

EXTRAORDINARY

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KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT, KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 22nd January, 2014.

No. PA/Khyber Pakhtunkhwa/Bills/2014/2306.—The Khyber Pakhtunkhwa Right to Public Services Bill, 2014 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 15th January, 2014 and assented to by the Governor of the Khyber Pakhtunkhwa on 21st January, 2014 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA RIGHT TO PUBLIC SERVICES ACT, 2014

(KHYBER PAKHTUNKHWA ACT NO. IV OF 2014)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 22nd January, 2014).

AN ACT

to provide for delivery of public services to the people of the Province of the Khyber Pakhtunkhwa within the stipulated time limit, including liabilities of Government servants in case of default, administrative efficiency and for the matters connected therewith and incidental thereto.

WHEREAS it is expedient to provide for delivery of public services to the people of the Province of the Khyber Pakhtunkhwa within the stipulated time limit, including liabilities of Government servants in case of default, administrative efficiency and for the matters connected therewith and incidental thereto;

It is hereby enacted as follows:

CHAPTER - I
Preliminary

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Right to Public Services Act, 2014.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. Definitions.---In this Act, unless the context otherwise requires,-

- (a) "Appellate Authority" means the concerned administrative Secretary of the Department or such other person or authority, as may be specified by Government through notification;
- (b) "Authority" means,-
 - (i) any Department or Attached Department of Government and subordinate offices thereof;
 - (ii) any Office, Board, Commission, Council or any other Body established by or under, any law in force in the Province;
 - (iii) all institutions, established or constituted under the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013);
 - (iv) subordinate courts and Tribunals;
 - (v) anybody which is owned, controlled or substantially funded by Government, including enterprises owned by the Province by whatever name called, required to render any services of public utility in the Province or to control, manage or regulate public services within a specified local area; and
 - (vi) any other body which undertakes public services;
- (c) "Commission" means the Khyber Pakhtunkhwa Right to Public Services Commission, constituted under section 16 of this Act;
- (d) "Department" means a Department of Government, established under the Khyber Pakhtunkhwa Government Rules of Business, 1985;

- (e) "designated officer" means an officer designated under section 4;
- (f) "e-governance" means the use by Government of web-based Internet applications together with other information technologies, combined with processes that implement these technologies, to—
 - (i) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or
 - (ii) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation.
- (g) "eligible person" means a citizen of Pakistan having any accrued right to public service in the Province and shall include corporations, companies, firms, businesses and organizations working in the Province;
- (h) "Government" means the Government of the Khyber Pakhtunkhwa;
- (i) "prescribed" means prescribed by rules and regulations, made under this Act;
- (j) "Province" means the Province of the Khyber Pakhtunkhwa;
- (k) "public service" mean any service or services notified by Government, under section 4;
- (l) "regulations" mean regulations made under this Act;
- (m) "rules" mean rules made under this Act; and
- (n) "specified time limit" means the time limit within which the designated officer is required to provide service as specified under sub-section (1) of section 4.

CHAPTER -II
Right to time bound
provisions of public service

3. Right to public services.---(1) Subject to the provisions of this Act, every eligible person shall have a right to public services.

- (2) The right conferred under sub-section (1) shall include the right to—
 - (a) have access to the public service;
 - (b) receive the public service within a specified time limit;

- (c) receive the public service in a transparent manner;
- (d) demand performance of duties and functions by the designated officer in accordance with the provisions of this Act;
- (e) hold the concerned designated officer accountable for any service deficiency in the public service; and
- (f) claim compensation from the concerned designated officer for his failure to provide, or delay in providing public service.

4. Notification of public services and time limit.---(1) Government may by notification, in the official Gazette, from time to time, specify any service to be a public service, for the purpose of this Act and also specify by a notification, the time limit within which such services shall be provided by the designated officer to the eligible persons.

(2) For providing public services specified under sub-section (1), Government may, by notification designate different officers for different public services, who shall be responsible for providing each of such service to the eligible person.

