

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P.III

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY 19TH JANUARY, 2015.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 19th January, 2015.

No. PA/Khyber Pakhtunkhwa/Bills/2015/1869.—The Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Bill, 2015 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 13th January, 2015 and assented to by the Governor of the Khyber Pakhtunkhwa on 15th January, 2015 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA MEDICAL TEACHING INSTITUTIONS REFORMS ACT, 2015

(KHYBER PAKHTUNKHWA ACT NO. IV OF 2015)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 19th January, 2015).

AN
ACT

to provide autonomy to the Government owned Medical Teaching Institutions and their affiliated teaching hospitals in the Province of the Khyber Pakhtunkhwa and to improve performance, enhance effectiveness, efficiency and responsiveness for the provision of quality healthcare services to the people of the Khyber Pakhtunkhwa

WHEREAS it is expedient to provide autonomy to the Government owned Medical Teaching Institutions and their affiliated teaching hospitals in the Province of the Khyber Pakhtunkhwa and to regulate on sound physical and technical footings the service being rendered by these institutions and to improve performance, enhance effectiveness, efficiency and responsiveness for the provision of quality healthcare services to the people of the Khyber Pakhtunkhwa and other matters ancillary and incidental thereto;

It is hereby enacted as follows:

**CHAPTER-I
PRELIMINARY**

1. Short title, extent, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015.

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

(3) It shall apply to all the existing Medical Teaching Institutions in the public sector and such other institutions as Government may establish under section 3 of this Act or may have been established by law.

(4) It shall come into force at once.

**CHAPTER-II
DEFINITIONS**

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

- (a) "Basic Science Faculty" means all Medical Faculty not involved in patient care;
- (b) "Board" means the Board of Governors constituted under section 5 of this Act;
- (c) "Chairperson" means the Chairperson of the Board of Governors of a Medical Teaching Institution;
- (d) "Clinical Faculty" means a Medical Faculty involved in any manner with a clinical care of patients, whether diagnostic or therapeutic;
- (e) "College" means a Medical College or a Dental College in public sector;
- (f) "Consultant" means and includes-
 - (i) those medical faculties involved in patient care; or
 - (ii) those staff hired by the Medical Teaching Institution to act as service provider to the patients in hospital.
- (g) "Dean" means the academic head of a medical teaching institution;
- (h) "Medical Faculty" means the Basic Science Faculty and Clinical Faculty which includes Senior Registrar and above as well as Principal of a College, involved in teaching, training or patient care;
- (i) "Medical Teaching Institution" means a Medical College, a Dental College, or other health related teaching institutions and their affiliated teaching hospitals in the public sector or directly under the control of Government, which provides healthcare services, medical education and training, and medical research;

- (j) "Government" means the Government of the Khyber Pakhtunkhwa;
- (k) "healthcare services" means preventive, curative, promotive, rehabilitative health services and include diagnostic, support services, laboratory, accident and emergency, pharmacy and paramedic support;
- (l) "member" means a member of the Board including Chairperson;
- (m) "prescribed" means prescribed by rules or regulations made under this Act;
- (n) "Principal" means the head of a College;
- (o) "regulations" means regulation made under this Act;
- (p) "rules" means rules made under this Act;
- (q) "Search and Nomination Council" means Search and Nomination Council notified by Government under section 8 of this Act; and
- (r) "section" means a section of this Act.

CHAPTER-III
MEDICAL TEACHING INSTITUTIONS

3. Establishment of Medical Teaching Institutions.---(1) Government may, by notification in the official Gazette, establish such Medical Teaching Institutions, as it may deem necessary and shall apply the provisions of this Act to such institutions.

(2) A Medical Teaching Institution established under this Act to which this Act is applied or an existing Medical Teaching Institution to which this Act applies shall be a body corporate having perpetual succession and a common seal with power to acquire hold and dispose of movable and immovable property and may in its name sue and be sued.

4. Objects of the Medical Teaching Institutions.---The objects of the Medical Teaching Institutions shall be-

- (a) to undertake all functions required for providing health facilities to the people, medical education and training and research and provide health facilities to the people of the Khyber Pakhtunkhwa; and
- (b) to perform such other functions as are assigned to it by Government from time to time.

