

جناب عنایت اللہ صاحب، رکن صوبائی اسمبلی، صوبہ خیبر پختونخوا۔

منجانب:-

نمبر شمار	سوال	جواب
(الف)	کیا وزیر صحت ارشاد فرمائیں گے کہ:- ہیلتھ فاؤنڈیشن ایکٹ 2016 کے تحت ہیلتھ فاؤنڈیشن تشکیل پایا ہے؟	اس سلسلے میں عرض ہے کہ خیبر پختونخواہ ہیلتھ فاؤنڈیشن کا قیام 1995 میں شمالی مغربی سرحدی صوبہ ہیلتھ فاؤنڈیشن ایکٹ 1995 کے تحت عمل میں لایا گیا تھا۔ تاہم خیبر پختونخواہ ہیلتھ فاؤنڈیشن ایکٹ 2016 کے تحت فاؤنڈیشن کے انتظامی ڈھانچے اور دائرہ اختیار میں تبدیلی کی گئی اور خیبر پختونخواہ میڈیکل ہیلتھ فاؤنڈیشن ایکٹ 2017 کے تحت خیبر پختونخواہ میڈیکل ہیلتھ فاؤنڈیشن ایکٹ 2016 میں مزید ترمیم کی گئیں۔
(ب)	اگر الف کا جواب اثبات میں ہو تو ہیلتھ فاؤنڈیشن کے تحت اب تک ہونے والے تمام پبلک پرائیویٹ پارٹنرشپ MOUs کی نقول فراہم کی جائے نیز ایکٹ ہذا کے تحت ایکٹ کے فوائد و ضوابط کی نقول فراہم کی جائے۔	مزید برآں عرض ہے کہ خیبر پختونخواہ ہیلتھ فاؤنڈیشن ایکٹ 2016 (ترمیم شدہ 2017) کے تحت اب تک کوئی پبلک پرائیویٹ پارٹنر شپ کا معاہدہ عمل میں نہیں آیا۔ خیبر پختونخواہ ہیلتھ فاؤنڈیشن ایکٹ 2016 (ترمیم شدہ 2017) اور خیبر پختونخواہ ہیلتھ فاؤنڈیشن پبلک پرائیویٹ پارٹنرشپ رولز 2017 کی کاپیاں منسلک ہیں۔



GOVERNMENT OF KHYBER
PAKHTUNKHWA
HEALTH DEPARTMENT

No.SOH-IV/Assembly Question No.283

Dated Pesh: the 4-12-2018

To:

The Section Officer (Coordination),
Health Department.

SUBJECT: ASSEMBLY QUESTION NO.283 MOVED BY MR. INAYAT ULLAH MPA.

I am directed to refer to your letter No. SOH (Coord/Health/AQ No.283/2018 dated 23-11-2018 and to forward herewith a copy of Managing Director, Health Foundation letter No.HF/12-1/2018/889 dated 28/11/2018 along with reply of Assembly Question No.283 in Urdu version with other related documents for further necessary action, please.

SECTION OFFICER-IV
HEALTH DEPARTMENT

Copy to :

1. The Managing Director, Health Foundation, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Health.
3. PA to Special Secretary Health.

SECTION OFFICER-IV



GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH FOUNDATION



Ref. No. HF/12-1/2018/289

Date: 28/11/2018

L.No. 4036
Date 29-11-18
Secretary Health

The Secretary to Govt. of Khyber Pakhtunkhwa
Health Department, Peshawar.

Attention: Section Officer-IV

Subject: ASSEMBLY QUESTION NO. 283 MOVED BY MR. INAYAT ULLAH
MPA.

Sir

With reference to your office letter No. SOH-IV/Assembly Question No. 283 dated 23.11.2018, received by this office on 27.11.2018 on the subject noted above, the reply to the Assembly question No. 283 moved by Mr. Inayat Ullah MPA (in Urdu version) is submitted for the needful, please.

Encl:

1. KP Health Foundation Act-2016 (9 Pages)
2. KP Health Foundation (Amendment) Act-2017 (5 Pages)
3. KP Health Foundation Public Private Partnership Rules 2017 (5 Pages)

[Signature]
28/11/2018

Managing Director

Khyber Pakhtunkhwa Health Foundation

Copy forwarded for information to:-

1. The Section Officer (Coordination) Govt. of Khyber Pakhtunkhwa Health Department.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa Health Department.
3. PA to Special Secretary Health Department Khyber Pakhtunkhwa.

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29/11
DSF

Managing Director
Khyber Pakhtunkhwa Health Foundation

60/11

S.A
Urgent plr.

