

The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, NOVEMBER 25, 2002

PART II

Statutory Notification (S.R.O)

GOVERNMENT OF PAKISTAN
MINISTRY OF PRIVATISATION
(Privatisation Commission)

NOTIFICATION

Islamabad, the 20th November, 2002

S.R.O. 832(1)/2002 – In exercise of the powers conferred by section 41 of the Privatisation Commission Ordinance, 2000 (LII of 2000) read with section 9(2) thereof, the Privatisation Commission hereby makes the following Regulation namely: -

PRIVATISATION COMMISSION
(DELEGATION OF POWER) REGULATION, 2002

1. **Short title and commencement.** - (1) These Regulations may be called the Privatisation Commission (Delegation of Powers) Regulations, 2002.

2. **Definitions.** - (1) In these Regulations, unless there is anything repugnant in the subject or context: -

- a) “Ordinance” means the Privatisation Commission Ordinance 2000 (LII of 2000);
- b) “delegation of powers” means the extent of powers indicated in the schedule;
- c) “schedule” means the schedule attached to these Regulations;

(2) All other terms and expressions used, but not defined in these Regulations, shall have the same meaning as assigned to them in the Ordinance or Rules or Regulations notified under the Ordinance from time to time.

3. **Delegation of Powers.** - (1) the Chairman, Secretary and officers of the Commission shall perform the functions or exercise the powers as delegated and subject to the conditions specified in the schedule to these Regulations.

(2) In case the Chairman is not available at principal office in Islamabad, the Secretary shall perform his functions or exercise the powers on his behalf provided that such cases shall be submitted to the Chairman, on his return to the principal office, for information.

(3) In case the Secretary is not available at principal office in Islamabad, the Executive Director or the Director General, as the case may be, may submit the cases, if the situation so warrants, to the Chairman for decision. Such cases shall be submitted to the Secretary on his return to the principal office, for information.

(4) Where the powers have been delegated to the Chairman or the Secretary, the Board or the Chairman may review the case, where considered necessary.

(5) Where the powers have been delegated to any other officer, Chairman or Secretary may review the case where considered necessary.

(6) The powers delegated shall be exercised by the respective authorities' subject to observance of other rules, regulations, notifications, orders and instructions in force within the meaning of sub section (4) of section 3 of the Ordinance or those prescribed/issued under various sections of the Ordinance.

(7) The powers delegated as per said schedule shall not be further delegated by the respective officers to their subordinates except with the prior approval of the Board.

(8) Approval/decision of the Board shall be obtained in the following cases: -

- i. Constitution of Pre-Qualification Committee.
- ii. Pre-qualification criteria for Pre-qualification of the prospective bidders
- iii. Pre-qualification of bidders
- iv. Transaction Structure and modification thereof for all modes of privatisation
- v. Joint Audit Review
- vi. Sale of remaining shares in respect of privatized enterprises
- vii. Licensing and tariff rules of regulatory authorities, where such rules may affect the privatisation programme
- viii. Panel of Chartered Accountants to carry out audit of Privatisation Commission
- ix. Audited Accounts of Privatisation Commission
- x. Panel of Valuers
- xi. ~~–deleted–~~^[1]
- xii. Change in the existing scale of fee for Lawyers/Law firms for transaction related matters, exceeding fee of US\$1.0 million or equivalent PKR ^[1].
- xiii. Panel of Lead Managers
- xiv. Appointment of Financial Adviser in specific transactions

(9) Approval/decision of the Chairman shall be obtained in the following cases: -

- i. Incentives to employees of PC to undertake special workload not falling within the normal sphere of their duties

- ii. Financial Advisory Services Agreement
- iii. Bid documents
- iv. Sale instruments
- v. Letter of Acceptance
- vi. Distribution of privatisation proceeds to the Federal Government or the enterprise entitled to the proceeds under the Privatisation Commission Ordinance 2000.
- vii. Appointment of Lawyers/ Law Firms on case to case basis including but not limited to transaction and related matters ^[1].

(10) Where a need arises to exercise discretion, the same shall be exercised by the Secretary or Chairman and not by an officer other than the Secretary.

(11) If a question arises as to whether any function is to be performed or power exercised by whom, the decision of the Chairman shall be final.