5. Board of Governors.---(1) There shall be a Board of Governors for each Medical Teaching Institution to administer and manage its affairs.

(2) The Board of each Medical Teaching Institution shall comprise such number of members as determined by Government but not exceeding ten members, with three of its members from Government Departments mentioned in sub-section (4) and seven members shall be from private sector.

(3) The members from private sector shall be appointed and notified by Government on the recommendation of the Search and Nomination Council constituted under section 8 of this Act and they shall have right to vote.

(4) The Government members shall include representatives from Health, Finance, Establishment and Administration Departments not below the rank of an Additional Secretary and they shall have no right to vote.

(5) The members from the private sector may include eminent technical and professional persons in their respective fields having significant aptitude and time available for improving the hospital services, such as, legal, finance and economics, management, medical profession, retired civil servants, educationist, social workers, representative of civil society, businessman, and renowned philanthropist.

(6) The Chairperson shall be elected by the members from private sector through voting from amongst itself, who shall preside over the Board meetings. In case of his absence, the Chairperson may nominate a Board member as acting Chairman or if he has not done so, the members present shall elect an acting Chairperson for that meeting.

(7) The term of the members from the private sector including Chairperson shall be three years.

(8) The membership of members from private sector shall cease and fall vacant if, he resigns, or fails to attend three consecutive meetings without sufficient cause or for any other reasons which incapacitate to remain as member. Any such vacancy shall be filled in within one month.

(9) No person shall be appointed or remain as a member of the Board, if he-

- (a) is of unsound mind;
- (b) has applied to be adjudicated as an insolvent and his application is pending;
- (c) is an un-discharged insolvent;
- (d) has been convicted by a Court of law for an offence involving moral turpitude;
- (e) has been debarred from holding any office under any provisions of law; or
- (f) has conflict of interest with such position.

6. Conduct of business.---(1) All decisions of the Board shall be taken by consensus, and in case of division of opinion, the decision shall be taken by majority of votes:

Provided that in case of equality of votes, the Chairperson of the Board shall have a second or casting vote.

(2) No act or proceedings of the Board shall be invalid, merely on the ground of existence of any vacancy.

(3) The quorum shall be two third of the total number of Board members.

(4) The member count shall be determined by actual members being present and proxy vote shall not count.

(5) No member except specifically stated in the text shall, chair or be member of subordinate committee or sub-committee, to ensure unbiased oversight.

(6) The Board may hold meetings as frequently as required; provided that the Board shall hold at least one meeting on quarterly basis.

(7) Special meetings of the Board shall be convened on the special request of at least one third of the Board members for consideration of any important or urgent matter.

(8) Subject to the provisions of this Act and the rules made thereunder, a Committee constituted under this sub-section (8) shall perform such functions as may be prescribed.

(9) The remuneration for attending the Board meeting shall be such as may be prescribed by rules.

(10) The Secretary to the Board would be an employee of the Board, who would perform all secretarial and office functions of the Board at the direction of the Chairman; and would be responsible for taking minutes at the Board meetings, convening Board meetings, sending out letters to Board members as per direction of the Board Chairman.

7. Functions and powers of the Board.---(1) The Board shall be responsible for-

- (a) ensuring that the objectives of the Medical Teaching Institution within the overall ambit of Government policy are achieved, overseeing the effective management, and providing strategic direction to the Medical Teaching Institution;
- (b) policy making of a Medical Teaching Institution and ensuring that the performance of a Medical Teaching Institution and its programmes are efficient and effective;
- (c) prescribe procedure for appointment, terms and conditions of service, disciplinary matters and other service matters for the employees of a Medical Teaching Institution;
- (d) approval of vision and mission statement of a Medical Teaching Institution;
- (e) approval of annual business plan;
- (f) review and approval of major transactions;
- (g) approval of new programs and services and monitor organizational performance;
- (h) approval of financial plans and annual budget;

- (i) approval of bye-laws for medical staff and oversee the process for appointment of members of the medical staff;
- (j) approval of programs and services to ensure that a Medical Teaching Institution fulfills legal, regulatory and accreditation requirements;
- (k) constitute Executive Committee, Finance Committee, Recruitment Committee and such other Committees or Sub-Committees, as it may deem appropriate; and
- (l) compliance to Government policies and standards and in case of any deviation from agreed standards or procedures shall obtain prior approval from Government.

(2) Each Medical Teaching Institution shall be accountable to Government for its performance and shall regularly provide performance based data at set intervals based on Government's set performance monitoring format for the Medical Teaching Institutions with attendant reward and discipline measures and the Government shall also periodically evaluate the performance of the Medical Teaching Institutions against the set targets particularly related to efficiency, effectiveness and equity with attendant reward and discipline measures.

(3) The Board may delegate its powers for recruitment to various management levels within the Medical Teaching Institution.

8. Search and Nomination Council.---(1) Government shall constitute and notify a Search and Nomination Council, for recommendations of persons from private sector suitable to be appointed as members which shall consist of-

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|-----|---|---------------|
| (a) | Minister for Health; | Chairman |
| (b) | Additional Chief Secretary Planning and Development Department; | Vice Chairman |
| (c) | Secretary to Government, Health Department; | Member |
| (d) | Vice Chancellor of the Khyber Medical University; | Member |
| (e) | a philanthropist with substantial contribution to the public healthcare system to be nominated by Government; | Member |
| (f) | a retired senior person from medical profession to be nominated by Government; and | Member |
| (g) | a representative of civil society to be nominated by Government. | Member |

(2) The Chairman shall chair the meeting of the Council and in his absence, the Vice Chairman shall chair the meeting.

(3) A member from private sector shall, unless otherwise directed by Government, hold office for a period of three years and shall be eligible for another term of three years or part thereof as Government may deem appropriate:

Provided that Government may remove a non-official member at any time after giving him an opportunity of being heard.

9. Teaching Institutions.---(1) All colleges in the Province of the Khyber Pakhtunkhwa shall affiliate with the Khyber Pakhtunkhwa Medical University for the purpose of their examination.

(2) The college shall be headed by a Principal and shall consist of Chairpersons of various departments of the college, including all medical faculties in the college.

(3) In each college, there shall be an Academic Council headed by Principal to prescribe and set principles and standards for teaching, research, training, development of curriculum, undertaking scholarly activity, ensuring, ethical and moral standards, student affairs and admission in colleges.

(4) The Principal shall be appointed by the Board for a period of three years through merit-cum-seniority process on such terms and conditions and having such qualification and experience as the Board may prescribe.

(5) The Chairperson of various departments for Medical Institutions shall be appointed by the Board for a period of three years through merit-cum-seniority based process, from amongst the Medical faculty on such terms and conditions and in such a manner as may be prescribed.

(6) The Dean, the Principal and the Chairpersons of various Departments may be removed from the office by the Board, before the expiration of the period of three years, on such grounds as may be prescribed.

(7) In the performance of functions, the Dean shall be responsible to the Board while the Vice-Dean and Chairpersons of the department shall be responsible to the Dean and Academic Council.

(8) After the commencement of this Act, the working of Postgraduate Medical Institute shall be streamlined under the rules.

10. Hospital Director.---(1) Each Board shall appoint a full time Hospital Director for the Medical Teaching Institution for a period of three years on the recommendation of a Recruitment Committee, on such terms and conditions as the Board may determine; provided that no Board member shall be appointed as Hospital Director.

(2) The Hospital Director shall possess a recognized Master's Degree in Hospital Management or Health Services Management or Business Management or Public Health or Public Administration or any other relevant management qualifications having experience of management in an organization or institution as may be prescribed:

Provided that a person, who possess a recognized medical degree may also apply for the post of Hospital Director with the condition that he shall have an additional management degree and experience provided in this sub-section and shall have no right to do private practice.

(3) The Hospital Director may be removed from the office by the Board, before the expiration of the period of three years, on such grounds as may be prescribed.