[Signature]
4/12/18

(ا)۔ خیبر پختونخوا ہیلتھ فاؤنڈیشن کا قیام 1995 میں شمال مغربی سرحدی صوبہ ہیلتھ فاؤنڈیشن ایکٹ 1995 کے تحت عمل میں لایا گیا تھا۔ تاہم خیبر پختونخوا ہیلتھ فاؤنڈیشن ایکٹ 2016 کے تحت فاؤنڈیشن کے انتظامی ڈھانچے اور دائرہ اختیار میں تبدیلی کی گئی۔ اور خیبر پختونخوا امپڈنگ ہیلتھ فاؤنڈیشن ایکٹ 2017 کے تحت خیبر پختونخوا ہیلتھ فاؤنڈیشن ایکٹ 2016 میں مزید ترامیم کی گئیں۔

(ب)۔ خیبر پختونخوا ہیلتھ فاؤنڈیشن ایکٹ 2016 (ترمیم شدہ 2017) کے تحت اب تک کوئی پبلک پرائیویٹ پارٹنرشپ کا معاہدہ عمل میں نہیں آیا۔

خیبر پختونخوا ہیلتھ فاؤنڈیشن ایکٹ 2016 (ترمیم شدہ 2017) اور خیبر پختونخوا ہیلتھ فاؤنڈیشن پبلک پرائیویٹ پارٹنرشپ رولز 2017 کی گامیاں منسلک ہیں۔

20/11/2018
منجنگ ڈائریکٹر

خیبر پختونخوا ہیلتھ فاؤنڈیشن

EXTRAORDINARY

GOVERNMENT



REGISTERED NO. PIII

GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, TUESDAY, 7TH JUNE, 2016

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 7th June, 2016.

No. PA/Khyber Pakhtunkhwa/Bills/2016/17577.—The Khyber Pakhtunkhwa Health Foundation Bill, 2016 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 25th May, 2016 and assented to by the Governor of the Khyber Pakhtunkhwa on 2nd June, 2016 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA HEALTH FOUNDATION ACT, 2016

(KHYBER PAKHTUNKHWA ACT NO. VII OF 2016)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 7th June, 2016).

AN

ACT

*to provide for the establishment of a Health Foundation
in the Province of the Khyber Pakhtunkhwa.*

WHEREAS it is expedient to provide for the establishment of a Health Foundation in the Province of the Khyber Pakhtunkhwa to promote and enable the development of innovative health care delivery models to achieve policy objectives of Government of the Khyber Pakhtunkhwa to improve coverage through various means of Public Private Partnership for healthcare delivery services and the matters connected herewith and ancillary thereto;

It is hereby enacted as follows:

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A. S. Khan

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Health Foundation Act, 2016.

(2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

2. Definitions.---In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say,-

- (a) "Board" means the Board of Governors, constituted under section 4 of this Act;
- (b) "Chairperson" means Chairperson of the Board;
- (c) "Foundation" means the Khyber Pakhtunkhwa Health Foundation, established under section 3 of this Act;
- (d) "Fund" means the Foundation Fund established under section 13 of this Act;
- (e) "Government" means the Government of the Khyber Pakhtunkhwa;
- (f) "health care entity" means an entity within the health sector and includes both public and private sector.
- (g) "Managing Director" means the Managing Director of the Foundation appointed under section 9 of this Act;
- (h) "member" means a member of the Board;
- (i) "NGO" means non-governmental organization, duly registered with Government, offering health services;
- (j) "public private partnership" means an agreement between the Foundation and health care entity for the health services and infrastructure development;
- (k) "prescribed" means prescribed by rules or regulations;
- (l) "regulations" mean regulations made under this Act;
- (m) "rules" mean rules made under this Act; and
- (n) "Search and Nomination Council" means Search and Nomination Council notified by Government under section 6 of this Act.

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3. Establishment of the Foundation.---(1) As soon as may be, after the commencement of this Act, Government shall establish a Foundation to be known as the Khyber Pakhtunkhwa Health Foundation, for the development, promotion and facilitation of public private partnership through various means, in line with the health policy of Government.

(2) The Foundation shall be a body corporate having perpetual succession, and a common seal with the power to acquire and dispose of property both movable and immovable and shall by the said name sue and be sued.

(3) The main office of the Foundation shall be at Peshawar.

4. Board of Governors.---(1) The oversight, guidance, management and general control of the Foundation and its affairs shall vest in the Board, which shall exercise all powers and do all acts and things that may be exercised or done by the Foundation.

(2) Government, not later than two months, from the date of the commencement of this Act, shall notify the Board, which shall consist of a Chairperson and such official and non-official members, as provided in sub-section (4).

(3) The Government on the recommendation of Search and Nomination Council shall appoint Chairperson from amongst its non-official members, who shall preside over the Board meetings.

(4) The other members shall be,-

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| (a) Secretary to Government, Planning and Development Department or his nominee, not below the rank of additional Secretary; | Member |
| (b) Special Secretary to Government, Health Department; | Member |
| (c) one representative of the Khyber Pakhtunkhwa Chamber of Commerce and Industry, nominated by President, Khyber Pakhtunkhwa Chamber of Commerce and Industry; | Member |
| (d) one Economist providing economics' perspective in public benefit; | Member |
| (e) a member from civil society with experience in health and social welfare; | Member |

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| (f) a member from social development organization with experience in health and other relevant; and | Member |
| (g) a member philanthropist/ industrialist with experience in business and industries. | Member |

(5) The Chairperson and non-official members shall hold office for a term of three years and who shall be eligible for re-appointment for another such term only.

