

**A
Bill**

*to construct and regulate health facilities in the
Province of the Khyber Pakhtunkhwa.*

WHEREAS it is expedient to provide for a comprehensive and efficient healthcare system in the province of the Khyber Pakhtunkhwa and to devolve authority and accountability at the regional and district level by re-organizing the health facilities in the province of the Khyber Pakhtunkhwa;

It is hereby enacted as follows:

**CHAPTER-I
INTRODUCTION**

1. Short title, extent, application and commencement.--- (1) This Act may be called the Khyber Pakhtunkhwa Regional and District Health Authorities Act, 2019.

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

(3) It shall apply to all the existing health facilities in the public sector and such other facilities to be established by Regional Health Authority under this Act.

(4) 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) "Budget" means an official statement of the income and expenditure for a financial year;
- (b) "Chairperson" means the Chairperson of the Policy Board, Regional Health Authority or District Health Authority, as the case may be;
- (c) "Chief Executive Officer" means the Chief Executive Officer of the District Health Authority;
- (d) "Department" means the Health Department of Government;
- (e) "District Health Authority" means the District Health Authority established under section 13 of this Act;
- (f) "employee" means,-

- (i) an employee appointed by the Regional Health Authority under this Act; or
 - (ii) a civil servant, who is already working or being transferred and posted in Regional Health Authority or District Health Authority under this Act;
- (g) “Fund” means the Regional Health Authority fund establish under section 18 of this Act;
- (h) “Health facilities” mean the following and does not include Medical Teaching Institutions-
- (i) Basic Health Unit ;
 - (ii) Rural Health Center;
 - (iii) Government Rural Dispensary;
 - (iv) Maternal and Child Health Centre;
 - (v) Government Hospital;
 - (vi) Government Laboratory; and
 - (vii) any other health facilities;
- (i) “member” means the member of a Regional Health Authority or a District Health Authority, as the case may be, and includes its Chairperson;
- (j) “Policy Board” means the Policy Board constituted under section 3 of this Act;
- (k) “Regional Health Authority” means the Regional Health Authority established under section 4 of this Act;
- (l) “regulations” means regulations made under this Act;
- (m) “rules” means rules made under this Act;
- (n) “prescribed” means prescribed by rules or regulations made under this Act; and
- (o) “Secretary” means the Secretary to the Regional Health Authority.

CHAPTER-II
POLICY BOARD

3. Policy Board.--- (1) There shall be a Policy Board at the Provincial level, consisting of-

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| (i) | Minister for Health Khyber Pakhtunkhwa; | Chairman |
| (ii) | Secretary to Government Health Department; and | Member |
| (iii) | Chairpersons of all Regional Health Authorities. | Members |

(2) The Policy Board shall-

- (a) determine in consultation with Government, the base standards for the Regional Health Authorities and its enhancement from time to time, as and when required;
- (b) recommend to Government, policies for the improvement of the Regional Health Authorities;
- (c) recommend to Government various rules and amendments therein that it may seek to make;
- (d) recommend and approve model regulations and other policies and amendments therein, to be framed by the Regional Health Authorities;
- (e) plan and implement specialized central training programs as and when required for management and employees of all Regional Health Authorities;
- (f) establish the minimum qualification standard, for all posts in Regional Health Authorities to ensure merit based appointments, provided that the Regional Health Authorities may enhance such minimum qualification of merit at their discretion;
- (g) provide guidance and advice on any matter referred to it by the Regional Health Authorities or Government;
- (h) review the annual reports of each Regional Health Authority and give recommendations thereon; and
- (i) assist, aid or advise the Government on any matter relating to the health facilities as referred to them by the Government.


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(3) The Policy Board shall meet at least twice a year, in addition to hold an annual meeting.

(4) The Policy Board shall conduct its business in the manner as it may determine.

(5) The Policy Board may co-opt any person for expert views.

CHAPTER-III **REGIONAL HEALTH AUTHORITY**

4. Establishment of Regional Health Authorities.--- (1) Government may, by notification in the official gazette, establish Regional Health Authorities, at each divisional level.

(2) A Regional Health Authority established under sub-section (1), shall be a body corporate having perpetual succession and a common seal, with power to acquire and hold property and enter into any contract and may sue and be sued in its name.

5. Composition of the Regional Health Authority.--- (1) Each Regional Health Authority shall consist of-

- (a) a doctor with at least ten years clinical experience in a public hospital or in a public teaching hospital, in the field of medicine or Pediatrics or their sub-specialties;
- (b) a doctor with at least ten years clinical experience in a public hospital or in a public teaching hospital, in the field of Surgery, Obstetrics or Gynecology or their sub-specialties;
- (c) a senior Nurse, with management experience in a large public or private hospital or in a public teaching hospital; and
- (d) two eminent persons having significant experience in the field of legal, finance, economics or management or from retired Government servants, educationists, social workers, civil society workers, businessman and renowned philanthropists having aptitude and sufficient time for improving health facilities.

(2) The members shall be appointed by the Chief Minister on the recommendation of a Search and Scrutiny Committee constituted under section 8 of this Act.

(3) The Chairperson of a Regional Health Authority under sub-section (1), shall be elected by the members from amongst themselves through voting. The Chairperson shall preside over the meetings of the Regional Health Authority and in his absence, the Chairperson may nominate another member as acting Chairperson or

if he has not done so, the members present at a meeting shall elect from amongst themselves an acting Chairperson for that meeting.

(4) Members shall be appointed for a term of three years and shall be eligible for re-appointment for another such term only once.

(5) The membership of a member shall cease and fall vacant if he resigns, or fails to attend three consecutive meetings without sufficient cause or for any other reason which incapacitates him to attend the meeting. Any such vacancy shall be filled within one month.

(6) A member may be removed from the Regional Health Authority and cease to be a member if the Minister for Health judges him to be ineffective, disruptive, or otherwise unsuitable to be a member, besides for the reasons given in sub-section (7).

(7) No person shall be appointed or remain as a member of the Regional Health Authority, if he-

- (i) is of unsound mind; or
- (ii) has applied to be adjudicated as an insolvent and his application is pending; or
- (iii) is an un-discharged insolvent; or
- (iv) has been convicted by a Court of law for an offence involving moral turpitude; or
- (v) has been debarred from holding any office under any provisions of law; or
- (vi) has a conflict of interest with such a position.

7. **Conduct of business.**--- (1) All decisions of a Regional Health Authority shall be taken by consensus, and in case of division of opinion, the decision shall be taken by majority of votes, provided that in case of equality of votes, the Chairperson shall have a second or casting vote.

(2) No act or proceedings of a Regional Health Authority shall be invalid, merely because of the existence of any vacancy.

(3) The quorum for the meeting shall be three members of the total membership.

(4) The member count shall be determined by actual members present and proxy vote shall not count.

(5) A Regional Health Authority shall hold at least six meetings every year or as frequently as required.

(6) Special meetings of a Regional Health Authority shall be convened on the request of at least one-thirds of the members.

(7) The remuneration of the members for attending meetings shall be such as may be approved by a Regional Health Authority.

(8) A Regional Health Authority may, in a matter of urgent importance other than the budget, take a decision through circulation, including electronic media, based on written views of at least one third of the total members.

(9) Each Regional Health Authority shall be accountable to Minister for Health for its performance and shall regularly provide performance based data at set intervals based on Government's set performance monitoring format for the Regional Health Authority with attendant reward and discipline measures and the Department shall also periodically evaluate the performance of the Regional Health Authority against the set targets particularly related to efficiency, effectiveness and equity with attendant reward and discipline measures.

(10) The Minister for Health shall issue such policy and other directives to all the Regional Health Authorities from time to time as it deems fit and all the Regional Health Authorities shall be bound to act in accordance with such directions.

