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~~[TO BE INTRODUCED IN THE SENATE]~~

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BILL

to provide for the safety standards on the watersides of canals, dams, lakes and rivers in the Islamabad Capital Territory which are currently ineffective and are required to be improved and regulated to avoid unfortunate incidents of drowning;

WHEREAS the safety standards on the watersides of canals, dams, lakes, and rivers in the Islamabad Capital Territory are ineffective and are required to be improved and regulated to avoid unfortunate incidents of drowning;

AND WHEREAS it is important to make watersides safe for both recreational and travelling purposes;

AND WHEREAS it is expedient to establish and enforce a regulatory framework, for the said purpose, in the form of legislation;

It is hereby enacted as follows:

**PART I
PRELIMINARY**

1. Short title, extent and commencement.— (1) This Act may be called the Islamabad Capital Territory Watersides Safety Act, 2020.

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. Definitions.— The following words and expressions, wherever used in this Act, unless repugnant to the subject and context, shall have the meaning assigned to them as defined hereunder:

(a) **"Act"** means the Islamabad Capital Territory Watersides Safety Act, 2020;

(b) **"Authority"** means the the Islamabad Capital Territory Watersides Safety Authority established under Section 3 of the Act;

(c) **"Authorized Officer"** means an officer appointed under Section 5 of the Act;

(d) **"Canal"** means a ditch dug in the earth either to contain water or a pathway through which the water flows and includes all water-courses and channels;

(e) **"Certificate of Compliance"** means a certificate issued under Section 22 of the Act;

(f) **"Chairperson"** means the Chairperson of the Authority;

- (g) **"Commencement Date"** means the date of the passing of the Act;
- (h) **"Dam"** means a barrier or reservoir constructed to hold back water and raise its level, and includes all the dams situated within the Islamabad Capital Territory;
- (i) **"Fence"** means a barrier, railing or wall, made of wood, wire or any other solid material to prevent or control access to the watersides, and includes entrance set in the fence or wall;
- (j) **"Fund"** means the the Islamabad Capital Territory Watersides Safety Fund;
- (k) **"Government"** means the Federal Government of Pakistan;
- (l) **"Lake"** means an expanse of water surrounded by land including a pond or a small water reservoir;
- (m) **"Local Government"** means a local government elected under the Islamabad Capital Territory Local Government Act, 2013;
- (n) **"Member"** means a member of the Authority;
- (o) **"Netting"** includes any safety net spread in the water, to be used as a barrier for anything flowing into the water;
- (p) **"Officer"** includes the Authorized Officers, and all other officers appointed by the Authority under the Act;
- (q) **"Prescribed"** means prescribed by rules or regulations made under the Act;
- (r) **"Rescue 1122 Service"** means Islamabad Capital Territory Rescue Service 1122 and includes the rescue 1122 service of other provinces as well;
- (s) **"Report"** means the report made by the Authorized Officer under Section 9(c) of the Act;
- (t) **"River"** includes all or any of the rivers flowing within the Islamabad Capital Territory;
- (u) **"Safety Zone"** means an area of $\frac{1}{4}$ kilometer (250 meters) on each side of the Canal, Dam, Lake or River, running with the length of the Canal, Dam, Lake or River to a distance of two (2) kilometers outside the territory of a neighboring populated area or a picnic spot and shall also include all the pathways, bridges, small or big, temporary or permanent; and
- (v) **"Watersides"** means the edge of the Canals, Dams, Lakes and Rivers and includes the area adjoining these.

PART II
AUTHORITY AND THE AUTHORIZED OFFICERS

3. Establishment of the Authority.—(1) The Government shall establish an Authority to be called the the Islamabad Capital Territory Watersides Safety Authority within six months from the date of publication of this Act in the official gazette.

(2) The Authority shall be a body corporate having perpetual succession and a common seal, and subject to and for the purpose of this Act, may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, re-assign, transfer or otherwise dispose of or deal with any movable or immovable property or any interest vested in it, upon such terms as it deems fit.

(3) The office of the Authority shall be at Islamabad.

4. Composition of the Authority.— (1) The Authority shall comprise of three Members, including the Chairperson.

(2) The Members and Chairperson of the Authority shall be appointed by the Government. In no circumstances the Chairperson and the Member shall be appointed for more than two terms.

(3) The qualifications, tenure and other terms and conditions of service of the Chairperson and Members of the Authority shall be prescribed by the Government.