(6) The Chairpersons and members at clauses (c),(d), (e), (f) and (g) shall be appointed by Government on the recommendation of Search and Nomination Council.

(7) The Chairperson and non-official members, may resign from his office by tendering his resignation to Government.

(8) Subject to sub-section (2), the Chairperson or a non-official member, as the case may be, shall continue to hold office until his resignation is accepted by the Chief Minister.

(9) Government may remove the Chairperson or a non-official member, on the grounds of inefficiency or misconduct after giving him an opportunity of being heard.

(10) The Managing Director shall act as the Secretary to the Board and shall not have a casting vote.

(11) The Board may co-opt any expert in the relevant field for an initiative on need basis and shall not have a casting vote.

(12) Any vacancy caused due to death, resignation or removal of the Chairperson or a non-official member, shall be filled in by Government through appointment of another person as Chairperson or a non-official member, as the case may be, and such appointee shall, hold such office for the unexpired term of his predecessor.

5. Meetings of the Board.---(1) A meeting of the Board shall be called by the Chairperson on such date and at such place, as he may deem appropriate.

(2) The Board shall meet at least once in three months.

(3) Meeting of the Board shall be presided over by the Chairperson, or in his absence, by any other member elected by the members.

A. A. Khan

(4) Six members shall constitute the quorum for a meeting of the Board but non-official member shall not be represented by any other member:

Provided that at least half of the members from both non-official as well as official are present in the meeting.

(5) All decisions at a meeting shall be made by majority of votes. In the event of equality of votes, the person presiding meeting shall have a second or casting vote.

6. Search and Nomination Council.---(1) A Search and Nomination Council shall be notified by Government, for the recommendations of persons suitable to be appointed as non-official members of the Board including Chairperson and shall consist of-

(a)	Minister for Health;	Chairman
(b)	Additional Chief Secretary Planning and Development Department;	Vice-Chairman
(c)	Secretary to Government, Health Department;	Member
(d)	Vice-Chancellor of the Khyber Medical University;	Member
(e)	a philanthropist with substantial contribution to the health care system to be nominated by Government;	Member
(f)	a retired senior person preferably a woman from medical profession to be nominated by Government; and	Member
(g)	a representative of civil society preferably a woman to be nominated by Government.	Member

(2) The Chairman shall chair the meeting of the Committee and in his absence, the Vice Chairman shall chair the meeting.

(3) A non-official member shall, unless otherwise directed by Government, hold office for a period of three years and shall be eligible for another term of three years or part thereof as Government may deem appropriate:

Provided that Government may remove a non-official member at any time after giving him an opportunity of being heard.

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7. Powers and functions of the Board.---(1) Subject to the provisions of this Act and rules, the Board shall exercise such powers and perform such functions, as may be necessary to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing sub-section (1), the Board shall-

- (a) implement the policies relating to the public private partnership related initiatives under the overall policies of Government;
- (b) supervise and coordinate the implementation of the Act, rules and regulations;
- (c) promote, facilitate, coordinate and oversee Public Private Partnership initiatives;
- (d) assist the public and private parties in solving major problems arising in the Public Private Partnership initiatives;
- (e) enhance private sector participation in provision of health services and operationalize Public Private Partnership and innovative modalities in areas defined by the Government;
- (f) develop Standard Operating Procedures, operating guidelines, procedures and model documents for projects for approval by the Board;
- (g) undertake technical and financial appraisal and assess its readiness for implementation;
- (h) undertake assessment of implementing agencies including private sector and NGOs in terms of capacity fiduciary capabilities and procurement abilities;
- (i) undertake contract management including monitoring and supervision;
- (j) evaluate and prioritize project proposals submitted priority being given to diagnostic and clinical facilities, primary and secondary health sectors, facilities of mother and child health care, medical, para-medical and nursing education; and
- (k) perform such other functions as may be assigned to it by Government.

8. Delegation of Powers.---The Board may delegate any of its powers and functions to any employee of the Foundation.

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9. **Managing Director.**---(1) The Board shall appoint a Managing Director on such terms and conditions as may be prescribed; provided that the person appointed as Managing Director shall have at least fifteen years management experience in Public health or medical profession with gradually increasing abilities of enhanced management:

Provided that till the appointment of a Managing Director, Government may make an interim arrangement and post a suitable officer for a period of six months, as the Managing Director:

Provided further that if no Managing Director is appointed, Government may only once extend such period, for a further period of six months.

(2) The Managing Director shall serve during the pleasure of the Board for the term up to three years which may further be extended for another term.

(3) The Managing Director shall perform such functions as may be prescribed or assigned to him by the Board.