(4) The Hospital Director shall be required to attend each Board meeting as co-opted member with no right of vote, to make presentations of his respective activities and update the Board on any functions or activities as required by the Board.

(5) In performance of his functions, the Hospital Director shall be responsible to the Board.

(6) The Hospital Director shall not have any conflict of interest with such a position.

11. Functions of the Hospital Director.---The Hospital Director shall be responsible-

- (a) for all non-clinical functions of the hospital;
- (b) preparation of the annual budget, and business plan for presentation and approval to the Board;
- (c) maintenance of building and engineering services;
- (d) maintenance and development of all ancillary services, including but not limited to pharmacy, nursing, materials management, human resources, clerical, communications and security services;
- (e) to act as the principal accounting officer responsible and accountable for maintaining the financial discipline and transparency; and
- (f) for implementation and execution of Board policies and to achieve the targets set by the Board.

12. Medical Director.---(1) Each Board shall appoint a full time, non-practicing Medical Director for the hospital for a period of three years on the recommendation of a Recruitment Committee, on such terms and conditions as the Board may determine; provided that no Board member shall be appointed as Medical Director.

(2) The Medical Director shall possess a recognized Medical degree with management or administrative qualification and experience of working in management positions in an institution or organization as may be prescribed.

(3) The Medical Director may be removed from the office by the Board, before the expiration of the period of three years, on such grounds as may be prescribed.

(4) All clinical department heads will report to the Medical Director.

(5) The Medical Director shall be required to attend each Board meeting as co-opted member with no right to vote, to make presentations of his respective activities and update the Board on any functions or activities as required by the Board.

(6) In performance of his functions, the Medical Director shall be responsible to the Board.

(7) The Medical Director shall not have any conflict of interest with such a position.

13. Functions of the Medical Director.--- The Medical Director shall be responsible for all clinical functions of the hospital, including but not limited to:

(a) ensuring clinical excellence in all aspects of hospital function;

(b) ensuring timely, appropriate management of patients;

(c) ensuring the best outcomes for all patients;

(d) undertaking clinical governance for quality control;

(e) assessing and auditing existing clinical programs and developing new clinical programs; and

(f) develop an annual clinical budget, including capital medical equipment requests for presentation to the Hospital Director and the Board.

14. Nursing Director.---(1) Each Board shall appoint a full time, non-practicing Nursing Director for a hospital for a period of three years on the recommendation of a Recruitment Committee, on such terms and conditions as the Board may determine; provided that no Board member shall be appointed as such.

(2) The Nursing Director shall possess such qualification and experience as may be prescribed.

(3) The Nursing Director may be removed from the office by the Board, before the expiration of the period of three years, on such grounds as may be prescribed.

(4) The Nursing Director shall be required to attend each Board meeting as co-opted member with no right to vote, to make presentations of his respective activities and update the Board on any functions or activities as required by the Board.

(5) In performance of his functions, the Nursing Director shall be responsible to the Board.

(6) The Nursing Director shall not have any conflict of interest with such a position.

(7) The Nursing Director shall be responsible for all nursing functions, including training of nurses, ensuring adequate nursing staffing for all clinical needs, maintaining the highest nursing standards and performing regular audits of nursing functions.

(8) The Nursing Director shall perform such other functions as may be prescribed.

15. **Finance Director.**---Finance Director shall be appointed by the Board in the prescribed manner, for a period of three years, who shall be an employee of a Medical Teaching Institution with minimum qualifications as may be prescribed and to perform such functions in relation to financial matters as may be prescribed.

16. **Service of the Medical Teaching Institution.**---(1) The Board may appoint such persons, experts or consultants in the service of a Medical Teaching Institution, as deemed necessary and on such terms and conditions as may be prescribed.

(2) Before the commencement of this Act, all administrative and teaching staff recruited by the Management Council in the prescribed manner under the Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002, shall be considered as employees of the concerned Medical Teaching Institution and shall continue to serve the Medical Teaching Institution on the same terms and conditions as applicable to them immediately before the issuance of the notification under sub-section (3) of section 1, till further orders.

