

**THE ¹[KHYBER PAKHTUNKHWA] PUBLIC SERVICE COMMISSION
ORDINANCE, 1978.**

(²[KHYBER PAKHTUNKHWA] ORDINANCE No. XI OF 1978.)

[13th May, 1978.]

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THE ¹[KHYBER PAKHTUNKHWA] PUBLIC SERVICE COMMISSION
ORDINANCE, 1978.

(²[KHYBER PAKHTUNKHWA] ORDINANCE No. XI OF 1978.)

[13th May, 1978.]

AN
ORDINANCE

*to repeal and with certain modification, re-enact the ³[Khyber Pakhtunkhwa]
Public Service Commission Act, 1973.*

WHEREAS it is expedient to repeal and, with certain modifications, re-enact the ⁴[Khyber Pakhtunkhwa] Public Service Commission Act, 1973 (⁵[Khyber Pakhtunkhwa] Act No. XIX of 1973), in the manner hereinafter appearing;

Preamble.

AND WHEREAS the Governor of the ⁶[Khyber Pakhtunkhwa] is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. I of 1977), and in exercise of all powers enabling him in that behalf, the Governor of the ⁷[Khyber Pakhtunkhwa] is pleased to make and promulgate the following Ordinance:

1. (1) This Ordinance may be called the ⁸[Khyber Pakhtunkhwa] Pakhtunkhwa] Public Service Commission Ordinance, 1978.

Short title and commencement.

(2) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,—

Definitions.

(a) “Commission” means the ⁹[Khyber Pakhtunkhwa] Public Service Commission;

1 Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

2 Letters, dots and hyphen “N.-W.F.P” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

3 Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

4 Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

5 Letters, dots and hyphen “N.-W.F.P” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

6 Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

7 Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

8 Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

9 Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

- (b) “Government” means the Government of the ¹[Khyber Pakhtunkhwa];
- (c) “Governor” means the Governor of the ²[Khyber Pakhtunkhwa];
- (d) “Member” means a Member of the Commission and includes the Chairman thereof;
- (e) “prescribed” means prescribed by rules made under this Ordinance; and
- (f) “Province” means the ³[Khyber Pakhtunkhwa].

3. (1) There shall be a Commission for the Province to be called the ⁴[Khyber Pakhtunkhwa] Public Service Commission.

Composition
of
Commission,
etc.

(2) The Governor shall by regulations determine,—

- (a) the number of members and their terms and conditions of service; and
- (b) the number of officers and servants of the Commission and their terms and conditions of service:

Provided that the salary, allowances and privileges of a member shall not be varied to his disadvantage during his term of office.

(3) The Chairman and other members shall be appointed by the Governor ⁵[:

Provided that a serving member of the Commission may be appointed as Chairman for a term not exceeding the un-expired portion of his term as such member.]

(4) Not less than one-half of the members shall be persons who have held office in the service of Pakistan for not less than twenty years ⁶[and has been retired in basic pay scale 20 or above].

⁷[(5) Subject to sub-section (4), at least one of the members shall be a female.]

¹ Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

² Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

³ Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Words and hyphen “North-West Frontier Province” substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

⁵ The full stop replaced by a colon and thereafter the proviso inserted by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.

⁶ The words inserted by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.

⁷ New sub-section added by Khyber Pakhtunkhwa Act No. I of 2010.

4. ¹[(1) A member of the Commission shall hold office for a term of ²[three] years from the date on which he enters upon office or till he attains the age of sixty-five years, whichever is earlier and shall not be eligible for re-appointment ³[:]]

Term of office of members, etc.

⁴[Provided that the aforesaid condition shall not be applicable to the the existing Chairman and Members appointed before the commencement of the Khyber Pakhtunkhwa Public service Commission (Amendment) Act, 2020.]

⁵[1A. Notwithstanding anything contained in any contract or agreement pertaining to the terms and conditions of service, a member who on the commencement of the Khyber Pakhtunkhwa Public Service Commission (Amendment) Act, 2011, completes his tenure or attains upper age limit as specified in subsection (1) shall cease to be a member.]

(2) A member may resign his office by writing under his hand addressed to the Governor.

⁶[4A. **Oath of Office.**— Before entering upon Office, the Chairman and a member shall take Oath in the form set out in the Schedule to this Ordinance, before the Governor in the case of Chairman, and before the Chairman in case of a member.]

1 (a) The original sub-section (1) of section 4 of the Khyber Pakhtunkhwa Ordinance No XI of 1978 is as under:

"(1) The Governor may determine the terms of office of the chairman and other members which shall not exceed five years: Provided that the Governor may extend the term of office of the Chairman or any other member for such period, not exceeding three years, as he may deem fit: Provided further that a person holding office as Chairman or member immediately before the commencement of this Ordinance shall cease to hold office on such date as the Governor may direct."

(b) The original sub-section (1) was substituted by the following sub-section (1) by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002:

"(1) A member of the Commission shall hold office for a term of five years from the date on which he enters upon office and shall not be eligible for re-appointment: Provided that a person holding office as Chairman or a member immediately before the commencement of the "[Khyber Pakhtunkhwa] Public Service Commission (Amendment) Ordinance, 2002, shall cease to hold office on such date as the Governor may direct."

