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SIND ORDINANCE NO.1 OF 2014

THE SINDH SOLID WASTE MANAGEMENT BOARD ORDINANCE, 2013

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THE SINDH SOLID WASTE MANAGEMENT BOARD ORDINANCE, 2013

[8th January, 2014]

An Ordinance to provide for the establishment of a Board called as the Sindh Solid Waste Management Board for the collection and disposal of solid and other waste in the Province of Sindh.

Preamble

WHEREAS it is expedient and necessary to establish Board called as the Sindh Solid Waste Management Board for collection and disposal of all solid waste, to arrange for effective delivery of sanitation services, to provide pollution free environment and to deal with other relevant matters.

AND WHEREAS the Provincial Assembly is not in session and the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan,1973, the Governor is pleased to make and promulgate the following Ordinance :-

CHAPTER – I
PRELIMINARY

Short title and commencement.

1. (1) This Ordinance may be called the Sindh Solid Waste Management Board Ordinance, 2013.

(2) It shall extend to the whole of the Province of Sindh.

(3) It shall come into force at once.

Definitions.

2. (1) In this Ordinance unless there is anything repugnant in the subject context:

(i) **"Board"** means the Sindh Solid Waste Management Board established under this Ordinance;

(ii) **"Budget"** means the income and expenditure statement of the Board for a financial year;

(iii) **"Building"** includes any shop, house, hut, out-house, shed, stable, enclosure, wall, well, verandah, platform, plinth, ramp, staircase and steps;

(iv) **"Cantonment Board"** means a Cantonment Board constituted under the Cantonment Act, 1924 (Act No.II of 1924);

(v) **"Cattle"** means cows, buffaloes, bulls, oxen, bullocks, heifers, calves, camels, sheep and goats;

(vi) **"Chairman**" means the Chairman of the Board;

(vii) **"City"** means an area declared as a city under this Ordinance;

(viii) **"Conservancy"** means the collection, treatment, removal and disposal of refuse;

(ix) **"Corporation"** means a Karachi Metropolitan Corporation, District Municipal Corporation and Municipal Corporation;

(x) **"Council"** means a Corporation, Municipal Committee, Town Committee, District Council, Union Council and Union Committee;

(xi) **"District"** means a revenue district as notified under the Sindh Land Revenue Act, 1967;

(xii) **"Division"** means a Revenue Division as notified under the Sindh Land Revenue Act, 1967;

(xiii) **"Drain"** includes sewer, a house drain, a drain of any other description, a tunnel, a culvert, a channel and any other device for carrying off sullage;

(xiv) **"encroachment"** means unauthorized occupation of or undue interference with a street, building, land, place or premises vesting in or under the management or control of a Council;

(xv) **"Factory"** has the same meaning as is assigned to it under the Factories Act, 1934 (Act XXV of 1934);

(xvi) **"Government"** means the Government of Sindh;

(xvii) **"land"** has the same meaning as is assigned to it under the Land Acquisition Act, 1894 (Act I of 1894) ;

(xviii) **"Managing Director"** means the Managing Director of the Board appointed by Government under this Ordinance;

(xix) **"Market"** means a place where persons assemble for the sale and purchase of meat, fish, fruit, vegetables or any other articles or goods, or for the sale and, purchase of livestock or animals and includes a shopping centre, a commercial office or premises and any place which may be notified as a market in accordance with the rules;

(xx) **"Member"** means a member of the Board;

(xxi) **"Municipality"** means an urban area as defined under the Sindh Local Government Act, 2013;

(xxii) **"prescribed"** means prescribed by rules or regulations made under this Ordinance;

(xxiii) **"Province"** means the Province of Sindh;

(xxiv) **"public place"** means any building, premises or place to which the public have access;

(xxv) **"public street"** means a street maintained by Government or by a Council or a local authority;

(xxvi) **"refuse"** includes rubbish, broken bricks, mortar, broken glass, offal, night soil, sweepings, carcasses of animals, deposit of sewerage, waste blood, horn, hoofs, bones and meat waste, medical waste and any other offensive or discarded matter;

(xxvii) **"regulations"** means regulations made under this Ordinance;

(xxviii) **"road"** means a way or path and includes a thoroughfare;

(xxix) **"rules"** means rules made under this Ordinance;

(xxx) **"solid waste"** includes rubbish, broken bricks, mortar, broken glass, offal, night soil, sweepings, carcasses of animals, deposit of sewerage, waste blood, horn, hoofs, bones and meat waste and any other offensive or discarded matter;

(xxxi) **"waste"** includes hospital waste, industrial waste, agricultural waste and rubbish of all sorts collected, gathered, heaped or thrown by different entities for disposal by the Councils, and all types of liquid waste, pollutions and poisonous gasses;

(xxxii) **"sullage"** includes sewerage, polluted water, rain water and any other offensive matter carried by a drain;

(xxxiii) "Secretary" means the Secretary of the Board.