(12) In all other matters, pursuant to provisions of Privatisation Commission Ordinance 2000, the powers currently being exercised by the Board shall continue to be exercised.

[PC No. F. 16(2)P&C/PC/2002.]

Sd/-
MUNIR AHMED
Director

[1] Amended vide PC Board's decision dated 11.12.2014

SCHEDULE

DELEGATION OF POWERS UNDER SUB SECTION (2) OF SECTION-9 OF THE PRIVATISATION COMMISSION ORDINANCE, 2000

Sr. No.	Nature of Power	Extent of Delegation			Remarks	
		Chairman	Secretary	Executive Director General / Director General		
1	2	3	4	5	6	
1	Appointment of Financial Advisor (FA)					
	a	Decision that FA is required for a transaction.	Full Powers			
	b	Approval of advertisement inviting EOIs from interested parties for appointment as FA, names of the newspapers/ magazines and approval of cost of advertisement		Full Powers		
	c	Approval of pre-qualification criteria /TORs for appointment of FA	Full Powers			
	d	Constitution of Evaluation Committee and approval of its TOR.	Full Powers			
	e	Approval of recommendations of Evaluation Committee for submission to the Board of Privatisation Commission		Full Powers		
	f	Approval of Financial Advisory Services Agreement	Full Powers			
2	Appointment of Valuer					
	a	Approval of advertisement inviting EOIs for appointment as Valuers names of the newspapers/ magazines and approval of cost of advertisement		Full Powers		
	b	Decision that Valuer is required		Full Powers		
	c	Approval of Pre-qualification criteria/TORs for Valuer		Full Powers		
	d	Constitution of Evaluation Committee to evaluate the firms		Full Powers		
	e	Decision to appoint Valuer form the Panel approved by the Board.	Full powers in cases exceeding fee of Rs.1 million	Full powers in cases of fee up to Rs.1 million		
3	Engaging of Lawyer / Law Firms ^[2]				Subject to Top 25 -30 Global	

Sr. No.	Nature of Power		Extent of Delegation			Remarks
			Chairman	Secretary	Executive Director General / Director General	
1	2		3	4	5	6
	a	Selection of Lawyer / Law Firms for transaction and related matters	Full Powers			Ranked lawyers/ law firms.
	b	Selection of Lawyer / Law Firms for litigation related matters		Full Powers		Subject to Competitive basis from lawyers/ law firms having requisite experience and/ or having minimum 15 years of High Court and/or Supreme Court Experience.
	c	Approval of Lawyer's Fee exceeding the approved scale of fee and payment thereof	Full Powers			
	d	Approval of Lawyer's Fee within the approved scale of fee and payment thereof		Full Powers		Full and final professional fee be approved on filing of power of attorney and pleadings etc.
4	Deleted ^[2]					
4A	Power to institute / defend withdraw & compromise suits/ petitions/ appeals etc. by & against Privatisation Commission ^[3]			Full Powers		Secretary, PC may authorize any officer of the Commission to do the following acts on behalf of Privatisation Commission. (i) To make, sign and verify Plaints, Applications, Replies, Statements, Petitions, Claims, Vakalt Namas. (ii) To sign and swear affidavits etc. and compromise/ withdrawal of Suits Petitions etc. (iii) To commence other proceedings
5	a	Appointment of Lead Manager in specified transactions from within the approved panel and fee structure	Full Powers			

Sr. No.	Nature of Power		Extent of Delegation			Remarks
			Chairman	Secretary	Executive Director General / Director General	
1	2		3	4	5	6
	b	Approval of TOR for Lead Manager		Full Powers		
6	Process of Privatisation					
	a	Recommending to the Board for inclusion/ exclusion of property in/ form privatisation list	Full Powers			
	b	Approval of advertisement inviting EOIs from interested parties from pre-qualification as prospective bidders, names of the newspapers/ magazines		Full Powers		
	c	Approval of cost of advertisement for inviting EOIs from interested bidders		Full Powers		
	d	Approval of RSOQ where required	Full Powers			
	e	Approval of Bid Documents	Full Powers			
	f	Approval of payments of GHS/VSS as per policy		Full Powers		
	g	Approval of marketing plan including Roadshows, Seminars etc.	Full powers in case of Roadshows/ seminars etc. proposed to be held abroad.	Full powers in other cases		
	h	Approval of payments arising from contractual obligations such as Agreements, appointment letter, any policy, etc. including payments to Financial Advisor, Transaction related Lawyers/ Law Firms, Lead Managers, Valuers, Advisors etc.	Full powers in all cases of payments in excess of US\$100,000 up to US\$ 1.0 million or equivalent PKR	Full powers up to US\$100,000 or in excess of Rs.500,000 up to Rs.6,000,000	Full powers up to Rs.500,000 on one occasion in each case	Advance payments shall be approved by the Secretary/ Chairman