(4) The Managing Director, while acting as Secretary to the Board, shall be responsible for:

- (i) convening the meetings of the Board;
- (ii) the preparation of the agenda, working paper and its distribution among the members of Board of Governors;
- (iii) recording the minutes of each meeting of the Board and its prompt dispatch to the concerned quarters;
- (iv) proper follow-up of all matters connected with or arising out of a meeting of the Board; and
- (v) monitoring and evaluation of the progress of projects approved by the Board.

(5) The Managing Director shall be responsible for any other task given to him by the Board from time to time.

(6) The Managing Director may resign from his office by tendering his resignation to the Board.

(7) The Board may remove the Managing Director on the grounds of inefficiency or misconduct as may be prescribed by Rules.

10. **Committees.**---The Board may constitute such financial, technical, advisory or any other committees as may be deemed necessary for carrying out the functions of the Foundation or the Board under this Act.

A. Rahman

11. Appointment of Officers, etc.---The Board may employ officers, advisors, consultants and other employees in service of Foundation, as may be necessary for the efficient administration of Foundation, in such manners and on such terms and conditions, as may be prescribed.

12. Public Servants.---All employees of the Foundation shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Fund.---(1) There shall be a fund to be known as the Khyber Pakhtunkhwa Health Foundation Fund, which shall consist of endowments, grants /contributions, donations, trusts, bequest by:

- (i) Federal Government;
- (ii) Government;
- (iii) International and local donor agencies; and
- (iv) Others.

(2) The Fund established under section 14 of the Khyber Pakhtunkhwa Health Foundation Act, 1995, shall be part and parcel of this Fund.

(3) The Fund shall be utilized for the purpose of the Foundation and shall be regulated under the overall supervision of the Board in such a manner as may be prescribed by the Board.

14. Audit and Accounts.---(1) The Fund shall be maintained in the scheduled bank and shall be operated in accordance with the direction of the Board.

(2) Funds of the Foundation shall be kept in a separate bank account specifically opened for the purpose.

(3) The Board may invest money not required for immediate expenditure in Government Saving Scheme or in fixed deposit with banks approved by Government.

(4) The bank account shall be operated jointly by the Managing director and Deputy Director Finance of the Foundation.

(5) The accounts of the Fund shall be maintained in such form and in such manner as may be prescribed.

(6) The Managing Director shall prepare Annual Account Statement of the Fund within thirty (30) days of closing of the respective financial year. A copy of the annual statement, duly approved by the Board, shall be sent to Secretary to Government of Khyber Pakhtunkhwa Finance Department, through the Secretary Health Department.

A. A. Khan

- (7) Accounts of the Fund shall be audited by the Auditor General of Pakistan.
15. Power to make rules.---Government may make rules for carrying out the purpose of this Act.
16. Power to make regulations.---Subject to the Provision of this Act and the rules, the Board may make regulations, as may be necessary for carrying out the purposes of this Act.
17. Removal of difficulties.---If any difficulty arises in giving effect to any provision of this Act, the Government may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing such difficulty.
18. Repeal and saving.---(1) The Khyber Pakhtunkhwa Health Foundation Act, 1995 (Khyber Pakhtunkhwa Act No. VI of 1995) is hereby repealed.
- (2) Notwithstanding the repeal of the aforesaid Act, 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.
- (4) On commencement of this Act:
- (i) all employees recruited by the Health Foundation under the repealed Act; and
- (ii) all assets and liabilities, including furniture, fixtures machinery and vehicles;

shall stand transferred to the Foundation established under this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa

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EXTRAORDINARY
GOVERNMENT



REGISTERED NO.P.III
GAZETTE

KHYBER PAKHTUNKHWA

Published by Authority

PESHAWAR, MONDAY, 5TH JUNE, 2017.

PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 5th June, 2017.

No. PA/Khyber Pakhtunkhwa/Bills/2017/18606.-The Khyber Pakhtunkhwa Health Foundation (Amendment) Bill, 2017 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 23rd May, 2017 and assented to by the Governor of the Khyber Pakhtunkhwa on 29th May, 2017 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA MEDICAL HEALTH FOUNDATION (AMENDMENT) ACT, 2017
(KHYBER PAKHTUNKHWA ACT NO. XXIII OF 2017)**

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 5th June, 2017).

**AN
ACT**

to amend the Khyber Pakhtunkhwa Health Foundation Act, 2016.

WHEREAS it is expedient to amend the Khyber Pakhtunkhwa Health Foundation Act, 2016 (Khyber Pakhtunkhwa Act No. VII of 2016) 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 Health Foundation (Amendment) Act, 2017.

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(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. VII of 2016. ---- In the Khyber Pakhtunkhwa Health Foundation Act, 2016 (Khyber Pakhtunkhwa Act No. VII of 2016), hereinafter referred to as the said Act, in section 2,-

(i) for clause (f), the following shall be substituted, namely:

"(f) "Health Agency" means the Health Department or any of its Attached Department, subordinate offices, autonomous bodies under its administrative control or any other organization or institution owned and controlled by Health Department;"

(ii) After clause (f), as so substituted, the following new clauses shall be inserted, namely:

"(f-a) "Healthcare delivery services" means health services and allied services and includes infrastructure, diagnostics, equipments and other support services necessary for improvement of healthcare delivery

"(f-b) "Health Project" means a program, activity or a scheme meant to ensure, improve or consolidates healthcare delivery services, whether or not reflected in the annual development program of the Province and includes the design, construction, developmental and operation of new infrastructure facilities or the rehabilitations modernization, expansion, maintenance or operation of existing infrastructure facilities:"

(iii) For clause (j), the following shall be substituted, namely:

"(j) "public private partnership" means the mutually binding public private partnership agreement between the Health Agency and a private party for the healthcare delivery services and for improvement of existing infrastructure or development of new infrastructure," and

(iv) after clause (j), as so substituted, the following new clause shall be inserted, namely:

"(j-a) "private party" means a company, an entity, a firm, an association of persons, an NGO or a sole proprietor, who intends to enter into a public private partnership agreement with the Health Agency,".

3. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. VII of 2016.---- In the said Act, in section 4,-

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

(a) in clause (f), the word "and" appearing at the end shall be deleted; and

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- (b) In clause (g), the full stop appearing after the word "industries" shall be replaced by a semi colon and the word "and" and thereafter the following new clause shall be added, namely:

"(h) two retired medical professionals one of whom shall be female; **Members**

- (ii) In sub-section (6), for the words and brackets "and (g)", the words and brackets "(g) and (h)" shall be substituted; and

- (iii) In sub-section (7), after the word "Government", the words "with one month notice" shall be added.

4. Amendment of section 5 of the Khyber Pakhtunkhwa Act No. VII of 2016.---- In the said Act, in section 5,-

- (i) for sub-section (2), the following shall be substituted, namely:

"(2) The Board shall meet at least once in three months, or as frequently as required";and

- (ii) in sub-section (4), for the proviso, the following shall be substituted, namely:

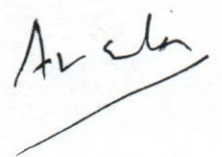
"Provided that at least one official member shall be present in the meeting."

- (iii) In sub-section (3), After words "in his absence" and before the words "any other member elected by the members" the following shall be inserted "any member nominated by the Chairperson"

5. Amendment of section 7 of the Khyber Pakhtunkhwa Act No. VII of 2016. ---- In the said Act, in section 7, for sub-section (2), the following shall be substituted, namely:

"(2) Without prejudice to the generality of the forgoing sub-section (1), the Board shall-

- (a) approve the policy guidelines on public private partnership;
- (b) ensure that all the Health Projects are consistent with overall policy framework and strategies of the Government;
- (c) resolve major issues and conflicts arising in public private partnership;
- (d) approve standards, guidelines, procedures and mode for awarding public private partnership agreement and standardized bidding documents;
- (e) approve or reject a Health project of any amount submitted by the Technical Committee or a private party for public private partnership;



- (f) create, abolish or re-designate a post; provided while creating post, the financial implication do not exceed the approved annual budget;
- (g) approve regulations and organizational structure of the Foundation;
- (h) approval of financial plans, schedule of new expenditures, annual budgets and business plans of Foundation,
- (i) enhance private sector participation and provisions of health services and operationalize public private partnership and innovative modalities in areas defined by the Government; and
- (j) undertake contract management of health projects perform such other functions as may be assigned to it by the Government."

6. Insertion of section 8A and 8B to the Khyber Pakhtunkhwa Act No. VII of 2016.---- In the said Act, after section 8, the following new sections shall be inserted, namely:

"8A. **Technical Committee.**----(1) There shall be established a Steering Committee under the Chairmanship of Managing Director with following composition:

- (i) Director General Health, members not below the rank of Additional Secretary from Health, Planning and Development Department and Finance Departments as official members.
- (ii) Technical experts from private sector as non-official members to be nominated and approved by the BOG for the period of three years.
- (iii) Such other co-opted members as the Technical Committee deems appropriate.

(2) The Technical Committee shall-

- (a) implement the policies relating to the public private partnership related initiatives approved by the Board;
- (b) evaluate and privatize Health Projects proposals on the basis of prioritization conducted by the Advisory Committee of the Foundation;
- (c) prepare and apprise each public private partnership agreement to ensure its legal regulatory, social, economic and commercial viability;
- (d) make recommendations to the Board for the approval or rejection of a Health Project; (d is taken to e)
- (e) ensure that the Health Agency and the private parities in a public private partnership comply with the provisions of this Act;
- (f) submit to the Board annual and such other reports as the Board may require;

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- (g) maintain record of all documentation relating to the public private partnership agreement and the Health Project;
- (h) implement the recommendations and guidelines issued by the Board; and
- (i) carry out such other functions as may be assigned to it by the Board for the purposes of this Act.