(3) On commencement of this Act, all the civil servants serving in an existing Medical Teaching Institution shall be given an option either to continue to serve the Medical Teaching Institution as civil servant or may opt for the employment of the Medical Teaching Institution. The option shall be exercised within a period of ninety days after the commencement of this Act. Those employees, who do not opt for their absorption in the Medical Teaching Institution so notify, shall serve the Medical Teaching Institution concerned on their existing terms and conditions.

(4) After the commencement of this Act, if the provisions of this Act are applied to any newly established Medical Teaching Institution within the meaning of section 3 of this Act, all civil servants serving in the Medical Teaching Institution, shall be given an option either to continue to serve the institution as civil servant, or may opt for employee of institution. The option shall be exercised within period of ninety days after the notification of a Medical Teaching Institution under section 3 of the Act. Those employees, who do not opt for their absorption in the Medical Teaching Institution so notified, shall serve Medical Teaching Institution concerned, on their existing terms and conditions.

(5) The options under sub-section (4) once exercised shall be final. A civil servant, who opt to serve the Medical Teaching Institution, shall cease to be civil servant from the date of his absorption in the service of the Medical Teaching Institution concerned and their seniority, pension and other matters vis-à-vis with the employees of the Medical Teaching Institution, shall be determined in the manner, as may be prescribed by rules.

(6) If at any time, a Medical Teaching Institution reverts to Government for running under its own administration and management for any reason, the employees appointed under sub-section (1) shall continue to serve the Medical Teaching Institutions, on the same terms and conditions as applicable to them immediately before such reversion.

17. **Private practice.**---(1) After the commencement of this Act, all Consultants working in government hospitals, clinics, imaging facilities and laboratories shall be given an option either to do their private practice within the hospitals, clinics, imaging facilities and laboratories of the Medical Teaching Institutions or to do their private practice outside the hospitals, clinics, imaging facilities and laboratories of the Medical Teaching Institutions, as the case may be. The option shall be exercised within a period of sixty (60) days after the commencement of this Act. The question of option shall be further streamlined under the rules.

(2) The civil servants or the employees of the Medical Teaching Institution, as the case may be, if, opt for the private practice within the premises of the hospital, clinics, imaging facilities and laboratories of the Medical Teaching Institution, may be entitled to such increase in salary, adjustment, bonuses or other ancillary benefits, as the Board may approve.

(3) **The civil servants and the employees of the Medical Teaching Institutions, who do not opt for private practice within the premises of hospitals, clinics, imaging facilities and laboratories, shall be allowed to do their private practice outside the premises of the hospitals, clinics, imaging facilities and laboratories of the Medical Teaching Institutions and shall not be entitled for any increase in adjustment, bonuses or other ancillary benefits.**

(4) In the performance of functions in the Hospital, the Consultant shall be responsible to the Hospital Management, with respect to service provider to the patient in the Hospital and shall follow all the rules and regulations relating to Hospital Management.

(5) The Medical Teaching Institution shall provide facilities for the most efficient services to allow the Consultants to perform their services at the highest level of excellence, including space, equipment, nursing, ancillary or clerical staff, laboratory, imaging and inpatient and surgical services as needed. The Medical Teaching Institution will remain open as long as necessary to provide these services. The individual Consultant shall be held responsible for the most efficient use of the facilities and shall be expected to provide cost and income projections for each new facility, equipment or service request with the support of Hospital Director and staff.

(6) Consultants professional fee shall not exceed the usual and customary fees charged for the same services in the community, assuring efficiency, and value for money to the clients.

(7) Private patient billing shall consist of the professional fee component and the Institutional charges representing the charges of the clinic, imaging facility, laboratory services, or other Institutional charges:

Provided that all patient billing shall be done only by the hospital, clinic, imaging facility, or laboratory, and the professional fee component shall be returned to the Consultant.

(8) No reduction of the professional component income to the Consultant from the patient shall be permissible by the Medical Teaching Institution.

(9) A percentage share from the institutional charges shall be distributed between the employees of the Medical Teaching Institution, based on the performance and productivity, according to a format to be prescribed by rules.

