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SINDH ORDINANCE NO.XLV OF 2002

THE SINDH PLANTATION, MAINTENANCE OF TREES AND PUBLIC PARKS ORDINANCE, 2002

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SINDH ORDINANCE NO.XLV OF 2002

THE SINDH PLANTATION, MAINTENANCE OF TREES AND PUBLIC PARKS ORDINANCE, 2002

[20th November, 2002]

An Ordinance to provide for plantation, maintenance of trees and public parks in the Province of Sindh.

Preamble.

WHEREAS it is expedient in the public interest to provide for plantation, maintenance of trees and public parks and the matters ancillary thereto in the Province of Sindh;

AND WHEREAS the Provincial Assembly stands dissolved in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provisional Constitution Order No.1 of 1999;

AND WHEREAS the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the aforesaid Proclamation and the Provisional Constitution Order read with Provisional Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of Sindh is pleased to make and promulgate the following Ordinance:—

Short title, extent and commencement.

1. (1) This Ordinance may be called the Sindh Plantation, Maintenance of Trees and Public Parks Ordinance, 2002.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless there in anything repugnant, in the subject or context -

(i) "Agency" means the local government as defined in the Sindh Local Government Ordinance, 2001;

(ii) "Authorised Officer" means any officer of a local government appointed to perform the functions and exercise the powers under this Ordinance;

(iii) "felling" includes willfully cutting or destroying threes and plants by any means;

(iv) "Government" means the Government of Sindh;

(v) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture or for pasture, and includes the sites of building and other structures on such land;

(vi) "occupier" means any person in actual occupation of the land and includes the owner of the land;

(vii) "plant" include shrubs, climbers, creepers hedges, and ferns;

(viii) "public parks" includes botanical garden and any park or recreation grand maintained by an Agency;

(ix) "prescribed" means prescribed by rules;

(x) "tree" includes all perennial plant with well defined trunks growing above the ground with branches to a considerable height.

Maintenance of plants and trees.

3. An Agency shall, subject to rules and directions of Government and within the limits of funds at its disposal, plan and develop, plantation, maintenance of trees and public parks and cause to be maintained trees and public parks in accordance with this Ordinance.

Maintenance of public parks.

4. Subject to control and direction of the local government concerned, the Authorised Officer shall arrange plantation of trees and maintenance of public parks in accordance with the plan prepared under section 3.

Permission for felling or cutting trees.

5. (1) Subject to the provisions of this Ordinance, no person shall, without the written permission of the Authorised Officer fell or cut any tree growing on any land, except where felling or cutting is in compliance with any obligation imposed by or under any law or is otherwise in the public interest.

(2) An application for permission under sub-section (1) shall be made to the Authorised Officer who may either grant or refuse permission.

(3) The permission shall be subject to such conditions as the Authorised Officer may specify.

(4) Any person who is aggrieved by the decision of the Authorised Officer may within two weeks of the date of decision, appeal to the Agency whose decision thereon shall be final.

Notice to plant or re-plant.

6. (1) For the purpose of preserving or enhancing the amenity of any vacant land or land the occupier of such land shall plant or cause to be planted trees in accordance with the plan referred to in section 3.

(2) Where the occupier fails to comply with the requirements of sub-section (1) the Authorised Officer may serve on the occupier of such land a notice requiring him, within the period, not being less than fourteen days to plant or re-plant any tree of such species as may be specified in the notice.

(3) A notice under sub-section (1) may be addressed to the occupier with or without stating his name and may be served either by -

a. delivering it personally to the occupier;

b. leaving it with an adult at his usual or at the last known place of his abode or business; or

c. sending it by registered post addressed to him at the usual or last known place of his abode or business;

d. by affixing a copy of such notice at a conspicuous place of the property of his abode or business.

(4) A notice under sub-section (2) shall take effect on the expiry of the period as may be specified therein.

(5) If within that period the occupier appeals to the Agency, the notice shall not take effect unless the notice is confirmed by the Agency or the appeal is dismissed or withdrawn.

(6) The decision of the Agency on the appeal shall be final.

(7) Where the occupier has failed to comply with the requirement of any notice which has become effective under sub-section (5), the Authorised Officer may at all reasonable times take such measures and do such works thereon as may be necessary to comply with the notice wholly or partly.

Removal of tree plants by occupier and recovery of cost/expenses in the case of default.

7. (1) Where the Authorised Officer is satisfied that any tree or plant, whether growing or not, is in an inflammable state or is likely to be dangerous to life or property or to cause an obstruction or in any way impedes traffic, he may by notice in writing require the occupier of the land on which it is growing or lying to remove it within the time specified in the notice.

(2) If the notice is not complied with, the Authorised Officer may, at any time after the expiry of the period specified in the notice, cause the work to be done at the cost and expense of the occupier.

Trees to be properly planted.

8. Where trees and plants are not planted in accordance with the approved plan and specification to the satisfaction of the Authorised Officer he may cause the trees and plants to be planted in accordance with the plan.

Prohibition on removing and cutting of trees.

9. A public park shall be maintained in the manner as may be prescribed. Subject to other provisions of this Ordinance no person shall remove, cut, damage, or displace any plant, shrub or tree or a branch or part thereof at any public place including a public park.

Offences and punishments.

10. Any person who contrivance the provisions of this Ordinance shall be punished with a fine not exceeding twenty five thousand rupees.

Compounding of Offences.

11. (1) The Authorised Officer may compound an offence under this Ordinance after accepting a sum of five thousand rupees plus such damages as may be determined by him.

(2) No court shall take cognizance of an offence under this Ordinance except on a complaint made by the Authorised Officer.

(3) On payment of such sum of money no further proceedings shall be taken against such person in respect of that offence.

12. Any amount payable under this Ordinance shall be recoverable as arrears of land revenue.

Exemption.

13. Government may by notification in the official gazette exempt any land or class of land or any occupier or class of occupiers from the operation of this Ordinance.

Indemnity.

14. No suit or legal proceedings shall lie against Government, the Agency or the Authorised Officer in respect of anything which is done or purported to have been done or intended to be, or has been, done under this Ordinance.

Rules.

15. (1) Government may make rules for carrying out purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters: -

(a) the manner in which trees may be planted and maintained;

(b) the manner in which the pubic parks may be maintained;

(c) the functions to be performed or powers to be exercised by the Authorised Officer in relation to the public parks;

(d) the acts to be prohibited in a public park;

(e) kind of trees to be planted in different areas and the period within which the trees are to be planted; and

(f) the procedure for maintaining the record of trees and public parks.