

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

SINDH ACT NO. V OF 2021

CONTENTS

Preamble

Sections

1. Short title, Extent and commencement.
2. Amendment of section 2 of Sindh Act No. V of 2010
3. Amendment of section 4 of Sindh Act No. V of 2010.
4. Amendment of section 5 of Sindh Act No. V of 2010.
5. Amendment of section 7 of Sindh Act No. V of 2010.
6. Amendment of section 8 of Sindh Act No. V of 2010.
7. Amendment of section 15 of Sindh Act No. V of 2010.
8. Amendment of section 16 of Sindh Act No. V of 2010.
9. Insertion of section 19-A of Sindh Act No. V of 2010.
10. Addition of section 32 in Sindh Act No. V of 2010

**THE SINDH PUBLIC-PRIVATE PARTNERSHIP (AMENDMENT) ACT,
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[13th April, 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. |
| | (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- | Amendment of section 2 of Sindh Act No. V of 2010 |
| | (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.”. | |
| 3. | In the Act, in section 4- | Amendment of section 4 of Sindh Act No. V of 2010. |
| | (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”; |

**THE SINDH PUBLIC-PRIVATE PARTNERSHIP (AMENDMENT) ACT,
2021
SINDH ACT NO. V OF 2021**

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

“(iv) Minister or, as the case may be, **Co-opted**
Advisor or the concerned **Member;**
Department

(c) for clause (vi), the following shall be substituted:-

“(vi) Chairman/Chairperson, Planning **Member”**
& Development Board, Planning
& Development Department **or**
Additional Chief Secretary, as
the case may be;

(d) after clause (vi), the following shall be inserted:-

“(vi-a) Senior Member, Board of **Member”**
Revenue, Sindh

(e) after clause (vii), the following shall be inserted:-

“(vii-a) Secretary Law **Member”**

(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 **Co-opted**
Government department or **Member”**
entity owned or controlled by
Government if nominated by
the Chief Minister as co-opted
member

(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

**THE SINDH PUBLIC-PRIVATE PARTNERSHIP (AMENDMENT) ACT,
2021
SINDH ACT NO. V OF 2021**

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 word “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) **Amendment of section 15 of Sindh Act No. V of 2010.**
 - (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.”.
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

**THE SINDH PUBLIC-PRIVATE PARTNERSHIP (AMENDMENT) ACT,
2021
SINDH ACT NO. V OF 2021**

signing of Public-Private Partnership Agreement subject to approval of the Board.

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

“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 sub-section 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 sub-section (1).”.

10. In the Act, after section 31, the following new section 32 shall be inserted: **Addition of section 32 in Sindh Act No. V of 2010**

“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.”.