

# حکومت خیبر پختونخوا

## محکمہ قانون

سوال نمبر 4909:

منجانب: شمر بلور صاحبہ ایم پی اے

کیا وزیر قانون ارشاد فرمائیں گے کہ:-

سوال	جواب
سال 2017 میں وزارت قانون کو بھیجے گئے مجوزہ بل برائے افراد باہم معذوری (حقوق، بحالی اور افراد باہم معذوری کو با اختیار بنانے) پر کیا پیش رفت ہوئی ہے تفصیل فراہم کی جائے۔	2015ء سے عنوان بالا معاملہ کی تفصیل ذیل ہے۔ (i) ابتدائی طور پر مسودہ خیبر پختونخوا معذوری بل، 2015ء محکمہ قانون میں بذریعہ چھٹی مورخہ 02/01/2015 کو معائنہ کیلئے موصول ہوا (الف-A)۔ (ii) محکمانہ نمائندے کے ساتھ مورخہ 12/02/2015 کو میٹنگ ہوئی، اور محکمہ قانون نے بحوالہ چھٹی مورخہ 18/02/2019 (الف-B) انتظامی محکمے کو مجوزہ بل کے مسودے پر لگائے گئے ارسال شدہ اعتراضات کی روشنی میں نظر ثانی کرنے کیلئے کہا گیا۔ (iii) مجوزہ مسودہ خیبر پختونخوا افراد باہم معذوری (حقوق، بحالی اور افراد باہم معذوری کو با اختیار بنانے) کا قانون 2018ء کو انتظامی محکمے نے دوبارہ بذریعہ چھٹی مورخہ 23/02/2018 (الف-C) کو محکمہ ہذا کو ارسال کیا۔ (iv) مذکورہ کا محکمہ قانون میں جائزہ لیا گیا اور اعتراضات انتظامی محکمے کو بذریعہ چھٹی) 27/02/2018 (الف-D) ارسال کئے گئے۔ (v) مجوزہ مسودہ بل پر فارمنس اینڈ ریفرنس یونٹ نے بذریعہ چھٹی مورخہ 10/04/2018 (الف-E) اور انتظامی محکمہ نے بذریعہ چھٹی مورخہ 04/05/2018 (الف-F) محکمہ قانون کو بھجوایا گیا۔ (vi) 25/05/2018 کو محکمانہ اور PMRU کے نمائندوں کے ساتھ مشترکہ میٹنگ ہوئی۔ انتظامی محکمے کو اعتراضات چھٹی مورخہ 30/05/2018 (الف-G) کی روشنی میں مجوزہ مسودہ بل پر غور و خوض کرنے کیلئے کہا گیا۔ (vii) چھٹی مورخہ (الف-G) کی روشنی میں انتظامی محکمے نے ایک نظر ثانی مسودہ بل بذریعہ چھٹی نمبر) 09/07/2019 (الف-H) بھجوایا۔

<p>مذکورہ کا محکمہ قانون نے جائزہ لیا اور بحوالہ چھٹی مورخہ ( I- ) 26/05/2018 لف انتظامی محکمے کو اُنکے مسودہ بل پر دوبارہ غور کرنے کیلئے کہا گیا کیونکہ مذکورہ مسودہ بل میں محکمہ قانون کے اعتراضات کے تصفیہ نہیں کیا گیا۔</p> <p>(viii) انتظامی محکمے نے چھٹی ( لف I- ) کا حوالہ دیتے ہوئے ایک نظر ثانی سپہ مسودہ بل بذریعہ چھٹی میں ( J- ) 07/09/2018 لف بھیجا۔</p> <p>(ix) 02/10/2018 کو محکمانہ نمائندوں کے ساتھ تبادلہ خیال کیلئے میننگ ہوئی اور بحوالہ چھٹی مورخہ ( K- ) 03/10/2018 لف انتظامی محکمے کو نظر ثانی سپہ مسودہ بل ارسال کرنے کیلئے کہا گیا۔</p> <p>(x) ( K- ) لف کی تعمیل میں انتظامی محکمے نے نظر ثانی سپہ مسودہ بل محکمہ قانون کو بذریعہ چھٹی مورخہ ( L- ) 23/10/2018 لف معائنہ کیلئے ارسال کیا۔ اور</p> <p>(xi) مذکورہ کا محکمہ قانون میں جائزہ لیا گیا اور اپنے اعتراضات سے انتظامی محکمے کو بذریعہ چھٹی مورخہ ( M- ) 08/11/2018 لف کو آگاہ کیا گیا کیونکہ محکمہ قانون کے اعتراضات کی وضاحت نہیں کی گئی تھی۔</p>	
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2- آج کی تاریخ تک مذکورہ زکوٰۃ، عشر، سماجی بہبود، خصوصی تعلیم اور ترقی نسواں محکمے کے ذمے تعطل میں ہے۔ اسلئے، مذکورہ بل کے بابت محکمہ قانون کے ذمے کچھ بھی زیر التواء نہیں ہے۔

70  
2/1/2015

GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION &  
WOMEN EMPOWERMENT DEPARTMENT

NO. SOIII (SWD)4-30/2014/85-86  
Dated Peshawar the 02-01-2015

To,

The Secretary to Government of Khyber Pakhtunkhwa,  
Law Parliamentary Affairs and Human Rights Department.

Subject:- DRAFT KHYBER PAKHTUNKHWA DISABILITY BILL, 2015.

Dear Sir,

I am directed to refer to the discussion of Special Assistant to Chief Minister for Social Welfare, Special Education & Women Empowerment with Secretary to Government of Khyber Pakhtunkhwa, Law Parliamentary Affairs and Human Rights Department on the subject noted above and to enclose herewith the Draft Khyber Pakhtunkhwa, Disability Bill, 2015 for vetting please.

Yours Faithfully,

  
SECTION OFFICER-III

Encl: as above.  
Endst: No & date even.

Copy forwarded to:-

LD

PS to Secretary, Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department.

*Please compare with the existing law i.e. Persons with Disabilities (Employment & Rehabilitation) Ordinance, 1987 i.e. adopts Act, and vet by giving date to DR.*

SECTION OFFICER-III

02-1-15

*Ref 5/1 AD*

**DRAFT KHYBER PAKHTUNKHWA DISABILITY BILL, 2015**

**TO BE PRESTED BEFORE**

**THE**

**PROVINCIAL ASSEMBLY, KHYBER PAKHTUNKHWA**



[To be presented before the Provincial Assembly]

Bill

Bill

To promote and ensure full and effective inclusion of Persons with Disabilities in the community in line with the Islamic teachings and international best practices to protect their rights

WHEREAS it is expedient to put in place legal and institutional framework to protect the rights of the Persons with Disabilities in general and particularly in line with the UN Convention on the Rights of Persons with Disabilities to which Pakistan is a Party;

It is hereby enacted as follows:

PART - I  
Preliminary

Part I - Preliminary

1. Short title & Commencement- (1) This Act may be called the Khyber Pakhtunkhwa Disability Act, 2014

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

(3) It shall come into force on such day as the Provincial Government may, by notification in the official gazette, appoint.