(4) The Members may be appointed by the Government from amongst the officers of the Government or Local Government.

(5) No act or proceedings of the Authority shall be invalid by reason of absence of a Member or existence of any vacancy among its members or any defect in the constitution of the Authority.

(6) The Chairperson shall be the Chief Executive of the Authority and shall be responsible for the administration of the affairs of the Authority.

(7) The Authority or the Chairperson, as the case may be, subject to such conditions as it may deem fit, from time to time, delegate all or any of its powers and functions to any of the Members.

(8) At any time when the position of the Chairperson is vacant or the Chairperson is unable to perform his functions due to any cause, the Government shall appoint the most senior Member of the Authority to be the Acting Chairman of the Authority until the appointment of a Chairperson on a regular basis.

(9) The process of appointment of Chairperson shall commence six months prior to completion of the tenure of incumbent Chairperson.

5. Appointment of the Authorized Officers.— (1) The Authority shall appoint as many officers as it considers necessary, within the territory of which a Waterside exists or flows, to be known as the Authorized Officers.

(2) Notwithstanding sub-section (1) above, the Authority may delegate the powers of the Authorized Officers under the Act to any officer of the Government or Local Government or to any officer of the Rescue 1122 Service to carry out the duties under the Act.

(3) The Authorized Officers shall be responsible for the implementation and enforcement of the Act within their territorial jurisdiction and shall perform such other functions as may be assigned to them, from time to time, by the Authority.

(4) The terms and conditions of appointment and service of the Authorized Officers shall be prescribed by the Authority.

6. Appointment of other Officers.— In addition to the Authorized Officers, the Authority may appoint as many other Officers as it considers proper for the purposes of the Act and prescribe the functions, local area of jurisdiction and the terms and conditions of service of these Officers.

7. Members of the Authority and Officers to be Public Servants.— The Members of the Authority, including the Chairperson, and the Officers shall, when acting or purporting to act in pursuance of any of the provisions of the Act or the rules, be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code (Act XLV of 1860).

PART III FUNCTIONS OF THE AUTHORITY, AND AUTHORIZED OFFICERS

8. Functions of the Authority.— (1) The Authority shall have all such powers as may be necessary to perform its duties and functions under this Act.

(2) The Authority may, with regard to its functions and to exercise its powers efficiently, organize itself into divisions, wings or such other subdivisions as it may consider expedient.

(3) The functions of the Authority shall include, but not limited to, the following:

- (a) to ensure enforcement and compliance of the Act;
- (b) to supervise and monitor the activities of the Officers;
- (c) to establish linkages with national and international organizations for the development of safety measures at the Watersides;

- (d) to initiate proceedings in accordance with the procedures of this Act and make orders in cases of contravention of the provisions of the Act;
- (e) to maintain order and discipline of the Officers;
- (f) to investigate the complaints filed under Section 25 of the Act;
- (g) to call for information and documents from any person;
- (h) to make recommendations to the Government on policies with respect to the safety measures to be taken at the Watersides;
- (i) to make rules and regulations under the Act;
- (j) to perform any such functions as may be ancillary, or as may be assigned by the Government; and
- (k) to take all other actions as may be necessary for carrying out the purposes of this Act.

9. Functions of the Authorized Officers.— For the purposes of the Act, an Authorized Officer shall be responsible to:

- (a) carry out the functions assigned to him under the Act;
- (b) ensure compliance with the safety provisions provided under Part 5 of the Act as well as all the other responsibilities specified under the Act;
- (c) make proper risk assessment of Watersides, and prepare a Report on the basis of the assessment and the statistics collected from the past incidents;
- (d) issue details and extent of dangers associated with the examined Waterside on the basis of Report made under sub-clause (c);
- (e) maintain a record pertaining to the accidents occurring on Watersides, and casualties happening therein;
- (f) provide life-saving services including assigning lifeguards around Watersides, when and where necessary;
- (g) ensure that all the safety measures, including warning signs, Fences and Netting, are maintained in a good state of repair at all times;
- (h) promote awareness in relation to safety on Watersides;

- (i) co-ordinate with federal, provincial and local government departments for ensuring safety on Watersides in accordance with the Act. Such departments include, but are not limited to, Pakistan Meteorological Department, federal and provincial Disaster Management Authorities, Local Governments, Police, Health Department, and Rescue 1122 Service;
- (j) provide quarterly progress reports to the Authority with respect to the safety measures at the Watersides;
- (k) promptly inform the Authority of any matter requiring immediate action on the part of the Authority;
- (l) advise the Authority with respect to the improvement of safety measures at the Watersides; and
- (m) perform any such functions as may be ancillary, or as may be prescribed by the rules and regulations framed by the Authority or as may be assigned by the Authority.

PART IV WATERSIDES SAFETY FUND AND BUDGET

10. Fund.— (1) The Government shall establish a Fund to be known as the the Islamabad Capital Territory Watersides Safety Fund which shall be administered and controlled by the Authority.

- (2) The Fund shall consist of:
 - (a) budgetary allocation from the Government;
 - (b) grants, other than budgetary releases from the Government;
 - (c) donations or grants from any person, local, national or international organization or agency; and
 - (d) loans obtained by the Authority. All loans obtained shall be with the approval of the Government.

11. Budget.— The Chairperson shall prepare an annual budget comprising the likely expenditures for the ensuing financial year and submit the same to the Authority for approval in the form and manner as may be prescribed.

12. Bank accounts.— The Authority may open and maintain its accounts at such scheduled banks as it may determine.

13. Accounts.— (1) The Authority shall maintain proper accounts and other records relating to its financial affairs including its income, if any, and expenditures and its assets and liabilities in such form and manner as may be prescribed.

(2) After the end of each financial year, the Authority shall, as soon as possible and in the manner prescribed, cause to be prepared for that financial year the statements of account of the Authority, in the manner prescribed, which shall include a balance sheet and an account of income and expenditure.

14. Audit.— The accounts of the Authority shall be audited annually by one (1) or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), appointed by the Authority in consultation with the Auditor-General of Pakistan from a panel of chartered accountants proposed by the Authority.

15. Annual Report.— (1) The Authority shall, within three months of the completion of a financial year, submit to the Government an annual report.

(2) The annual report shall consist of—

(a) the statement of accounts ;

(b) a comprehensive statement of the work and activities of the Authority during the preceding financial year;

(c) details pertaining to the accidents occurred on Watersides, and causalities happened therein; and

(d) such other matters as may be prescribed and as the Authority may consider appropriate.

(3) The Government may, within two months of receiving the annual report from the Authority, lay the same in both Houses of the Parliament.

PART V SAFETY REQUIREMENTS FOR WATERSIDES

16. Safety Measures.— (1) The Government shall ensure that, with the assistance of the Authority, the safety measures mentioned in this Part of the Act are complied with within a period of one (1) year of the Commencement Date.

(2) Till such time the safety measures mentioned in this Part are fully complied with, the Authority shall make sure that temporary safety measures are taken to provide safety on the Watersides.

(3) Where the Authority, in consultation with the respective Authorized Officer, is satisfied after careful consideration, that any of the safety measures mentioned in this Part cannot be taken for a particular Waterside the Authority may require the taking of other alternative measures by the Authorized Officer to satisfy the safety measures requirement for purposes of the Act.

17. Warning Signs must be erected near Watersides.— (1) Each Authorized Officer shall ensure that, at all times, warning signs are erected at a prominent place in the immediate vicinity of Watersides within its local limits.

(2) For the purposes of this provision, a warning sign shall meet the following criteria:

- (a) it shall caution the people regarding the dangers of the Watersides, if any, and shall also provide instructions for safety;
- (b) it shall be erected at a noticeable place, in the immediate vicinity of Watersides, from where it can be easily seen and read;
- (c) it shall be written in three languages; namely, Urdu, English and the local language in broad and easily readable words;
- (d) it shall have the required warning written on it in a prominent and comprehensible manner; and
- (e) it shall have appropriate lighting to ensure visibility during night and on dark and cloudy days.

(3) The respective Authorized Officers shall ensure that the warning signs, within their local limits, are maintained in a state of good repair at all times.

18. Fencing.— (1) The Authorized Officers shall place Fences, where possible and necessary, around the Safety Zones of the Watersides, within local limits, as a safety measure.

(2) The Fence shall be at least seven feet high from the ground and shall shield the entire Safety Zone at the Waterside.

19. Netting.— (1) Where the Authorized Officer reports to the Authority that the Safety Zone of a particular Waterside cannot be protected by placing Fences around it and the Authority is satisfied that the same is not possible, it shall require the Authorized Officer to cover the Safety Zone of such Waterside with Netting, as a safety measure.