8B. Public private partnership.---Notwithstanding anything contained in the Khyber Pakhtunkhwa Public Private Partnership Act, 2014 (Khyber Pakhtunkhwa Act No. XX of 2014), the Health Agency shall be fully empowered to enter into public private partnership with private parties under mutually agreed terms and conditions in one or several Health Projects, in accordance with the provisions of this Act".

7. Amendment of section 9 of the Khyber Pakhtunkhwa Act No. VII of 2016.----In the said Act, in section 9, after sub-section (3), the following new sub-sections shall be inserted, namely:

"(3A) The Managing Director shall act as Principal Accounting Officer of the Board; and

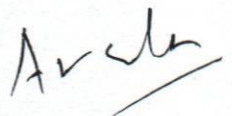
(3B) The Managing Director may delegate any of its functions to any employee of the Foundation with the approval of Board of Governors."

8. Amendment of section 14 of the Khyber Pakhtunkhwa Act No. VII of 2016.----In the said Act, in section 14,-

- (i) in sub-section (4), the word "Deputy" shall be deleted; and
- (ii) In sub-section (5), after the word "maintained", the words "and audited" shall be inserted.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA**

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa





GOVERNMENT OF THE KHYBER PAKHTUNKHWA

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PESHAWAR, TUESDAY, 12TH SEPTEMBER, 2017.

GOVERNMENT OF THE KHYBER PAKHTUNKHWA

HEALTH DEPARTMENT

NOTIFICATION

Dated: 21st August, 2017.

No. E&A/H/3-56/A.- In exercise of the powers conferred by section 15 of the Khyber Pakhtunkhwa Health Foundation Act, 2016 (Khyber Pakhtunkhwa Act No. VII of 2016), the Government of the Khyber Pakhtunkhwa is pleased to make the following rules.

namely:

THE KHYBER PAKHTUNKHWA HEALTH FOUNDATION

PUBLIC PRIVATE PARTNERSHIP RULES, 2017

1. **Short title and commencement.**---(1) These rules may be called the Khyber Pakhtunkhwa Health Foundation Public Private Partnership Rules, 2017.

(2) These shall come into force at once.

2. **Definitions.**---In these rules, unless the text or context otherwise requires,-

(a) "Act" means the Khyber Pakhtunkhwa Health Foundation Act, 2016 (Khyber Pakhtunkhwa Act No. VII of 2016); and

(b) "Advisory Committee" means the Advisory Committee as constituted under the Khyber Pakhtunkhwa Health Foundation Conduct and Business Regulations; and

(c) "bid" means the technical and financial proposal submitted by the private party for a Health Project.

(2) Words and expressions used but not defined in these rules shall have the same meanings as assigned to them in the Act.

3. **Project identification.**---(1) Subject to the provisions of the Act, a Health Agency shall identify and prepare a Health Project for its implementation through public private partnership and shall submit an advance report to this effect to the Foundation.

(2) The potential Health Project identified by the Health Agency shall be based on the sector strategy, master plans and other planning documents.

(3) The Health Agency shall privatize the potential Health Project within its geographical area using criteria such as supply and demand gaps, social benefits, economic benefits, financial attractiveness, commercial viability, technical relevance, risk and uncertainty involves and readiness for implementation.

(4) Preparation of a high priority or high value Health Project shall consist of a feasibility study, socio environmental impact assessment, risk analysis, analysis of the need for Government support, determination of the public private partnership modality and preparation of bid documents including a draft public private partnership agreement.

(5) The Health Agency shall submit a viable Health Project proposal through Technical Committee for approval by the Board.

4. Project prioritization.---(1) The Advisory Committee in consultation with Technical Wing of the Foundation shall review the proposal in light of the completeness of the documentation, demand and supply analysis, economic and commercial viability, assess the need for Government support, analyse the importance of the Health Project in line with the sector strategies and its contribution to the achievement of the overall sector goals and targets.

(2) The Health Agency shall, require to provide comments regarding the fiscal implications and financial impact for the Government, over time.

(3) The Advisory Committee shall assess alternatives, review the available resources and check alignment with the health sector policy and strategy.

(4) The Advisory Committee shall submit a prioritized list of proposals to the Technical Committee, which shall be supported by the analysis and recommendations.

5. Project evaluation.---(1) The Health Project shall be evaluated by the Technical Committee while taking into account the comments from the Advisory Committee and the Health Agency.

(2) The Technical Committee, after evaluation of the Health Project, shall place it before the Board for approval, rejection or re-consideration: provided that where Government support is required for a Health Project, the Health Agency shall make appropriate arrangements for the allocation of the budget.

6. Project execution.---(1) The Board shall, by taking into account, the recommendations of the Technical Committee, consider a Health Project proposal submitted by a Health Agency and may approve the proposal with or without the modification, reject it or return it to the Health Agency for consideration.

(2) In case, a Health Project proposal is return for re-consideration, the Health Agency shall take suitable action on the decision taken by the Board and may re-submit the proposal for approval by the Board.

7. Selection of the private party.---(1) The private party shall be identified through open competitive bidding and the information shall be public widely. The Health Agency shall not enter into direct negotiation without expression of interest.

(2) Open competitive bidding shall be conducted with a two-step process including prequalification and bidding process enabling assessment of the full technical and financial proposals.

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(3) Bid evaluation process shall be carried out in two phases within forty-five days.

- a) **Phase One** – The Health Agency or Health Foundation shall assess the technical, operational, environmental and commercial responsiveness of the bids received, according to the requirements, criteria, minimum standards, and basic parameters specified in the bid documents, and shall reject non-responsive bids; and
- b) **Phase Two** – Bid evaluation process to determine responsive bids from the financial viewpoint shall be carried out.

(4) The detailed system of bid evaluation shall be provided in the Regulations.

8. Project operation.---(1) Once the Board approves the Health Project, the Health Agency shall enter into negotiation with the private party and shall sign the public private partnership agreement.

(2) Before signing the public private partnership agreement, the private party may establish, without changing its shareholding, a special purpose vehicle for implementation and operation of the Health Project, which shall assume all the rights and obligations of the private party.

(3) The private party shall undertake the Health Project in accordance with the performance standards and specifications contained in the approved detailed design and plan.

(4) The Health Agency shall monitor and evaluate the Health Project during its implementation.

(5) The Foundation shall reserve the right to monitor Health Projects on as needed basis, upon approval of the public private partnership Technical Committee.

9. Project termination.---The Health Project may be terminated in accordance with the provisions set out in the public private partnership agreement and as detailed in the public private partnership agreement.

10. Negotiation of public private partnership agreement without competitive procedure.---The Health Agency with the approval of the Board is authorized to negotiate a public private partnership agreement without following the selection procedure as provided in the Khyber Pakhtunkhwa Public Private Partnership Act, 2014, in those cases which are provided in section 28 of the aforesaid Act and the procedure for negotiation shall be such as provided in section 29 of the Act *ibid*.

11. Managing unsolicited proposals.---(1) Unsolicited bids shall be applicable subject to such provisions as set forth in these rules.

(2) An unsolicited bid shall be accompanied with a technical and financial feasibility study, impact assessment; and in cases of infrastructure projects this shall also be accompanied with an environmental and social impact assessment.

(3) The Health Agency shall submit the unsolicited bid for evaluation by the Foundation and the public private partnership Technical Committee by following the process as set out in these rules and regulations.

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(4) Where unsolicited proposals are allowed by the public private partnership Technical Committee, the unsolicited Health Project shall be opened to competitive bidding. An opportunity shall be given to the proposer of the unsolicited proposal to compete with other parties.

(5) If the unsolicited bidder does not succeed, the winning party may reimburse a reasonable cost of Health Project preparation to the unsolicited bidder.

(6) Notwithstanding anything contained in this rule, the Health Foundation may accept unsolicited bids without competition in certain situations of public interest.

12. Risk sharing.---(1) The public private partnership agreement shall set out the division of risks between the Health Agency and the private party.

(2) The Health Agency or the Foundation shall not be liable to any claim of the private party for any set of risks not mentioned in the public private partnership agreement.

13. Cost recovery.---(1) The Health Agency shall suggest user charges for the public private partnership at the time of Health Project preparation.

(2) The user charges shall take into account the full cost recovery of the capital, maintenance and operational costs as well as a reasonable rate of return to the private party.

(3) The Technical Committee shall finalize the user charges.

(4) No change in the user charges shall be made without the approval of the Technical Committee.

14. Transfer of the project/vesting in the private party.---(1) Subject to the public private partnership agreement and except for the build-own-and-operate and rehabilitate-own-and-operate arrangements, the completed Health Project may vest in the private party for a period not exceeding thirty (30) years and on expiry of such period, the Health Project shall vest in the Health Agency.

(2) If a Health Project is transferred to the Health Agency in accordance with the provisions of the public private partnership agreement or this Act, all the rights granted under the public private partnership agreement to the private party in respect of the Health Project shall stand transferred to the Health Agency.

15. Dispute resolution.---(1) In case of a dispute between the parties, the following options shall be exercise:

- (a) the parties engage to deliberate upon the matter to reach a mutually agreeable solution;
- (b) if the parties cannot find a mutually agreeable solution, the matter shall be referred for mediation by an independent third party, to be appointed by the Board, in consultation with the parties; and
- (c) if the matter cannot be solved through mediation, the matter shall be referred to a Court of law for arbitration.

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(2) For the purposes of settling the disputes arising about the public private partnership agreements, the same shall be decided according to the laws of Pakistan, unless otherwise determined in the public private partnership agreement.

16. **Application of certain Acts and rules.**---The matters for public private partnership for which no specific provisions has been provided in these rules, the provisions of the Khyber Pakhtunkhwa Public Private Partnership Act, 2014 and the Khyber Pakhtunkhwa Public Procurement Regulation Authority Act, 2012 and the rules made thereunder, shall apply.