Sr. No.	Nature of Power		Extent of Delegation			Remarks
			Chairman	Secretary	Executive Director General / Director General	
1	2		3	4	5	6
	i	Approval of cost and expenses of implementing marketing plan, roadshows, seminars, conferences other than contractual obligations	Full powers for payments in excess of US\$50,000 or Rs.3,000,000	Full powers for payments up to US\$50,000 or in excess of Rs.250,000 up to Rs.3,000,000	Full powers up to expenditure of Rs.250,000	Expenditure to be incurred on the components of approved plan only. Secretary will be informed in cases of expenditure exceeding Rs.100,000.
	j	Approval of sale instruments such as sale purchase agreement, transfer of management rights Agreement etc.	Full Powers			
	k	Approval of Letter of Acceptance to successful bidder	Full Powers			Subject to approval of successful bidder by the CCOP
	l	Receipt, refund, adjustment and forfeiture of earnest money	Full Powers			
7	PC Board and CCOP meetings					
	a	Approval of agenda of the Board		Full Powers		
	b	Approval of agenda of CCOP	Full Powers			
8	Other matters					
	a	Distribution of privatisation proceeds to the Federal Government or the enterprise owned or controlled by the Federal Government entitled to such proceeds as per Privatisation Commission Ordinance 2000	Full Powers			
	b	Approval to issues directions/ instructions to the management of a business undertaking falling within purview of privatisation programme	Full Powers			In accordance with Section 5(h) read with Section 35 of Privatisation Commission Ordinance
	c	Appointments to Management positions in the SOEs and Head/ Member in Regulatory Authorities	Full Powers			

Sr. No.	Nature of Power		Extent of Delegation			Remarks
			Chairman	Secretary	Executive Director General / Director General	
1	2		3	4	5	6
	d	Decisions to call for information required by the Commission from any person in connection with privatisation activities or matters incidental or consequential thereto			Full Powers	In accordance with section 36 of the PC Ordinance, 2000. Secretary will be informed.
	e	Payments of salaries of the In house Advisor, Consultant and Technical Assistants.			Full Powers	In accordance with terms and conditions of appointment.
	f	Payments of TA Bills of the In house Advisor, Consultants and Technical Assistants			Full Powers	
	g	Supplementary contributions from the Privatisation Fund of the Commission.	Full powers in excess of Rs.6.0 million	Full powers up to Rs.6.0 million		
	h	Transfer of funds within the Bank Accounts maintained by the Commission.	Full powers in excess of Rs.20.0 million	Full powers Up to Rs.20.0 million		
	i	Expenditure on travel abroad of Members of the Board, In house Advisors, Consultants, etc. of the Commission for official purpose.	Full powers in cases of Members and Secretary	Full powers in other cases		
	j	Other miscellaneous matters concerning operations of the Privatisation Commission.	Full powers to issue appropriate policy directions.			
9	Administrative & Financial Powers, other than those specified above.			All the powers of a Secretary to the Federal Government	As delegated to the, Additional Secretary/ Joint Secretary, Ministry of Finance from time to time	Officer of the rank and status of Director/ Deputy Director may exercise these powers as delegated to their counterparts in Finance Division from time to time.

Sr. No.	Nature of Power		Extent of Delegation			Remarks
			Chairman	Secretary	Executive Director General / Director General	
1	2		3	4	5	6
	a	Procurement through quotation basis method ^[4]	Full powers for approving such cases	Full powers for sanction of payment up to Rs.500,000		In accordance with Rule 42 of PPRA Rules, 2004

[2] Notified vide 16(2)P&C/PC/2002 dated 30.11.2016.

[3] Notified vide SRO No. 702(1)/2003 dated 28.07.2003.

[4] Notified vide 16(2)P&C/PC/2002 dated 30.11.2016.