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Rehabilitation) Amendment Act 2012, to the extent of Khyber Pakhtunkhwa province, are hereby repealed.

(ii) Notwithstanding the aforesaid repeal, anything done, actions taken, rules made and notifications or orders issued under the repealed Act shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under this Act and shall have effect accordingly.

(iii) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

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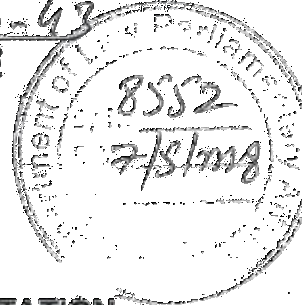
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**GOVERNMENT OF KHYBER PAKHTUNKHWA
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMEN EMPOWERMENT DEPARTMENT**

No. SO-VI (SWD)/1-34/PCRDPI 40-43
Dated: Peshawar the 04th May, 2018



To

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

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

Dear Sir,

I am directed to refer to your letter No. Legis:1(20)2012/13342-45 dated 27.02.2018 on the subject noted above and to enclose herewith revised draft Khyber Pakhtunkhwa (Rights, Rehabilitation, Facilitation & Empowerment of Persons with Disabilities) Bill, 2018 for vetting please.

2. It is therefore, requested that the draft Bill may kindly be vetted and returned to this department on priority basis, please.

Yours faithfully,

[Signature]
Section Officer- VI

Enclose As above.

Endst: Of Even & Date

Copy forwarded for information to the:-

1. Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
2. Deputy Coordinator (Reg) Performance Management & Reforms Unit (PMRU), Khyber Pakhtunkhwa with reference to his letter No.
3. PS to Secretary SW, SE & WED, Khyber Pakhtunkhwa.

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Section Officer-VI

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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.



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- 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

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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.

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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 |

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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.

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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.

- 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)	

standards

(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. 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

Responsibility
The Board

- 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 of the Chairman
 - b) District Specialist of relevant field in the District enclosed Members
 - c) District Social Welfare Officer Secretary/Member
- (4) The certificate, as may be prescribed 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 prescribed. District Disability Board and District office of Social Welfare will maintain 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 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.

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.

18A. 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**. ---^{validation}(i) The people with disabilities (Employment & Rehabilitation) Ordinance 1981 and people with Disabilities (Employment &

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Rehabilitation) Amendment Act 2012, to the extent of Khyber Pakhtunkhwa province, are hereby repealed.

(ii) Notwithstanding the aforesaid repeal, anything done, actions taken, rules made and notifications or orders issued under the repealed Act shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under this Act and shall have effect accordingly.

(iii) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

K-145



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

No.Legis: 1 (20)2012 / 23126-87/W-E
Pesh :Dated the :30-05-2018

To

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

Subject:

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

Dear Sir,

I am directed to refer to your Department letter No.SO-VI (SWD)/1-34/PCRDP/40-43, dated: 04-05-2018, and a meeting held with your Departmental Representatives Mrs.Tabbasum (Section Officer), Mr.Liaqat (Assistant Director), Mr.Fawad (Deputy Coordinator PMRU), Mr.Kashif Jilani (Deputy Coordinator PMRU) and Mr.Aqib Khan (Deputy Coordinator PMRU), on 25-05-2018, on the subject noted above in this Department and to state that this Department has the following observations, namely:

- (i) that the definition of the term "prescribed" and "rules" may be added;
- (ii) that section 4(4) is in contradiction with section 4(1)(xiv) and (xv) regarding the nomination authority;
- (iii) that the appointing authority of the members at section 4(1)(xv) is not incorporated;
- (iv) that it is not mentioned in the proposed draft to whom that the members at section 4(1)(xiv) and (xv) shall tendered resignation;
- (v) that responsibility of the Secretary regarding conducting meeting at section 6(2) may be reconsidered;
- (vi) that in section 7(iv), it is not mentioned to whom audit shall be recommended;
- (vii) that section 9(1)(v) needs clarification regarding any technical or professional person;
- (viii) that in section 9, no criteria and standard has been given for determination of eligibility of disable person;
- (ix) that powers and functions of the District Disability Board may be mentioned in the draft;

- (xi) that section 10 (3)(b) needs clarification regarding District Specialist of relevant field;
- (xii) that section 10 and section 11 are contradiction with each other in respect of recommendation and registration;
- (xiii) that in section 13, sub-section (2) need clarification; and
- (xiv) that section 17 needs clarification as whether the employees of existing Council are on contract basis or otherwise. Moreover, to clarify the status of assets and liabilities of the existing Council.

2. The Administrative Department is advised to consider the proposed Bill in light of above observations and send a revised draft for vetting.

o/c

[Signature]
Yours faithfully,
(SAIMA SOHAIL)
ASSISTANT LEGAL DRAFTER-IV

Endst: No. & date even:-

Copy is forwarded for information to:

1. Deputy Coordinator (Reg) Performance Management & Reforms Unit office of the Chief Secretary.
2. PS to Secretary, Government of the Khyber Pakhtunkhwa Law Department.
3. PA to Legal Drafter, Law Department
4. PA to Deputy Legal Drafter-I, Law Department w/r to Legis No.1010, dated:08-05-2018.

[Signature]
ASSISTANT LEGAL DRAFTER- IV

1 by
7/2/18

o/c



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

No. SO-VI (SWD)/1-34/PCRDPI/ 1559-60
Dated: Peshawar the 09th July, 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 your letter No. Legis:1(20)2012/22404-06 dated 18.05.2018 on the subject noted above and to enclose herewith revised draft Khyber Pakhtunkhwa (Rights, Rehabilitation & Empowerment of Persons with Disability) Act, 2018 for vetting please.

Yours faithfully,

Section Officer-VI

Enclose As above.

Endst: Of Even & Date

Copy to the:-

PS to Secretary SW, SE & WED, Khyber Pakhtunkhwa.

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; 2
 - 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;

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- 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 | Chairperson |
| (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 the 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.

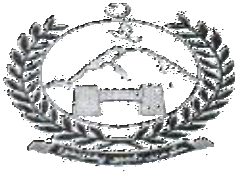
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vi. To approve budget of the council.

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).
- iii. Directorate, social welfare, Khyber Pakhtunkhwa shall act as Secretariat of the council.
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.

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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.
16. **Power to make regulations.** --- The council may by notification in the official gazette make regulations for carrying out the purposes of this Act.
17. **Repeal and saving clause.** ---(i) The persons with disabilities (Employment & Rehabilitation) Ordinance 1981 and Persons with Disabilities (Employment & Rehabilitation) Amendment Act 2012, to the extent of Khyber Pakhtunkhwa province, are hereby repealed.
(ii) Notwithstanding the aforesaid repeal, anything done, actions taken, rules made and notifications or orders issued under the repealed Act shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under this Act and shall have effect accordingly.
(iii) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.



" Annex. I "

157/47

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

No.Legis: 1(20)2012 / 29069-70
Pesh :Dated the :26-07-2018

To

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

Subject: Draft Khyber Pakhtunkhwa (Rights, Rehabilitation & Empowerment of persons with disability) Act, 2018.

Dear Sir,

I am directed to refer to your Department letter No.SO(SWD)/1-34/PCRDP/1559-60, dated: 09-07-2018, on the subject noted above and to state that the Administrative Department did not clarify observations of the Law Department already communicated to you vide its letter No.Legis: 1(20)2012/23186-87 dated: 30-05-2018. Therefore, the Administrative Department is advised to reconsidered the proposed draft Bill of the above mentioned letter.

d/c

Yours faithfully,

(SANIYA SOHAIL)
ASSISTANT LEGAL DRAFTER-IV

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, Law Department w/r to Legis No.1361, dated:13-07-2018.

ASSISTANT LEGAL DRAFTER-IV

0 / c



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

No. SO-VI (SWD)/1-2/Misc/PC/ 3966-71
Dated Peshawar the 07th September, 2018

To

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

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

Dear Sir,

I am directed to refer to your department letters Nos. Legis:1(20)2012/29069-70 dated 27.07.2018, Legis:1(20)2012/23186-87 dated 30.05.2018 and letter No. Legis:1(20)2012/13342-45 dated 27.02.2018 on the subject noted above and to state that an in-house meeting was held wherein all the observations of your department have been addressed and incorporated in the revised draft bill. The same is submitted for vetting alongwith draft minutes of the meeting.

2. I am further directed to request that a meeting may be convened in the subject matter, if necessary to clarify other observations if any and to expedite the subject case please.