(2) The Netting shall cover a distance of two hundred meters around the Safety Zone and from any pathway, bridge or crossing over the Waterside.

- 20. Life-saving Services.—** (1) The Authorized Officers shall provide for:
- (a) targeted life-saving services including lifeguards around Watersides, when and where necessary; and
 - (b) vigilance or supervisory activities at Watersides.

**PART VI
INSPECTION AND COMPLIANCE WITH THE ACT**

21. Mandatory Inspection.— The Authority shall, from time to time, but no later than six months, hold a mandatory inspection of the Watersides, to ensure continuing compliance with the provisions of the Act.

22. Certificates of Compliance.— After carrying out a mandatory inspection under Section 21, the Authority shall issue a Certificate of Compliance to the Authorized Officer if the Authority is satisfied that the Authorized Officer has complied with the safety requirements under Part 5 of the Act.

23. Non-compliance.— (1) If upon inspection carried out by the Authority under Section 21, it finds out that the Authorized Officer has failed to comply with the provisions of the Act, particularly Part 5 of the Act, the Authority shall issue a notice to the concerned Authorized Officer.

(2) A notice by the Authority under this Section shall cover the following:

- (a) The date of the notice.
- (b) The specifications of the Waterside to which the notice relates.
- (c) The date on which the inspection was carried out.
- (d) The reasons as to why the Authority is dissatisfied with the compliance of the mandatory requirements provided under the Act, particularly Part 5 of the Act.
- (e) The steps that need to be taken in order to meet those requirements.
- (f) Time period to comply with the provisions of the Act.

(3) If the Authorized Officer fails to comply with the mandatory requirements provided under the Act even after the issuance of the notice under sub-section (2) of this Section, the Authority shall issue a show cause notice to the concerned Authorized Officer to explain within seven days as to why penal action should not be taken against him.

(4) If the Authorized Officer fails to respond to the show cause notice within the period specified in sub-Section (3) of this Section or if the Authority is dissatisfied with such response, the Authority shall start disciplinary proceedings against the Authorized Officer in terms of Part 8 of this Act.

PART VII COMPLAINTS AND INVESTIGATION

24. Filing of Complaints.— (1) If any Authorized Officer or any other Officer fails to perform his functions under the Act, any person, including any other Authorized Officer, Officer or Member of the Authority, may file a complaint in writing to the Authority.

(2) The complaint shall state how the Authorized Officer or the Officer, as the case may be, has failed to perform the functions assigned to him under the Act and shall also provide evidence, if possible.

25. Investigation of Complaints.— (1) The Authority shall commence investigation of the complaint within seventy two hours of receiving it.

(2) The Authority may decline to investigate a complaint if it considers the complaint to be vexatious, misconceived, frivolous or lacking in substance.

(3) If the Authority considers the complaint to be valid, it may initiate investigation. The investigation shall be completed within seven days after it has been initiated.

(4) If the result of the investigation reveals that the Authorized Officer or the Officer, as the case may be, has failed to discharge his functions under the Act, the Authority shall initiate proceedings against the Authorized Officer or the Officer under Part 8 of the Act within seven days.

PART VIII DISCIPLINARY PROCEEDINGS AND PENALTIES

26. Disciplinary Proceedings.— (1) If an Authorized Officer or any other Officer is found guilty of the contravention of the Act, the Authority may initiate regular inquiry against him.

(2) An inquiry officer shall be appointed by the Authority to conduct the inquiry which shall provide due opportunity of hearing to the delinquent Authorized Officer or the Officer.

(3) The inquiry officer shall complete the inquiry within fifteen days of entering upon the inquiry.

(4) On the completion of the inquiry, the inquiry officer shall provide an inquiry report along with his recommendations to the Authority.

27. Penalties.— If as a result of the inquiry proceedings, the Authorized Officer or the Officer is found guilty of the contravention of the Act, the Authority may impose any one or more of the following punishments:

- (a) Dismiss him from his service;
- (b) Withhold his increment or promotion for a specified period;
- (c) Reduce him to a lower post; or
- (d) Impose a fine which may extend to five hundred thousand and in case of a continuing default to five hundred for each day of default.