Definitions.- In this Act, unless there is anything repugnant in the subject or context,

(1) "Government" means Government of Khyber Pakhtunkhwa the provinces of the

(2) "Access" means meaningful and effective access to various physical and intangible means made suitable to fulfill the special needs of the Persons with Disabilities;

(3) "Barrier" means the physical, psychological, legal or attitudinal hurdles in the way to access to infrastructure and services;

(4) "Chief Executive" means the person to be appointed as chief executive of the council by the Council;

(5) "Constitution" means the Constitution of Islamic Republic of Pakistan 1973;

(6) "Council" means the Provincial Council on Rights of Persons with Disabilities set up under section 20 of this Act

(7) "Disability" means a long term physical or mental condition that limits a person's movements, senses, or activities and shall include physical, mental, intellectual or sensory impairments which in interaction with various other physical and psychological barriers hinder performance of persons suffering from such conditions

in English alphabet  
Please

Wahab  
2014

and

to participate fully and effectively in day to day performance and interaction with others on an equal basis;

(8) "Equality before law" includes principles of equality on equitable basis that Persons with Disability shall have in line with the constitution and international covenants to which Pakistan is a party;

(9) "Freedom of movement" shall have the same meaning as expressed in the Article 15 of the Constitution;

(10) "Independent living" means environment to live with freedom, self-control, choice, and self-determination in everyday life;

(11) "Mobility" means the possible independence for Persons with Disabilities with access to quality mobility aids, devices, assistive technologies and forms of assistance and intermediaries, including by making them available at affordable cost;

(12) "reasonable accommodation" means necessary and appropriate modification where needed in a particular case, to ensure that the Persons with Disabilities enjoy or exercise on an equal basis with others of all human rights and fundamental freedoms at home, workplace and in social life; and

(13) "misconduct" shall mean as defined in Government Servants (Efficiency & Discipline) Rules, 1973.

## Part II - Rights of Persons with Disabilities

2. Rights of Persons with Disabilities .- (1) The Government shall ensure that every Person with Disability shall have a right to be respected for his/her individual dignity and lead a decent life with equal opportunity to participate in educational, social, economic, cultural and all other activities in the society without any discrimination.

(2) No person or institution, whether public or private, shall be allowed to discriminate against Persons with Disabilities or violate their rights or restrict benefits in any manner.

(3) The Government shall take all necessary legal and administrative steps, including appropriate changes in the existing laws, to ensure that Persons with Disabilities enjoy in a fully inclusive society, the right of equality guaranteed under the Constitution and that such person's disability shall not be used by any person or institution to restrain or restrict him/her from enjoying his rights unless there is a reasonable cause that not restricting such person may cause him/her harm or letting him/her perform something which may be out of his/her physical or mental capacity.

(4) In view of restricted access of the Persons with Disabilities to means of earning their livelihood independently, the government shall take extraordinary steps to ensure their effective inclusiveness in the society through suitable education, skill development, training and placement against appropriate positions in the government departments and entities in the private sector according to the allocated quota.



(5) No Person with Disability shall be a subject of any research without his willingness or consent without any pressure and such research shall be through using accessible modes, means and formats of communication.

3. Equality before law.-(1) <sup>G</sup> The government shall ensure that the Persons with Disabilities are treated equally like persons without such disabilities and that they are not discriminated in exercise of their rights.

<sup>G</sup> (2) It shall be ensured that such persons have legal capacity to enjoy their rights and if they need support to exercise legal capacity such support is provided to them free of cost.

4. Right to privacy.-(1) All Persons with Disabilities shall have right to privacy as available to all citizens regardless of him/her living in a private home, rehabilitation centres, hostel, or any private or public living facility.

(2) No Persons with Disabilities regardless of place of residence or living arrangements shall be subjected to arbitrary or unlawful interference with his/her privacy of person, family, home and communication or correspondence. Such persons shall have the right to the protection of the law against any illegal interference and attack against their person, family, property and reputation. P

5. Women, children and elderly people with disabilities.-(1) In view of the extraordinary vulnerability of women, children and senior citizens with disabilities, the government shall take special measures to ensure that such women, children and elderly people are given full protection under law in enjoying their rights. G

<sup>G</sup> (2) The government shall also take necessary measures to ensure development, advancement and empowerment of women, children and senior citizens with disabilities.

6. Ease of access and mobility.-(1) <sup>G</sup> The government shall take necessary measures towards allowing ease of access to the Persons with Disabilities to the public buildings, hospitals, public transport, streets and roads for which the old buildings and vehicles shall be appropriately modified and new buildings and vehicles shall be built conforming to the appropriate standards.

<sup>G</sup> (2) The council shall develop a guideline on removing barriers and obstacles to access in buildings, roads, modes of transportation, housing, hospitals, schools, workplaces, sports' facilities, communication and information related services and get them implemented by the concerned authorities and persons both in public and private sectors.

<sup>C</sup> (3) The council shall develop a set of minimum standards of access and related signage that each department, authority, entity, and major enterprise shall put in place to ensure necessary access of Persons with Disabilities.

<sup>G</sup> (4) The government shall implement procedures and programs to promote the personal mobility of Persons with Disabilities at affordable cost.

<sup>G</sup>  
(5) The government shall ensure special seats in all means of transport for persons with disabilities and to allot parking space exclusively for the persons with disabilities at all public places. These spaces shall be nearest to that particular public place.

<sup>C</sup>  
(6) The Council shall develop and enforce guidelines allowing Persons with Disabilities to have full and appropriate access to all forms of mass communication including information technology to enjoy freedom of speech and freedom of information.

<sup>P G</sup>  
7. Protection from abusive, violent and intolerant behavior.- (1) The government shall take all possible steps to protect Persons with Disabilities, from all forms of abuse, violence and exploitation on the hands of any person, institution or authority.

<sup>P C D</sup>  
(2) Whenever an act of abuse, violence and intolerant behavior is committed against any person with disability and the information of such act is communicated to the council or any law enforcement agency, the concerned agency on receipt of such information, shall immediately take necessary action to curb such act and to take appropriate measures under law to lodge the affectee of the abuse, violence, or intolerance, as the case may be, in safe place for protected housing. No cost shall be recovered from such affectee for lodging in safe place in such situation.

<sup>D</sup>  
(3) Notwithstanding the provisions of laws for the time being in force, an act of physical violence against a person with disability causing even a minor injury shall be deemed as grievous injury and shall be treated as an act of violence under section 335 of Pakistan Penal Code, 1860 and shall attract punishment accordingly. Other situation of aggravated abuse and violence shall also be deemed to have more gravity than in case of a person without disabilities.

<sup>O</sup>  
(4) In case of need for legal aid such aid shall be made available to such affectee at public expense or prevent its occurrence as the case may be, or pass any such order as she/he deems fit for the protection of such person with disability including an order:

<sup>G P D</sup>  
8. Equity in education.- (1) The government shall take all necessary measures to ensure that Persons with Disabilities are afforded equal rights to access educational institutions and shall be provided with adequate facilities for their education without any discrimination

<sup>G</sup>  
(2) The government shall provide free education to Persons with Disabilities

<sup>C</sup>  
(3) The council shall take necessary measures to establish special education institutions for the Persons with Disabilities to cater to their special needs in addition to making other institutions reasonably equipped and staffed to provide adequate facilities for inclusive education to such persons in those general educational institutions.

<sup>X</sup>  
(4) No Persons with Disabilities shall be denied admission into any educational institution, whether state owned or private, on ground of his/her disabilities.



P D

(5) It shall be illegal for an institution and its staff members to discriminate against or abuse or otherwise violate rights of a person with disability at his place of education for which both the institution and such violating person shall be punished.

(6) The Government shall ensure inclusive education at all levels focusing on personality development, creativity and strengthening of physical and mental capabilities of Persons with Disabilities.

(7) Reasonable and appropriate accommodation shall be provided to Persons with Disabilities in the institutions including hostels, where applicable.

G (8) The government shall also establish adequate dedicated and general facilities for teacher training with a view to train adequate number of specially trained teachers equipped with skills to teach students with various forms of disabilities.

G (9) The government shall ensure that all Persons with Disabilities are given full access to all modes and means of education including but not limited to vocational training, online education, distance learning and adult education.

9. Equity in employment.- (1) No person, institutions, organization or entity, whether public or private, shall discriminate against a person on the ground of disability in the matters of employment, promotion, career development and enjoying fruits of his/her employment.

(2) The employer shall ensure the provision of reasonable accommodation including necessary aid and equipment which a Person with Disabilities would reasonably require to perform his/her duties.

G (3) The government shall reserve a quota of three percent (3%) at various levels for the Persons with Disabilities in the government departments, institutions, entities, and corporate entities owned and managed by the government. The government shall also impress upon the provincial legislatures and governments to include such measures in their laws and practices.

G (4) The government shall encourage private enterprises to employ three percent (3%) or even more Persons with Disabilities through incentives for which the government shall prepare long term inclusion plans and allocate necessary resources. G

(5) The terms and conditions of employment shall not be less favorable for Persons with Disabilities as compared with those offered to other persons appointed against same or similar positions.

X (6) An establishment which does not employ Persons with Disabilities as required by section 9, subsection (3) of this act shall pay twice in to the funds each month the sum of money it would have paid as salary or wages to a Person with Disability had he/she been employed.

10. Equity in health and rehabilitation services.-(1) <sup>L G</sup> The government shall ensure barrier free access to necessary public health services and infrastructure to Persons with Disabilities without any discrimination and without any cost to such persons.

<sup>C</sup> (2) The council shall devise plans to provide special health insurance to Persons with Disabilities to ensure free medical coverage to such persons. ~~The~~ government shall earmark necessary funds for financing such health insurance scheme. <sup>G</sup>

<sup>G</sup> (3) ~~The~~ government shall encourage private sector health services providers through appropriate incentives to provide quality services to Persons with Disabilities at affordable rates.

(4) Special health service for early identification and intervention of disabilities and medical services especially designed to prevent disability shall be implemented.

<sup>G</sup> (5) ~~The~~ government shall initiate, with the help of the medical and scientific community, research to identify causes of various disabilities including genetics and make efforts to create awareness in public to adopt practices that help prevent disabilities from happening.

<sup>S</sup> (6) ~~The~~ Government shall undertake initiatives to promote, support and implement community based rehabilitation and research initiatives at the community level.

11. Right to live independently in community.-(1) The Persons with Disabilities shall have equal right to live independently in the community.

<sup>P</sup> (2) Such persons shall be provided all necessary facilities by ~~the~~ Government without discrimination to enable them to live independently.

<sup>G</sup> (3) ~~The~~ government shall take necessary preventive measures to ensure that Persons with Disabilities are not excluded or segregated from the community on basis of their disability and that their access to communal facilities and services is restriction free.

<sup>G</sup> (4) ~~The~~ government shall also take necessary measures to enable Persons with Disabilities to have access to a range of in-house, residential and other community support services, including personal assistance service necessary to support living and inclusion in community.

<sup>G</sup> (5) ~~The~~ government shall provide Persons with disabilities with appropriate aid and equipment, assistive technology at a subsidized rate. Special trainings have to be provided at all levels from time to time in order to train persons with disabilities in mobility skills. <sup>e a P D</sup>

(6) Registered Entities of ~~Repute~~ that produce such equipment's are provided with all the facilities they require at subsidized rates.

(7) Tax exemption on import of specialized (custom made) devices like accessible wheel chair, electrical wheel chairs, Vans/Buses/Automobiles and other assistive devices to cater for the special requirements for persons with disabilities.



12. **Right of accommodation.**- (1) Every person with disability shall have right to a decent place of living of his/her choice and no person shall discriminate against a person with disability by way of refusing to rent him/her or sell to a place of living because of him/her being a person with disability.

(2) The government shall evolve a policy toward fair and affordable housing for Persons with Disabilities in government owned, sponsored, or assisted projects and also in the private housing schemes. The authorities approving establishment of new housing schemes and plans shall ensure that adequate number of affordable housing units are included in each such scheme or plan.

(3) The government shall set up and maintain decent housing facilities for the Persons with Disabilities who do not have a place to live and need a decent temporary shelter. The council shall with the help from the provincial authorities; civil society organizations and society at large assist to arrange permanent shelter for such persons.

13. **Right to home and family.**-(1) No person with disability, especially a child/adult/senior citizen, shall be separated from his/her family on the grounds of disability unless a court of law requires him/her to be so separated in his/her best interest.

(2) Where the immediate family of a person is unable to cater a person, especially a child with disabilities, the court shall make an effort to place such person at a setup suitable for his/her safe living.

(3) All Persons with Disabilities shall have the right to marry a person of their own choice (subject to serious medical contra-indication(s)) and raise their family without any discrimination.

(4) No person with disability shall be subjected to any medical procedure leading to infertility without his/ her informed consent. Forced sterilization shall be a non-compoundable offence.

(5) The government shall provide free essential services regarding reproductive health especially to women with disabilities.

14. **Freedom of expression and information.**- (1) The government shall ensure that Persons with Disabilities have full and equitable rights with regards to freedom of speech, right to expression and information and effective measure are taken for their such rights to be enjoyed.

(2) The council shall take necessary measures to get the voice of Persons with Disabilities and their organizations to the governments, society and international community.

15. Right of political participation.-(1) Persons with Disabilities shall have full right to participate in the political activity in the country including exercising right of vote and right to be elected to an elected body.

(2) Direct Representation of Persons with Disabilities in the Provincial Assembly with one percent (1%) quota.

(2) The government shall make necessary arrangements to ensure that voice of the Persons with Disabilities is effectively heard in the elected houses at various levels.

(3) The Election Commission of Pakistan shall ensure that each polling station is accessible to the Persons with Disabilities and necessary arrangements are made for them to cast their votes confidentially and without any difficulty. Any act by any person to cause restriction on exercise of right of vote by a person with disability shall be deemed as forceful obstruction, which shall be a cognizable non-bailable offence. The Commission shall ensure that effect of such forceful obstruction is rectified.

(4) The council shall, with the help of the Election Commission of Pakistan, educate political parties on the issues and problems of the Persons with Disabilities to encourage them to make those issues and problems part of their political programmes.

16. Access to justice.-(1) The Government shall ensure that the Persons with Disabilities have unhindered access to the justice system in the country including courts of law, tribunals, police and other law enforcement agencies.

(2) The cases involving Persons with Disabilities shall be disposed of on priority basis.

(3) All judicial officers shall be adequately trained to understand the importance of dispensing justice particularly to the Persons with Disabilities and on matters relating to them.

(4) Every reasonable effort shall be made by the law enforcement agencies to protect organizations and their staff working for the cause of betterment and rehabilitation of the Persons with Disabilities and that actions against them, if and when so needed, are taken after due consideration by an officer not below the level of a sub-divisional police officer or equivalent.

(5) The government shall take necessary actions to ensure free and effective legal aid is provided to the Persons with Disabilities. In case of court proceedings it shall be the duty of the presiding judge that if such person is not represented by a lawyer a qualified lawyer is provided to such person without charging any fee from him.

17. Right to own property.-(1) Each Person with Disabilities shall have full and discrimination-free right to own, maintain, purchase, and sell property on his own choice.

(2) The Persons with Disabilities shall not be denied right of inheritance to property.



(3) The courts shall decide matters relating to property disputes involving Persons with Disabilities on priority basis.

18. **Participation in sports, cultural and recreational activities.**- (1) The government shall ensure that no person is discriminated against in participation of any sports, games, cultural and recreational activities on ground of his disability. Assistive devices, equipment and latest technology shall fully be made available for their inclusion in sports, cultural, recreational and leisure activities.

(2) Access to cultural materials, programs and activities shall be provided in accessible and appropriate formats to Persons with Disabilities .

(3) Barrier-free and discrimination-free access to media programs, films, theatres, parks, stadiums, play grounds, beaches and other places of leisure, recreation, sports and cultural activities shall be provided to such persons.

(4) The government shall fully facilitate participation of Persons with Disabilities in scouting, art classes, outdoor camps, hunting, tourism and adventure activities and shall also help to develop and utilize their artistic, creative and intellectual capabilities.

19. **Protection of Persons with Disabilities in risk and disaster situations.**- (1) All Persons with Disabilities shall be given top priority in providing suitable protection and safety in situations of risk and natural disasters and they shall immediately be removed from such areas and moved to a safe place on priority.

(2) In situations of armed conflict, the police, civil armed forces and the armed forces shall take appropriate measures on priority to ensure the safety, protection and removal of such persons.

(3) All authorities engaged in reconstruction activity subsequent to any situation of armed conflict, humanitarian emergencies or natural disasters shall ensure that Persons with Disabilities are accorded priority in reconstructing their institutions, homes and other facilities and restoring services.

(4) The council shall keep a close coordination with the disaster management authorities for protection and removal to safety and keep record of such persons caught in such situation and ensure early rehabilitation.

### Part III - Administration of Rights

20. **Strengthening and renaming of the Provincial Council for the Rehabilitation of Disabled Persons.**- (1) There shall be restructuring and renaming of the Provincial Council for the Rehabilitation of Disabled Persons (PCRDP) to an autonomous body shall be called as Provincial Council for the Rights Persons with Disabilities (PCRPD) consisting the following:

a) Minister/Advisor/Special Assistant for Social Welfare, Chairperson

b) Secretary of Social Welfare, Vice Chairperson

Minister Panchajanya Disability Div

Page 3

*Zakat, Ushur,  
Social Welfare,  
Special Education  
and Women Development  
to Govt Department,*

- (c) Person with Disability among nominees of CBID → Deputy Chairperson
- (d) Representative of provincial Health Department → Members
- (e) One representative each (not below the rank of Additional Secretary) of the Planning & Development, Law & Justice, Finance, Manpower, Labour, Education, Industries Divisions → Members
- (f) Chief Administrator Zakat → Member
- (g) Administrator, Pakistan Baitul Mal → Member
- (vii) Two businesspersons nominated by Khyber Pakhtunkhwa Chamber of Commerce and Industry → Members
- (viii) Four persons to be nominated by the Provincial Government, Members amongst the persons engaged in the welfare of Persons with Disabilities (including one amongst nominees by W.H.O and/or relevant INGOs as per Government Rules) → Members
- (ix) Department's Focal person on UNCRPD → Member/Secretary

(2) The government functionaries represented on the council shall hold their offices ex-officio. The private appointees shall be appointed by the government for a period of three years and shall be eligible for reappointment for one additional term.

21. Functions of the Council- (1) The council shall have the responsibility of achieving objectives of the Act and to assist the government in developing legal and institutional framework.

(2) The Council shall be the executive authority to implement this Act to develop a legal and social environment and to empower the Persons with Disabilities to have the protection of law in enjoying their fundamental rights.

(3) The council shall, with the help of other authorities and persons, take all possible measures to protect Persons with Disabilities from discrimination, exploitation, torture, inhuman or degrading treatment on the hands of any one including their families and caregivers.

(4) The council shall coordinate the implementation of the principles of the U.N Convention at provincial and lower administrative levels through providing technical assistance to various organs of the provincial legislatures and governments in developing appropriate legal and institutional frameworks in their jurisdictions and making them efficiently and effectively achieve the objective of protection and enforcement of rights.

(5) The council shall evaluate the effectiveness of laws and policies and assess the implementation of the laws and policies at the Provincial level and recommend to the government about the changes required in the policies, laws and practices.



(6) The council shall conduct or cause to conduct research on the status of the Persons with Disabilities and matters related to promoting and protecting their rights.

(7) The council may employ officers, advisors, consultants and other employees in service of the council, as may be necessary for the efficient administration of the council, in such manners and on such terms and conditions, as may be prescribed.

(8) The council shall put into place an institutional mechanism to regularly monitor performance of various departments and organizations in the government and issue a performance score card to each such entity and organization at least once in every three years. Similarly, the council shall devise and maintain score cards for private entities that seek such evaluation and assessment. Such performance audits shall be conducted by professionals with full support of the council staff.

(9) The council also assesses its own performance in creating legal and social environment in the country and issue an annual status report within 7 months of end of every calendar year.

(10) The council shall be responsible to monitor the activities of the private and community based organizations to ensure that required standards of service are maintained and that funds generated by them in the name of Persons with Disabilities are appropriately used. The council may enforce an institutional mechanism for effective, efficacious and transparent functions of such organizations and may impose restrictions on organizations not meeting the objective criteria laid down by it.

(11) The council shall have the powers to frame and enforce regulations and guidelines for its own efficient and professional working and for effective achievements of objects of this law shall make regulations.

**22. Governmental authorities and other persons to assist the council.** - (1) All the functionaries of the government shall extend full and effective cooperation to the Council in ensuring the enforcement of this Act and other laws for protecting the rights of the Persons with Disabilities.

(2) Any person in the governmental position not effectively cooperating with the council shall be deemed to have committed misconduct and shall be appropriately punished.

**23. Funds for rehabilitation.** - (1) The government shall establish an endowment fund for sustainably financing the projects and activities related to ensuring effective rights protection and inclusion in society of Persons with Disabilities

(2) The government shall establish another fund to receive non-endowment monies and other valuables.

(3) The funds established in sub-sections (1) and (2) shall be managed by the council.

(4) The funds shall be financed through

- F P B**
- a) Grants from the federal and provincial government;
  - b) Grants from international organizations, governments and other such bodies;
  - c) Levies and other charges that government imposes for rehabilitation;
  - d) Fines and penalties under this Act;
  - e) Donations and bequests by private persons; and
  - f) Any other source.

(5) The monies from the funds mentioned sub-sections (1) and (2) shall be used only for the projects and activities directly related to rehabilitation of the Persons with Disabilities.

**24. Creating public awareness.**-(1) The Council shall take immediate, appropriate and result oriented measure to raise awareness and promote advocacy amongst the society as a whole with regards to recognition and respect for the Persons with Disabilities and their rights.

(2) The Council shall recommend to the provincial governments measures to include the topics on disability in educational curriculum to create awareness among young students about the Persons with Disabilities generating respect for such persons and their rights to become effective components of the communities, trade and commerce.

(3) The government shall include topics on addressing the problems of the Persons with Disabilities in the training programs of the institutions responsible for imparting trainings to the officers and official of the government including judges and court officials.

**25. Rehabilitation.**-(1) The government shall take all possible measures to ensure that Persons with Disabilities attain maximum independence and ability to participate in the activities of life including getting education, doing business, get employed, participate in sports and cultural activities.

(2) The government shall promote continuing skill development and training in existing and new skills and technologies to the Persons with Disabilities for maximum and effective participation and integration of such persons in the community.

(3) The government shall undertake initiatives to promote, support and implement community based rehabilitation and research initiatives of its own, provincial government and organizations outside the government spheres.

**26. Insurance cover.**-(1) The Council shall devise and put in place comprehensive group medical and accident insurance for the participating Persons with Disabilities and shall also facilitate such persons in getting affordable life and other forms of insurance.



C  
(2) The council may set up a separate fund to pay premium for the Persons with Disabilities who cannot pay for the premium from their own sources.

27. **Special disability courts.**- (1) For speedy justice ~~the~~ government shall make courts accessible and Disability-friendly to hear cases under this law or other laws in which one or more parties are Persons with Disabilities.

(2) There shall be an effective institutionalized mechanism to monitor such cases by appropriate judicial forums as devised by the respective high courts in the country.

#### Part IV - Miscellaneous

28. **Power to make rules and regulation.**- (1) ~~The~~ government shall have power to make rules under this law for its efficacious and effective implementation. Draft of such rules shall be published for the comments and input from general public at least 30 days before proposed implementation of those rules.

think  
B. (2) Any objection or proposal put forth by any one shall be given due consideration by ~~the~~ government and if considered appropriate such changes shall be incorporated in those draft rules before they enter into force.

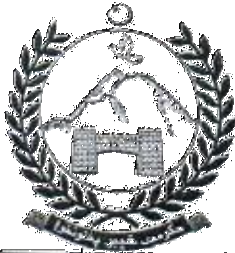
C (3) The council shall have power to make regulations for its internal organization and operation and also to lay down processes and procedures to implement this act and rules made under it.

29. **Removal of difficulties.**- If any difficulty arises in giving effect to any of the provisions of this Act, ~~the~~ government may make such order, not inconsistent with the provisions of this Ordinance, as may appear to be necessary, for the purpose of removing the difficulty.

30. **Repeal and savings.**- (1) Persons with Disabilities (Employment & Rehabilitation) Ordinance, 1981 shall stand repealed from the day this Act enters into force.

dy (2) All the acts done under the repealed law shall continue to remain in force and cases for the time being pending in courts and tribunals shall be decided according to that law.

Statement of objects and Reasons



Annex-B  
16

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA**  
**LAW, PARLIAMENTARY AFFAIRS AND**  
**HUMAN RIGHTS DEPARTMENT**

No. ALD-I/Legis: 1(20)2012

/2024-26

Peshawar,  
Dated the 18-02-2015

To

The Secretary,  
Government of the Khyber Pakhtunkhwa,  
Zakat, Ushr, Social Welfare, Special Education and  
Women Empowerment Department.

**SUBJECT:**

**DRAFT KHYBER PAKHTUNKHWA DISABILITY**  
**BILL, 2015.**

Dear Sir,

I am directed to refer to your letter No. SOIII(SWD)4-30/2014/85-86, dated: 02-01-2015, and the meeting held with Departmental Representative Mr. Adeel, Deputy Secretary, Social Welfare Department, dated 12-02-2015 on the subject noted above and to state that the provisions from section 2 to section 17 of the proposed draft Bill are guidelines and insurance. Such provisions are already covered under the Constitution of Islamic Republic of Pakistan.

2. Therefore, the Administrative Department is advised to reconsider the proposed draft Bill and then send to Law Department for vetting.

Yours faithfully,

  
ASSISTANT LEGAL DRAFTER-I

**Ends: No. & date even:-**

Copy is forwarded for information to:

5. PS to Secretary, Government of the Khyber Pakhtunkhwa Law Department, w/r to his General Dairy No. 70, dated 02-01-2015.
6. PA to Legal Drafter, Law Department.

MOST IMMEDIATE



**GOVERNMENT OF KHYBER PAKHTUNKHWA  
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION  
AND WOMEN EMPOWERMENT DEPARTMENT**

No. SO-VI (SWD)/1-34/PCRDPI/3817-19  
Dated: Peshawar the 23<sup>rd</sup> February, 2018

To

✓ The Secretary to Govt. of Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs & Human Rights Department.

Subject: DRAFT KHYBER PAKHTUNKHWA (RIGHTS, REHABILITATION &  
EMPOWERMENT OF PERSONS WITH DISABILITY) ACT, 2018.

Dear Sir,

I am directed to refer to the subject noted above and to enclose herewith draft Khyber Pakhtunkhwa (Rights, Rehabilitation & Empowerment of Persons with Disability) Act, 2018 for vetting please.

2. This may be noted that the matter is on agenda of Provincial Cabinet meeting scheduled on 28.02.2018.

3. It is therefore, requested that the draft Bill may kindly be vetted and returned to this department before the Cabinet's meeting please.

Yours faithfully,

Enclose As above.

Endst: Of Even & Date

Copy to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. PS to Secretary SW, SE & WED, Khyber Pakhtunkhwa.

Section Officer- VI

Section Officer-VI

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AN  
ACT

To Ensure Comprehensive Inclusion Of Persons With Disabilities In The Community With Full Medical Rehabilitation, Inclusive Education, Economic Uplift And Right Based Community Integration In Lines With The Islamic Teachings And International Best Practices

**WHEREAS** it is expedient to provide for the employment, rehabilitation and welfare of persons with disabilities and for matters connected therewith;

**AND WHEREAS** it is expedient to put in place legal and institutional framework to protect the rights of the persons with disabilities;

**AND WHEREAS** the article-25 and 38 of the Constitution of Islamic Republic of Pakistan, 1973 provides for equal protection of its citizens and for promotion of Social and economic well-being of the people;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.** -- (i) This Act may be called the Khyber Pakhtunkhwa Rights, Rehabilitation & Empowerment of Persons with Disabilities Act, 2018.
  - i. It shall extend to the whole of Khyber Pakhtunkhwa.
  - ii. It shall come into force at once.
2. **DEFINITIONS.** -- In this Act, unless there is anything repugnant in the subject or context.
  - a) "Act" means the Khyber Pakhtunkhwa (Rights, Rehabilitation & Empowerment of Persons with Disabilities) Act 2018;
  - b) "Assessment Committee" means a committee constituted by the Council to determine the Disability of a Person;
  - c) "Barrier" means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society;
  - d) "Chairperson" means the Chairperson of the council;
  - e) Council means the council established under section-3 of this Act;
  - f) "Impairment" means Problems in body function and structure such as significant deviation or loss;
  - g) "Disability" means a long term physical or mental condition that limits a person's movements, senses, or activities and shall include physical, mental, intellectual or sensory impairments which in interaction with various other physical and psychological barriers hinder performance of persons suffering from such conditions to participate fully and effectively in day to day performance and interaction with others on an equal basis;
  - h) "Employee" means a regular or full time employee in an establishment / Organization, semi- government, autonomous body, public or private Sectors whether employed on daily, weekly or monthly basis, and includes an apprentice;
  - i) "Fund" means fund established under section-10 of this Act;
  - j) "Government" means the Government of Khyber Pakhtunkhwa;
  - k) "Organization" means a Government Department, a corporation or any autonomous or semi autonomous body, educational institutes, medical facilities established or controlled by Government or district government or registered civil society associations or privately managed commercial or an industrial establishment or



institution, a company as defined in the Companies Ordinance 1984 (ACT No. XLVII of 1984) and includes any other registered private sector organization or institution;

- l) "Rules" rules made by Government under this Act;
- m) "Regulations" means regulations made by the council;
- n) "Rehabilitation" refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychological or social functional levels;
- o) "Secretary" means Secretary of the council;
- p) "Staff" means the staff employed by the council.

3. **Establishment of the Council.** — Government shall by notification in the official Gazette, establish a council to be known as the "Rights, Rehabilitation & Empowerment of persons with disabilities council" which shall consist of the following members namely:-

- |   |                    |
|---|--------------------|
| (i) The Secretary, Zakat, Ushr, Social Welfare, Special Education & Woman Empowerment Department                                | <b>Chairperson</b> |
| (ii) The representative of Labor Department.  | Member             |
| (iii) The representative of the Finance Department.   | Member             |
| (iv) The representative of the Health Department.   | Member             |
| (v) The representative of the Elementary & Secondary Education Department   | Member             |
| (vi) The representative of the Communication & Works Department.  | Member             |
| (vii) The representative of the Planning & Development Department.  | Member             |
| (viii) Director, Social Welfare   | Member/ Secretary  |
| (ix) Managing Director, Technical Education and Vocational Training Authority (TEVTA).  | Member             |
| (x) Representative of the Khyber Pakhtunkhwa Chamber of Commerce.   | Member             |
| (xi) Three (03) persons with disabilities from leading Associations/ Disable Persons Organizations to be nominated by the Govt. | Member             |

4. **Functions of the Council.** — Subject to any directions of the government the council shall have the following functions:

- i. To evaluate the effectiveness of laws and policies and assess the implementation of the laws and policies at the Provincial level and recommend to the government about the changes required in the policies, laws and practices in order to provide barrier free environment to Persons with Disability (PWDs).
- ii. To monitor the activities of the private and community based organizations to ensure that required standards of service are maintained.
- iii. To recommend audit of the privately based community organizations to ensure that funds generated by them in the name of persons with disabilities are appropriately utilized.
- iv. To take appropriate measures for rehabilitation of disable persons.
- v. To encourage inclusive education.
- vi. To approve budget of the council.