Yours faithfully,

Section Officer-VI

Endst: Of Even & Date

Copy to the:-

1. PSO to Chief Secretary, Khyber Pakhtunkhwa.
2. Director, Social Welfare, Special Education & Women Empowerment, Khyber Pakhtunkhwa.
3. Deputy Secretary, SW, SE & WE, Khyber Pakhtunkhwa, Peshawar.
4. Gender Specialist-II, SW, SE & WE, Khyber Pakhtunkhwa, Peshawar.
5. PS to Secretary, SW, SE & WE, Khyber Pakhtunkhwa, Peshawar.

Section Officer-VI

Legis: 1574
4/9/18

LP

7-9-18

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 or ancillary thereto;

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

AND WHEREAS Articles-25 and 38 of the Constitution of Islamic Republic of Pakistan, 1973 provide for equal protection of 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.** -- (1) This Act may be called the Khyber Pakhtunkhwa Rights, Rehabilitation & Empowerment of Persons with Disabilities Act, 2018.

It shall extend to the whole of Khyber Pakhtunkhwa.

Province

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 under section-10 of this Act
- 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-15 of this Act;
- h) "Government" means the Government of Khyber Pakhtunkhwa;
- i) "Department" means Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department
- j) "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;
- k) "Rules" rules made by Government under this Act;
- l) "Regulations" means regulations made by the council;

Under
this Act.

"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) "Prescribed" means prescribed by rules or regulation
- q) "District Evaluation Committee" means established under section-9 of this Act.
- r) "Repealed Act" means Act as mentioned in section-22 of this Act

3. Establishment of the Council----(1) 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 | Chairperson |
| (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 (to be appointed by the Govt. on the recommendation
of Industries Department). | Non-official Member |
| (xi) Three (03) persons working with leading disability Associations/ Disable
Persons Organizations (to be appointed by the Govt. on the
recommendation of Social Welfare Department) | Non-official Member |

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

(3) The membership of 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.

at the death of member

161 161/51
(4) Any non-official member of the council may tender his/her resignation to the appointing authority through Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department.

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

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

4. **Constitution of the Council**----- (1) The council established and constituted under section-4 of the repealed Act shall continue their functions till the constitution of the new council under this Act.

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

- a) Be whole time office of the Council
- b) Act as Principal Accounting Officer of the Council

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

- a) Convening of meetings of the Council with the approval of Chairperson;
- b) The preparations of agenda, working paper and its distribution among the member 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.

6. **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 in partnership with govt. department and public & private organizations.
- vi. To approve budget of the council.

of the council. ---(1) meeting of the council shall be convened by the Chairperson on such date of such place, as he may deem appropriate.

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162

- (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 member nominated by the Chairperson
- (4) Quorum for the council meeting shall be 2/3 of the total membership of the Council.
- (5) All decisions at the 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.

8. **Registration of persons with disabilities.**---Any person with disability desirous of being employed or otherwise rehabilitated, shall have his name registered, on recommendation of District Evaluation Committee and approved by the Assessment Committee, with District Officer of Social Welfare in such form and in such manner as may be prescribed.

9. **District Evaluation Committee**--- The District Evaluation Committee shall be established in each district for the purpose of medical examination as may be prescribed by the rules.

Composition?
Func?

10. **Assessment Committee**---(1) There shall be an "Assessment Committee" which shall consist of the following members namely;

- | | |
|--|------------------|
| I. Deputy Commissioner concerned | Chairperson |
| II. Additional Deputy Commissioner | Member |
| III. Medical Superintendent DHQ Hospital | Member |
| IV. District Specialist of Specialty concerned | Member |
| V. District Zakat Officer | Member |
| VI. District Social Welfare Officer | Secretary/Member |

concerned

- (2) (i) The committee shall assess the evaluation of District Evaluation Committee.
- (ii) The committee shall issue disability certificate to the person with disability.

11. **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.

a. The organizations shall be bound to furnish information required for the implementation of this Act to the person authorized for the purpose.

12. **Organizations to Pay into the Fund.**---(i) An organization which does not employ persons with disabilities as required under section-11 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.

Provide

(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.

13. **Secretariat of the Council**--- Directorate, social welfare, Khyber Pakhtunkhwa shall act as Secretariat of the council.

14. **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

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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).

15. 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.

existing fund?

attaining?

16. 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.

17. Audit of Accounts. --- The accounts of the council shall be audited annually by Auditor General of Pakistan.

18. 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.

19. Penalty--- Any organization which fails to deposit into the Fund any sum it is required to pay under section-12, the Council shall have the power to fine the default organization upto 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.

20. Power to make rules---The Government may make rules for carrying out the purposes of this act.

21. Power to make regulations--- The council may by notification in the official gazette make regulations for carrying out the purposes of this Act.

22. Repeal and saving clause--- (i) The persons with disabilities (Employment & Rehabilitation) Ordinance 1981 and Persons with Disabilities (Employment & Rehabilitation) Amendment Act 2012, to the extent of Khyber Pakhtunkhwa province, are hereby repealed.

(ii) Notwithstanding the aforesaid repeal, anything done, actions taken, rules made and notifications or orders issued under the repealed Act shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under this Act and shall have effect accordingly.

(iii) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.

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Subject: MINUTES OF THE MEETING KHYBER PAKHTUNKHWA RIGHTS, REHABILITATION AND EMPOWERMENT OF PERSONS WITH DISABILITY BILL 2018

A meeting on the subject was held under the Chairmanship of Secretary Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department in her office on September 4, 2018 at 11:00 am to discuss the Draft Disability Bills prepared by Social Welfare Deptt and PMRU and to finalize it by addressing all the observations raised by the Law Deptt vide their letters No. Legis:1(20)2012/13342-45 dt: 27/02/2018 and 30/05/2018.

2. Mr. Javed Khan Deputy Secretary, Social Welfare Deptt, Mr. Muhammad Niaz, Gender specialist-II, Social Welfare Deptt and Mst Tabassum S.O, Social Welfare Deptt attended the meeting. PMRU was also invited to attend the said meeting, however, it was noted with regret that despite repeated calls to the concerned officer and waiting till 01:00 PM, none of the representative of PMRU participated in the meeting. The Chair expressed her serious displeasure on the non serious attitude of PMRU.

3. A detailed discussion was held on both the drafts prepared by Social Welfare Deptt and PMRU. It was decided that various modifications proposed by the PMRU which were in consonance with the Social Welfare Deptt's draft would be adopted in the revised draft bill. Moreover, observations raised by Law Deptt. would be addressed in the revised draft bill as follow:

- I. The terms "barrier" and "impairment" were omitted from the body of the draft bill.
- II. The Assessment Committee was mentioned in detail along with its composition and functions in the draft bill.
- III. The definition of "organization" and "disability" were revisited. The word "Govt. Department" was included in the definition of "Organization".
- IV. Appointment procedure for the non-official members was inserted in the draft bill. Term was fixed for the non-official members. Similarly the procedure, in case a vacancy occurred in the Council due to death, removal or resignation of the non-official member was also incorporated in the draft bill.
- V. Role and responsibilities of the Secretary of the Council were mentioned in the draft bill.

165
/55

- VI. Functions of the Council were revisited.
- VII. The Council would monitor the activities of those community based organizations which are working for disabled persons and registered with the Social Welfare Department.
- VIII. The procedure for registration of person with disability was revisited. The detail procedure would be mentioned in the rules.
- IX. A provision for stop-gap arrangements was inserted to allow the existing setup to function till the new Council was constituted and became functional.

4. Observations of Law Department on Section-12(ii) of the bill were also discussed and it was decided that law department would be informed that when the contractor does not observe the 2% quota of employing disabled persons, he has to pay certain amount in lieu of that on every bill of Rs. One million. That amount is currently Rs.2000/- and in the draft bill it has been enhanced to Rs.5000/-.

5. In view of the foregoing, it was decided that a revised draft Bill would be prepared accordingly and forwarded to Law Department for vetting.

6. A meeting ended with a vote of thanks to the Chair.



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

No. Legis: 1(20)2012
Pesh :Dated the :03-10-2018

168
9.168
/32461-64

To

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

Subject:

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

Dear Sir,

I am directed to refer to your Department letter No.80-VI(SWD)/1-2/Misc/PC/3966-71, dated: 07-09-2018 and a meeting with your Departmental Representatives Mr.Javed Aurakzai, Deputy Secretary and Muhammad Rauf, Assistant Director, held in this Department, dated 02-10-2018, on the subject cited above and to advise you to send revised draft Bill in light of the discussion, to this Department for further necessary action.

Yours faithfully,

(SAJWA SCHAIL)
ASSISTANT LEGAL DRAFTER-IV

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, Law Department w/t to Legis No.1576, dated:11-09-2018.

ASSISTANT LEGAL DRAFTER-IV



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

No. SO-VI/SWD/1-34/PCRD/PC/1085-87
Dated Peshawar the 23rd October, 2018.

To

✓ The Assistant Legal Drafter-IV,
Law, Parliamentary Affairs and
Human Rights Department, Khyber Pakhtunkhwa.