SECRETARY TO
GOVT. OF KHYBER PAKHTUNKHWA
HEALTH DEPARTMENT

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State, Pp. 10/11, Khyber Pakhtunkhwa, Peshawar

A. A. Khan

جناب عنایت اللہ صاحب، رکن صوبائی اسمبلی، صوبہ خیبر پختونخوا۔

منجانب:-

نمبر شمار	سوال	جواب
(الف)	کیا وزیر صحت ارشاد فرمائیں گے کہ:- ہیلتھ فاؤنڈیشن ایکٹ 2016 کے تحت ہیلتھ فاؤنڈیشن تشکیل پایا ہے؟	اس سلسلے میں عرض ہے کہ خیبر پختونخواہ ہیلتھ فاؤنڈیشن کا قیام 1995 میں شمالی مغربی سرحدی صوبہ ہیلتھ فاؤنڈیشن ایکٹ 1995 کے تحت عمل میں لایا گیا تھا۔ تاہم خیبر پختونخواہ ہیلتھ فاؤنڈیشن ایکٹ 2016 کے تحت فاؤنڈیشن کے انتظامی ڈھانچے اور دائرہ اختیار میں تبدیلی کی گئی اور خیبر پختونخواہ میڈیکل ہیلتھ فاؤنڈیشن ایکٹ 2017 کے تحت خیبر پختونخواہ میڈیکل ہیلتھ فاؤنڈیشن ایکٹ 2016 میں مزید ترمیم کی گئیں۔
(ب)	اگر الف کا جواب اثبات میں ہو تو ہیلتھ فاؤنڈیشن کے تحت اب تک ہونے والے تمام پبلک پرائیویٹ پارٹنر شپ MOUs کی نقول فراہم کی جائے نیز ایکٹ ہذا کے تحت ایکٹ کے فوائد و ضوابط کی نقول فراہم کی جائے۔	مذید برآں عرض ہے کہ خیبر پختونخواہ ہیلتھ فاؤنڈیشن ایکٹ 2016 (ترمیم شدہ 2017) کے تحت اب تک کوئی پبلک پرائیویٹ پارٹنر شپ کا معاہدہ عمل میں نہیں آیا۔ خیبر پختونخواہ ہیلتھ فاؤنڈیشن ایکٹ 2016 (ترمیم شدہ 2017) اور خیبر پختونخواہ ہیلتھ فاؤنڈیشن پبلک پرائیویٹ پارٹنر شپ رولز 2017 کی کاپیاں منسلک ہیں۔



GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH DEPARTMENT

No.SOH-IV/Assembly Question No.283

Dated Pesh: the 4-12-2018

To:

The Section Officer (Coordination),
Health Department.

SUBJECT: ASSEMBLY QUESTION NO.283 MOVED BY MR. INAYAT ULLAH MPA.

I am directed to refer to your letter No. SOH (Coord/Health/AQ No.283/2018 dated 23-11-2018 and to forward herewith a copy of Managing Director, Health Foundation letter No.HF/12-1/2018/889 dated 28/11/2018 along with reply of Assembly Question No.283 in Urdu version with other related documents for further necessary action, please.

SECTION OFFICER-IV
HEALTH DEPARTMENT

Copy to :

1. The Managing Director, Health Foundation, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Health.
3. PA to Special Secretary Health.

SECTION OFFICER-IV



GOVERNMENT OF KHYBER PAKHTUNKHWA HEALTH FOUNDATION



Ref. No. HF/12-1/2018/289

Date: 28/11/2018

L.No. 4036
Date 29-11-18
Secretary, Health

The Secretary to Govt. of Khyber Pakhtunkhwa
Health Department, Peshawar.

Attention: Section Officer-IV

Subject: ASSEMBLY QUESTION NO. 283 MOVED BY MR. INAYAT ULLAH
MPA.

Sir

With reference to your office letter No. SOH-IV/Assembly Question No. 283 dated 23.11.2018, received by this office on 27.11.2018 on the subject noted above, the reply to the Assembly question No. 283 moved by Mr. Inayat Ullah MPA (in Urdu version) is submitted for the needful, please.

Encl:

1. KP Health Foundation Act-2016 (9 Pages)
2. KP Health Foundation (Amendment) Act-2017 (5 Pages)
3. KP Health Foundation Public Private Partnership Rules 2017 (5 Pages)

[Signature]
28/11/2018

Managing Director
Khyber Pakhtunkhwa Health Foundation

Copy forwarded for information to:-

1. The Section Officer (Coordination) Govt. of Khyber Pakhtunkhwa Health Department.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa Health Department.
3. PA to Special Secretary Health Department Khyber Pakhtunkhwa.

AS(E)
29/11
DS-K

Managing Director
Khyber Pakhtunkhwa Health Foundation

Good

S.A
Urgent plr.

[Signature]
4/12/18