

PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

REPORT

I, the Chairman of the Select Committee on the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Bill, 2016 have the honour to present report of the Committee.

2. During the sitting of the Assembly held on 20-05-2016, the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Bill, 2016 alongwith the amendments of Mr. Saleem Khan, MPA. Mr. Zareen Gul, MPA also proposed amendment for consideration of the Committee.

3. The Select Committee was constituted of the following members:-

(1)	The Chief Minister, Khyber Pakhtunkhwa.	Chairman
(2)	Mr. Inayatullah, Senior Minister for Local Government and Rural Development.	Member
(3)	Mr. Sikandar Hayat Khan, Senior Minister for Irrigation.	Member
(4)	Mr. Imtiaz Shahid Qureshi, Minister for Law, Parliamentary Affairs and Human Rights.	Member
(5)	Deputy Speaker, Provincial Assembly of Khyber Pakhtunkhwa.	Member
(6)	Maulana Lutf-ur-Rehman, Leader of Opposition.	Member
(7)	Mr. Shah Farman, Minister for Public Health Engineering.	Member
(8)	Mr. Muhammad Ali Shah Bacha, MPA.	Member
(9)	Syed Jafar Shah, MPA.	Member
(10)	The Advocate General, Khyber Pakhtunkhwa.	Member

4. The Committee held its two meetings on 26th May, 2016 and 11th July, 2016 in the Committee Room of the Assembly Secretariat. The following Members were attended the meetings:-

(1)	Mr. Inayatullah, Senior Minister for Local Government and Rural Development.	Member
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(2)	Mr. Imtiaz Shahid Qureshi, Minister for Law, Parliamentary Affairs and Human Rights.	Member
(3)	Deputy Speaker, Provincial Assembly of Khyber Pakhtunkhwa.	Member
(4)	Mr. Shah Farman, Minister for Public Health Engineering.	Member
(5)	Mr. Muhammad Ali Shah Bacha, MPA.	Member
(6)	Syed Jafar Shah, MPA.	Member
(7)	The Advocate General, Khyber Pakhtunkhwa.	Member

5. Mr. Zareen Gul, MPA attended the meetings as mover.

6. The representatives of the Establishment Department and Law, Parliamentary Affairs and Human Rights Department attended the meetings.

7. In the first meeting held on 26th May, 2016, detailed discussion took place on the Bill. Certain clauses required rephrasing, therefore, the Department was directed to re-examine all the clauses of the Bill in consultation with the Law, Parliamentary Affairs and Human Rights Department and submit the same for consideration of the Committee. Accordingly the Department submitted a revised Bill which was threadbare discussed in the meeting held on 11th July, 2016 and the following further amendments were made by the Committee:-

Clause 9

8. After detailed discussion, the Committee decided that appointment would be made after framing the prescribed rules under this Act and rephrased clause 9 of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Bill, 2016 as under:-

9. Amendment of section 11 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 11,-

- (i) in the short title, for the word "Commission", the words "Directorate General" shall be substituted; and
- (ii) for sub-section (4), the following shall be substituted, namely:

"(4) Unless otherwise provided in this Act, the officers, staff and other employees, including Advisors and Consultants, shall be appointed by the Director General, **after framing of the prescribed rules. The appointments shall be made** in a transparent manner and subject to the eligibility criteria and method of appointment laid down in the terms and conditions of service prescribed by Commission;

Provided that in case of deviation from the prescribed criteria, the Commission may declare such appointments as null and void."

Clause 10

9. The Committee after detailed discussion, decided to rephrase clause 10 as under:-

10. Amendment of section 12 of the Khyber Pakhtunkhwa Act No. I of 2014.--- In the said Act, in section 12,-

(i) in sub-section (1), in the proviso, the full stop appearing at the end shall be replaced by a colon and thereafter the following new proviso shall be added, namely:

"Provided further that the procedure for the selection of the Director General shall be completed within a period of one hundred and twenty (120) days from the date the post falls vacant.";

(ii) in sub-section (3), in clause (e), for the word "Commissioners", the word "Commission" shall be substituted;

(iii) in sub-section (4),-

(a) for clause (c), the following shall be substituted, namely:

"(c) falls within one of the following categories:

(i) is a retired Government officer in BPS 20 or above having master degree with fifteen (15) years administrative experience including three (03) years experience in investigation in a leadership position; or

Provided also that the decision shall be made within a period of seven (07) days and reference shall be filed in the Court within a period of seven (07) days.

Explanation: The inquiries and investigations already commenced before the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2016, shall continue in the same manner and shall not be considered in accordance with the provisions of this section."; and

- (ii) after sub-section (1), as so amended, the following new sub-section shall be inserted, namely:

"(1A) The Directorate General shall not take action in matters involving pure procedural lapses in any ongoing Project. It shall only monitor the ongoing schemes of Government and intimate the Department about any procedural lapses and recommend corrective measures in such a manner that it shall not affect the running of ongoing projects. "; and

- (iii) in sub-sections (3) and (5), for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

Clause 24

13. The Chair showed his grave concern over the delay in framing rules under the Acts passed by the Assembly and directed that such like practice in future would not be tolerated. He directed that in future it would be mandatory that within 15 days of enactment, rules should be made for implementation of the law and regulations should be made within one month of the notification of the rules.

14. The Committee, therefore, decided that after clause 23 of the Bill the following two new clauses may be added and renumbered clause 24 of the Bill as clause 26:-

24. Amendment of sections 50 of the Khyber Pakhtunkhwa Act No.I of 2014.----- In the said Act, for the section 50, the following shall be substituted namely:

“50. Power to make rules.-- Government may, by notification in the official Gazette, make rules not in consistent with the provisions of this Act, within 15 days of notification of this Act in the official Gazette.”.

Clause 25

25. Amendment of sections 51 of the Khyber Pakhtunkhwa Act No.I of 2014.----- In the said Act, for the section 51, the following shall be substituted namely:

“51. Power to make regulations.-- The Commission may, by notification in the official Gazette, make regulations not inconsistent with the provisions of this Act and rules made thereunder, within one month of notification of rules in the official Gazette.”.

15. The Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Bill, 2016 introduced in the House is at **Annexure-A** and amendments as referred to by the House to the Committee are at **“Annexure B”** and the final Bill as reported by the Select Committee is at **“Annexure-C”**.

16. The Committee recommends that the Bill at **“Annexure-C”** as reported by the Committee may be considered.

Pervez Khattak
(PERVEZ KHATTAK)
Chief Minister/Chairman
of the Select Committee.

(As introduced in the House on 06-05-2016)

A
Bill

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*further to amend the Khyber Pakhtunkhwa
Ehtesab Commission Act, 2014.*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. **Short title and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2016.

(2) It shall come into force at once.

2. **Amendment of section 2 of the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), hereinafter referred to as the said Act, in section 2,-

(i) in clause (a), for the word "Commission", the words "Directorate General" shall be substituted;

(ii) in clause (l), for the word "Commission" occurring for the first time, the words "Directorate General" shall be substituted;

(iii) after clause (l), the following new clause shall be inserted, namely:

"(1a) "Directorate General" means the Directorate General of the Commission, established under section 3A of this Act;"

(iv) in clauses (y) and (ag), for the word "Commission", the words "Directorate General" shall be substituted.

3. **Insertion of section 3A to the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, after section 3, the following new section shall be inserted, namely:

"3A. **Directorate General of the Commission.**---(1) There shall be a Directorate General of the Commission to be headed by a Director General and shall consist of Prosecutor General and Directors of the various wings mentioned in section 11 of this Act and other employees working in connection with the affairs of the Commission.

(2) All actions by the Directorate General under this Act shall be taken by the name of the Commission."

4. **Amendment of section 4 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 4, after sub-section (1), the following new sub-section shall be added, namely:

"(1A) The Commissioners shall elect among themselves one Commissioner as Chief Ehtesab Commissioner."

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Govt. of Khyber Pakhtunkhwa
Law Department

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- (iv) after sub-section (8), the following new sub-section shall be added, namely:

"(9) Whenever the post of Director General falls vacant, before completion of his term due to any reason which requires the appointment of regular Director General, the Chief Ehtesab Commissioner shall appoint or designate temporarily any person or officer as Director General, to look after the office of Director General till the appointment of regular Director General."

11. Amendment of section 13 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act,-

- (i) the existing section 13, shall be numbered as sub-section (1) of section 13 and in sub-section (1), as so numbered,-

- (a) for the word "Commission", wherever occurring, the words "Directorate General" shall be substituted;
- (b) in clause (f), the word "and" shall be added at the end;
- (c) in clause (g), the semicolon appearing at the end shall be replaced by a full stop; and
- (d) clauses (h) and (i) shall be deleted.

- (ii) after sub-section (1), as so numbered, the following new sub-section shall be added, namely:

"(2) Subject to the provisions of this Act, where any record has been provided to or ceased by the Commission for the purpose of any inquiry or investigation, from any Department of Government, the Federal Government, local authority, bank, financial institutions, persons or any authority and institutions or department in the public or the private sector, as the case may be, shall be returned in original to the concerned institution as soon as possible but not later than thirty (30) days:

Provided that record may also be provided to the accused upon request within thirty (30) days."

12. Amendment of section 15 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 15, in sub-section (2), for the words "appointed by the Director General", the words "appointed by the Commission on the recommendations of the Director General" shall be substituted.

13. Amendment of section 17 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 17,-

- (i) for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted; and
- (ii) for clause (f), the following shall be substituted, namely:

"(f) the Directorate General shall, within sixty (60) days following the end of every calendar year, submit to the


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Law Department

Provincial Assembly, through the office of the Governor, the report on the activities of the Directorate General including report relating to the performance of the officers of the Directorate General and upon its publication copy shall be provided to the public on reasonable cost."

14. Amendments of sections 18, 19, 20 and 21 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 18, 19, 20 and 21, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

15. Amendment of section 22 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 22, for the word "Commission", wherever occurring, the words and commas "the Director General or any officer of the Directorate General duly authorized, as the case may be," shall respectively be substituted.

16. Amendment of sections 23, 24, 29 and 32 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 23, 24, 29 and 32, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

17. Amendment of section 35 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 35,-

(i) in sub-section (1),-

(a) after the words "constitute an offence", the words "involving financial loss to the Provincial Exchequer not less than an amount of rupees fifty (50) million" shall be inserted;

(b) the full-stop appearing at the end shall be replaced by a colon and thereafter, the following provisos shall be added, namely:

"Provided that if the amount is less than fifty (50) million, the matter shall be inquired and investigated by the Anti-Corruption Establishment:

Provided that the inquiry shall be completed within a period of sixty (60) days followed by investigation which shall be completed within ninety (90) days and where before the completion of sixty (60) days, fixed for the inquiry, sufficient evidence has been collected, the inquiry shall be converted into investigation with the approval of the Director General:

Provided further that where the Inquiry or Investigation is not completed within the required period, the Director General, on the request of the Inquiry Officer, may extend the period of Inquiry or Investigation for a further period of sixty (60) and ninety (90) days respectively, after giving reasons in writing:

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Law Dept. Islamabad

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Provided also that the decision shall be made within a period of seven (07) days and reference shall be filed in the Court within a period of seven (07) days.";

- (ii) after sub-section (1), as so amended, the following sub-section shall be inserted, namely:

"(1A) The Commission shall not take action in matters involving pure procedural lapses and in ongoing schemes of Government."; and

- (iii) in sub-sections (3) and (5), for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

18. Amendment of section 36 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 36, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

19. Amendment of section 37 of the Khyber Pakhtunkhwa Act No. I of 2014.---(1) In the said Act, in section 37,-

- (i) in sub-section (1), after the word and comma "conference," the words and comma "presided by the Director General," shall be inserted; and
- (ii) in sub-section (4), for the word "Commissioner", the words "Director General" shall be substituted;

20. Amendment of section 38 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 38, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted;

21. Amendment of sections 39 and 42 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 39 and 42, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

22. Amendment of section 44 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 44, in sub-section (2), for the proviso, the following shall be substituted, namely:

"Provided that where a person is honourably acquitted by the final Court of appeal, he may be fully compensated."

23. Amendment of section 49 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 49, for the word "Commission", the words "Directorate General" shall be substituted.

24. Amendment of sections 52, 53, 54 and SCHEDULE of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 52, 53, 54 and SCHEDULE for the word "Commission" wherever occurring, the words "Directorate General" shall respectively be substituted.

STATEMENT OF OBJECTS AND REASONS

It is desirable to amend the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014(Act No. I of 2014). Hence, this Bill.


MINISTER-IN-CHARGE

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PROPOSED AMENDMENTS IN THE KHYBER PAKHTUNKHWA
EHTESAB COMMISSION (AMENDMENT) BILL, 2016

CLAUSE-17

1. **Mr. Saleem Khan, MPA** to move that in Clause 17, in sub clause (i), in paragraph (a), for the expression "fifty (50)" the expression "ten (10)" may be substituted.

2. **Mr. Saleem Khan, MPA** to move that in Clause 17, in sub clause (i), in paragraph (b), in the first proviso, for the expression "fifty (50)" the expression "ten (10)" may be substituted.

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The Secretary,
Provincial Assembly of Khyber Pakhtunkhwa.

Subject: NOTICE OF AMENDMENTS IN THE KHYBER
PAKHTUNKHWA EHTESAB COMMISSION (AMENDMENT)
BILL, 2016.

Dear Sir,

I hereby give notice of the following amendments in above captioned bill,-

1. Substitution of clause 4.- For clause 4 the following may be substituted namely,-

“4. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. I of 2014.- In the said Act, in section 4,

(a) after sub-section (1), the following new sub-section shall be added, namely:

“(1A) The Commissioners shall elect among themselves one Commissioner as Chief Ehtesab Commissioner.”; and

(b) in sub-section (3), for the words “remainder of the term of the said Commissioner”, the words “term of four (04) years” shall be substituted.

2. Amendment in clause 10.- In clause 10, for the existing clause (iii), the following may be substituted, namely:

“(iii) in sub-section (4),-

(a) for clause (c), the following shall be substituted, namely:

“(c) falls within one of the following categories:

- (i) is a retired Government officer in BPS 20 or above having master degree with fifteen (15) years administrative experience including three (03) years experience in investigation in a leadership position; or
- (ii) is a retired judge of the High Court;” ; and

(b) in clause (d), the words, brackets and figures “and more than sixty five (65)” shall be deleted; and”.


MEMBER-IN-CHARGE
ZAREEN GUL

(As reported by the Select Committee)

A Bill

*further to amend the Khyber Pakhtunkhwa
Ehtesab Commission Act, 2014.*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2016.

(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. I of 2014.--- In the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), hereinafter referred to as the said Act, in section 2,-

(i) in clause (a), for the word "Commission", the words "Directorate General" shall be substituted;

(ii) in clause (l), for the word "Commission" occurring for the first time, the words "Directorate General" shall be substituted;

(iii) after clause (l), as so amended, the following new clause shall be inserted, namely:

"(la) "Directorate General" means the Directorate General of the Commission, established under section 3A of this Act;"

(iv) in clauses (y) and (ag), for the word "Commission", the words "Directorate General" shall respectively be substituted.

3. Insertion of section 3A to the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, after section 3, the following new section shall be inserted, namely:

"3A. Directorate General of the Commission.---(1) There shall be a Directorate General of the Commission to be headed by a Director General and shall consist of Prosecutor General and Directors of the various wings mentioned in section 11 of this Act and other employees working in connection with the affairs of the Commission.

(2) All actions by the Directorate General under this Act shall be taken by the name of the Commission."

4. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 4,-

- (a) after sub-section (1), the following new sub-section shall be inserted, namely:

"(1A) The Commissioners shall elect among themselves one Commissioner as Chief Ehtesab Commissioner."; and

- (b) in sub-section (3), for the words "remainder for the term of the said Commissioner", the words "term of four (04) years" shall be substituted.

5. Amendment of section 5 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 5, in sub-section (3),-

- (i) in clause (c), the word "and" appearing after the semicolon shall be deleted; and
- (ii) in clause (d), the full stop appearing at the end shall be replaced by semicolon and the word "and", and thereafter the following new clause shall be added, namely:

"(e) inquire into any allegation of abuse of authority or misconduct by the Commissioners on a complaint received from the general public or through Director Internal Monitoring and Public Complaints Wing, and if found guilty, may be removed from office in the manner applicable to a Judge of a High Court upon a reference made by the Governor."

6. Amendment of section 8 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 8,-

- (i) after sub-section (2), the following new sub-sections shall be inserted, namely:

"(2A) The procedure for the appointment of the Commissioners by Search and Scrutiny Committee and its subsequent confirmation by the Legislative Committee shall be completed within a period of one hundred and twenty (120) days from the date when the said position falls vacant.

(2B) Whenever, any position falls vacant that is required to be filled by the Search and Scrutiny Committee, such procedure for the selection shall be started within a period of seven (07) days from the date when the position falls vacant."; and

- (ii) in sub-section (4), the words "and the candidate with highest score as Chief Ehtesab Commissioner" shall be deleted.

7. Amendment of section 9 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 9,-

- (i) in clauses (a), (c), (e), (f), (g) and (i), for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted; and
- (ii) for clause (c), the following shall be substituted, namely:

"(c) approve annual budget of the Commission, Directorate General and Ehtesab Courts;"

8. Amendment of section 10 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 10,-

- (i) in sub-section (1), for the comma and words ", as often as necessary", the words "or when required" shall be substituted; and
- (ii) after sub-section (4), the following new sub-section shall be added, namely:

"(5) The Directorate General shall provide secretariat support to the Commission."

9. Amendment of section 11 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 11,-

- (i) in the short title, for the word "Commission", the words "Directorate General" shall be substituted; and
- (ii) for sub-section (4), the following shall be substituted, namely:

"(4) Unless otherwise provided in this Act, the officers, staff and other employees, including Advisors and Consultants, shall be appointed by the Director General, **after framing of the prescribed rules. The appointments shall be made** in a transparent manner and subject to the eligibility criteria and method of appointment laid down in the terms and conditions of service prescribed by Commission;

Provided that in case of deviation from the prescribed criteria, the Commission may declare such appointments as null and void."

10. Amendment of section 12 of the Khyber Pakhtunkhwa Act No. I of 2014.--- In the said Act, in section 12,-

- (i) in sub-section (1), in the proviso, the full stop appearing at the end shall be replaced by a colon and thereafter the following new proviso shall be added, namely:

"Provided further that the procedure for the selection of the Director General shall be completed within a period of one hundred and twenty (120) days from the date the post falls vacant.";

- (ii) in sub-section (3), in clause (e), for the word "Commissioners", the word "Commission" shall be substituted;

- (iii) in sub-section (4),-

- (a) for clause (c), the following shall be substituted, namely:

"(c) falls within one of the following categories:

- (i) is a retired Government officer in BPS 20 or above having master degree with fifteen (15) years administrative experience including three (03) years experience in investigation in a leadership position; or
 - (ii) is a retired judge of the High Court."; or
 - (iii) **a lawyer with fifteen (15) years practice in prosecution; or**
 - (iv) **anybody having fifteen (15) years experience in investigation/ prosecution; and**
- (iv) after sub-section (8), the following new sub-sections shall be added, namely:

"(9) Whenever the post of Director General falls vacant, before completion of his term due to any reason which requires the appointment of regular Director General, the Chief Ehtesab Commissioner shall appoint or designate **temporarily an officer amongst the senior officers of Directorate General** as Director General, to look after the office of Director General till the appointment of regular Director General; and"

(10) Notwithstanding anything contained in this section, the Acting Director General already designated before coming in force of this Act, shall be deemed to have been validly designated under this Act, with effect from the date of his so designated till the appointment of a regular Director General under this Act."

11. Amendment of section 13 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act,-

- (i) the existing section 13, shall be numbered as sub-section (1) of section 13 and in sub-section (1), as so numbered,-
 - (a) for the word "Commission", wherever occurring, the words "Directorate General" shall be substituted;
 - (b) in clause (f), the word "and" shall be added at the end;
 - (c) in clause (g), the semicolon appearing at the end shall be replaced by a full stop; and
 - (d) clauses (h) and (i) shall be deleted.
- (ii) after sub-section (1), as so numbered, the following new sub-section shall be added, namely:

"(2) Subject to the provisions of this Act, where any record has been provided to or ceased by the Commission for the purpose of any inquiry or investigation, from any Department of

Government, the Federal Government, local authority, bank, financial institutions, persons or any authority and institutions or department in the public or the private sector, as the case may be, shall be returned in original to the concerned institution, as soon as possible but not later than thirty (30) days:

Provided that copy of record may also be provided to the accused upon request within thirty (30) days."

12. Amendment of section 16 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 16, after sub-section (1), the following new sub-section shall be inserted, namely:

"(1A) No person shall be appointed as Director Internal Monitoring and Public Complaints Wing, unless he has at least master's degree or equivalent qualification from a recognized university with fifteen (15) years experience with monitoring or investigation and intelligence."

13. Amendment of section 17 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 17,-

- (i) for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted; and
- (ii) for clause (f), the following shall be substituted, namely:

"(f) the Directorate General shall, within sixty (60) days following the end of every calendar year, submit to the Provincial Assembly, through the office of the Governor, a report on the activities of the Directorate General including report relating to the performance of the officers of the Directorate General and upon its publication copy shall be provided to the public on reasonable cost."

14. Amendments of sections 18, 19, 20 and 21 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 18, 19, 20 and 21, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

15. Amendment of section 22 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 22, for the word "Commission", wherever occurring, the words and commas "the Director General or any officer of the Directorate General duly authorized, as the case may be," shall respectively be substituted.

16. Amendment of sections 23, 24, 29 and 32 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 23, 24, 29 and 32, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

17. Amendment of section 35 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 35,-

- (i) in sub-section (1), the full-stop appearing at the end shall be replaced by a colon and thereafter, the following provisos shall be added, namely:

"Provided that the Directorate General shall exercise its jurisdiction with respect to a project only when it involves an amount of rupees fifty (50) million and above and if, in course of inquiry, it is found that the project is less than fifty (50) million, the matter shall be referred to the Anti-Corruption Establishment for further inquiry and investigation:

Provided further that the inquiry shall be completed within a period of sixty (60) days followed by investigation which shall be completed within ninety (90) days and where before the completion of sixty (60) days, fixed for the inquiry, sufficient evidence has been collected, the inquiry shall be converted into investigation with the approval of the Director General:

Provided further that where the inquiry or investigation is not completed within the required period, the Director General, on the request of the Inquiry Officer, may extend the period of inquiry or investigation for a further period of sixty (60) and ninety (90) days respectively, after giving reasons in writing:

Provided also that the decision shall be made within a period of seven (07) days and reference shall be filed in the Court within a period of seven (07) days.

Explanation: The inquiries and investigations already commenced before the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2016, shall continue in the same manner and shall not be considered in accordance with the provisions of this section."; and

- (ii) after sub-section (1), as so amended, the following new sub-section shall be inserted, namely:

"(1A) The Directorate General shall not take action in matters involving pure procedural lapses in any ongoing Project. It shall only monitor the ongoing schemes of Government and intimate the Department about any procedural lapses and recommend corrective measures in such a manner that it shall not affect the running of ongoing projects. "; and

- (iii) in sub-sections (3) and (5), for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

18. Amendment of section 36 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 36, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

19. Amendment of section 37 of the Khyber Pakhtunkhwa Act No. I of 2014.---(1) In the said Act, in section 37,-

- (i) in sub-section (1), after the word and comma "conference,", the words and comma "presided by the Director General," shall be inserted; and

(ii) in sub-section (4), for the word "Commissioner", the words "Director General" shall be substituted;

20. Amendment of section 38 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 38, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted;

21. Amendment of sections 39 and 42 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 39 and 42, for the word "Commission", wherever occurring, the words "Directorate General" shall respectively be substituted.

22. Amendment of section 44 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 44, in sub-section (2), for the proviso, the following shall be substituted, namely:

"Provided that where a person is honourably acquitted by the final Court of appeal, he may be fully compensated."

23. Amendment of section 49 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 49, for the word "Commission", the words "Directorate General" shall be substituted.

24. Amendment of sections 50 of the Khyber Pakhtunkhwa Act No. I of 2014.----- In the said Act, for the section 50, the following shall be substituted namely:

"50. Power to make rules.-- Government may, by notification in the official Gazette, make rules not in consistent with the provisions of this Act, within 15 days of notification of this Act in the official Gazette."

25. Amendment of sections 51 of the Khyber Pakhtunkhwa Act No. I of 2014.----- In the said Act, for the section 51, the following shall be substituted namely:

"51. Power to make regulations.-- The Commission may, by notification in the official Gazette, make regulations not inconsistent with the provisions of this Act and rules made thereunder, within one month of notification of rules in the official Gazette."

26. Amendment of sections 52, 53, 54 and SCHEDULE of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in sections 52, 53, 54 and SCHEDULE for the word "Commission" wherever occurring, the words "Directorate General" shall respectively be substituted.

STATEMENT OF OBJECTS AND REASONS

It is desirable to amend the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014(Act No.1 of 2014). Hence, this Bill.

MINISTER-IN-CHARGE

**PROPOSED AMENDMENTS IN THE KHYBER PAKHTUNKHWA
EHTESAB COMMISSION (AMENDMENT) BILL, 2016**

CLAUSE-12

Sardar Hussain Babak and Muhammad Ali Shah Bacha, MsPA to move that in Clause 12, after sub clause (1) a new sub-clause (1A) the following may be substituted, namely,-

“(1A) No person shall be appointed as Director Internal Monitoring and Public Complaints wing unless he has,-

- (a) first class Master’s degree preferably gold medalist;
- (b) not less than 40 years of age and more than 60 years; and
- (c) minimum experience on any administrative position shall be 10 years. He shall be bonafide resident in Khyber Pakhtunkhwa.”

CLAUSE-17

Sardar Hussain Babak and Muhammad Ali Shah Bacha, MsPA to move that in Clause 17 sub-clause (ii) may be deleted and thereafter sub-clause (iii) may be renumbered as sub-clause (ii).