15997
23/10/2018

Subject:-

قانون ایسٹو ایسٹ کو معزور افراد کی تجویز کی روشنی میں ان کی ضروریات کے مطابق تصحیح کے احکامات

I am directed to refer to your letter No. Legis: 1(20)2012/33331-35 dated 11.10.2018 on the subject noted above and to enclose herewith revised draft Bill "Khyber Pakhtunkhwa (Rights, Rehabilitation and Empowerment of Persons with Disability Act, 2018" for vetting please.

Section Officer-VI

Endst: of Even & Date:-

Copy forwarded to the:-

1. PS to Secretary, Law, Parliamentary Affairs and Human Rights Department.
2. PS to Secretary SW, SE & WE, Khyber Pakhtunkhwa, Peshawar.

Section Officer-VI

2-8

24/10 Legis

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1(20)12

Legis: 1848.
Oct 26/10/18.

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A
Bill

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 or ancillary thereto;

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

AND WHEREAS Articles-25 and 38 of the Constitution of Islamic Republic of Pakistan, 1973 provide for equal protection of 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.

It shall extend to the whole of Khyber Pakhtunkhwa.

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) "District Assessment and Registration Board" means a Board constituted under section-9 of this Act
- c) "Chairperson/ Chairman" means the Chairperson or the Chairman 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 the Secretariat staff of the Council.
- g) "Fund" means fund established under section-12 of this Act;
- h) "Government" means the Government of Khyber Pakhtunkhwa;
- i) "Department" means Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department
- j) "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;
- k) "Rules" means rules made by Government under this Act;
- l) "Regulations" means regulations made by the Government under this Act;
- 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;

Secretary" means Secretary of the council;

"Prescribed" means prescribed by rules or regulation

p) "Repealed Act" means Act as mentioned in section-22 of this Act

178
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3. **Establishment of the Council**----(1) 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;-

- | | |
|--|----------------------|
| 1. The Secretary , Zakat, Ushr, Social Welfare,
Special Education & Woman Empowerment Department | Chairperson/Chairman |
| 2. The representative of Labor Department.
(Not Below the rank of Deputy Secretary) | Member |
| 3. The representative of the Finance Department.
(Not Below the rank of Deputy Secretary) | Member |
| 4. The representative of the Health Department.
(Not Below the rank of Deputy Secretary) | Member |
| 5. The representative of the Elementary & Secondary Education
Department. (Not Below the rank of Deputy Secretary) | Member |
| 6. The representative of the Communication & Works Department.
(Not Below the rank of Deputy Secretary) | Member |
| 7. The representative of the Planning & Development Department.
(Not Below the rank of Deputy Secretary) | Member |
| 8. Director, Social Welfare, | Member/ Secretary |
| 9. The Representative of Technical Education and
Vocational Training Authority (TEVTA)
(Not Below the rank of an officer in B-18) | Member |
| 10. Representative of the Khyber Pakhtunkhwa Chamber of
Commerce (to be nominated by the Govt. on the recommendation
of Industries Department). | Non-official Member |
| 11. Three (03) persons working with leading disability Associations/ Disable
Persons Organizations (to be nominated by the Govt. on the
recommendation of Social Welfare Department) | Non-official Member |

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

(3) The membership of 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) (i) Any non-official member of the council may tender his/her resignation to the appointing authority through Zakat, Ushr, Social Welfare, Special Education & Women Empowerment Department

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

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

4. **Constitution of the Council**----- (1). The council established and constituted under section-4 of the repealed Act shall continue their functions till the constitution of the new council under this Act.

(2). The Council shall be autonomous body having perpetual succession, and a common seal with the power subject to the provision of this Act, to enter into contract, acquire, hold and dispose of property, both movable and immovable in its name and shall by the said name can sue and be sued.

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

- a) Be whole time officer of the Council.
- b) Exercise Financial & Administrative powers delegated to the Principal Accounting Officer/Head of the attached department.

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

- a) Convening of meetings of the Council with the approval of Chairperson/Chairman;
- b) The preparations of agenda, working paper and its distribution among the member 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.

6. **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 for disabled persons are maintained.
- iii. To recommend audit and inspection 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 in partnership with govt. department and public & private organizations.
- vi. To approve budget of the council.

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61

- vii. To constitute committees.
- viii. To enter into an agreement/MoU with private and public sector bodies for the betterment of disabled persons.
- ix. perform such other functions as may be assigned by government for carrying out the purposes of this Act.