(3) While specifying the time limit for provision of any public service, in order to arrive at an informed decision, Government may invite and receive recommendations from all related public functionaries, as well as general public through prior publication of the proposed time limit alongwith a precise description of service.

5. Providing of public service within the specified time limit.---(1) It shall be mandatory on the part of the designated officer to provide public services to the eligible persons within the time limit as specified in the notification issued under sub-section (2) of section 4.

(2) The specified time limit shall start from the date when an application is submitted by the eligible person to the designated officer or to a person subordinate to him, authorized to receive the application for providing the public service.

(3) All applications received by the designated officer or the authorized person, shall be duly acknowledged by putting an inward stamp specifying the inward number, date and time of receipt of such application, on the duplicate copy of such application.

(4) On receipt of an application under sub-section (3), the designated officer shall within the specified time limit, either provide the public service or reject the application:

Provided that in case of rejection of the application, the designated officer shall record reasons thereof and intimate the same to the applicant.

6. Appeal.---(1) Any person, whose application has been rejected under sub-section (4) of section 5, or who does not receive public service within the specified time limit, or where the public service received by him is deficient in any manner, may prefer an appeal to the Appellate Authority, within a period of thirty (30) days from the date of such rejection or expiry of the specified time limit or receipt of deficient service, as the case may be.

(2) The Appellate Authority shall dispose of the appeal preferred under sub-section (1) within a period of thirty (30) days from the date of presentation of the appeal.

(3) The Appellate Authority may direct the designated officer to provide the public service within such time as it may specify but not more than the time specified in the notification or to remove the deficiency in public service provided to the appellant or to pass such other order, including rejection of the appeal, as it may deem fit:

Provided that before passing any order under sub-section (3), the Appellate Authority shall provide an opportunity of being heard to the appellant as well as to the designated officer;

(4) In case the appellant or the designated officer is aggrieved of a final order passed under sub-section (3), he may prefer an appeal to the Commission, within fifteen (15) days of issuance of such final order of the Appellate Authority.

7. Time-frame for disposal.---(1) An appeal under sub-section (4) of section 6 shall be disposed of within thirty (30) days of the receipt of the appeal.

(2) Any other matter or complaint, to be adjudicated by the Commission, may be disposed-off, within a period of sixty (60) days, from the date of receipt of such complaint or entrustment of such matter, as the case may be.

8. Powers of Appellate Authority.---The Appellate Authority shall, while deciding an appeal under section 6, have the same powers as are vested in the Civil Court under the Code of Civil Procedure 1908 (Act V of 1908), in respect of the following matters,-

- (a) requiring the production and inspection of documents;
- (b) issuing summons for a hearing to the designated officer and the appellant;
- (c) requisitioning any public records or copies thereof from any Government office;
- (d) levying of fine or compensation upon the concerned designated officer to pay compensation;
- (e) directing the designated officer to pay compensation to the eligible person; and
- (f) any other matter which may be prescribed by rules;

9. Display of public services.---The details of the designated officers, public services and the specified time limit thereof shall be displayed locally on the notice-board in every Authority and notified in the official Gazette and if possible, also on the website of the concerned Authority, for the information of the general public.

10. e-Governance of services.---Government shall endeavor and encourage all the authorities required under this Act to deliver to the eligible persons, the public services within the specified time limit, as a part of e-Governance.

11. Penalty, for not providing public service.---(1) If the Appellate Authority is of the opinion that the designated officer has failed to provide the public service to the eligible person within the time limit specified or has caused delay in providing public service or has provided the public service, which is deficient in any manner, the Appellate Authority shall by notice, call upon the designated officer to show cause, within thirty days of the receipt of such notice, for failure to provide such public service.

(2) If, after having considered the cause, if any, shown by the designated officer, the Appellate Authority opines that the designated officer has acted in the manner as provided in sub-section (1), the Appellate Authority shall, impose a fine on such designated Officer which may extend to rupees twenty-five thousand and which shall not be less than rupees five hundred.