* The Words and hyphen "North-West Frontier Province" substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

(c) For the proviso of sub-section (1), the following proviso substituted by the Khyber Pakhtunkhwa Ordinance No. XXXII of 2002 w.e.f. 09/08/2002:

"Provided that, notwithstanding his taking oath, required by the provisions of section 4A, on a date subsequent upon his entering into office, the Chairman or a member shall hold office for his respective term from the date on which he entered upon office and not from the date of oath taking, and he shall not be eligible for reappointment."

(d) Then, in sub-section (1), for the word "five", the word "four" substituted by Khyber Pakhtunkhwa Ordinance No. XXXIX of 2002 w.e.f. 09/08/2002.

(e) In sub-section (1), for the word "four", the word "five" substituted by N.-W.F.P. Ordinance No. I of 2004. The same amendment made by Khyber Pakhtunkhwa Act No.VIII of 2004.

(f) The present sub-section (1) of section 4 substituted for the previous one by Khyber Pakhtunkhwa Act No. VI of 2011.

2 For the word "three", the word "five" substituted by Khyber Pakhtunkhwa Act No. XXXIII of 2017 w.e.f. 23/10/2017. Thereafter, for the word "five", the present word "three" substituted by Khyber Pakhtunkhwa Act No. XXXII of 2020.

3 The full stop appearing at the end of sub-section (1) replaced by a colon by Khyber Pakhtunkhwa Act No. XXXIII of 2017 w.e.f. 23/10/2017.

4 The following proviso, added by Khyber Pakhtunkhwa Act No. XXXIII of 2017 w.e.f. 23/10/2017, has been substituted by the present proviso through Khyber Pakhtunkhwa Act No. XXXII of 2020:

"Provided that the condition of holding office for a term of five (05) years shall also be applicable on existing members appointed before the commencement of the Khyber Pakhtunkhwa Public Service Commission (Amendment) Act, 2017, and holding post as such on October 23, 2017, irrespective their order of appointment made earlier."

5 New sub-section inserted by Khyber Pakhtunkhwa Act No. VI of 2011.

6 New section inserted by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.

¹[5. **Ineligibility for further employment.**— On ceasing to hold Office, a member shall not be eligible for further employment in the Service of Pakistan.]

6. A member shall not be removed from office except in the manner applicable to a Judge of a High Court and upon a reference made by the Governor.

Removal from office.

²[7. **Functions of the Commission.**—(1) The functions of the Commission shall be —

- (a) to conduct tests and examinations for recruitment of persons to—
 - (i) the civil services of the Province and civil posts in connection with the affairs of the Province in basic pay scales 16 and above or equivalent, and
 - ³[(ii) posts in basic pay scales ⁴[14 and] 15 or equivalent in all Administrative Departments and Attached Departments of the Government, except District Cadre posts;]

1 (a) The following original section 5 of Khyber Pakhtunkhwa Ordinance No. XI of 1978 omitted by N.-W.F.P. Ordinance No. I of 1986 and took effect again from 20/04/1986 on the repeal of the Ordinance ibid by virtue of article 128(2)(a) of the Constitution, 1973, but again omitted by Khyber Pakhtunkhwa Act No. XX of 1987:

"5. Ineligibility for other employment.—(1) On ceasing to hold office, a member shall not be eligible for other employment in the service of Pakistan.
(2) Nothing in sub-section (1) shall be deemed to prevent a member other than the Chairman from being appointed as Chairman."

(b) For section 5, so omitted by Khyber Pakhtunkhwa Act No. XX of 1987, the existing section 5 inserted by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.

2 (a) The following original section 7 of Khyber Pakhtunkhwa Ordinance No. XI of 1978 is as under:

"7. Functions of the Commission.—The function of the commission shall be —
(a) to conduct test and examinations for recruitment to such services and posts in connection with the affairs of the Province as may be prescribed; and
(b) to advise the Governor on matter relating to qualifications for, and methods of recruitment to, the services and posts referred to in clause (a), and any other matter which the Governor may refer to the Commission."

(b) The following section 7, enacted by Khyber Pakhtunkhwa Ordinance No. II of 1985, by substituting the original section 7:

"7. Functions of the Commission.—(1) The functions of the Commission shall be—
(a) to conduct test and examinations for recruitment to such services and posts in connection with the affairs of the Province as may be prescribed;
(b) to advise the Governor on matter relating to—
(i) qualification and methods of recruitment to services and posts in connection with the affairs of the Province;
(ii) principles on which appointments and promotions should be made;
(iii) principles on which persons belonging to one service can be transferred to another service;
(iv) terms and conditions of service and proposals adversely affecting pension rights; and
(c) any other matter which the Governor may refer to the Commission.
Explanation.—In this section "recruitment" means initial appointment otherwise than by promotion or transfer."

(c) The present section 7 enacted by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002, substituted for the one enacted by Khyber Pakhtunkhwa Ordinance No. II of 1985.

3 The following clause substituted by Khyber Pakhtunkhwa Act No. VI of 2011.

³(ii) posts in basic pay scales 11 to 15 or equivalent in following Departments (except the District Cadre posts)—
1. Civil Secretariat (through Establishment Department); 2. Board of Revenue; 3. Police Department;
4. Prison Department; 5. Services and Works Department; 6. Irrigation Department;
7. Industries, Labour and Manpower Department; 8. Health Department; 9. Education Department;
10. Local Government and Rural Development Department; 11. Excise and Taxation Department;
12. Food Department;
13. Physical Planning and Environment Department including Urban Development Board; and
14. Organization, except autonomous bodies, under the Health and Education Department;"

4 Figures and words "11 to" substituted by Khyber Pakhtunkhwa Act No. VII of 2018.

¹[Explanation.-- In this clause, recruitment means initial appointment other than by promotion or transfer.]

- (b) to advise the Governor—
- (i) on matters relating to qualifications for, and method of recruitment to, services and posts referred to in clause (a);
 - (ii) on the principles to be followed in making:
 - (1) initial appointments to the services and posts referred to in clause (a);
 - (2) appointments by promotion to posts in BPS-17 and above; and
 - (3) transfer from one service to another; and
 - (iii) on any other matter which the Governor may refer to the Commission.

²[* * * *]

- ³(c) to hold such other tests and examinations for promotion, selection on merit or initial appointment as the case may be, for such posts as Government may determine from time to time; and
- (d) to act on any other matter which Government may refer to the Commission, from time to time.]

(2) Recruitment to the following posts shall be outside the preview of the Commission:

- ⁴(i) posts pertaining to house hold staff in the Governor House and Chief Minister House.]
- (ii) Posts to be filled on adhoc basis for a period of six months or less; provided that before filling the post, prior approval shall be obtained from the Commission;
- (iii) posts to be filled by re-employing as retired

¹ "Explanation" inserted by Khyber Pakhtunkhwa Act No. VII of 2018.

² The following "Explanation" deleted by Khyber Pakhtunkhwa Act No. VII of 2018:

"Explanation.—In this section, recruitment means initial appointment other than by promotion or transfer."

³ Two new clauses, (c) and (d), added by Khyber Pakhtunkhwa Act No. VII of 2018:

⁴ The clause "(i) Post in Governor's House;" substituted by N.-W.F.P. Ordinance No. XII of 2003. The same amendment made by Khyber Pakhtunkhwa Act No. XIV of 2003.

officer; provided that the re-employment is made for a specified period not exceeding two years in a post not higher than the post in which the person was employed on regular basis before recruitment¹; and

- (iv) the posts of²[Computer Operator, Assistant, Junior Scale Stenographer and] Junior Clerks in all Departments, Attached Departments and at District level.]

8. Where the Governor does not accept the advice of the Commission, he shall inform the Commission accordingly.

Commission to be informed when its advice not accepted.

9. (1) It shall be the duty of the Commission to present to the Governor annually a report on the work done by the Commission, and the Governor shall cause a copy of the report to be laid before the Provincial Assembly.

Reports of Commission.

(2) The report referred to in sub-section (1) shall be accompanied by a memorandum setting out so far as is known to the Commission,—

- (a) the cases, if any, in which the advice of the Commission was not accepted and the reasons therefor; and
- (b) the matters, if any, on which the Commission ought to have been consulted but was not consulted and the reasons therefore.

10. Government may, by Notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

Rules.

³[10A. Power of the Commission to make regulation.— Subject to the Provisions of this Ordinance and the rules made there under, the Commission may make regulation for caring out the purposes of this Ordinance.]

11. The ⁴[Khyber Pakhtunkhwa] Public Service Commission Act 1973 (⁵[Khyber Pakhtunkhwa] Act No. XIX of 1973), is hereby repealed.

Repeal.

¹ In clause (iii), the full stop, appearing at the end, replaced by a semi-colon and thereafter the word "and" inserted and after clause (iii), as so amended, new clause (iv) inserted by N.-W.F.P. Ordinance No. 1 of 2016. Then, the same amendment also made by Khyber Pakhtunkhwa Act No. III of 2016.

² Words inserted by Khyber Pakhtunkhwa Act No. VII of 2018.

³ New section 10A inserted by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.

⁴ Words and hyphen "North-West Frontier Province" substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

⁵ Letters, dots and hyphen "N.-W.F.P" substituted by Khyber Pakhtunkhwa Act No. IV of 2011.

¹**[SCHEDULE**

[Section 4A]

I, _____ do solemnly swear that I will bear true faith and allegiance to Pakistan. That, as a Chairman (or Member) of the ³[Khyber Pakhtunkhwa] Public Service Commission, I will discharge my duties and perform my functions honestly, to the best of my ability and faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law and always in the interest of the solidarity, integrity and well-being and prosperity of Pakistan.

That I will not allow any personal interest to influence my official conduct or my official decisions and that in the performance of my functions, whether in the selection of persons for recruitment of appointment or in any other way, I will act without fear or favour, affection or ill-will.]

¹ Schedule added by Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.