

**THE PUNJAB SHEHR-E-KHAMOSHAN
AUTHORITY ORDINANCE 2017
(III of 2017)**

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TEXT

THE PUNJAB SHEHR-E-KHAMOSHAN AUTHORITY

ORDINANCE 2017

(III of 2017)

[11th April 2017]

AN

ORDINANCE

for establishing the Punjab Shehr-e-Khamoshan Authority.

It is necessary, in public interest, to found Punjab Shehr-e-Khamoshan Authority to establish, manage and regulate model cemeteries or graveyards and crematoriums and to provide to the public cemetery services, funeral services, crematory services, transfer services and other related services in the Punjab, and to deal with ancillary matters.

Provincial Assembly of the Punjab is not in session and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action.

In exercise of the powers conferred under clause (1) of Article 128 of Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance: –

1. Short title, extent and commencement.– (1) This Ordinance may be cited as the Punjab Shehr-e-Khamoshan Authority Ordinance 2017.

- (1) It shall extend to whole of the Punjab.
- (2) It shall come into force at once.

2. Definitions.– In this Ordinance:

- (a) “Authority” means Punjab Shehr-e-Khamoshan Authority established under the Ordinance;
- (b) “building” means a building as defined in the Punjab Local Government Act 2013 (*XVIII of 2013*);
- (c) “cemetery” means a model cemetery or graveyard or crematorium which the Authority establishes, maintains and regulates under the Ordinance;
- (d) “cemetery services” means the services provided by the Authority for the internment or burial or cremation of dead human bodies and disposal of cremated human remains;
- (e) “crematorium” means a building that is fitted with appliances for purposes of cremating human remains;
- (f) “crematory services” means the services provided for the cremation of dead human bodies and disposal of cremated human remains;

- (g) "Director General" means the Director General of the Authority;
- (h) "fee" means an amount charged by the Authority for providing the Services under the Ordinance;
- (i) "funeral services" means the care and preparation of dead human bodies, the coordination of rites and ceremonies with respect to dead human bodies but does not include cemetery services and crematorium services;
- (j) "Government" means Government of the Punjab;
- (k) "Inspector" means an inspector appointed under the Ordinance;
- (l) "land" means the land as defined in the Land Acquisition Act, 1894 (*I of 1894*);
- (m) "local government" means a local government as defined in the Punjab Local Government Act 2013 (*XVIII of 2013*) or in any other law for the time being in force;
- (n) "prescribed" means prescribed by rules or regulations;
- (o) "regulations" means the regulations made under the Ordinance;
- (p) "rules" means the rules made under the Ordinance;
- (q) "Services" mean the cemetery services, funeral services, crematorium services, transfer services and other related or incidental services and include such other services as may be prescribed; and
- (r) "transfer services" means the service to the public with respect to the disposition of dead human bodies, including transportation of dead human bodies and necessary documentation with respect to the disposition of dead human bodies.

3. Punjab Shehr-e-Khamoshan Authority.—(1) The Government may, by notification in the official Gazette, establish an Authority to be known as Punjab Shehr-e-Khamoshan Authority for carrying out the purposes of the Ordinance.

- (1) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to enter into contracts, and acquire or, subject to subsection (3), dispose of property, and may by the said name sue or be sued.
- (2) The Authority shall not dispose of its immovable property without prior approval, in writing, of the Government.

4. Composition of the Authority.— (1) The Authority shall consist of the Chairperson who shall be nominated by the Chief Minister, and the following members:

- (a) not less than two members of Provincial Assembly of the Punjab, including at least one woman member, to be nominated by the Government;

- (b) Secretary to the Government, Local Government and Community Development Department, or a representative not below the rank of an Additional Secretary nominated by the Secretary;
 - (c) Director General (member/secretary);
 - (d) Director (Architecture and Engineering);
 - (e) Director (Administration and Finance);
 - (f) not less than three philanthropists, including one woman, to be nominated by the Government; and
 - (g) not more than two technocrats to be nominated by the Government.
- (2) Subject to subsection (3), the tenure of the Chairperson and members, other than *ex officio* members, shall be three years but the Government may appoint anyone of them for another term of three years.
- (3) The Government may remove the Chairperson or a member, other than *ex-officio* member, at any time and appoint another person as the
- (4) Chairperson or, as the case may be, the member for the remaining term of the outgoing Chairperson or the member.
- (5) No act or proceedings of the Authority shall be invalid merely by reason of any vacancy or defect in the constitution of the Authority.
- (6) The Authority shall meet at least once in a month.
- (7) A meeting of the Authority shall be held on such date and time as the Chairperson may determine.
- (8) The agenda of a meeting shall be approved by the Chairperson.
- i. The Chairperson, and in his absence, the member of the Authority nominated by the Chairperson shall preside over the meeting.
 - ii. The Government may, by notification, increase the membership of the Authority in public interest.

5. **Disqualifications of members.**— No person shall be appointed or continue as a member who:

- (a) is or, at any time, has been convicted of an offence involving moral turpitude;
- (b) is or, at any time, has been adjudicated as an insolvent;
- (c) is found to be of unsound mind; or
- (d) has a financial interest or an interest, directly or indirectly, in conflict with the interest of the Authority and has failed to disclose such interest in writing to the Government.

6. **Functions and powers of the Authority.**– (1) The Authority may perform such functions and exercise such powers as are necessary for carrying out the purposes of the Ordinance.

(2) Without prejudice to the generality of functions and powers subsection (1), the Authority may:

- (a) construct, maintain and monitor cemeteries;
- (b) initiate comprehensive plans or update and revise such plans for the establishment, administration and management of the cemeteries;
- (c) establish, maintain and periodically revise planning and building controls in respect of the cemeteries;
- (d) acquire both movable and immovable property for purposes of the Ordinance;
- (e) undertake any works and incur any expenditure in the prescribed manner;
- (f) enter into contracts;
- (g) seek advice and assistance from any Government agency or officer for the preparation of a scheme relating to cemeteries or the execution of a scheme;
- (h) prevent and remove encroachments in a cemetery;
- (i) formulate architectural plans, prepare financial statements and feasibility reports, provide administrative approval, issue technical sanction, and initiate tendering and procurement processes for the construction of cemeteries in accordance with law;
- (j) consult the stake-holders, where necessary;
- (k) carry out all the administrative functions;
- (l) approve the budget of the Authority and re-appropriate funds in the prescribed manner;
- (m) monitor and evaluate the construction of cemeteries;
- (n) submit its financial proposals to the Government for purposes of requesting for any grants;
- (o) provide the requisite funds to a committee for carrying out the prescribed functions;
- (p) allocate separate areas in a cemetery or create a separate cemetery for purposes of internment or burial or cremation of dead human bodies of non-Muslim communities; and
- (q) perform such other functions as may be incidental to the functions mentioned above or as the Government may assign or as may be prescribed by rules.

7. **Committees.**– (1) The Authority may constitute committees at district level for carrying out the purposes of the Ordinance.

(2) The committee shall exercise such powers and perform such functions as may be prescribed or assigned by the Authority.

8. **Director General.**— (1) *The Government shall appoint the Director General, possessing such qualifications and experience as may be prescribed and until so prescribed, as the Government may determine.*

(2) *The Government shall determine the terms and conditions of service of the Director General.*

(3) *The Director General shall be the Chief Executive Officer of the Authority and, subject to the general supervision, control and direction of the Authority, shall exercise such administrative and financial powers of the Authority as the Authority may delegate to him or as may be prescribed.*

(4) The Director General may resign from his office by serving thirty days' prior notice or on payment of thirty days' pay in lieu of the notice.

(5) The Government may remove the Director General by serving thirty days' prior notice or on payment of thirty days' pay in lieu of the notice.

9. **Employees.**— (1) The Authority may appoint such employees as it considers necessary for the performance of its functions on such terms and conditions as may be prescribed.

(2) Subject to the terms and conditions of appointment, the Authority may, at any time, terminate the services of an employee by serving thirty days' prior notice or on payment of thirty days' pay in lieu of the notice in the prescribed manner.

10. **Advisory Board.**— (1) As soon as may be, the Government shall constitute an Advisory Board, consisting of the Secretaries of the relevant departments of the Government and other members to aid and advise the Government and the Authority for accomplishment of the purposes of the Ordinance.

(2) The Government shall nominate one of the members as the Convener and another, as the Vice Convener of the Advisory Board.

(3) The members, other than *ex-officio* members, of the Advisory Board shall be persons having knowledge or experience in the area of architecture, buildings or settlements and shall hold office for a period of three years.

(4) The Government may remove a member, other than *ex-officio* member, at any time and appoint another person as member for the remaining term of the outgoing member.

11. **Inspectors.**— (1) The Authority may appoint the Director Enforcement and as many Inspectors as may be necessary in the prescribed manner to carry out the purposes of the Ordinance.

(2) The Inspectors shall serve under the general supervision and control of the Director Enforcement.

(3) The Authority may, through the Director Enforcement, direct an Inspector to take such steps, including removal of illegal occupants or encroachments as may be necessary.

12. **Powers of Inspectors.**— (1) An Inspector shall be responsible for keeping the cemetery under his management and control free from all sorts of encroachments or unauthorized construction or illegal occupation.

(2) The Inspector shall issue a notice to the person concerned, directing him to remove the encroachment or unauthorized construction or hand over the vacant possession of the illegally occupied land of a cemetery or take such other corrective measures as are specified in the notice within fifteen days; and, in the meanwhile, suspend any unauthorized construction work.

(3) If the person fails to comply with the directions under subsection (2), the Inspector may cause to demolish or remove any encroachment or unauthorized construction, seize the goods and articles pertaining to the encroachment or unauthorized construction and take over the possession of the land in a cemetery in authorized possession and, for the purpose, use such force as may be necessary.

13. **Police assistance.**— The police shall render such assistance as the Authority may require in the discharge of its functions under this Ordinance.

14. **Feasibility reports.**— (1) The head of District Administration of a district shall identify the needs for the cemeteries and provide feasibility reports of such identified locations to the Authority.

(2) The Authority shall assess the feasibility reports received under subsection (1) and finalize the site after input from its Architectural and Engineering Wing.

15. **Consultation with the local government.**— (1) The Authority shall perform its functions under this Ordinance in consultation with, and in support of, the concerned local government.

(2) A local government, in consultation with the Authority and on the terms and conditions mutually agreed, may assign any of its functions relating to the cemeteries or graveyards to the Authority on such terms and conditions as may be mutually determined.

(3) The Authority may receive proposals from a third party or initiate cemetery projects in consultation with the concerned local government.

16. **Cemeteries to be a Trust.**— The entire land and the appurtenances comprising a cemetery shall vest in the Authority and shall be held by it in trust for use as a cemetery and for such other ancillary purposes as may, in the opinion of the Government, be necessary for the proper maintenance of the cemetery and provision of Services.

17. **Prohibition.**— (1) No person shall bury or cremate, or cause to be buried or cremated any dead body in a cemetery without approval in writing of the Authority in the prescribed manner.

(2) No person shall, without lawful authority, disinter, dissect or otherwise harm the dead body of any person buried in a cemetery.

18. **Offences and penalties.**— (1) A person who violates the provisions of subsection (1) of section 17 shall be punishable with imprisonment which may

extend to six months but which shall not be less than ten days and with fine which may extend to fifty thousand rupees but which shall not be less than five thousand rupees.

(2) A person who violates the provisions of subsection (2) of section 17 shall, in addition to any other punishment provided under any other law for the time being in force, be punishable with imprisonment which may extend to seven years but which shall not be less than six months and with fine which may extend to one million rupees but which shall not be less than two hundred thousand rupees.

(3) A person who willfully causes damage, makes any encroachment on, or erects any unauthorized construction in any part of a cemetery shall be punishable with imprisonment which may extend to six months but which shall not be less than ten days and with fine which may extend to fifty thousand rupees but which shall not be less than five thousand rupees. A person who obstructs any person acting on behalf of the Authority in the discharge of his functions under this Ordinance, shall be punishable with imprisonment which may extend to two months but which shall not be less than five days and with fine which may extend to thirty thousand rupees but which shall not be less than three thousand rupees.

(4) A person who carries on any business or commercial or profit earning activity within the declared area or precincts of a cemetery, without prior approval of the Authority in the prescribed manner, shall immediately wind up such activity and shall also be punishable with imprisonment for a term which may extend to thirty days or with fine which may extend to one hundred thousand rupees or with both.

(5) A person who contravenes any provision of this Ordinance or the rules shall, if no other penalty is provided for such contravention, be punished with imprisonment for a term which may extend to twenty days or with fine which may extend to thirty thousand rupees or with both.

(6) The person making encroachment or erecting any unauthorized construction on, or occupying any part of the land of a cemetery without lawful authority, shall remove such encroachment or construction and hand over the vacant possession of the land to the Inspector but if he fails to do so, the Inspector may forcibly evict him or remove the encroachment or unauthorized construction at the risk and cost of the said person and recover the cost from that person.

19. **Cognizance.**— (1) Except in case of an offence mentioned in subsection (2) of section 17, no court shall take cognizance of an offence under this Ordinance except on a complaint made, in writing, by the Authority or an officer authorized by the Authority for the purpose.

(2) Except in case of an offence mentioned in subsection (2) of section 17, an offence under this Ordinance shall be tried in a summary manner in accordance with the provisions of the Code of Criminal Procedure 1898 (*V of 1898*).

20. **Acquisition of land.**— The Authority may acquire land under the Land Acquisition Act, 1894 (*I of 1894*).

21. **Graveyard Authority Fund.**— (1) There shall be formed a fund to be known as the “Punjab Shehr-e-Khamoshan Authority Fund” which shall vest in the Authority.

(2) The Fund shall consist of:

- (a) the grants received from the Government;
- (b) the grants received from any other authority or agency;
- (c) income from fees charged by the Authority;
- (d) donations made to the Authority; and
- (e) income from any other source.

(3) The Fund shall be maintained in such manner as may be prescribed.

(4) The Fund shall be utilized to meet the expenses of the Authority in connection with the discharge of its functions under this Ordinance.

(5) The Authority shall not incur any debt.

22. **Budget and accounts.**— (1) The Director General shall, before the commencement of a financial year, prepare a statement of the estimated receipts and expenditure for the next financial year and submit it to the Authority for approval.

(2) The Authority shall maintain proper accounts and other records relating to its financial affairs including its income and expenditure and its assets and liabilities in such form and manner as may be prescribed.

(3) As soon as may be, after the end of each financial year, the Authority shall, for that financial year, prepare and approve in the manner prescribed, statements of account of the Authority which shall include a balance-sheet and an account of income and expenditure.

23. **Audit.**— (1) The Auditor General of Pakistan shall annually audit the accounts of the Authority.

(2) The Government may, in addition to the audit under subsection (1), cause the annual accounts of the Authority be audited, in the prescribed manner by a Chartered Accountant or a firm of Chartered Accountants.

24. **Annual report.**— (1) The Director General shall, by 30 September each year, submit annual performance report to the Authority enumerating all the activities, developmental initiatives undertaken and targets achieved during the previous financial year for the betterment of the cemeteries and the future plans and projects.

(2) The Authority shall submit the report to the Government which shall lay the report in Provincial Assembly of the Punjab.

25. **Delegation of powers.**— The Authority may delegate any of its powers to the Chairperson, a member or the Director General, except the powers to approve:

- (a) a scheme or project;

- (b) the annual budget and annual accounts of the Authority;
- (c) any request to the Government for grants; and
- (d) the regulations or any amendment thereof.

26. **Immunity.**— No suit, prosecution or any other legal proceedings shall lie against the Authority, the Chairperson, Vice Chairperson, members, Director General and any employee of the Authority, in respect of anything done or intended to be done in good faith under this Ordinance

27. **Other laws.**— The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force.

28. **Power to make rules.**— The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

29. **Power to frame regulations.**— Subject to this Ordinance and the rules, the Authority may frame regulations in respect of the matters not provided for in the Ordinance or the rules.