDO (Amendments) Act 2013 |

CHAPTER V

Reports and Statements

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| 23. | (1) The Board shall submit to the Provincial Assembly, as soon as possible after the end of every financial year but before the last day of October next following, a report on the conduct of the affairs of the Organization for the year including an analysis of its physical activities and financial achievements for discussion. | Submission of yearly reports and returns, etc. |
| | (2) Provincial Assembly may require the Board to Furnish with – | |
| | i) any return, statement, estimate, statistics or other information regarding any matter under the control of the Organization; or | |
| | ii) a report on any such matter; or | |
| | iii) a copy of any document in the charge of the Board; | |
| | and the Board shall comply with such requisition. | |

CHAPTER VI

Finance

24. (1) There shall be a fund to be known as the **Fund**
Organization Fund vested in the Organization
which shall be utilized by it to meet changes
in connection with its functions under this
Act, including the payment of salaries and
other remunerations to the Managing
Director, officers, servants and employees.
- (2) The fund shall consist of :-
- (a) grants made by Government including
the Federal Government;
 - (b) loans obtained from Government
including the Federal Government;
 - (c) grants made by local bodies as required
by Government;
 - (d) sale proceeds of bonds issued under
the authority of Government;
 - (e) loans obtained by the Organization from
commercial banks or any other source;
 - (f) foreign loans, grants or any other financial
assistance obtained; and
 - (g) all other sums received by the
Organization;
- (3) The Organization may keep money in the Khyber
Bank or any scheduled bank or a National Saving
Centre, through an Investment Committee; **PHYDO
(Amendments)
Act 2013**
- (4) Nothing in sub-section (3) shall be deemed to
preclude the Organization from investing any
such moneys which are not required for
immediate expenditure in any of the securities
described in section 20 of the Trust Act, 1882
(Act No. II of 1882), or placing them in a fixed
deposit with the Khyber Bank or any schedule
bank or a National Saving Centre, through an
Investment Committee; **PHYDO
(Amendments)
Act 2013**
- (5). the Board will endeavor to promote private
sector in the generation, transmission and
distribution of power. For this purpose it may
sponsor, promote or join private limited
companies.

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| (6) | The Board may also permit the Organization | SHYDO (Amendment)
Act, 1996 |
| a. | to join, promote, sponsor or incorporate public limited companies or | |
| b. | to join other stationary or corporate bodies, involved in the generation, transmission and distribution of power. | |
| 24 A. | Investment Committee – (1) there shall be an Investment Committee consisting of the following members; | PHYDO
(Amendments)
Act 2013 |
| (i) | Managing Director of the Organization | Chairman |
| (ii) | Additional Secretary Finance Deptt. | Member |
| (iii) | Director Finance; and | Member |
| (iv) | Assistant Director Budget and Finance | Member |
| | (2) The Investment Committee shall have the power to invest the surplus fund in a manner as it may deemed fit”. | |
| 25. | The Organization shall be deemed to be a local authority under the Local Authorities Loans Act, 1914, for the purpose of borrowing money under the said Act, and the making and execution of any scheme under this Act shall be deemed to be a work which such authority is legally authorized to carry out. | Organization to be deemed a local authority. |
| 26. | The Liability of Government to the creditors of the Organization shall be limited to the extent of grants made by it and the loans raised by the Organization with the sanction of Government. | Limited liability |
| 27. | The rates at which the Organization shall sell power shall be so fixed as to provide for meeting the operation costs, investment costs and depreciation of assets, the redemption at due time of loans other than those covered by depreciation, the payment of any taxes and a reasonable return on investment or the rates approved by Government. | Rates for sale of Power |
| 28. | The Organization shall maintain complete and accurate books of accounts in such form as may be prescribed by it ; | Maintenance of Accounts. |

Provided that separate accounts shall be maintained for all schemes and transactions

relating to power.

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| 29. | In the month of January each year, the Organization shall submit to Government for approval a budget of receipts and expenditure in respect of the next financial year. | Annual
Budget | PHYDO
(Amendments)
Act 2013 |
| 30 | (1) The accounts of the Organization shall be audited by Chartered Accountants within the meaning of the Chartered Accountants Ordinance, 1961 (Ord. X of 1961), appointed by the Board on such remunerations as it may deem fit.

(2) Notwithstanding the provisions of subsection (1), the Auditor General may, on the request of Government, cause to be audited the accounts of the Organization. | Audit. | |

CHAPTER VII

Rules and Regulations

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| “31. | <u>Power to make rules.</u> For the purposes of carrying into effect The provisions of this Act, the Board may frame such rules as it considers necessary or expedient”. | SHYDO (Amendment)
Act, 1996 |
| 32 | The Sarhad Hydel Development Organization Ordinance, 1993 (N.W.FP. Ordinance No. I of 1993) is hereby repealed. | Repeal |

BY ORDER OF THE SPEAKER,
PROVINCIAL ASSEMBLY OF
NORTH-WEST FRONTIER PROVINCE

ABDUL HAMEED KHATTAK
Secretary
Provincial Assembly of NWFP