28. Powers of the Authority.— (1) The Authority shall, for the purpose of adjudicating and determining any contravention of the Act, be deemed to be a Civil Court and shall have the same powers as are vested in such Court under the Code of Civil Procedure, 1908 (V of 1908), including the powers of:

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents and material objects; and
- (c) issuing commissions for the examination of witnesses or documents.

(2) The Authority shall, for the purpose of trying an offence under the Act, have the same powers as are vested in the Court of a Magistrate of the first class empowered under Section 30 of the Code of Criminal Procedure, 1898 (V of 1898).

PART IX CONTRAVENTION BY GENERAL PUBLIC

29. Contravention by General Public.— (1) If it is found that any member of the general public has caused any damage to the safety measures taken under Part 5 of the Act or is obstructing any Officer of the Authority in the performance of his functions under the Act, the Authority may on its own motion or upon receiving a complaint from any person, including an Officer, shall issue a show cause notice to the accused person to explain within seven days as to why penal action should not be taken against him.

(2) If the accused person fails to respond to the show cause notice within the period specified in sub-Section (1) of this Section or if the Authority is dissatisfied with such response, the Authority shall start proceedings against such person.

(3) An inquiry officer shall be appointed by the Authority to conduct the inquiry who shall provide due opportunity of hearing to the accused person.

(4) The inquiry officer shall complete the inquiry within fifteen days of entering upon the inquiry.

(5) On the completion of the inquiry, the inquiry officer shall provide an inquiry report along with his recommendations to the Authority.

(6) If as a result of the inquiry proceedings, the accused person is found guilty, the Authority may impose any one or more of the following punishments:

- (a) impose a fine which may extend to five million rupees and in case of a continuing default to fifty thousand rupees for each day of default; and
- (b) debar such person from visiting the relevant Waterside for a specified period not exceeding six months.

(7) The person aggrieved by any order or penalty imposed by the Authority under sub-Section (6) above, may prefer an appeal within forty five days of the date of communication of the impugned order or penalty to such person.

PART X APPEAL AGAINST THE DECISION OF THE AUTHORITY

30. Appeal.— If any person or Officer is aggrieved by any order or penalty imposed by the Authority under the Act, he may prefer an appeal with the Islamabad High Court within forty five days of the date of communication of the impugned order.

PART XI RULE MAKING POWER

31. Power to Make Rules.— (1) The Government may, from time to time, make rules under the Act to regulate the following matters:

- (a) the effective implementation and enforcement of the Act;
- (b) the terms and conditions of the appointment and removal of the Chairperson and Members of the Authority; and
- (c) any such rules that it deems fit and appropriate.

(2) The Government may also, from time to time, amend or repeal any rules so made under the Act.

(3) All rules, amendments and repeal thereof shall be published in the Official Gazette, and shall thereupon have the force of law.

32. Power to Make Regulations.— (1) The Authority may, from time to time, make regulations under the Act to regulate the following matters:

- (a) the terms and conditions of the service of Authorized Officers and other Officers and staff appointed under the Act;

- (b) the procedure and conduct of the Authority;
- (c) the procedure and conduct of the Authorized Officers and other Officers;
- (d) the procedure of complaints under the Act;
- (e) the improvement of safety measures under the Act; and
- (f) all other matter which do not fall in the rule making power of the Government.

(2) The Authority may also, from time to time, amend or repeal any regulations so made under the Act.

(3) All regulations, amendments and repeal, if any, shall be published on the Official website of the Authority.

PART XII MISCELLANEOUS

33. Indemnity.— All acts done, orders passed or proceedings taken by the Authority or any of its Officers in good faith, shall be final and shall not be called in question in any court by a suit or otherwise.

34. Removal of Difficulties.— If any difficulty arises in giving effect to any provision of the Act, the Government may make such order as may be necessary for removing the difficulty.

35. Overriding Effect .— Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act shall have overriding effect to the extent that the provisions are not repugnant to the existing laws with regard to the protection of human lives on Watersides.

SATETMENT OF OBJECT AND REASONS

Waterside accidents are more common and there are a number of instances where waterside accidents have caused deaths. Drowning can generally be defined as death by suffocation due to immersion in water. Drowning ranks fifth among the leading causes of unintentional injury death. Pakistan is among nations that has lost a great number of lives, especially youth, due to drowning at watersides. This bill seeks to establise Safety measures at watersides to prevent incidents of drownings.

**SENATOR MUHAMMAD JAVED ABBASI
MEMBER-IN-CHARGE**