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PART-IV

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION
KARACHI, THE 13TH APRIL, 2021.

NO.PAS/LEGIS-B-06/2021- The Sindh Public-Private Partnership (Amendment) Bill, 2021 having been passed by the Provincial Assembly of Sindh on 25th March, 2021 and assented to by the Governor of Sindh on 07th April, 2021 is hereby published as an Act of the Legislature of Sindh.

THE SINDH PUBLIC-PRIVATE PARTNERSHIP (AMENDMENT) ACT, 2021

SINDH ACT NO. V OF 2021.

**AN
ACT**

to amend the Sindh Public-Private Partnership Act, 2010.

WHEREAS it is expedient to amend the Sindh Public-Private Partnership Act, 2010, in the manner hereinafter appearing;

Preamble

It is hereby enacted as follows:

1. (1) This Act may be called the Sindh Public-Private Partnership (Amendment) Act, 2021.

**Short title,
Extent and
commencement.**

**Amendment of
section 2 of
Sindh Act No.V
of 2010.**

(2) It shall come into force at once.

2. In the Sindh Public-Private Partnership Act, 2010, hereinafter referred to as Act, in section 2 -

- (i) in clause (k), for the word "Government", the words "Chief Secretary with the approval of the Chief Minister" shall be substituted;
- (ii) for clause (s), the following shall be substituted:-

"(s) "Private party" means a person who enters into a Public-Private Partnership Agreement with an Agency and includes foreign government or an entity owned or controlled by it or its company incorporated under the laws of Pakistan."

**Amendment of
section 4 of
Sindh Act No.V
of 2010.**

3. In the Act, in section 4-

(i) in sub-section (2) -

(a) for clauses (ii), (ii-a) and (ii-b), the following shall be substituted:-

"(ii) Minister or, as the case may be, Advisor for Finance	Vice-Chairman
(ii-a) Minister or, as the case may be, Advisor for Law	Member
(ii-b) Minister or, as the case may be, Advisor for Planning & Development	Member";

(b) for clause (iv), the following shall be substituted:-

"(iv) Minister or, as the case may be, Advisor of the concerned Department	Co-opted Member;
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(c) for clause (vi), the following shall be substituted:-

"(vi) Chairman/Chairperson, Planning & Development Board, Planning & Development Department or Additional Chief Secretary, as the case may be;	Member";
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(d) after clause (vi), the following shall be inserted:-

"(vi-a) Senior Member, Board of Revenue, Sindh	Member";
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(e) after clause (vii), the following shall be inserted:-

"(vii-a) Secretary Law	Member";
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(f) in clause (ix), the words "Ex-officio" shall be deleted;

(g) after clause (xii), the following shall be added:-

"(xiii) Any other official of the Government department or entity owned or controlled by Government if nominated by the Chief Minister as co-opted member	Co-opted Member";
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- (ii) for sub-section (4), the following shall be substituted:-

"(4) The members other than ex-officio members shall be appointed for a period of three years and shall be eligible for reappointment. Each such member shall be appointed after careful consideration of actual or potential conflicts of interest. The Chief Minister may, in case it is found that a Member has any conflict of interest or he appears to have misused his position as member or is guilty of misconduct, **remove him and appoint another member.**"

4. In the said Act, in section 5, after sub-section (2), the following new sub-sections (3) shall be inserted:

Amendment of section 5 of Sindh Act No.V of 2010.

"(3) Notwithstanding anything contrary contained in the Act and any other law, for the time being in force, the Board may, if it deems appropriate, evaluate and approve an arrangement or restructuring proposal as a result of negotiation between the parties in relation to a Public-Private Partnership project, to address or provide remedial measures for a situation or an eventuality that was not envisaged or contemplated at the time of preparation or signing of Public-Private Partnership Agreement and may, if the Board deems appropriate, approve a proposal for innovation in any ongoing Public-Private Partnership project that adds value to and is in the interest of such project."

5. In the said Act, in section 7, in sub-section (2), in clause (II) for the word "Government", the word "Board" shall be substituted.

Amendment of section 7 of Sindh Act No.V of 2010.

6. In the said Act, in section 8, in sub-section (3), after the word "Government", the words "departments or bodies or institutions" shall be inserted.

Amendment of section 8 of Sindh Act No.V of 2010.

7. In the said Act, in section 15, in sub-section (1) -

- (a) in clause (I), after the word "Government", the words "departments or bodies or institutions" shall be inserted;
- (b) in clause (III), for the words "The amount", the words "Unless exemption is granted under section 19-A, the amount" shall be substituted."

Amendment of section 15 of Sindh Act No.V of 2010.

8. In the said Act, in section 16, in sub-section (3), after clause (XXI), the following new clauses shall be added:-

Amendment of section 16 of Sindh Act No.V of 2010.

"XXII. Negotiation to address a situation or an eventuality that was not envisaged or contemplated at the time of preparation or signing of Public-Private Partnership Agreement subject to approval of the Board.

**Insertion of
section 19-A of
Sindh Act No.V
of 2010.**

XXIII. Innovation to add value to and in the interest of a Public-Private Partnership project subject to approval of the Board."

9. In the Act, after section 19, the following new section shall be inserted:-

"19-A. **Power to exempt.** (1) Notwithstanding anything contrary contained in the Act and any other law, for the time being in force, Government may, on the request of the Agency and after recommendations of the Board, exempt the private party if it is a foreign government or an entity owned or controlled by a foreign government or its company incorporated under the laws of Pakistan, from the requirement of public competitive bidding under the Act and from the operations of the Sindh Public Procurement Act, 2009 and/or any other law regulating public procurement and rules and regulations made thereunder, for the time being in force:

Provided that the exemption under this subsection may be granted by Government if it is satisfied with the justifications of the Agency and recommendations of the Board for such exemption and the project has positive value for money, as determined by the consultant hired by the Agency.

(2) The benefits or support available to Public Private Partnership projects under the Act, including but not limited to support from Viability Gap Fund or Project Support Facility, as the case may be, shall also be available to the project exempted under subsection (1)."

**Addition of
section 32 in
Sindh Act No.V
of 2010.**

10. In the Act, after section 31, the following new section 32 shall be inserted:

"32. **Act to override any other Law.** The provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force."

**BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH**

**G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH**