

**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 (1), for the word "Commission" occurring for the first time, the words "Directorate General" shall be substituted;

(iii) after clause (1), 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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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 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) after clause (a), the following new clause shall be inserted, namely:

"(aa) appoint, on the recommendation of the Director General, officers, staff and other employees of the Directorate General."

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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.;
- (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 Commission on the recommendations of the Director General, 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.";

- (iii) after sub-section (6), as so amended, the following new sub-section shall be added, namely:

"(7) All persons appointed in the Directorate General, before the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2016, shall be examined by a Scrutiny Committee to be constituted in the prescribed manner in accordance with the qualification and other terms and conditions of service to be prescribed by Commission under this Act."

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

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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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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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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:

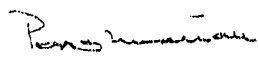
"Provided that where a person is honourably acquitted by the final Court of appeal, he may be fully compensated."

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.1 of 2014). Hence, this Bill.


MINISTER-IN-CHARGE