

**THE ¹ [KHYBER PAKHTUNKHWA] EDUCATIONAL TESTING AND EVALUATION
AGENCY ORDINANCE, 2001.**

² [KHYBER PAKHTUNKHWA] ORDINANCE NO. VIII OF 2001.

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¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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THE ³ [KHYBER PAKHTUNKHWA] EDUCATIONAL TESTING AND EVALUATION
AGENCY ORDINANCE, 2001.

⁴ [KHYBER PAKHTUNKHWA] ORDINANCE NO.VIII OF 2001.

[29th June, 2001.]

AN
ORDINANCE

*to provide for the establishment of Educational Testing and
Evaluation Agency in the ⁵[Khyber Pakhtunkhwa].*

WHEREAS it is expedient to provide for the establishment of an independent and autonomous Educational Testing and Evaluation Agency in the ⁶[Khyber Pakhtunkhwa] for the development of resources and systems for the conduct of educational evaluation and testing for the educational institutions in a transparent, uninfluenced and academically sound manner;

AND WHEREAS the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as mended upto date, and the Provisional Constitution Order No. 1 of 1999, read with Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, 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. Short title, application and commencement.---(1) This Ordinance may be called the ⁸[Khyber Pakhtunkhwa] Educational Testing and Evaluation Agency Ordinance, 2001.

(2) It shall apply to such educational institutions, including private educational institutions, as Government may, from time to time, by notification in the Official Gazette, specify.

(3) It shall come into force at once.

2. Definitions.---In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) “Agency” means the ⁹[Khyber Pakhtunkhwa] Educational Testing and Evaluation Agency, established under section 3;

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

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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

- (b) “Board” means the Board of Governors of the Agency established under section 7;
- (c) “Chairman” means the Chairman of the Board;
- (d) “Executive Director” means the Executive Director of the Agency appointed under section 6;
- (e) “Government” means the Government of the ¹⁰[Khyber Pakhtunkhwa];
- (f) “member” means a member of the Board; and
- (g) “section” means a section of this Ordinance.

3. Establishment and incorporation of the Agency.---(1) As soon as may be after the commencement of this Ordinance, Government shall establish an Agency to be called the ¹¹[Khyber Pakhtunkhwa] Educational Testing and Evaluation Agency.

(2) The Agency shall be a body corporate by the name of the ¹²[Khyber Pakhtunkhwa] Educational Testing and Evaluation Agency, having perpetual succession and a common seal, with power, amongst others, to acquire, hold and dispose of its funds and investments and shall by the said name sue and be sued.

4. Purpose, powers and functions of the Agency.---(1) The Agency shall be responsible for-

- (a) the development of resources and systems for the conduct of educational evaluation and testing in respect of the educational institutions in general, and for admission to the educational institutions in particular, to which this Ordinance is applied, in a transparent and academically sound manner;
- (b) achieving the testing and evaluation objectives in a manner that may inculcate the spirit of inquiry, application and research amongst students, during study at colleges and schools;
- (c) providing instructions, training and research to foster meaningful and academically sound practices in testing and evaluation in order to attain progressive up-gradation of quality and standards of education in general and for matters ancillary thereto; and
- (d) performing such other functions, as Government may, by notification in the Official Gazette, assign to it.

¹⁰Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹¹Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

¹²Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

(2) The Agency may enter into agreements, contracts and arrangements with governmental as well as non-governmental institutions, bodies and individuals for the purposes of carrying out its functions and activities under this Ordinance.

5. Administration and conduct of business.---(1) The general direction, control and administration of the affairs of the Agency shall vest in the Board which may exercise all powers and do all acts and things that may be exercised or done by the Agency in accordance with the provisions of this Ordinance.

(2) All acts of the Agency, whether executive or otherwise, shall be expressed to be taken in the name of the Agency and shall be authenticated in such manner as may be prescribed.

(3) Without prejudice to the generality of the foregoing provisions, the Board shall exercise and perform the powers and functions hereinafter specified, namely:

- (a) to formulate or approve the principles, policies and plans governing the activities and operations of the Agency so as to ensure that academic activities enjoy their freedom and non-interference from outside;
- (b) to prepare or have prepared and revised, from time to time, rules and regulations for the efficient and effective operations of the Agency;
- (c) to approve the plans, programmes and budget of the Agency submitted by the Executive Director;
- (d) to require the Executive Director to submit reports relating to the plans and programmes of work, to consider such reports and to direct the Executive Director to submit reports relating to any matter specified by the Board;
- (e) to create such academic, technical or administrative posts as it may consider necessary for the purpose of the Agency and to approve appointments to such of these posts as it may specify;
- (f) to undertake responsibility for the financial integrity of the Agency, including responsibility for ensuring effectiveness of its future operations;
- (g) to undertake responsibility for the preservation of the autonomy of the Agency;
- (h) to appoint from amongst its members such committees or sub-committees as may, in the opinion of the Board, lead to its more efficient and effective operations; and
- (i) to take all such initiatives as it may consider necessary or desirable for the efficient and effective management and functioning of the Agency.

(4) The Board shall lay down its own regulations and procedures for the conduct of its business under this Ordinance. In all other matters the rules for carrying out the purposes of this Ordinance shall be made with the approval of the Chairman.

6. Executive Director.---(1) The Chairman shall, on the recommendation of the Board, appoint an Executive Director for such period and on such terms and conditions as the Board may determine.

(2) The Executive Director shall be the chief academic and administrative officer of the Agency and shall have the overall responsibility for the directions, organisation, administration and programmes of the Agency in accordance with the guidelines and general policies formulated by the Board and for the implementation of the decisions and policies of the Board. In particular, he shall-

- (a) submit plan of activities, work and budget estimates for the approval of the Board;
- (b) direct the activities connected with the execution of programmes for testing, training, research and marketing of its services and authorise expenditure provided for in the budget as approved by the Board;
- (c) appoint, with the approval of the Board where necessary, staff and such other persons as may be necessary in accordance with the policies and procedures approved by the Board so as to ensure highest intellectual, professional and moral qualities in the persons appointed;
- (d) submit to the Board, in accordance with the rules of procedure framed, its reports on the activities of the Agency and the execution of plan of work; and
- (e) provide necessary services, including the service of paper setting, to the Board for the conduct of entrance examination; provided that the examiners shall not be setters of the papers, and they shall conduct only entrance examination.

(3) In the discharge of his duties, the Executive Director will deal directly, and not through intermediaries, with the Chairman and the Board.

7. The Board of Governors.---(1) There shall be a Board of Governors consisting of the following members:

- (a) ¹³[Chief Minister] of the ¹⁴[Khyber Pakhtunkhwa] Chairman.

¹³Substituted vide Khyber Pakhtunkhwa Act No. XII of 2005

¹⁴Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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| (b) Minister for Education. | Vice-Chairman. |
| (c) Secretary Education. | Member. |
| (d) Secretary Health. | Member. |
| (e) Principal of one of the Medical Colleges (by rotation, to be nominated by Chairman). | Member. |
| (f) Vice Chancellor of the University of Engineering and Technology (UET). | Member. |
| (g) Chairman of one of the Boards of Intermediate and Secondary Education (by rotation, to be nominated by Chairman). | Member. |
| (h) One nominee of the ¹⁵ [Chief Minister]. | Member. |
| (i) One professional person of eminence in Computer Technology or Education to be nominated by the Education Department of Government. | Member. |
| (j) Executive Director of the Agency who will also be the Secretary of the Board. | Member. |

(2) A nominated member of the Board shall hold office for a term of three years and shall, on expiry of the term, be eligible for re-nomination for one term only.

(3) The office of a nominated member of the Board shall become vacant if he resigns or fails to attend three consecutive meetings of the Board without sufficient cause or leave of absence.

(4) A casual vacancy in the office of a nominated member of the Board shall be filled by nomination of another person by the person or body who had nominated the member whose vacancy is to be filled in.

8. Restriction on functioning.---The Board shall not start functioning until the members to be nominated have been nominated; and no act or proceedings of the Board shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Board.

9. Delegation of powers.---The Board may delegate any of its powers to the Executive Director, subject to such conditions as it may deem fit to impose.

10. Meeting of the Board, etc.---(1) The Board shall meet at least twice a year on dates to be fixed by the Chairman in consultation with the Executive Director, for regular or scheduled meetings, and may meet at any other time at which a special meeting thereof may be called by the Chairman or requisitioned in writing by not less than five members of the Board.

¹⁵Substituted vide Khyber Pakhtunkhwa Act No. XII of 2005

(2) In case of special meeting, not less than ten clear days notice shall be given to the members of the Board and agenda of the meeting shall be restricted to the matter for which the special meeting is called.

(3) The quorum for a meeting of the Board shall be one-half of its members, a fraction being counted as one.

(4) The decision of the Board shall be expressed in terms of the views of the majority of the members present and voting and, if the members are equally divided, the Chairman shall have and exercise a casting vote.

11. Academic and technical staff.---The academic and technical staff of the Agency shall be selected with a view to achieving its stated objectives and the basic criteria for their selection shall be the highest standard of competence, integrity and efficiency, and will be retained on contract only on strict and objective performance appraisal to be carried out by the Executive Director.

12. Agency's funds, audit and accounts.---(1) The Agency shall have a fund to which shall be credited income from fees, donations, trusts, bequests, endowments, grants, contributions and any other source.

(2) The Agency shall function on the principle of self-financing through resources listed above.

(3) No contribution, donation or grant which may directly or indirectly involve any immediate or subsequent financial liability of the Agency or which may involve an activity not included in its programmes for the time being shall be accepted without the prior approval of the Board.

(4) The accounts of the Agency shall be maintained in such form and in such manner as may be prescribed by rules approved by the Board.

(5) The accounts of the Agency shall be audited each year within four months of the closing of financial year by the Director Local Fund Audit, ¹⁶[Khyber Pakhtunkhwa].

(6) The accounts, together with the report of the auditor thereon, shall be submitted to the Board for approval.

(7) The auditor's report shall certify that the auditor has complied with the standards of audit and certification laid down by the Institute of Chartered Accountants of Pakistan.

(8) The auditor's report shall be laid before the Provincial Assembly every year.

¹⁶Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

13. Indemnity and bar of jurisdiction.---(1) No suit, prosecution or other legal proceedings shall lie against the Agency or any person for anything done or intended to be done in good faith under this Ordinance.

(2) Subject to sub-section (1), no decision taken or anything done by the Board shall be called in question before any court or other authority.

14. Ordinance to override other laws.---This Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

15. Removal of difficulties.---(1) If any question arises as to the interpretation of any of the provisions of this Ordinance, the decision of the Board shall be final.

(2) If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Chairman may make such order not inconsistent with the provisions of this Ordinance, as may appear to him to be necessary for removing the difficulty.

(3) Where this Ordinance makes any provision for anything to be done but no provision or no sufficient provision has been made as respects the authority under whose order, or the time at which, it shall be done, then it shall be done by such authority and at such time as the Board may direct.

16. Power to make rules.---Except as provided in sub-section (4) of section 5, the Board may, with the approval of Government, make rules for carrying out the purposes of this Ordinance.

Peshawar,
dated the,
26th June, 2001.

Lt. Gen. (Rtd.) IFTIKHAR HUSSAIN SHAH
Governor of the ¹⁷[Khyber Pakhtunkhwa]

¹⁷Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011