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ORDINANCE NO. V OF 2023

AN

ORDINANCE

*to amend the National Highway Authority Act, 1991*

WHEREAS, it is expedient to amend the National Highway Authority Act, 1991 (XI of 1991) for the purpose hereinafter appearing;

AND WHEREAS, the National Highway Authority was established under the National Highway Authority Act, 1991 (XI of 1991);

AND WHEREAS, it is necessary to specifically extend the application of the State-Owned Enterprises (Governance and Operations) Act 2023 (Act VII of 2023) to the National Highway Authority to the extent provided herein and to incorporate the principles set out in the State-Owned Enterprises (Governance and Operations) Act, 2023 in the National Highway Authority Act, 1991 (XI of 1991);

AND WHEREAS, the *Majlis-e-Shoora* is not in session, and that President of Pakistan of the Islamic Republic of Pakistan is satisfied that the circumstances exist which render it necessary to take immediate action;

NOW THEREFORE, in exercise of powers conferred by clause (1) of Article 89 of the Constitution of Islamic Republic of Pakistan, the President of Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance, namely:—

1. **Short title and commencement.**—(1) This Ordinance shall be called the National Highway Authority (Amendment) Ordinance, 2023.

(2) It shall come into force at once.

2. **Amendment of section 2, Act XI of 1991.**—In the National Highway Authority Act 1991 (XI of 1991), hereinafter called as the said Act, in section 2,—

(a) for clause (d), the following shall be substituted, namely:—

“(d) “chief executive officer” means chief executive officer of the Authority;”;

(b) after clause (ea), the following new clause shall be inserted, namely:—

“(eb) “executive member” means a member of the Executive Board;”;

(c) for clause (f), the following shall be substituted, namely:—  
“(f) “member” means member of the Council;”

(d) after clause (f), the following new clauses shall be inserted, namely:—

“(fa) “motorway” means a fully controlled access road designed and built for high speed mobility of motor traffic ensuring international safety standards which does not serve the

properties bordering on it except at special points, has separate carriageway for the two directions of traffic separate from each other either by a divided strip not intended for traffic or by other means, does not cross at level with any road, railway, tramway, cycle track or footpath and declared motorway by the Federal Government by notification in official Gazette and specified in Part III of the Schedule;

“(fb) “motorway link road” means a fully controlled access road as described in clause (fa) including slip roads or ramps leading to an from motorways;”;

(e) for clause (g), the following shall be substituted, namely:-

“(g) “National Highway” means a highway primarily designed for inter-provincial or cross-border connectivity and placed under the jurisdiction of the Authority by the Federal Government by notification in the official Gazette and specified in Part I of the Schedule or any other strategic road and motorway included in Part II and Part III of the Schedule respectively and declared as such by the Federal Government by notification in the official Gazette;”;

(f) for clause (h) the following clause shall be substituted, namely:—

“(h) “Chairman” means Chairman of the Council;” ;

(g) after clause (I), the following clauses shall be inserted, namely:—

“(la) “Schedule” means the Schedule to this Act;

(lb) “SOE Act” means the State Owned Enterprises (Governance and Operations) Act, 2023 (Act VII of 2023);” ; and

(h) for clause (m), the following shall be substituted, namely:—

“(m) “strategic road” means a road having strategic importance or defense requirements not limited to cross-border connectivity as specified in Part II of the Schedule after having been declared as such by the Federal Government by notification in the official Gazette on the recommendations of the Council.”.

3. **Amendment of section 3, Act XI of 1991.**—In the said Act, in section 3, after sub-section (3), the following two new sub-sections shall be added, namely:—

“(4) Notwithstanding anything contained in this Act, the SOE Act, including sections 12, 15 and 22 thereof, shall apply to the provisions of this Act and in case of any inconsistency between the provisions of this Act and the SOE Act, the provisions of the SOE Act shall prevail.

(5) The Authority shall be governed by the Council who will act as the “Board” as defined in section 2(b)(ii) of the SOE Act.”.

4. **Amendment of section 4, Act XI of 1991.**—In the said Act, in section 4, for the words “National Highways and strategic roads”, the expression “national highways, motorways and strategic roads” shall be substituted.