12. Penalty, for not deciding the appeal within the specified time.---Where the Commission is of the opinion that the Appellate Authority has failed to decide the appeal within the time limit specified in sub-section (2) of section 6, without any sufficient or reasonable cause, it may impose a fine on the Appellate Authority, which shall not be less than rupees one (01) thousand but which may extend to rupees twenty-five (25) thousand:

Provided that before imposing such fine, the Appellate Authority shall be given a reasonable opportunity of being heard by the Commission.

13. Compensation.---On imposition of a fine under sections 11 or 12, the Appellate Authority or the Commission, as the case may be, may, by order, direct that a portion of such fine imposed, as deemed fit by it, be awarded to the aggrieved person, as compensation:

Provided that the amount of such compensation awarded shall not exceed seventy (70) per cent of the amount of fine imposed.

14. Disciplinary action.---In addition to the imposition of fines under sections 11 or 12, the Commission, may, if it is satisfied that the designated officer or the Appellate Authority, as the case may be, has failed to discharge the duties assigned to him under this Act without sufficient or reasonable cause, recommend disciplinary action against him under the service rules applicable to him, for the time being.

15. Acknowledgment of good performers.---(1) Government, may by way of a notification or otherwise, maintain and publish from time to time but at least once in every quarter, a roll of honour, acknowledging the names of those designated officers and other government servants appearing on it, who have been consistently performing well either in providing public services in timely and efficient manner, or have been reputed for discharging their administrative duties and disposal of case work, adequately and within prescribed time as envisaged under this Act.

(2) Government may prescribe independent evaluation criteria, designate an independent panel of evaluators from amongst members of commission or otherwise and devise a comprehensive policy for the purposes of acknowledging the services of good performers, as laid down in sub-section (1):

Provided that while prescribing the policy, Government, amongst other things to acknowledge the services of good performers and promote the culture of efficient and timely service delivery, may also prescribe and approve cash rewards for the best performers.

CHAPTER -III

Khyber Pakhtunkhwa Right to Public Services Commission

16. Establishment of the Khyber Pakhtunkhwa Right to Public Services Commission.---(1) Government shall, by notification in the official Gazette, establish an independent Commission to be known as the Khyber Pakhtunkhwa Right to Public Services Commission, to exercise the jurisdiction, powers and authority conferred under this Act, including,-

- (a) hearing appeals against the orders of the Appellate Authority;
- (b) make provisions for speedy access to public services in accordance with the provisions of this Act; and
- (c) payment of compensation for delayed delivery of public service by any designated officer to the eligible person.

(2) The Commission shall comprise of a Chief Commissioner and two Commissioners, to be appointed by Government from persons having the domicile of the Province, in such manner and on such terms and conditions, as may be prescribed, and until so prescribed, as may be determined by Government.

(3) The Commission shall be headed by the Chief Commissioner, who shall be a retired senior Government servant, not below the rank of BPS-21 with proven integrity and intellect.

(4) The other two Commissioners shall be appointed by Government, in the following manner:

- (a) a former civil servant of BPS-20 or above, with proven integrity and intellect, who has demonstrated expertise in one or more of the following:
 - (i) financial management; or
 - (ii) public administration, regulation and discipline;
- (b) an eminent person, having bachelor degree in the relevant field and has been associated with public services for a period of fifteen (15) years, provided that he may not be less than forty-five (45) years of age.

(5) The Chief Commissioner and the Commissioners shall hold office for a term of three (03) years from the date on which they enter upon office or until they attain the age of sixty-five (65) years, whichever is earlier.

(6) Upon completion of their term, the Chief Commissioner and the Commissioners shall not be eligible for reappointment.

(7) In the event of the absence or incapacity of the Chief Commissioner or any of the Commissioners, or if that office is vacant, the Government may appoint any qualified person to hold that office in the interim for a term not exceeding six (06) months on the terms and conditions so fixed by Government.

(8) Government may remove, the Chief Commissioner or the Commissioner before the expiry of his term on ground of misconduct or of being incapable of properly performing the duties of his office by reason of physical or mental incapacity:

Provided that before removing the Chief Commissioner or the Commissioner, as the case may be, Government shall give him an opportunity of being heard in person.