(xxxiv) **"street"** means a public road in a city, town or village and includes a thoroughfare;

(xxxv) **"tax"** includes any toll, rate, cess, fee, or other impost leviable under this Ordinance;

(xxxvi) **"town"** means an urban area as defined in the Sindh Local Government Act, 2013 (Act No. XLII of 2013);

(xxxvii) **"urban area"** means an urban area as defined in the Sindh Local Government Act, 2013 (Act No. XLII of 2013);

CHAPTER – II
ESTABLISHMENT OF THE BOARD

Establishment of Board

3. (1) There shall be a Board, called the Sindh Solid Waste Management Board established under this Ordinance.

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

Composition of the Board

4. (1) The Board shall consist of the following:-

i)	Chief Minister Sindh or his nominee	Chairman
ii)	Managing Director	Member
iii)	Four Executive Directors	Member
iv)	Additional Chief Secretary (Development) or his representative not below the rank of Additional Secretary.	Ex-officio Member
v)	Secretary, Local Government, Public Health Engineering, Town Planning and Rural Development Department or his representative not below the rank of Additional Secretary.	Ex-officio Member

vi)	Secretary, Industries Department or his representative not below the rank of Additional Secretary.	Ex-officio Member
vii)	Secretary, Health Department or his representative not below the rank of Additional Secretary.	Ex-officio Member
viii)	Secretary, Finance Department or his representative not below the rank of Additional Secretary.	Ex-officio Member
ix)	Secretary, Katchi Abadis Department or his representative not below the rant of Additional Secretary.	Ex-officio Member
x)	Secretary, Environment Department or his representative not below the rant of Additional Secretary.	Ex-officio Member
xi)	Mayor of Karachi Metropolitan Corporation, other Municipal Corporations, Chairman of District Municipal Corporations, Municipal Committees and Town Committees whoever is required.	Ex-officio Member
xii)	President, Karachi Chamber of Commerce and Industries or his representative.	Ex-officio Member
xiii)	Director of Military Lands & Cantonment, Karachi or his representative.	Ex-officio Member
xiv)	Administrator of Defence Housing Authority, Karachi or his representative.	Ex-officio Member

(2) The Secretary shall act as the Secretary of the Board.

Changing in Composition of Board.

5. (1) Government may at any time by notification change the composition of the Board.

(2) Managing Director and Executive Directors of the Board shall be appointed by the Government from Private Sector or from the Officers working under the control of Government.

(3) The Board shall make recruitment of all officers, advisors, consultants, and other staff under the rules made under this Ordinance.

(4) There shall be four Executive Directors of the Board who shall be appointed by the Government and shall perform such functions as may be assigned by the Board.

(5) There shall be a Secretary of the Board, who shall be appointed by Government on such terms and conditions as it may determine.

(6) The Secretary shall exercise such powers and perform such functions as may be assigned by the Board.

(7) Government may appoint as many Directors as it may consider necessary.

(8) The Managing Director and four Executive Directors of the Board shall be appointed initially for a term of four years, which may be extended for a further period as may be determined by Government.

(9) If the office of a Managing Director or Executive Director, for any reason, falls vacant, Government shall appoint new Managing Director or Executive Director.

(10) Government shall have the powers to remove Managing Director, or Executive Directors if he is of unsound mind, or is incapacitated due to illness or he is involved in moral turpitude or he is convicted by a court of law.

6. Efficiency and Discipline Rules, Conduct Rules, Leave Rules and all other Administrative and Financial Rules, Regulations and standing orders of Government shall be applicable to the employees of the Board. **Rules applicable to officials.**

7. Pay, allowances and honoraria of the employees of the shall be as such as may be prescribed by rules. **Honoraria and Privileges.**

CHAPTER – IV

POWERS AND FUNCTIONS OF THE BOARD

Powers and Functions of the Board.

8. (1) The Board shall have the right over the solid waste related issues, assets, funds and liabilities of the Councils and shall possess sole rights on all kinds of solid waste within the limits of all Councils.

(2) The Board shall have the authority to grant permission to individuals, institutions, industries, factories, workshops, furnaces, compost making and power generation from the solid waste, for segregation of the recyclable material from the waste, collection, treatment, sale and purchase, recycling or disposal of any kinds of waste.

In the performance of its functions, the Board shall not impede or prejudice the exercise of the executive authority of Government.

(3) The Board shall –

(a) recommend to Government a cess, tax or any other charges as per rules prescribed;

(b) prepare and submit to Government schedule of solid waste tariff, rates, charges or fees to be levied by the Board for approval;

(c) collect and recover cess, rates, charge fees or impose fine for collection and disposal of solid waste against the rules prescribed;

(d) charge surcharge not exceeding the double of the due amount, if rates charges or fees for solid waste not paid within time fixed by the Board;

(e) have full financial powers within the budget grant;

(f) construct, improve, maintain the buildings, sites and machinery relating to the operation of solid waste management;

(g) make rules and regulations for operational, administrative, human resource management and finance for regulating operation of solid waste management, from time to time;

(h) review the existing schemes or prepare new schemes relating to solid waste management and undertake execution thereof;

(i) regulate control or inspect the source points of generation, accumulation, transfer, recycling, trading of the solid waste;

(j) maintain accounts and records of the Board;

(k) prepare and revise schedule of any post in the Board and submit to Government for approval;

(l) employ third party to take over management of solid waste on behalf of the Board which shall have the authority as vested in the Managing Director, to employ such parties as may expedite the waste management and benefit the people.

(m) invite third party through atleast one leading newspaper;

(n) hammer down the lowest tender subject to cost and quality of service;

(o) follow the relevant operational and financial procedures and Sind Public Procurement Act and Rules made thereunder;

(p) take over the management and control of any waste management institution or service maintained by a Council.

(4) The Board may support, promote, administer, execute and implement schemes for undertaking any commercial or business enterprise which may benefit the management of waste.

(5) The Board may prepare and implement directly or with external professional assistance, solid waste exploitation plan, which shall amongst other matters include the following:

(a) nature and location of scheme or schemes;
(b) total estimated cost;
(c) sources of finances;
(d) date of commencement;
(e) date of completion;
(f) manner of execution;
(g) agencies responsible for maintenance;
(h) benefits, tangible or intangible accruals;
(i) Methodology to bring the plan into being in the most expeditious way so as to benefit the people.

(6) The Board shall get the schemes prepared or arrangement made for out sourcing any function relating to the collection, transfer, recycling of waste, compost making and energy generation out the solid waste, development of filling sites of the solid waste etc.

(7) The Board may grant, sell or lease out land or any other property at rates to be fixed in consultation with the Government, to assist with the implementation of waste management. The Board shall make a commercial and social benefit case for the rates to be recommended and the Government shall approve such rates unless they are detrimental to Government policy.

(8) During the transition period, the existing operation of Solid Waste Management will continue by the Councils. The Local Government Department will notify the date for transfer of the functions from the councils to the Board through official notification.

(9) The Board shall negotiate, review, and finalize the projects of the waste management with all commercial entities, agencies and foreign organizations in consultation with the provincial government.

9. **Meeting of the Board.**

(1) The Board shall hold a meeting at least after two months which shall be presided by the Chairman i.e. Chief Minister or his nominee to review the progress of work and taking decisions by majority of vote on all existing and new initiatives taken by the Board.

(2) In case chairman is out of the country or not in a position to preside over the meeting the Managing Director will preside the meeting and will obtain post-facto approval from the Chairman on all decisions taken in such meeting.

(3) **QUORUM OF THE MEETING:-**

At least two third numbers of official members i.e. Chairman, Managing Director, Executive Directors and at least four ex-officio members shall be required to complete the quorum in the meeting of the Board.

(4) **Minutes of the meeting:-**

Minutes of each meeting of the Board will be issued with in 48 hours of the holding of the meeting.

(5) **Committees and sub committees.**

The Board shall constitute various Committees or Sub-Committees for different subjects of operation, administration, hiring, tendering, financial and budgetary matter etc.

(6) The Board shall take over Solid Waste Management function gradually from the councils and other bodies presently dealing with Solid Waste Management in the province.

CHAPTER – IV

POWERS AND FUNCTIONS OF THE CHAIRMAN OF THE BOARD

Powers and Functions of the Chairman.

10. (1) The Chairman shall exercise the following powers;

(a) unless prevented by reasonable cause, preside all meetings of the Board;

(b) monitor the financial, executive and administration of the Board and perform such functions as are assigned to Chairman by or under this Ordinance;

(c) act on behalf of the Board in emergency, subject to obligation to inform such actions to the Board at its next meeting and to seek ratification of the Board of the actions so taken.

(2) When the Chairman by reason of absence from Pakistan or any other cause, is unable to exercise his powers and perform his functions, the Managing Director, unless Government has by notification entrusted the duties of the Chairman to some other person, shall exercise the powers and perform functions of the Chairman.

CHAPTER-V

POWERS AND FUNCTIONS OF THE MANAGING DIRECTOR

Managing Director

11. (1) The Managing Director shall be appointed by the Government on such terms and conditions as it may determine.

(2) The Managing Director shall be the Chief Executive Officer of the Board.

(3) Subject to the general control by the Chairman, the Managing Director shall –

(a) carry out the instructions of the Government and decisions taken by the Board and exercise the financial powers as may be prescribed under the rules.

(b) prepare and submit, with the approval of the Board, an annual, supplementary or revised budget to the Government for approval;

(c) submit audit reports prepared by the Auditor General of Pakistan to the Government and take prompt action to remove any irregularity pointed out by the auditor;

(d) furnish a copy of a resolution passed in a meeting of the Board, to Government or such other authority as Government may nominate from time to time;

(f) supply a copy of return, statement of account or a report or a copy of any document in his charge, called by a committee or sub-committee set up by the Board;

(g) report to the Government, Chairman and the Board all cases of fraud, embezzlement, theft, or loss of money or property;

(h) perform such other functions and exercise such other powers as may, from time to time be assigned by the Government or the Board

(4) Subject to such limitations as may be laid down by the Board, the Managing Director may delegate any of his powers to any Member or Director of the Board.

(5) In case of absence of the Managing Director due to sickness or a visit aboard or any other reason, the senior most Executive Director will hold the charge of the Managing Director unless otherwise notified by the Government for any other person.

CHAPTER – VI
POWERS OF THE GOVERNMENT

Powers of the Government.

12. (1) The annual, supplementary and revised budget of the Board, shall be sanctioned by the Government;

(2) The annual budget shall be submitted to the Government as per budget schedule announced by the Finance Department.

(3) Government shall, approve with or without modification schedule of solid waste tariff, rates, charges or fees to be levied for solid waste, within fifteen working days of its submission by the Board. If no approval is conveyed after fifteen working days, the schedule of solid waste tariff, rates, charges or fees so recommended shall be deemed to have been approved by Government.

(4) Government may approve any scheme submitted to it by the Board for solid waste management with or without modification or reject it.

(5) The Board may, with the approval of Government, raise long or short term loans including foreign currency loans for the Board.

(6) Government may give aid and make grant to the Board.

CHAPTER-VII
FINANCES

Solid Waste Management Fund.

13. (1) There shall be established a separate Fund for the Board, known as Solid Waste Management Fund;

(2) Government shall contribute to the fund an amount as Government may determine.

(3) The fund shall include-

(a) collection of solid waste management charges, rates or fees payable to the Board;

(b) grants made and aids given to the Board;

(c) loans raised or obtained for the Board;

(d) all other sums that may be received by the Board;

(4) The fund shall be managed and operated by the Board.

(5) The sums credited to the fund shall be deposited in such banks as may be approved by the Board.

(6) The fund may be invested by the Board in any security of the Federal Government or the Provincial Government or in any other security approved by the Government.

(7) Accounts and record of the Board shall be maintained in the manner as may be prescribed by the government but at all times under international General Accounting rules.

(8) Accounts of the Board shall be audited annually within six months of the expiry of the financial year by the Auditor General of Pakistan.

(9) The Board shall submit a statement of audited accounts alongwith audit report to Government.

CHAPTER-VIII
MISCELLANEOUS

14. (1) All decisions of the Board shall be taken in its meetings by majority of vote and such meetings and in equality of votes the Chairman shall have casting vote.

(2) Meeting of the Board shall be held in such manner and at such time and place as may be prescribed by regulations, provided that until the regulations are framed, the meetings shall be held as directed by the Chairman.

(3) No act or proceedings of the Board shall be invalid merely for reason of a vacancy in or any defect in the constitution of the Board.

(4) The Board may, by general or special order and subject to such conditions as the Board may impose, delegate to the Chairman, Managing Director or its officers or employees any of its powers or functions.

(5) Any action taken by the employee of the Board in good faith shall not be questioned in any court of law.