5. **Meetings of the council.** — The council shall meet on quarterly basis and in special circumstances as and when required. The quorum for council meeting shall be 2/3 of the members.

6. **Registration of persons with disabilities.** — Any person with disability desirous of being employed or otherwise rehabilitated, shall have his name registered, on recommendation

of the assessment committee, with District Officer of Social Welfare in such form and in such manner as may be prescribed.

7. **Organizations to employ persons with disabilities.**--- (i) Every organization shall appoint two percent of the staff/ personnel from the persons with disabilities in such a way and in such a manner as may be prescribed by the Government.
- ii) The organizations shall be bound to furnish information required for the implementation of this Act to the person authorized for the purpose.
8. **Organizations to pay into the fund.**---(i) An organization which does not employ persons with disabilities as required under section-7 of this Act, shall pay each month the sum of money it would have paid as salary or wages to a person with disability had he been employed.
- ii) Fund for rehabilitation of persons with disabilities shall be deducted from the bills to be made to contractors having business of one million or above @ Rs. 5,000/-per million and to be deposited in account of the council.
9. **Staff of the Council.** --- (i) Notwithstanding anything contained in any law or rules, all the employees appointed in the Council before commencement of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the commencement of this Act, having the same qualification and experience for the said posts and their seniority shall be settled from the date of their appointment in a manner as may be prescribed. The council may further appoint officers / officials and other staff for smooth running of its affairs.
- ii. All employees recruited by the Provincial council shall be deemed to be public servants within the meaning of section 21 of the Pakistan Panel Code, 1860 (Act 45 of 1860).
10. **Fund.**--- (i)The Government shall establish a fund to be known as the rehabilitation fund which shall comprise of;
- a. All sums paid by the organizations.
- b. All grants made by the Federal, Provincial Government or local bodies; and
- c. Donations, if any, made by private individuals or Institutions.
- ii. The Fund shall be administered by the council and shall be utilized in the manner as may be prescribed.
11. **Custody and Investment of funds.** - The council may keep money in any treasury, sub-treasury or a scheduled bank as may be prescribed by rules.
12. **Audit of accounts.** --- The accounts of the council shall be audited annually by Auditor General of Pakistan.
13. **Delegation of power.** ---The council may delegate all or any of its powers under this Act to any of its members, subject to such conditions as it may specify.
14. **Penalty.** ---Any organization which fails to deposit into the Fund any sum it is required to pay under section-8, shall be punishable with fine of Rs. Ten Thousand (10,000) and in the case of nonpayment of fine, with an additional fine which may extend to hundred rupees for every day during which the payment or fine was not made.
15. **Power to make rules.** ---The Government may make rules for carrying out the purposes of this act.





**GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT**

**MOST URGENT/OUT TODAY/13342-45.**

No. Legis: 1(20)2012

Peshawar,  
Dated the 27-02-2018

To

The Secretary,  
Government of Khyber Pakhtunkhwa,  
Zakat, Social Welfare, Special Education and  
Women Empowerment Department.

Subject: Draft Khyber Pakhtunkhwa (Rights, Rehabilitation and Empowerment of  
Persons with Disability) Act, 2018.

Dear Sir,

I am directed to refer to your letter No. SO-VI(SWD)/1-34/PCRD/3817-19,  
dated 23-02-2018 on the subject noted above and to state that Law Department has the  
following observations on the subject draft Bill, namely:

- o/c.
- (i) that the term "barrier" and "impairment" have not been used in the body of the draft Bill, hence needs no definition;
  - (ii) that the assessment committee defined in the draft Bill is an important committee however, it is merely defined but there is no detailed provisions in the body of the draft regarding its composition and functions etc.;
  - (iii) that the definition clause needs to be revisited in light of section 2 of the existing law so as to make the definition of "organization" and "disability" more comprehensive;
  - (iv) that the word "organization" as defined in the draft Bill also includes a Government Department which need not be mentioned as Government Departments have already fixed a quota for disabled persons;
  - (v) that it is not clear as to who will nominate the representative of the Khyber Pakhtunkhwa Chamber of Commerce. Moreover, no term has been fixed for which the representatives of the organizations working for the welfare of disabled persons will be nominated. Furthermore, whether representatives of the organization ibid and the Khyber Pakhtunkhwa Chamber of Commerce can resign or be removed before completion of their term. Similarly what will be the procedure if a

composition of the Provincial Council needs to be revisited accordingly;

- (vi) that the role and responsibilities of the Secretary of the Council be mentioned in the draft Bill;
- (vii) that it is not necessary that the representatives of the organizations working for the welfare of the disabled persons should be disabled as indicated in the composition of the Council in section 3 of the draft Bill;
- (viii) that the functions of the Council be elaborately explained in the draft Bill so as to give it a proactive role regarding rehabilitation, treatment and welfare of the disabled persons;
- (ix) that clause (v) of section 4 of the draft Bill needs clarification;
- (x) that clause (ii) of section 4 of the draft Bill also needs clarification as to what kind of CBOs and services will be monitored by the Council;
- (xi) that the meeting procedure be elaborated so as to provide for the person who will preside over the meetings, the mode of decision making and procedure when there is a tie;
- (xii) that the procedure for registration of persons with disabilities be explained in detail so as to cover every aspect of registration and also the procedure in case a person already registered as disabled becomes no more a disabled person;
- (xiii) that sub-section (2) of section 8 of the draft Bill needs clarification;
- (xiv) that there is no provision in the draft Bill for stop-gap arrangements, which may result in a vacuum when the Bill is passed as an Act as the previous law will stand repealed and with that the existing Council will no more be able to function. It is therefore, suggested that in the draft Bill a provision may be inserted to allow the existing setup to function till the new Council is constituted and becomes functional;
- (xv) that it is not clear as to who will impose the penalty under section 14 of the draft Bill;
- (xvi) that there should be a provision regarding establishment of training centers for the disabled persons in the draft Bill on the analogy of the existing law; and
- (xvii) that whether the Council will be an autonomous entity or otherwise, if

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in the draft Bill.

2. The Administrative Department, is therefore, advised to reconsider the draft Bill in light of the observations mentioned above.

Yours faithfully,



(IMRAN KHAN)

ASSISTANT LEGAL DRAFTER-V  
(LEGISLATION WING)

Endst: No. & date even:-

Copy is forwarded for information to:

1. PS to Secretary, Government of the Khyber Pakhtunkhwa Law Department.
2. PA to Legal Drafter, Law Department.
3. PA to Deputy Legal Drafter-I, with reference to Legis Diary No. 441, dated: 26-02-2018 for updating the record.



ASSISTANT LEGAL DRAFTER-V





**PERFORMANCE MANAGEMENT & REFORMS UNIT**  
**OFFICE OF THE CHIEF SECRETARY**  
**GOVERNMENT OF KHYBER PAKHTUNKHWA**

PMRU, Civil Secretariat, Peshawar | pmru@gov.pk | pmru@gopk | 091-9223503



Annex-E  
130  
24

No. PMRU/CS/3-3/2017

Dated 10<sup>th</sup> April, 2018 Time: 04:00 PM

To:

Secretary to Govt of Khyber Pakhtunkhwa,  
 Zakat, Ushr, Social Welfare Education and Women Empowerment  
 Department.



Subject: - KHYBER PAKHTUNKHWA RIGHTS, REHABILITATION FACILITATION & EMPOWERMENT OF PERSONS WITH DISABILITIES ACT, 2018

Dear Sir,

I am directed to refer to the subject cited above and to state that your department initiated draft bill regarding "Khyber Pakhtunkhwa Rights, Rehabilitation, Facilitation & Empowerment of Persons with Disabilities Bill, 2018". A series of consultative meetings were held at PMRU so as to finalize the draft bill in time with the directions of worthy Chief Secretary, Khyber Pakhtunkhwa. The draft bill has been finalized and is sent herewith for further processing.

2. You are, therefore, requested to kindly process the same under intimation to PMRU.
3. PMRU will assist the department in the subsequent meetings on the bill, please.

Yours Faithfully,

*[Signature]*  
 Deputy Coordinator (Reg)  
 Performance Management & Reforms Unit

Copy forwarded for information to: -

1. PS to Secretary Law Department with the request to vet the draft bill after doing the needful on priority basis, please.
2. PSO to Chief Secretary, Khyber Pakhtunkhwa.
3. Assistant Coordinator, PMRU
4. Master File.

*[Signature]*  
 Deputy Coordinator (Reg)  
 Performance Management & Reforms Unit

11/20/18

*[Handwritten signature]* 11/4 regis

Legis: 818  
 dt 12/04/18.

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AN  
ACT

To Ensure Comprehensive Inclusion of People With Disabilities In The Community With Full Medical Rehabilitation, Inclusive-Education, Economic Uplift, Social-inclusion, and Right Based Community Integration In Lines With The Islamic Teachings and International Best Practices

WHEREAS it is expedient to provide for the employment, accessibility, rehabilitation and welfare of people with disabilities and special needs and for matters connected therewith;

AND WHEREAS it is expedient to put in place legal and institutional framework to protect the rights of the people with disabilities;

AND WHEREAS the article-25 and 38 of the Constitution of Islamic Republic of Pakistan, 1973 provides for equal protection of its citizens and for promotion of Social and economic well-being of the people;

It is hereby enacted as follows:-

1. Short title, extent and commencement. -- (i) This Act may be called the Khyber Pakhtunkhwa Rights, Rehabilitation, Accessibility & Empowerment of people with disabilities Act, 2018.
  - i. It shall extend to the whole of Khyber Pakhtunkhwa.
  - ii. It shall come into force at once.
2. DEFINITIONS. -- In this Act, unless there is anything repugnant in the subject or context.
  - a) "Act" means the Khyber Pakhtunkhwa (Rights, Rehabilitation, Facilitation & Empowerment of people with disabilities) Act 2018;
  - b) "Assessment Committee" means a committee constituted by the council to determine the disability of a person;
  - c) "Chairperson" means the Chairperson of the council;
  - d) Council means the council established under section-3 of this Act;
  - e) "Disability" means a long term physical or mental condition that limits a person's movements, senses, or activities and shall include physical, mental, intellectual or sensory impairments which in interaction with various other physical and psychological barriers hinder performance of persons suffering from such conditions to participate fully and effectively in day to day performance and interaction with others on an equal basis;
  - f) "Employee" means a regular or full time employee in an establishment / Organization, semi- government, autonomous body, public or private Sectors whether employed on daily, weekly or monthly basis, and includes an apprentice;
  - g) "Fund" means fund established under section-10 of this Act;
  - h) "Government" means the Government of Khyber Pakhtunkhwa;
  - i) "Organization" means a Government Department, a corporation or any autonomous or semi autonomous body, educational institutes, medical facilities established or controlled by Government or district government or registered civil society associations or privately managed commercial or an industrial establishment or institution, a company as defined in the Companies Ordinance 1984 (ACT No. XLVII of 1984) and includes any other registered private sector organization or institution;
  - j) "Rules" rules made by Government under this Act;
  - k) "Regulations" means regulations made by the council;
  - l) "Categories" means categories to be specified by the council as a, b, & c meaning thereby the extent of disabilities.



- m) "Rehabilitation" refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychological or social functional levels;
- n) "Secretary" means Secretary of the council;
- o) "Staff" means the staff employed by the council.
- p) "Accessibility" means the design of products, devices, services, or environments for people who experience disabilities.
- q) "ICT" means Information and Communication Technologies

3. **Categories of Disability.** -----the council shall determine at least three type of categories of disable persons with regard to barriers hinder performance of person, with clear description. The District Disability Board shall examine such person and place them in such categories as may be prescribed by the council.

4. **Establishment of the council.** -- (1) Government shall by notification in the official Gazette, establish a council to be known as the "Rights, Rehabilitation, Accessibility & Empowerment of people with disabilities council" which shall consist of the following members namely:-

- |  |                  |
|--|------------------|
| (i) Additional Chief Secretary   | Chairperson      |
| (ii) The Secretary, Zakat, Ushr, Social Welfare, Special Education & Woman Empowerment Department.   | Member/Secretary |
| (iii) The Secretary, Labor Department.   | Member           |
| (iv) The Secretary, Finance Department.  | Member           |
| (v) The Secretary, Health Department.  | Member           |
| (vi) The Secretary, Elementary & Secondary Education Department.   | Member           |
| (vii) The Secretary, Communication & Works Department.   | Member           |
| (viii) The Secretary, Planning & Development Department.   | Member           |
| (ix) Head of ICT Accessibility Research and Innovation Lab, Department of Computer Science, University of Peshawar   | Member           |
| (x) Director, Social Welfare.  | Member           |
| (xi) Managing Director, Technical Education and Vocational Training Authority (TEVTA).   | Member           |
| (xii) Representative of the School of Blind, Deaf, and Disability  | Member           |
| (xiii)   |                  |
| (xiv) Representative of the Khyber Pakhtunkhwa Chamber of Non-Official Commerce & Industries (to be nominated by the President KPCC&I).                      | Member           |
| (xv) Three (03) persons working with leading disability Non-Official Associations/Disable Persons Organizations (registered with Social Welfare Directorate) | Member           |

and

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(2) The term of the office of a non-official member shall be three years which may be extended for a further period of three (3) years, unless he/she resigns earlier or becomes ineligible or is disqualified from holding such office under this Act.

(3) The membership of the non-official member shall cease and fall vacant if, he resigns or fails to attend three consecutive meetings without sufficient cause or any other reasons which incapacitate him/her to remain as member. Any such vacancy shall be filled in within one month and the new member shall hold office for the remainder of the term of his/her predecessor.

(4) Any vacancy caused due to death, resignation or removal of the non-official member, shall be filled in by the Government.

(5) The new member shall hold office for the remainder of the term of his predecessor.

5. **Constitution of the council.** -- (1) The council established and constituted under Section-3 of the repealed Act shall continue their functions under this Act, till the expiration of the tenure of the existing Chairperson and Members of the council under the repealed Act or till the constitution of the new council under this Act, which ever may be earlier.

(2) The council shall be a body corporate having perpetual succession and a common seal with powers subject to the provisions of this Act, to acquire, hold and transfer property, both movable and immovable and may by its name sue or be sued;

6. **Secretary of the council.** --- (1) The Secretary shall perform such functions and exercise such powers as may be prescribed or delegated to him by the Council and shall:

- (a) be whole time officer of Council;
- (b) act as Principal Accounting Officer of the Council.

(2) The Secretary while acting with reference to conducting meeting of the Council shall be responsible for:

- (a) convening of meetings of the Council with the approval of the Chairperson;
- (b) the preparations of agenda, working paper and its distribution among the members of the Council;
- (c) recording the minutes of each meeting of the Council and its prompt dispatch to the concerned quarter;
- (d) implement decisions of the Council; and
- (e) proper follow-up of all matters connected with or arising out of a meeting of the Council.

7. **Functions of the council.** --- Subject to any directions of the government the council shall have the following functions:

- i. To evaluate the effectiveness of laws and policies and assess the implementation of the laws and policies at the Provincial level and recommend to the government about the changes required in the policies, laws and practices in order to provide barrier free environment to people with disabilities.

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- ii. To strategically propose, design, and monitor new interventions for the betterment of people with disability in context of products, citizen services, building, infrastructure and technological assistance.
- iii. To monitor the activities of the private and community-based organizations working for rehabilitation, accessibility, and rights of people with disability. In addition, they will have to ensure that required standards of services are complied.
- iv. To recommend audit of the privately based community organizations to ensure that funds generated by them in the name of people with disabilities are appropriately utilized.
- v. To take appropriate measures for rehabilitation of disable people.
- vi. To encourage inclusive education in partnership with public and private organizations.
- vii. To approve budget of the council.
- viii. To prescribe category-wise privileges, rights and facilities for disable persons.

8. Meetings of the council. -- (1) Meeting of the council shall be convened by the Chairperson on such date and at such place, as he may deem appropriate.

- (2) The council shall meet at least once in three months.
- (3) Meeting of the council shall be presided over by the Chairperson, or in his absence by the Secretary of the council.
- (4) Quorum for the meeting shall be two-third (2/3) of the total membership of the council.
- (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.

9. Assessment Committee. -- (1) Government shall by notification in the official gazette, establish a committee to be known as the "Assessment Committee for determination of category & eligibility of a disable person" which shall consist of the following members namely:

- |      |  |                 |
|------|--|-----------------|
| i.   | Director Social Welfare, Khyber Pakhtunkhwa  | Chairperson     |
| ii.  | Representative of Health Department  | Member          |
| iii. | Representative of Paraplegic Centre  | Member          |
| iv.  | Representative of Industries Department  | Member          |
| v.   | Any Technical or Professional Person   | Co-opted Member |
| vi.  | leading disability Associations/Disable Persons Organizations (registered with Social Welfare Directorate) |                 |

*in the prescribed manner*

(2) The committee shall meet at least once in a month and shall perform the following functions;

- i. The committee shall determine eligibility in accordance with person disability to avail privileges, rights and facilities specified for disable people under this act.
- ii. The committee shall issue disability card to a person having medical certificate issued by District Disability Boards.
- iii. The committee shall describe person's functional disability in terms of performance hindrance in day to day life.
- iv. The committee will ensure to update a centralized repository of records pertains to the people with disability, disability type and extent of facilitation through ICT based Web Portal for record management purpose. The



information will be made available online for general public, researchers, private and international bodies for decision making and facilitation.

- v. The assessment committee will also ensure that all people (declared as disable) should be verifiable through online Website
- vi. To perform any other function assigned by the Council.

10. **District Disability Board.** --- (1) any person with disability desirous of being employed or otherwise rehabilitated, shall appear before District Disability Board for medical examination and registration.
- (2) The District Disability Board shall be established in each district for the purpose.
- (3) The district disability board shall consist of the following members;
- |  |                  |
|--|------------------|
| a) Medical Superintendent DHQ Hospital                   | Chairman         |
| b) District Specialist of relevant field in the District | Members          |
| c) District Social Welfare Officer                       | Secretary/Member |
- (4) The certificate, as may be proscribed shall clearly indicate the names, designation and signature of the board members.
- (5) The registration of all such people with disability should be recorded in the online system with comprehensive details, medical examination records and final decision of the committee in the ICT based system.

11. **Registration of people with disabilities.**---Any person with disability desirous of being employed or otherwise rehabilitated, shall have his name registered, on recommendation of the District Disability Board, with District Officer of Social Welfare in district concerned in such form and in such manner as may be proscribed. District Disability Board and District office of Social Welfare will maintained a comprehensive centralized database of all such people in their respective districts.

12. **Organizations to employ people with disabilities.**--- (i) Every organization shall appoint two percent of the staff/ personnel from the persons with disabilities in such a way and in such a manner as may be proscribed by the Government.
- ii) The organizations shall be bound to furnish information required for the implementation of this Act to the person authorized for the purpose.

13. **Organizations to pay into the fund.**---(i) An organization which does not employ persons with disabilities as required under section-7 of this Act, shall pay each month the sum of money it would have paid as salary or wages to a people with disability had he been employed.
- ii) Fund for rehabilitation of people with disabilities shall be deducted from the bills to be made to contractors having business of one million or above @ Rs. 5,000/-per million and to be deposited in account of the council.

14. **Provision of facilities (Product, Citizen Services, Building and Infrastructure) in Annual Development Plan.**---(i) To make it binding upon all government, semi-government autonomous departments/organizations to ensure provision of facilities friendly to people with disability in terms of mobility, orientation, accessibility, seating, washrooms, singes, roads & infrastructure, building plans, service delivery center, and all government facilities, or other such areas of facilitation specified by the council. Beside, Special measures of access for emergency situations should also be ensured.

iii) All the TMAs and development authorities shall ensure provision of facilities friendly to persons with disabilities in private properties while issuing NOCs.



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15. **Provision of ICT Accessibility** ---To make it binding upon all government, semi-government autonomous departments/organizations to ensure the compliance of Information and Communication Technology Accessibility in Computers, Assistive Technologies, Public Facing Websites, Web Portals, Telephones, Kiosks, Smartphone Apps, Service Delivery Centers Application, Software and Platforms. The document generated for public through website, portals, web/mobile apps, self-service terminals etc. should be accessibility-inclusive in term of providing accessible multimedia formats, subtitles, and ICT product development & universal design.
16. **Free Medical Treatment**---The Government may determine extent of free medical treatment in all government health facilities to various categories of disable persons to be prescribed/determined by the council.
17. **Staff of the council.** --- (i) Notwithstanding anything contained in any law or rules, all the employees appointed in the council before commencement of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the commencement of this Act, having the same qualification and experience for the said posts and their seniority shall be settled from the date of their appointment in a manner as may be prescribed. The council may further appoint officers / officials and other staff for smooth running of its affairs. ?  
ii. All employees recruited by the Provincial council shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act 45 of 1860).
18. **Fund**--- (i)The Government shall establish a fund to be known as the rehabilitation fund which shall comprise of:  
a. All sums paid by the organizations.  
b. All grants made by the Federal, Provincial Government or local bodies; and  
c. Donations, if any, made by private individuals or Institutions.  
ii. The Fund shall be administered by the council and shall be utilized in the manner as may be prescribed.
19. **Custody and Investment of funds.** --- The council may keep money in any treasury, sub-treasury or a scheduled bank as may be prescribed by rules.
20. **Audit of accounts.** --- The accounts of the council shall be audited annually by Auditor General of Pakistan.
21. **Delegation of power.** ---The council may delegate all or any of its powers under this Act to any of its members, subject to such conditions as it may specify.
22. **Penalty.** ---Any organization which fails to deposit into the Fund any sum it is required to pay under section-8, the council shall have the power to fine the default organization Rs. Ten Thousand (10,000) and in the case of nonpayment of fine, with an additional fine which may extend to hundred rupees for every day during which the payment or fine was not made.
23. **Power to make rules.** ---The Government may make rules for carrying out the purposes of this act.
24. **Power to make regulations.** --- The council may by notification in the official gazette make regulations for carrying out the purposes of this Act.
25. **Repeal and saving clause.** ---(i) The people with disabilities (Employment & Rehabilitation) Ordinance 1981 and people with Disabilities (Employment &