8. Composition of Search and Scrutiny Committee.--- (1) Department shall constitute and notify a Search and Scrutiny Committee for recommendation of persons to be nominated as members of a Regional Health Authority, which shall consist of-

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| (a) Minister for Health, Government of Khyber Pakhtunkhwa; | Chairman |
| (b) Secretary to Government, Health Department; | Vice Chairman |
| (c) Director General Health Services, Khyber Pakhtunkhwa; | Member |
| (d) a representative of the University of Peshawar; | Member |
| (e) a representative of the Khyber Medical University; | Member |
| (f) a representative of a reputable private Hospital, operating in Khyber Pakhtunkhwa to be nominated by the Minister for Health; and | Member |

- (g) one representative of the civil society, Member
chosen by the Chief Minister from
amongst renowned philanthropists, retired
government servants, retired High Court
Judges, industrialists, or other persons of
renowned achievement and high repute.

(2) A Chairman shall chair the meetings of the Search and Scrutiny Committee and in his absence, the Vice-Chairman shall chair the meetings.

(3) The members at clauses (f) and (g) shall, unless otherwise directed by Chief Minister, hold office for a period of three years and shall be eligible for another term of three years, as Government may deem appropriate:

Provided that the Chief Minister may remove the members at clauses (f) and (g) at any time after giving them an opportunity being heard.

9. Powers and functions of the Regional Health Authority.--- (1) Each Regional Health Authority shall be responsible for-

- (a) ensuring that the objective of the Regional Health Authority within the overall ambit of Government Policy are achieved, overseeing the effective management and providing strategic directions to the health facilities in an assigned region;
- (b) approve the budget and financial plan of the Regional Health Authority and allocate funds to health facilities under its supervision;
- (c) overseeing health service delivery within the policy framework given by Government;
- (d) implement policies and directions of Government including achievement of key performance indicators set by Government for healthcare programmes;
- (e) ensuring that its programmes are efficient and effective;
- (f) ensuring transparency of procedures for appointment, terms and conditions of service of the employees, disciplinary matters and other service matters for all employees under the direct or indirect control of the Regional Health Authority;

Provided that in case of civil servants, the Regional Health Authority shall be competent to initiate disciplinary proceedings against them under their respective service laws/rules and take action accordingly;

- (g) creation, re-designation or abolition of posts provided that the financial implications do not exceed the approved annual budget;
- (h) approval of annual business plan;
- (i) review and approval of major transactions;
- (j) approval of new programs and services and monitoring organizational performance;
- (k) framing of regulations for employees and overseeing the process for appointment;
- (l) approval of programs and services to ensure that all health facilities under the Regional Health Authority fulfill legal, regulatory and accreditation requirements;
- (m) ensuring coordination of health related emergency response during any natural calamity or emergency;
- (n) liaison with Government for technical and logistic support in case of any emergency or disaster like situation;
- (o) ensuring timely and adequate reporting of progress on health indicators and issues relating to disease surveillance, epidemic control, and disaster management to Government;
- (p) constituting sub-committees in the prescribed manner;
- (q) establish or upgrade health facilities in the district subject to availability of sufficient funds on its own or on the recommendation of a District Health Authority;
- (r) overseeing the work and administration of the Employees of vertical programmes in the division to the extent that such authority is delegated to the Regional Health Authority by the concerned vertical programme; and
- (s) perform any other function as may be assigned to it by Government.

(2) The Regional Health Authority may delegate its powers for recruitment of its personnel to various management levels within the health facilities.

(3) The Chairperson of the Regional Health Authority may, in case of exigency of service, appoint the Chief Executive Officer, Hospital Directors, Medical Directors, Nursing Directors and Finance Directors of health facilities for which it is

responsible on an officiating basis. All such appointments shall be placed before the Regional Health Authority for approval within three months.

(4) Government may audit the activities and proceedings of the Regional Health Authority on an annual basis to ensure adherence to guidelines and standards and fiscal probity.

10. Secretary to the Regional Health Authority.--- (1) There shall be a Secretary for each Regional Health Authority, who shall be appointed by the concerned Regional Health Authority having such qualifications and experience and on such terms and conditions, as may be prescribed by Regulations.

(2) The Secretary shall be responsible for official correspondence of the Regional Health Authority.

11. Appointment of employees.--- (1) In the discharge of its function, the Regional Health Authority may, from time to time, appoint such employees, consultants, advisors, Hospital Directors, Medical Directors, Nursing Directors and Finance Directors etc. as it may consider necessary for its efficient performance, on such terms and conditions and in such manner as may be prescribed:

Provided that the management cadre in the Health Department shall be given priority to be appointed as Hospital Director, Medical Director, Nursing Director, subject to fulfillment of eligibility criteria.

(2) Health Department may rationalize the existing civil servants by transferring and posting them in the health facilities in their respective district of domicile on need basis.

(3) The civil servants transferred and posted under sub-section (2), shall continue to be civil servants, and shall be entitled to retirement and pension benefits as admissible or allowed by Government from time to time.

(4) The existing cadre of civil servants under sub-section (3) shall be treated as a dying cadre and shall continue till the retirement of the last civil servant, thereafter, the posts shall abolish and the Regional Health Authority may create and fill up such posts in the manner as may be prescribed by regulations.

(5) An existing employee selected or permitted for postgraduate medical training till the commencement of this Act, shall continue to be treated on leave without pay and may be entitled only for stipend fixed by Government from time to time for such training and upon completion of such training and arrival to the Department, the employee concerned shall be placed at the disposal of the concerned Regional Health Authority for further adjustment in the respective district of Domicile, subject to availability of vacant post.

(6) Notwithstanding anything contained in sub-section (5), in future, permission for post medical graduate training and deputation abroad to an employee,

may be granted by the concerned Regional Health Authority on such terms and conditions as may be prescribed by regulations.

(7) The Chief Executive Officers or Hospital Directors or Medical Directors or Nursing Directors or Finance Directors of health facilities may be removed from the office by the Regional Health Authority concerned before the expiration of the term of appointment, on such grounds as may be prescribed.

12. Dissolution of the Regional Health Authority.--- The Chief Minister may, on the advice of the Minister for Health, dissolve any Regional Health Authority if there are sufficient grounds that it has failed to perform its functions and Department shall provide and interim arrangement to exercise the powers of such Regional Health Authority till constitution of new Regional Health Authority in accordance with the provisions of this Act.

CHAPTER-IV **DISTRICT HEALTH AUTHORITY**

13. Establishment of District Health Authorities.--- Government may, by notification in the official gazette, establish District Health Authorities, at the District level to act as executing and implementing arm of the concerned Regional Health Authority.

14. Composition of District Health Authority.--- (1) Each District Health Authority shall consist of-

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| (a) | Chief Executive Officer; | Chairperson |
| (b) | a representative of doctors to be elected by ballot from amongst the doctors of the District Hospitals; | Member |
| (c) | a representative of nursing staff to be elected by ballot from amongst the nursing staff of the District Hospitals; and | Member |
| (d) | three eminent persons to be nominated by the Regional Health Authority, preferably from the concerned region having significant experience in the field of legal, finance, economics or management, medical profession or from retired Government servants, educationists, social workers, civil society workers, businessmen and renowned philanthropists having aptitude and sufficient time for improving health facilities. | Members |

(2) Each District Health Authority shall have its Chief Executive Officer, who shall be appointed by the concerned Regional Health Authority, having such qualification and on such terms and conditions as may be prescribed.

(3) The District Health Authority shall meet on a monthly basis or more frequently as required in the prescribed manner.

(4) The District Health Authority decisions shall be taken by consensus and in case of disagreement, by majority votes. In case of a tie, the Chairperson shall cast the deciding vote.

(5) Members at clauses (b), (c) and (d) shall be appointed for a term of three years and shall be eligible for re-appointment for another such term only once.

(6) The membership of member at clauses (b), (c) and (d) shall cease and fall vacant if he resigns, or fails to attend three consecutive meetings without sufficient cause or for any other reason which incapacitates him to attend the meeting. Any such vacancy shall be filled within one month.

(7) Member at clauses (b), (c) and (d) may be removed from the District Health Authority and cease to be a member if the Minister for Health judges him to be ineffective, disruptive, or otherwise unsuitable to be a member, besides for the reasons given in sub-section (8).

(8) No person shall be appointed or remain as a member of the District Health Authority, if he-

- (a) is of unsound mind; or
- (b) has applied to be adjudicated as an insolvent and his application is pending; or
- (c) is an un-discharged insolvent; or
- (d) has been convicted by a Court of law for an offence involving moral turpitude; or
- (e) has been debarred from holding any office under any provisions of law; or
- (f) has a conflict of interest with such a position.

(9) Each District Health Authority shall be accountable to Minister for Health for its performance and shall regularly provide performance based data at set intervals based on Government's set performance monitoring format for the District Health Authority with attendant reward and discipline measures and the Regional Health Authority shall also periodically evaluate the performance of the District Health Authority against the set targets particularly related to efficiency, effectiveness and equity with attendant reward and discipline measures.

(10) The Minister for Health shall issue such policy and other directives to all the District Health Authorities from time to time as it deems fit and all the District Health Authorities shall be bound to act in accordance with such directions.

15. Powers and functions of the District Health Authorities.--- Each District Health Authority shall-


- (a) be responsible for all public health facilities for better healthcare service delivery in the district;
- (b) manage and supervise health facilities in the district;
- (c) ensure health service delivery at district level;
- (d) make plans and strategies and subsequently, recommend to the Regional Health Authority for allocation of necessary funds for provision of service delivery at district level;
- (e) develop referral and technical support linkages between health facilities on the one hand and tertiary level health facilities and medical education institutions on the other hand;
- (f) develop linkages between private and public health sectors for enhancing access and coverage of health care facilities to the general public and improving quality of these services;
- (g) ensure timely and adequate reporting of progress on health indicators and issues relating to disease surveillance, epidemic control and disaster management to the Regional Health Authority;
- (h) implement policies and directions of the Regional Health Authority including achievement of key performance indicators set by Department for healthcare programmes;
- (i) ensure implementation of health service delivery standards, infrastructure standards, patient safety and hygiene standards and minimum public health standards as prescribed by Regulations;
- (j) procurement of requisite medicines for the health facilities under its control with the approval of Regional Health Authority from manufacturers or importers and not from middle man on such rates and brands as approved by Government Medicines Co-ordination Cell (MMC) after carrying out technical evaluation of offered bid at centralized rate contract; and
- (k) perform any other function as may be assigned by the Regional Health Authority.


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16. Functions of the Chief Executive Officer.--- The Chief Executive Officer shall-

- (a) exercise his powers as executive head of the District Health Authority in conformity with the decisions of the concerned District Health Authority;
- (b) implement standards and policies fixed by the Regional Health Authority and the District Health Authority in the district;
- (c) manage human resources including doctors, para-medical, nursing, supporting staff and staff of the District Health Authority;
- (d) ensure health outcomes and enrollment in the district;
- (e) ensure high quality healthcare services;
- (f) act as the principal accounting officer responsible and accountable for maintaining financial discipline and transparency in the District Health Authority;
- (g) rationalize existing healthcare facilities and employees;
- (h) monitor, implement and execute development projects of the Regional Health Authority;
- (i) ensure achievement of targets against performance indicators laid down by the Regional Health Authority;
- (j) to manage segregation of health facilities waste and its ultimate safe disposal as per standards;
- (k) manage the affairs of the District Health Authority as approved by the District Health Authority; and
- (l) perform any other task assigned to him by the Regional Health Authority or the District Health Authority.

17. Dissolution of the District Health Authority.--- The Minister for Health may dissolve a District Health Authority if there are sufficient grounds that it has failed to perform its functions and Department shall provide an interim arrangement to exercise the powers of the District Health Authority, till constitution of the new District Health Authority in accordance with the provisions of this Act.


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CHAPTER-V
FINANCIAL

18. Regional Health Authority Fund.--- (1) There shall be established a Fund to be known as the Regional Health Authority Fund to be administered and controlled by the Regional Health Authority.

(2) The Fund shall consist of-

- (a) grants made by Government or the Federal Government;
- (b) loans provided by the Government;
- (c) other loans or funds obtained by the Regional Health Authority;
- (d) receipts and user charges as specified by Regional Health Authority in consultation with Government from time to time in such manner as may be prescribed;
- (e) voluntary contributions or donations; and
- (f) grants from other sources.

(3) The Fund shall be used for running the affairs of the Regional Health Authority and the District Health Authority, as the case may be.

(4) The money credited to the Fund shall be kept in a Scheduled bank.

19. Budget.--- The Secretary of a Regional Health Authority and Chief Executive Officer of a District Health Authority shall, in respect of each financial year submit for the approval of the Regional Health Authority concerned, budget containing a statement showing the estimated receipts, the current and development expenditures and the sum required as grant-in-aid from Government, by such date and in such manner as may be prescribed.

20. Maintenance of accounts.--- A Regional Health Authority and a District Health Authority, as the case may be, shall maintain proper accounts and other records relating to its financial affairs including its income and expenditures and its assets and liabilities in such form and manner as may be prescribed.

21. Audit.--- The Auditor General of Pakistan shall annually audit the accounts of the Regional Health Authorities and the District Health Authorities.

22. Annual Report.--- (1) A Regional Health Authority shall, within three months of the close of a financial year, submit to Government an annual performance report.

(2) The report shall consist of-

- (a) the statement of accounts and audit reports of the Regional Health Authority concerned;
- (b) a comprehensive statement of the work and activities of the Regional Health Authority concerned during the preceding financial year and its proposed projects and schemes; and
- (c) such other matters as may be prescribed or as the Regional Health Authority concerned may consider appropriate.

(3) The provisions of sub-sections (1) and (2) shall apply *mutatis mutandis* to the District Health Authorities.

CHAPTER-VI

MISCELLANEOUS

23. Procurement of medical equipments.--- Procurement of medical equipments shall remain centralized at the provincial level as per practice and in the manner prescribed in the provincial procurement laws and rules for onward supply to the Regional Health Authorities or District Health Authorities on need basis subject to provision of sufficient funds.

24. Public servants.--- The Chairperson, the members and the employees of the Regional Health Authorities and District Health Authorities other than the existing civil servants, shall be deemed when acting in the discharge of their function under this Act to be public servants within the meaning of section 21 of the Pakistan penal code 1860 (XLV of 1860).

25. Immunity.--- No suit, prosecution or other legal proceedings shall lie against Government, any officer of Government, the Regional Health Authorities, District Health Authorities its Chairpersons, members or any other employee in respect of anything which is done or intended to be done in good faith under this Act, the rules or the regulations.

26. Overriding effect.--- The provisions of this Act shall have overriding effect notwithstanding anything contained in any other law for the time being in force.

27. Power to make rules.--- Subject to the provisions of this Act, Government may make rules for carrying out the purposes of this Act.

28. Power to make regulations.--- Subject to the provisions of this Act and the rules, the Regional Health Authority with the approval of Policy Board may, by notification, may make regulations to give effect to the provisions of this Act.

29. Power to remove difficulties.--- If any difficulty arises in given effect to any provision of this Act, Government may issue such orders, not inconsistent with the Act or rules made thereunder, for the removal of the difficulty.

30. Amendment in the Khyber Pakhtunkhwa Act No. XII of 2011.--- In the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011 (Khyber Pakhtunkhwa Act No. XII of 2011), the following amendments shall be made, namely:

- (a) in the long title the words “and doctors in the health facilities” may be deleted;
- (b) in the Preamble-
 - (i) the words “and doctors in the health facilities” may be deleted; and
 - (ii) the expression and commas “and doctors in the health facilities, and to regulate deputation of doctors abroad,” may be deleted;
- (c) in section 1,-
 - (i) in sub-section (1), the comma appearing after the word “Lecturer” may be replaced with the word “and” thereafter the words “and Doctors” may be deleted; and
 - (ii) in sub-section (2), the words “and doctors” may be deleted;
- (d) in sub-section (1) of section 2, clauses (b) and (d) shall be deleted;
- (e) in sections 4 and 5, the word and comma “doctor,” wherever occurring shall be deleted; and
- (f) sections 6, 7 and 8 shall be deleted.

STATEMENT OF OBJECT AND REASONS.

It is desirable to provide for a comprehensive and efficient healthcare system in the province of the Khyber Pakhtunkhwa and to devolve authority and accountability at the regional and district level by re-organizing the health facilities in the province of the Khyber Pakhtunkhwa. Hence this Bill.



MINISTER-IN-CHARGE

Peshawar,

Dated 30/042019