5. **Amendment of section 5, Act XI of 1991.**—In the said Act, for section 5, the following shall be substituted, namely:—

“5. **National Highway Council.**—(1) There stands established the National Highway Council consisting of the following, namely:—

S. No.	Membership	Status
(1)	(2)	(3)
(a)	The Minister of Communications Division or such other person as the Federal Government may appoint.	<b>Chairman</b>
(b)	Secretary of the Finance Division or his nominee not below the rank of Additional Secretary or equivalent	<b>Member ex-officio</b>
(c)	Secretary of the Planning, Development and Special Initiatives Division or his nominee not below the rank of Additional Secretary or equivalent	<b>Member ex-officio</b>
(d)	Secretary of the Communications Ministry or his nominee not below the rank of Additional Secretary or equivalent	<b>Member ex-officio</b>
(e)	Chief Executive Officer	<b>Member</b>
(f)	Six independent members to be appointed by the Federal Government from private sector, each of whom shall have the requisite skills, competence, knowledge, experience and approach so that the Council as a group includes core competencies and diversity to assist the Authority in achieving its primary and other objectives	<b>Member (Independent)</b>

(2) Subject to the provisions of the SOE Act in this behalf, the Federal Government may by notification in the official Gazette, modify the number of members of the Council.

(3) Subject to the provisions of the SOE Act in this behalf, the general policy direction of the Authority shall vest in the Council.

(4) Where the circumstances so warrant, the Council shall meet at least once in two months and quorum for meeting of the Council shall be six members.

(5) The meeting of the Council shall be presided by the Chairman and in case of his absence the meeting shall be presided by such a member as the Chairman may nominate.

(6) Decisions of the Council shall be taken in accordance with sub-section (2) of section 22 of the SOE Act.

(7) The Council may constitute committees with its chairmanship along with their terms of reference from amongst its members and may assign to it the business on which the committee shall make its recommendations for approval by the Council and quorum for meeting of each such committee shall be fifty percent and a fraction shall be rounded as one member.”.

6. **Amendment of section 6, Act XI of 1991.**—In the said Act, for section 6, the following shall be substituted, namely:-

**“6. Powers and function of the Council.**—(1) The Council shall exercise its powers and perform its functions in accordance with the provisions of this Act and the provisions of the SOE Act with regard to a Board being apex body.

(2) In addition to the powers and functions provided for in sub-section (1), the Council shall—

(a) approve five years’ plans or such other plans, recommended by the executive board, in consultation with relevant stakeholders for construction and development of national highways, motorways and strategic roads specially entrusted to the Authority by the Federal Government or by a Provincial Government or other entity;

(b) approve the annual maintenance plan recommended by the executive board for national highways, motorways, and strategic roads;

- (c) lay down national policies and guidelines to be followed by the Authority in the performance of its functions; and
- (d) approve annual development and non-development budget on recommendation of the executive board.”.

7. **Amendment of section 7, Act XI of 1991.**—In the said Act, for section 7, the following shall be substituted namely:—

“7. **Executive Board.**—(1) For exercising its powers and performing its functions, the Council shall be assisted by an executive board consisting of the following, namely:-

S. No.	Membership	Status
(1)	(2)	(3)
(a)	Chief Executive Officer	<i>Chairperson of Executive Board</i>
(b)	A representative not below the rank of Additional Secretary or equivalent of the division to which business of finances of the Federal Government stands allocated	<i>Executive Member</i>
(c)	A representative not below the rank of Additional Secretary or equivalent of the division to which business of planning and development of the Federal Government stands allocated	<i>Executive Member</i>
(d)	A representative not below the rank of Joint Secretary or equivalent of the division to which business of communications of the Federal Government stands allocated and dealing with business of the Authority	<i>Executive Member</i>
(e)	Inspector General, National Highways and Pakistan Motorway Police or his nominee not below the rank of Joint Secretary or equivalent	<i>Executive Member</i>
(f)	A representative not below the rank of Joint Secretary or equivalent of the National Transport Research Centre of the Federal Government	<i>Executive Member</i>
(g)	Vice-President of National Engineering Services Pakistan (NESPAK) or his nominee not below the rank of Joint Secretary or equivalent	<i>Executive Member</i>
(h)	Member (Administration) of the Authority or his nominee not below the rank of Joint Secretary or equivalent	<i>Executive Member</i>
(i)	Member (Finance) of the Authority or his nominee not below the rank of BPS-20 or equivalent	<i>Executive Member</i>

S. No.	Membership	Status
(j)	Member (Planning) of the Authority or his nominee not below the rank of BPS-20 or equivalent	<i>Executive Member</i>
(k)	Member (Engineering) of the Authority or his nominee not below the rank of BPS-20 or equivalent	<i>Executive Member</i>

(2) The chief executive officer shall be the chief executive of the authority who shall,-

- (a) be responsible for the management of the Authority and for its procedures in financial and other matters under delegation from the board and subject to the oversight and directions of the Council;
- (b) ensure the proper implementation of strategies and policies approved by the Council; and
- (c) put in place appropriate arrangements to ensure that funds and resources are properly safeguarded and are used economically, efficiently, and effectively and in accordance with the Authority's plan, the primary objective and all statutory obligations.

(3) The Chief Executive Officer, or in his absence a member of the executive board authorized by him in his behalf shall preside meetings of the executive board.

(4) Fifty percent of its total membership shall constitute quorum for meetings of the board, a fraction shall be rounded as one member.

(5) Decision by majority of the members present and voting shall be construed as decision of the executive board.”.

**8. Substitution of section 8, Act XI of 1991.**—In the said Act, for section 8, the following shall be substituted, namely:-

**“8. Powers and functions of the executive board.**—The executive board shall exercise its powers and perform its functions in accordance with the provisions of this Act, including to –

- (a) consider and recommend, in consultation with relevant stakeholders, proposals for schemes and projects;
- (b) consider and approve award of contracts for works, services and goods;

- (c) recommend the annual maintenance plan for national highways, motorways, and strategic roads;
- (d) consider and review progress reports of the Authority;
- (e) recommend to the Council for approval annual development and non- development budget;
- (f) recommend schemes and projects to be funded through toll and other receipts from operation of national highways, motorways and strategic roads; and
- (g) perform such other functions as may be assigned to it by the Council.”.

9. **Amendment of section 9, Act XI of 1991.**—In the said Act, in section 9 for the word “Chairman” wherever occurring, the word “Chief Executive Officer” shall be substituted.

10. **Amendment of section 10, Act XI of 1991.**—In the said Act, in section 10, in sub-section (2),-

- (a) in clause (i), for the words “National Highways and strategic roads”, the expression “national highways, motorways and strategic roads” shall be substituted;
- (b) in clause (vii), for the words “National Highways and strategic roads”, the expression “national highways, motorways and strategic roads” shall be substituted; and
- (c) in clause (xv), for the words “National Highways”, the expression “national highways, motorways and strategic roads” shall be substituted.

11. **Amendment of section 11, Act XI of 1991.**—In the said Act, in section 11,-

- (a) in sub- section (1), for the words “National Highways and strategic roads”, the expression “national highways, motorways and strategic roads” shall be substituted; and
- (b) in sub-section (2), in clause (i), for the words “National Highways and strategic roads”, the expression “national highways, motorways and strategic roads” shall be substituted.



12. **Amendment to sections 15, Act XI of 1991.**—In the said Act, in section 15, for the word “Chairman”, the word “Chief Executive Officer” and for the word “Member”, the word “Executive Member” shall be substituted respectively.

13. **Amendment to sections 16, Act XI of 1991.**—In the said Act, in section 16, for the word “Chairman”, the word “Chief Executive Officer” and for the word “Member”, the word “Executive Member” shall be substituted respectively.

14. **Substitution of section 33, Act XI of 1991.**—In the said Act, for section 33, the following shall be substituted, namely:-

“33. **Removal of difficulties.**—if a difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may make such order, not inconsistent with the provisions of this Act and the State-Owned Enterprises (Governance and Operations) Act, 2023 (VII of 2023), as may appear to be necessary for the purpose of removing the difficulty.”.

### STATEMENT OF OBJECTS AND REASONS

The National Highway Authority (NHA) was established through the NHA Act 1991. The Authority has framed its own rules for human resources, operation, and management. After the promulgation of the State-Owned Enterprises (Government & Operations) Act, 2023, it is mandatory to extend the application of the Act *ibid* to NHA & align the NHA Act accordingly. The power of the Federal Government envisaged in the Act *ibid* has been included in the proposed NHA, Ordinance, 2023.

2. In view of the above, it is proposed that amendments may be promulgated in NHA Act, 1991 for smooth running of official business of National Highway Authority (NHA).

  
**Minister Incharge**