(9) The Chief Commissioner and the Commissioners shall engage exclusively in the duties and functions of the Commission and may not hold any other office of profit or engage in any other employment for reward.

(10) Government shall provide the Commission with such officers and ministerial staff, as may be required for the discharge of its functions under this Act.

(11) The Commission may also in consultation with the Government appoint such officers and ministerial staff, as may be necessary for the discharge of its functions under this Act.

17. Powers of the Commission.---(1) The Commission shall, for the purposes of its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) discovery and production of any document or other material object producible as evidence;
- (c) receiving evidence on affidavits;
- (d) requisitioning of any public record;
- (e) issuing commission for the examination of witnesses;
- (f) reviewing its decisions, directions and orders;
- (g) any other matter which may be prescribed by rules.

(2) The Commission shall have powers to regulate its own procedure.

(3) The Commission shall arrange to deliver copies of the decision to the parties concerned within a period of fifteen (15) days from the date of such decision.

18. Staff and officers to be public servants.---The staff and officers of the Commission shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860.

19. Power to issue directions.---(1) The Commission shall, upon adjudication of a complaint, have the power to issue directions,-

- (i) requiring any Authority entrusted with administration to take such steps as may be necessary to secure compliance with the provisions of this Act or any other law under which the eligible person, entitled to a right or benefit; and
- (ii) requiring the payment of compensation to the eligible person.

(2) Where the Commission, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof and shall enjoy powers available to a Tribunal under the Tribunals of Inquiry Act, 1969.

CHAPTER -IV Incidental Provisions

20. Punishment for frivolous complaints.---(1) Any person, whose Appeal complaining against an alleged non-provision of public service within stipulated time or alleging any deficiency therein, is rejected by the Appellate Authority and while deciding so, the Appellate Authority is also of the view that his complaint was false, frivolous or vexatious and if such order is upheld by the Commission also, the complainant shall be served by the Commission, with a show-cause notice, requiring him to submit his reply within a period of fifteen (15) days of show cause in writing that why he shall not be prosecuted for filing a frivolous complaint.

(2) If the Commission is satisfied, upon receiving the reply to show- cause notice and hearing the parties that the Complaint so filed was false and frivolous, it may proceed to fine the complainant for an amount up to rupees fifty (50) thousand.

21. Deposit of fines and fees.---(1) All fines, except those in nature of compensation, to be paid to the eligible person under this Act, shall upon recovery be immediately deposited in the Public Account of the Province, so maintained in terms of Article 118 of the Constitution of Islamic Republic of Pakistan while all fees shall be deposited in the Provincial Consolidated Fund.

(2) All Authorities shall be bound to give effect to the orders and directions of the Commission in enforcing its decisions and orders, including but not limited to orders related to attachment and remission of properties, salaries and other receivables of the defaulters.

22. Protection of action taken in good faith.---No suit, prosecution or any other legal proceedings shall lie against any person for anything which is done or intended to be done in good faith, in pursuance of this Act or any rules made there-under.

23. Act to have over-riding effect.---The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

24. Power of the Commission to send applications to the Appellate Authority directly.---Notwithstanding anything contained in this Act, the Commission, if it receives any application alleging non-compliance of the provisions of this Act, may if it deems fit, send such an application directly to any Appellate Authority for taking further action in the matter, in accordance with the provisions of this Act.

25. Bar of jurisdiction of Courts.---No Court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of appeal under this Act.

26. Power to make rules.---(1) Government shall within a period of (04) months, by notification in the official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of sub-section (1), the Government shall have the power to prescribe forms and fees for making applications under this Act.

27. Power to make regulations.---The Commission may for the purposes of this Act make regulations not inconsistent with this Act or the rules made there-under.

28. Power to remove difficulties.---(1) If any difficulty arises in giving effect to the provisions of this Act, Government may by order, make such provisions, as appear to it to be necessary or expedient for removal of the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the Provincial Legislature.

29. Repeal.--- The Khyber Pakhtunkhwa Right to Public Services Ordinance, 2013 (Khyber Pakhtunkhwa Ord. No. XI of 2013) is hereby repealed.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa