

**THE ¹[KHYBER PAKHTUNKHWA]
FORESTRY COMMISSION ACT, 1999.**

(²[KHYBER PAKHTUNKHWA] ACT NO. XV OF 1999)

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¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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⁵[Khyber Pakhtunkhwa] in the Gazette of the ⁶[Khyber Pakhtunkhwa] (Extraordinary), dated the
13th October, 1999.]*

**AN
ACT**

*to improve the protection, management and sustainable development of
forests in the ⁷[Khyber Pakhtunkhwa].*

WHEREAS it is expedient to provide for the protection, management and sustainable development of forests in the ⁸[Khyber Pakhtunkhwa];

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the ⁹[Khyber Pakhtunkhwa] Forestry Commission Act, 1999.

(2) It extends to whole of the ¹⁰[Province of the Khyber Pakhtunkhwa].

(3) It shall come into force at once.

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

(i) "biodiversity" or "biological diversity" means the variability among living organisms from all sources, including *inter alia*, terrestrial, marine and other aquatic ecosystems and ecological complexes of which they are part, as well as diversity within or between species and of ecosystems;

¹¹[(ia) "Chairperson" means the Chairperson of the Commission;]

(ii) "Chief Minister" means the Chief Minister of the ¹²[Khyber Pakhtunkhwa];

³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁵Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁸Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

⁹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹⁰Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹¹Inserted vide Khyber Pakhtunkhwa Act No. X IV of 2005

¹²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

- (iii) "Commission" means the ¹³[Khyber Pakhtunkhwa] Forestry Commission constituted under section 3(1);
- ¹⁴[(iv) "Department" means the Environment Department of Government];
- (v) "ecosystem" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment ¹⁵[interacting] as a functional unit;
- (vi) "environment" includes soil, water, air, natural vegetation, fish, wild animals and wild birds of an area;
- (vii) "forest" means a plant community, predominantly of trees and other woody vegetation growing more or less closely together and includes the soil and water, and the trees, shrubs, herbs, grasses, medicinal plants and mushrooms, and the wild animals, birds and fish inhabiting it;
- (viii) "forest-land" includes any land which is not cultivated and not under forest but is capable of supporting a forest;
- (ix) "Forestry Round Table" means a body created under section 5;
- (x) "Government" means the Government of the ¹⁶[Khyber Pakhtunkhwa];
- (xi) "member" means a member of the Commission and includes its ¹⁷[Chairperson];
- ¹⁸[(xia) "Minister" means the Minister-in-Charge of Department;]
- (xii) "prescribe" means prescribed by rules made under this Act;
- ¹⁹[(xiv) "Secretary" means the Secretary to Government, Environment Department;]
- (xv) "stake-holders" means groups of persons with legitimate interest in the protection, management, sustainable development and utilization of renewable natural resources;
- (xvi) "state of forestry report" means an annual report prepared by the Department objectively describing the endeavours made by it during the

¹³Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹⁴Substituted vide Khyber Pakhtunkhwa Act No. X IV of 2005

¹⁵Substituted vide Khyber Pakhtunkhwa Act No. X IV of 2005

¹⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹⁷Substituted vide Khyber Pakhtunkhwa Act No. X IV of 2005

¹⁸Inserted vide Khyber Pakhtunkhwa Act No. X IV of 2005

¹⁹Substituted vide Khyber Pakhtunkhwa Act No. X IV of 2005

year to improve the protection, management and sustainable development of the forests of the Province, the outcomes of these endeavours or the factors responsible for their salient success or failure; and

- (xvii) "sustainable" means a level of production or intensity of use which a forest, forest-land, grazing-land, water-body, or wild-life population can bear without a reduction in its capacity for future production.

3. Constitution of the Commission---(1) As soon as may be after the commencement of this Act, Government shall establish a Commission to be called the ²⁰[Khyber Pakhtunkhwa] Forestry Commission.

²¹[(2) The Commission shall comprise four non-official members and the following ex-officio members,-

- (a) Minister;
- (b) Chief Secretary to Government;
- (c) Additional Chief Secretary to Government;
- (d) Secretary to Government, Finance Department;
- (e) Secretary to Government, Environment Department;
- (f) Chief Conservator of Forests ²²[Khyber Pakhtunkhwa]].

(3) A ²³[non-official] member shall be a person of impeccable repute associated with forestry and other renewable ²⁴[natural] resources, which may include a retired government servant.

(4) The ²⁵[non-official] members shall be appointed by the Chief Minister from a panel of two names for each vacancy proposed by the Forestry Round Table.

²⁶[(5) Minister shall be the Chairperson of Commission.

(6) The Chief Conservator of Forest, ²⁷[Khyber Pakhtunkhwa] shall be Member-cum-Secretary of Commission.]

²⁰Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²¹Substituted vide Khyber Pakhtunkhwa Act No. X IV of 2005

²²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

²³Inserted vide Khyber Pakhtunkhwa Act No. X IV of 2005

²⁴Inserted vide Khyber Pakhtunkhwa Act No. X IV of 2005

²⁵Inserted vide Khyber Pakhtunkhwa Act No. X IV of 2005

²⁶Added vide Khyber Pakhtunkhwa Act No. X IV of 2005

²⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

4. Functions of the Commission.---(1) The Commission shall endeavour to further the cause of the protection, management, and sustainable development of the forests in the Province.

(2) For the purposes of sub-section (1), the Commission shall, subject to section 6, perform the following functions, namely,-

- (a) give vision and framework for the sustainable development of forests in the Province;
- (b) guide and over-see the process of institutional and legislative reforms in the Department;
- (c) review, develop and advocate policies for the sustainable development of forests in the Province and ensure their implementation through continuous monitoring;
- ²⁸[(d) inform the Chief Minister and the Minister-in-charge about the state of forestry , related eco-system and bio-diversity in the Province, and advocate appropriate policy, legislative and administrative action to promote the well-being of the resources;]
- (e) appraise the performance of the Department on the basis of the state of forestry report prepared annually by the Department;
- (f) identify basic issues hampering the sustainability of forestry and strive to redress them with the help of the Forestry Round Table and Government;
- (g) endeavour with the help of Forestry Round Table, to resolve major conflicts among stake-holders which may hamper the protection, management and sustainable development of forestry;
- (h) study the impact of incentives and participatory approaches on the sustainability of forestry in other countries of the world and attempt to introduce them in the Province;
- (i) devise ways and means to infuse professionalism in the functionaries of the forestry sector;
- (j) increase transparency and accountability in the working of the Department; and
- (k) perform such other functions as may contribute to enhancing the protection, management and sustainable development of the forests of the Province.

²⁸Inserted vide Khyber Pakhtunkhwa Act No. X IV of 2005

5. Constitution of the Forestry Round Table.---As soon as may be, after the commencement of this Act, Government shall constitute a Forestry Round Table to assist the Commission in the performance of its functions comprising representatives of the major stakeholders in the sector and make rules -to prescribe the number of its members, the manner of their appointment, the procedure for its operation and such other details as it may deem appropriate:

Provided that till a Forestry Round Table is constituted under this Act, the Forestry Round Table constituted by Government *vide* its notification No. CPO/FFW/4062-80, dated the 1st April, 1998, shall be deemed to be the Forestry Round Table for the purposes of this Act.

6. Functions of the Forestry Round Table.---The Forestry Round Table shall perform the following functions in relation to the Commission, namely,-

- (a) work as think-tank and resource pool for the Commission;
- (b) advise the Commission on policy, legal and institutional issues either of its own volition or at the request of the Commission;
- (c) resolve major conflicts among the stake-holders which may be hampering the protection, management and sustainable development of forestry in the Province; and
- (d) such other functions as may be entrusted to it by Government.

7. Role of the Secretary.---The Secretary shall endeavour to facilitate the performance of the Commission, *inter alia*, by ensuring the active participation of the functionaries of the Department in its studies and deliberations and the prompt supply-of all information needed by it.

²⁹**8. Term of office of the members.**---(1) The term of office of each non-official member shall be three years and shall not be renewable.

(2) A non-official member may resign his office by tendering resignation to the Chief Minister.

(3) A non-official member shall ordinarily hold office uninterrupted for his entire term, unless removed earlier by the Chief Minister on the charge of an offence involving moral turpitude or conviction in any criminal case.

(4) The non-official members and employees of the Commission shall be eligible to such emoluments and other benefits as Government may determine.]

9. Procedure for operation.---(1) The Commission shall have its own budget and an administrative unit to support its operations.

²⁹Substituted *vide* Khyber Pakhtunkhwa Act No. X IV of 2005

³⁰[(2) The Commission may delegate nay of its functions and powers to any of its members.]

(3) All decisions of the Commission shall preferably be taken by consensus, or in case where consensus cannot be attained, by majority of opinion.

(4) The Commission shall make its own rules and procedure for its operation.

10. Power and duties of the Commission.---The Commission shall have the following powers,-

- (a) sanction expenditure against its approved budget and according to the procedure evolved by it;
- (b) commission studies, surveys and consultancies required in the discharge of its functions;
- (c) correspond with the office of the Chief Minister through the Chief Secretary for non-developmental and the Additional Chief Secretary for developmental matters;
- (d) submit state of forestry report prepared by the Department alongwith its observations to the Chief Minister and the Provincial Assembly;
- (e) ³¹[interact] with Government Departments, non-governmental organizations, private sector organizations, individuals, and donors for carrying out the purposes of this Act;
- (f) require the functionaries of the Department to submit any information or report needed for the performance of its functions; and
- (g) take *suo moto* action for investigating any matter of concern in the sector which comes to its knowledge, and send its findings to the Secretary for taking remedial action.

11. Power to make rules.---Government may, on the recommendations of the Commission, make rules for carrying out the purposes of this Act.

12. Indemnity.---No action shall be taken against any member for anything in good faith done or intended to be done under this Act.

13. Repeal.---The North-West Frontier Province Forestry Commission Ordinance, 1999 (N.W.F.P. Ordinance No. X of 1999) is hereby repealed.

³⁰Substituted vide Khyber Pakhtunkhwa Act No. X IV of 2005

³¹Substituted vide Khyber Pakhtunkhwa Act No. X IV of 2005

