

**THE KHYBER PAKHTUNKHWA COMMISSION ON THE STATUS OF
WOMEN ACT, 2016.**

(KHYBER PAKHTUNKHWA ACT NO. XXVIII OF 2016)

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(Extraordinary), dated the 3rd November, 2016].*

AN

ACT

*to reconstitute and reorganize
the Commission on the Status of Women
in the Province of the Khyber Pakhtunkhwa.*

WHEREAS it is expedient to reconstitute and reorganize the Commission on the Status of Women in the Province of the Khyber Pakhtunkhwa and to give it an autonomous status for effective and improve performance, efficiency and responsive to provide effective services for promoting women rights and eliminate all forms of discrimination against women and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:

1. Short title and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Commission on the Status of Women Act, 2016.

(2) It shall come into force at once.

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

- (a) "Chairperson" means the Chairperson of the Commission;
- (b) "Commission" means the Khyber Pakhtunkhwa Commission on the Status of Women reconstituted under section 3;
- (c) "District Committee" means a District Committee on the status of women;
- (d) "Government" means the Government of the Khyber Pakhtunkhwa;
- (e) "member" means the member of the Commission;
- (f) "prescribed" means prescribed by rules or regulations; and
- (g) "rules" means rules made under this Act;

- (h) "regulations" means regulations made under this Act;
- (i) "repealed Act" means the Khyber Pakhtunkhwa Establishment of a Commission on the Status of Women Act, 2009 (Khyber Pakhtunkhwa Act No. XIX of 2009), as repealed under section 23 of this Act; and
- (j) "Secretary" means the Secretary of the Commission.

3. Re-constitution of the Commission.---(1) As soon as may be, after the commencement of this Act, Government shall, by notification in the official Gazette, re-constitute the Commission on the Status of Women established under section 4 of the repealed Act and shall be known as the "Khyber Pakhtunkhwa Commission on the Status of Women".

(2) The Commission shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued.

(3) The Commission shall have a permanent Secretariat at Peshawar and shall have its District Committees at district level.

4. Constitution of the Commission.---(1) The Commission established and constituted under section 4 of the repealed Act shall continue their functions under this Act, till the expiration of the tenure of the existing Chairperson and members of the Commission under the repealed Act or till the constitution of the new Commission under this Act whichever may be earlier.

(2) After the expiration of the tenure of the Chairperson and members of the Commission constituted under the repealed Act, the Commission shall be reconstituted as that it shall consist of fifteen (15) official and non-official members including Chairperson to be appointed and notified by Government:

Provided that Chairperson shall be a female and at least eight (8) non-official members shall also be female and at least one member shall be from the minorities of the Province of the Khyber Pakhtunkhwa.

(3) The official members shall include two (02) female members of the Provincial Assembly, one each nominated by the Government and Leader of Opposition in the Provincial Assembly and Secretary to Government, Zakat, Ushr and Social Welfare Department or his representative not below BS-19.

(4) The non-official members including Chairperson shall be persons of integrity, good standing and repute having the knowledge of laws related to women and fully apprehend social, economic and legal problems faced by women and may have such

other qualifications as Government may prescribed; provided that they shall not be less than thirty (30) years of age.

(5) The non-official members and Chairperson shall be appointed by Government on the recommendation of a Search and Scrutiny Committee constituted under section 8.

(6) The term of office of a non-official member including Chairperson shall be three (03) years which may be extended for a further period of three (03) years, unless he/she resigns earlier or becomes ineligible or is disqualified from holding such office under this Act.

(7) Chairperson of the Commission shall give policy vision to the Commission for achieving the purposes under this Act and shall have executive authority over the management of the affairs of the Commission.

(8) The membership of non-official members 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 him/her to remain as member. Any such vacancy shall be filled in within one month and the new member shall hold office for the remainder of the term of his/her predecessor.

(9) Any vacancy caused due to death, resignation or removal of the Chairperson or member, shall be filled in by Government. The new Chairperson or member shall hold office for the remainder of the term of his/her predecessor.

(10) No person shall be appointed or remain as a member of the Commission, if he/she-

- (a) is of unsound mind;
- (b) has applied to be adjudicated as an insolvent and his/her 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 for the time being in force; or
- (f) has conflict of interest with such position:

Provided that no person shall be removed under this clause until he/she has been given a reasonable opportunity of being heard.

Explanation.—For the purpose of this clause, conflict of interest means the financial benefit or a liability accruing to the public office holder or his family due to his official position.

5. Terms and conditions as applicable to Chairperson and members.—(1) The salary and other allowances payable to and terms and conditions of service of members and Chairperson, shall be such as prescribed by the Government.

(2) The Chairperson of the Commission shall have a status equal to BPS-21 officer of Government.

6. Meetings of the Commission.—(1) Meetings of the Commission shall be regulated in accordance with procedure as may be prescribed by regulations.

(2) Meetings of the Commission shall be held as and when required, but once at least in a quarter, at the time and place as the Chairperson may determine.

(3) The Chairperson shall preside over the meetings of the Commission and in case of his/her absence, the Chairperson may nominate a Commission member as acting Chairperson or if he/she has not done so, the members present shall elect an acting Chairperson for that meeting.

(4) Presence of seven (07) members of the Commission shall constitute the quorum for a meeting; provided that such number shall include at least one official member.

(5) The decisions of the Commission shall be taken by the majority of the members present and, in case of a tie, the person presiding over the meeting shall have a casting vote. All orders, determinations and decisions of the Commission shall be reduced to writing together with a record of the discussions held in the meeting.

(6) The Commission may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Commission, who may take part in discussion, but shall not be entitled to vote for or against the matter under discussion.

(7) The Commission may invite a representative of any Government Department, as it deems necessary to a meeting of the Commission provided that such a participant shall not have any right to vote.

(8) No act or proceedings of the Commission shall be invalid merely by reason of any vacancy in or defect in the constitution of the Commission.

7. Secretary of the Commission.— (1) Government shall post a Government Officer of the rank of BS-19, to act as the Secretary of the Commission for a term not exceeding three (03) years.

(2) Notwithstanding a change in the term of his office by an order of the Government, the Secretary shall continue to hold office till his successor enters upon his office.

(3) The Secretary shall perform such functions and exercise such powers as may be prescribed by regulation or delegated to him by the Commission and shall-

- (a) be whole time officer of the Commission;
- (b) act as the Principal Accounting Officer of the Commission and District Committees; and
- (c) delegate all or any of his powers under this Act or rules made thereunder to any officer of the Commission or District Committee for a specific purpose.

(4) The Secretary while acting with reference to conducting meetings of the Commission shall be responsible for:

- (a) convening of meetings of the Commission with the approval of Chairperson;
- (b) the preparation of the agenda, working paper and its distribution among the members of Commission;
- (c) recording the minutes of each meeting of the Commission and its prompt dispatch to the concerned quarters;
- (d) implement decisions of the Commission; and
- (e) proper follow-up of all matters connected with or arising out of a meeting of the Commission.

(5) Without prejudice to the generality of the foregoing, the Secretary shall function under the supervision and control of the Commission and shall undertake responsibilities and duties as are entrusted to him by the Commission for purposes of this Act.

8. Functions of the Commission.---The Commission shall,-

- (a) examine the policy, programs, projects and other measures taken by Government, for women development and gender equality, to assess implementation and make suitable recommendations to the concerned authorities, where considered necessary for effective impact;
- (b) review all provincial laws, rules and regulations affecting the status and rights of women and suggest repeal, amendments or new

legislations essential to eliminate discrimination, safeguard and promote the interests of women and achieve gender equality in accordance with the Constitution of the Islamic Republic of Pakistan and obligations under International Covenants and commitments;

- (c) monitor the mechanism and institutional procedures for redress of violation of women's rights, individual grievances and facilities for social care, and undertake initiative for better management and efficient provision of justice and social services through the concerned forums and authorities;
- (d) examine and review policies/programs and plans of each department to ensure that they address gender concerns adequately;
- (e) establish and constitute in consultation with the Government, District Committees, consisting of such number of members with female majority and to be headed by a female Chairperson on such terms and conditions and for such a period as may be prescribed through regulations to examine and review policies/programs and plans for each office in the district and to ensure that they address gender concerns adequately; provided that two female members of district council shall be added to the District Committee and meetings and quorum of the District Committee shall be such as prescribed by regulations;
- (f) provide guidelines to a District Committee for implementation and receive periodic reports on the implementation status to the Commission;
- (g) approve annual budget of the Commission and of the District Committees;
- (h) approve regulations required to be made under this Act;
- (i) delegate such of their powers and functions to the officers of the Commission, as it may consider necessary for the efficient implementation of this Act;
- (j) prescribe procedure for appointment, terms and conditions of service, disciplinary matters and other service matters for the employees of Commission or the District Committees, as the case may be;
- (k) creation, re-designation or abolition of posts; provided that while creating posts the financial implications do not exceed the approved annual budget; and

- (l) constitute sub-committees consisting of such of its members as it may deem fit and may refer to them any matter for consideration and report; and
- (m) perform any other function which may be assigned to it by Government.

9. Executive Committee.---There shall be an executive committee of the Commission consisting of the Chairperson, Secretary and three other members to be elected by the Commission, which shall be responsible for overseeing the implementation of the decisions and recommendations of the Commission.

10. Appointment of officers and other employees.---(1) The Commission may, appoint such officers, advisors, experts, consultants and employees, as it considers necessary, for the efficient performance of its functions on such terms and conditions as may be prescribed by regulations.

(2) The Commission may associate with it, in such manner, on such terms and for such purpose as it may deem fit, any person whose assistance or advice it may require in carrying out its functions under this Act.

(3) Notwithstanding anything contained in any law or rules, all the employees appointed in the Commission before the commencement of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the commencement of this Act, having the same qualification and experience for the said posts and their seniority shall be settled from the date of their appointment in a manner as may be prescribed.

11. Commission Fund.---(1) There shall be established by the Government a Fund to be known as the Commission on the Status of Women Fund, hereinafter referred to as “Commission Fund”, which shall consist of:

- (a) grants paid by Government for running the affairs of the Commission and of the District Committees;
- (b) all grants, if any, made by the Federal Government, Provincial Governments or local bodies for the Commission and District Committees; and
- (c) donations, if any, made by private individuals, national and international agencies for Commission and District Committees.

(2) Subject to the general supervision of Government, the Commission Fund shall be administered by the Commission, which shall make such allocation for specific activities as it thinks necessary.

(3) The Commission Fund shall be utilized for-

- (a) performing functions of the Commission and of the District Committees;
- (b) the establishment charges; and
- (c) the welfare and empowerment of women.

12. Custody and investment of funds.----The Commission may keep money in any treasury, sub-treasury or a bank as may be prescribed.

13. Budget and Accounts.---(1) The Secretary shall, in respect of each fiscal year, submit for approval of the Commission, by such date and in such manner as may be prescribed, a statement showing the estimated receipts, the current and developmental expenditures and the sum required as grant-in-aid from the Federal Government and Government and shall be submitted to Government by the prescribed date; provided that the Government may modify the said estimates to the extent of any Government fund or grant as it may consider necessary.

(2) Accounts of the receipts and expenditure of the Commission shall be kept in such form as may be prescribed.

(3) The Commission shall, on the close of each financial year, place before Government the annual statement of accounts and audited balance sheet, profit and loss account and the auditor's report, for the preceding financial year.

14. Audit of accounts.---The accounts of the Commission shall be audited annually by the Auditor General of Pakistan.

15. Annual report.---(1) The Commission shall, within four (04) months after the end of every financial year, submit an annual report to Government on the conduct of its affairs for that year. The Commission shall also, no later than four (04) months prior to the end of its financial year, finalise and present to Government annual development plan and budget for the next ensuing financial year:

Provided that the reports of the Commission relating to its activities shall be submitted to the Chief Minister, Khyber Pakhtunkhwa.

(2) The District Committee shall, after the end of every financial year, submit an annual report to the Commission on the conduct of its affairs for that year. The District Committee shall also, prior to the end of its financial year, finalize and present to the Commission annual development plan and budget for the next ensuing financial year:

Provided that the reports relating to the activities of a District Committee shall be submitted to Nazim, District Government.

16. Removal of difficulties.---If any difficulty arises in giving effect to any provision of this Act, Government may, in consultation with the Commission, issue orders, not inconsistent with the provisions of this Act, or the rules made thereunder, for the removal of the difficulty:

Provided that this power shall be available for a period of one year from the date of commencement of this Act.

17. Chairperson, members and other staff of the Commission and District Committee, to be public servants.---The Chairperson, members, officers and other employees of the Commission and a District Committees shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

18. Power to make rules.---Government may by notification in the official Gazette, make rules for carrying out the purposes of this Act.

19. Power to make regulations.---Commission may by notification in the official Gazette, make regulations for carrying out the purposes of this Act.

20. Repeal and saving.---(1) The Khyber Pakhtunkhwa Establishment of a Commission on the Status of Women Act, 2009, is hereby repealed.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the aforesaid Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done; taken, made or issued, under this Act, and shall have effect accordingly.

(3) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.