18. Retention of fee.--- (1) Notwithstanding anything contained in any law or rules, the Medical Teaching Institution shall retain receipts from various fees levied by Government or the Board to meet recurring and development expenditure of the Medical Teaching Institution.

(2) The amount realized from receipts of the Medical Teaching Institution shall not be deducted from the annual grant of the Medical Teaching Institution provided by Government and such amount realized from receipts shall be utilized as per specification by the Board.

19. Fund.---(1) There shall be a Fund to be known by the name of each Medical Teaching Institution and shall vest in the Medical Teaching Institution concerned.

(2) The Fund established under section 16 of the Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002, shall be deemed to have been established under this Act.

(3) The Fund shall consist of-

- (a) grants from Government in such manner as may be notified;
- (b) receipts and user charges as specified by Board in consultation with Government from time to time in such manner as may be prescribed;
- (c) voluntary contributions or donations; and
- (d) grants from other sources.

(4) The Fund shall be kept in such custody and shall be utilized and regulated in such manner as may be prescribed.

(5) The Fund account shall be maintained at such Bank or Treasury as may be prescribed.

(6) The Board may, in so far as its money is not required for immediate expenses, invest the surplus money in such manner as may be prescribed.

(7) The Board shall not invest its money in listed securities or any derivative thereof whether listed or not.

20. Budget, audit and accounts.---(1) The budget of an institution shall be approved and its accounts shall be maintained and audited in such manner as may be prescribed.

(2) Government may order to carry out special audit other than routine audit through third party as and when deemed necessary.

(3) The accounts of the Medical Teaching Institution shall be audited by the Auditor-General of Pakistan.

21. Public servant.---The Board members and all other employees of the Medical Teaching Institution shall be deemed to be public servants within the meaning of section 21 of the Pakistan Panel Code (Act XLV of 1860).

22. Removal of difficulties.--- If any difficulty arises in giving effect to any provision of this Act, Government may make such order not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing such difficulty and such power may be exercised upto one year after the commencement of this Act.

23. Power to make rules.--- Government may, by notification in the official Gazette, make rules for giving effect to the provisions of this Act.

24. Power to make regulations.---(1) Board may make regulations, not inconsistent with the provision of this Act and the rules, for carrying out the purposes of this Act.

(2) The power to make regulations conferred by this section shall be subject to the condition of previous publication and, before making any regulations, the draft thereof shall be published, in the official Gazette, in two newspapers of wide circulation and on the website of the Medical Teaching Institution, for eliciting public opinion thereon within a period of not less than fifteen days from the date of publication.

25. Overriding effect.---Notwithstanding anything to the contrary contained in any other law, the provisions of this Act shall have an overriding effect and the provisions of any such law to the extent of such inconsistency to this Act shall cease to have effect.

26. Repeal and saving.---(1) The Ayub Medical College Board of Governors Ordinance, 1978, (Khyber Pakhtunkhwa Ord. No. XIX of 1978), the Khyber Pakhtunkhwa Institute of Ophthalmic Sciences Ordinance, 1999 (Khyber Pakhtunkhwa Ordinance No XI of 1999) and the Khyber Pakhtunkhwa Medical Teaching Institutions and Regulation of Health-Care Services Ordinance 2002, (Khyber Pakhtunkhwa Ord. No. XLVII of 2002), are hereby repealed.

(2) All moveable or immoveable property including fixed assets of the Ayub Medical College and Institute of Ophthalmic Sciences and all liabilities pertaining to them shall be the assets and liability of the concerned institution.

(3) Notwithstanding anything contained in any law for the time being in force, the services of all the employees of Ayub Medical College and Institute of Ophthalmic Sciences shall be deemed to be the services of medical institution concerned, regardless of their terms and conditions of service before the commencement of this Act.

(4) Notwithstanding the repeal of the laws under sub-section (1), the Medical Institution established under the repealed laws shall be deemed to have been established under this Act.

(5) All rules, regulations and orders made or issued under the repealed laws, shall continue to hold ground, unless altered, amended, repealed or inconsistent to the provisions of this Act.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA**

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa