

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

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

13th May, 1978.

CONTENTS

PREAMBLE

SECTIONS

- 1. Short title and commencement.
- 2. Definitions.
- 3. Composition of Commission etc.
- 4. Term of office of members, etc.
- ³[4A. Oath of office.]
- ⁴[5. Ineligibility for further employment.]
- 6. Removal from office.
- ⁵[7. Functions of the Commission.]
- 8. Commission to be informed when its advise not accepted.
- 9. Reports of Commissions.
- 10. Rules.
- ⁶[10A. Power of the Commission to make regulation.]
- ⁷[10B. Validation of certain actions.]
- 11. Repeal.

⁸[SCHEDULE]

1. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
2. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
3. Inserted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
4. Inserted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
5. Substituted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
6. Inserted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
7. Inserted vide the Khyber Pakhtunkhwa Act No. VIII of 2022.
8. Added vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.

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 modifications, re-enact the ³[Khyber Pakhtunkhwa]
Public Service Commission Act, 1973.*

Preamble. **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;

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:

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

(2) It shall come into force at once.

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

- (a) “Commission” means the ⁹[Khyber Pakhtunkhwa] Public Service Commission;
- (b) “Government” means the Government of the ¹⁰[Khyber Pakhtunkhwa];
- (c) “Governor” means the Governor of the ¹¹[Khyber Pakhtunkhwa];
- (d) “Member” means a Member of the Commission and includes the Chairman thereof;

1. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
2. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
3. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
4. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
5. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
6. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
7. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
8. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
9. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
10. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
11. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.

(e) “prescribed” means prescribed by rules made under this Ordinance;
and

(f) “Province” means the ¹[Khyber Pakhtunkhwa].

3. (1) There shall be a Commission for the Province to be called the ²[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
³[:]

⁴[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 ⁵[and has been
retired in basic pay scale 20 or above.]

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

4. ⁷[(1) A member of the Commission shall hold office for a term of
⁸[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 ⁹[:]]

Term of office of
members, etc.

¹⁰[Provided that the aforesaid condition shall not be applicable to the
existing Chairman and Members appointed before the commencement of the
Khyber Pakhtunkhwa Public service Commission (Amendment) Act, 2020.]

¹¹[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

1. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
2. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
3. Replaced vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
4. Inserted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
5. Added vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
6. Added vide the Khyber Pakhtunkhwa Act No. I of 2010.
7. Substituted vide the Khyber Pakhtunkhwa Act No. VI of 2011.
8. Substituted vide the Khyber Pakhtunkhwa Act No. XXXII of 2020.
9. Replaced vide the Khyber Pakhtunkhwa Act No. XXXIII of 2017.
10. Added in 2017, substituted vide the Khyber Pakhtunkhwa Act No. XXXII of 2020.
11. Inserted vide the Khyber Pakhtunkhwa Act No. VI of 2011.

(Amendment) Act, 2011, completes his tenure or attains upper age limit as specified in sub-section (1) shall cease to be a member.]

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

Oath of office. ¹[4A. 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.]

Ineligibility for further employment. ²[5. On ceasing to hold office, a member shall not be eligible for further employment in the Service of Pakistan.]

Removal from office. 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.

Functions of the Commission. ³[7. (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
 - ⁴[(ii) posts in basic pay scales ⁵[14 and] 15 or equivalent in all Administrative Departments and Attached Departments of the Government, except the District cadre posts;]

⁶[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.

⁷[Explanation.-- * * * *]

1. Inserted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
2. Inserted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
3. Substituted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
4. Substituted vide the Khyber Pakhtunkhwa Act No. VI of 2011.
5. Substituted vide the Khyber Pakhtunkhwa Act No. VII of 2018.
6. Inserted vide the Khyber Pakhtunkhwa Act No. VII of 2018.
7. Deleted vide the Khyber Pakhtunkhwa Act No. VII of 2018.

- ¹[(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.
- (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:

- ²[(i) posts pertaining to house hold staff in the Governor House and the Chief Minister House;]
- (ii) posts to be filled on adhoc basis for a period of ³[one year] or less; provided that before filling the post, prior approval shall be obtained from the Commission;
- (iii) posts to be filed by re-employing as retired 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 recruitment ⁴[; and]
- ⁵[(iv) the posts of ⁶[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 advise 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 Commissions.

(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 there for; and
- (b) the matters, if any, on which the Commission ought to have been consulted but was not consulted and the reasons therefor.

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

Rules.

1. Added vide the Khyber Pakhtunkhwa Act No. VII of 2018.
2. Substituted vide the Khyber Pakhtunkhwa Act No. XIV of 2003.
3. Substituted vide the Khyber Pakhtunkhwa Act No. VI of 2008.
4. Replaced and added vide the Khyber Pakhtunkhwa Act No. III of 2016.
5. Added vide the Khyber Pakhtunkhwa Act No. III of 2016.
6. Inserted vide the Khyber Pakhtunkhwa Act No. VII of 2018.

Power of the Commission to make regulation.	¹ [10A. Subject to the provisions of this Ordinance and the rules made thereunder, the Commission may make regulations for carrying out the purposes of this Ordinance.]
Validation of certain actions.	² [10B. Notwithstanding anything contained in any law, rules and regulations for the time being in force, all the screening tests, conducted by the Public Service Commission, in syllabus based examinations, before the commencement of the Khyber Pakhtunkhwa Public Service Commission (Amendment) Act, 2022, under its regulations, in pursuance of which candidates have been selected and appointed as civil servants or have qualified the written examinations or have been called for interviews, shall deem to have been validly conducted for all intents and purposes under this Ordinance and rules made thereunder, and shall not be called in question in any court of law.]
Repeal.	11. The ³ [Khyber Pakhtunkhwa] Public Service Commission Act 1973 (⁴ [Khyber Pakhtunkhwa] Act No. XIX of 1973), is hereby repealed.

⁵**[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 ⁶[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. Inserted vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
2. Inserted vide the Khyber Pakhtunkhwa Act No. VIII of 2022.
3. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
4. Substituted vide the Khyber Pakhtunkhwa Act No. IV of 2011.
5. Added vide the Khyber Pakhtunkhwa Ordinance No. XXVII of 2002.
6. Substituted vide the Khyber Pakhtunkhwa Ordinance No. IV of 2011.