7. **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 member nominated by the Chairperson
 - (4) Quorum for the council meeting shall be 2/3 of the total membership of the Council.
 - (5) All decisions at the 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.

8. **Registration of persons with disabilities.**--- Any person with disability desirous of being employed or otherwise rehabilitated, shall have his name registered, on recommendation of District Evaluation Committee and approved by the Assessment Committee, with District Officer of Social Welfare in such form and in such manner as may be prescribed.

9. **Constitution of District Assessment & Registration Board;**- (1) There shall be an "District Assessment and Registration Board" which shall consist of the following members namely;

I. Deputy Commissioner	Chairperson
II. Additional Deputy Commissioner	Vice Chairperson
III. Medical Superintendent District Headquarter Hospital	Member
IV. Medical Officer of the relevant Specialty.	Member
V. District Zakat Officer	Member
VI. District Officer (Social Welfare)	Secretary/Member

how?

(2) (i) The committee shall assess & issue disability certificate after proper assessment to the person with disability on the format as may be prescribed.

10. **Organizations to employ persons with disabilities**--- (i) Every organization shall appoint three percent (03%) 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. The said quota will be applicable on the total sanction strength of any organization.

a. The organizations shall be bound to furnish information required for the implementation of this Act to the person authorized by the council.

11. **Organizations to Pay into the Fund.**---(i)An organization which does not employ persons with disabilities as required under section-11 of this Act, shall pay each month the sum of money in lieu of salary 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 paid to contractors having business of one million or above @ Rs. 5,000/-per million and to be deposited in account of the council.

12. **Fund.**--- (i)The Government shall establish a fund to be known as the rehabilitation fund which shall comprise of;

- 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.
13. **Custody of funds.** --- The council may keep money in any treasury, sub-treasury or a scheduled bank as may be prescribed by rules.
14. **Secretariat of the Council**--- Directorate of Social Welfare, Khyber Pakhtunkhwa shall act as Secretariat of the council.
15. **Audit of Accounts.** --- The accounts of the council shall be audited annually by Auditor General of Pakistan.
16. **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 Government of Khyber Pakhtunkhwa shall appoint officers / officials and other staff for smooth running of its affairs. The status and terms & conditions of the Council employees will be determined by the Government.
17. **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.
18. **Penalty**--- Any organization which fails to deposit into the Fund any sum it is required to pay under section-11, the Council shall have the power to fine the default organization up to 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.
19. **Power to make rules**---The Government may make rules for carrying out the purposes of this act.
20. **Power to make regulations**--- The Government may by notification in the official gazette make regulations for carrying out the purposes of this Act.
21. **Repeal and saving clause**--- (i) The persons with disabilities (Employment & Rehabilitation) Ordinance 1981 and Persons with Disabilities (Employment & Rehabilitation) Amendment Act 2012, to the extent of Khyber Pakhtunkhwa province, are hereby repealed.
- (ii) Notwithstanding the aforesaid repeal, anything done, actions taken, rules made and notifications or orders issued under the repealed Act shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under this Act and shall have effect accordingly.
- (iii) Any document referring to the repealed Act shall be construed as referring to the corresponding provisions of this Act.



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

Annex-M

183/63

No.Legis: 1(20)2012 / 3766-09
Pesh Dated the :08-11-2018

To

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

Subject:

تس ایٹائی ایکٹ کو معذور افراد کو تجاویز کی روشنی میں ان کی ضروریات کے مطابق
تصمیم کے احکامات.

Dear Sir,

I am directed to refer to your Department letter No.SO-VI/SWD/1-34/PCRDP/PC/1085-87, dated: 23-10-2018, on the subject noted above and to state that a meeting was held with your Departmental Representatives Mr. Javed Aurakzai, Deputy Secretary and Mr. Muhammad Rauf, Assistant Director, in this Department on 02-10-2018 and the following observations were discussed, namely:

- (i) that sections (3) (4) (ii) and (5) are covered under section 3 of the proposed draft Bill;
- (ii) that the term "required standards of service" as used in section 6(ii) may be specified and criteria for such standard may be laid down;
- (iii) that it is not mentioned in section 6(iii) to whom the audit shall be recommended by the Council;
- (iv) that the term appropriate measures as used in section 6(iv) is ambiguous, the same may be clarified;
- (v) that section 9 may be reconsidered that no criteria has been mentioned for assessment;
- (vi) that it is mentioned in section 11(ii) that organization shall pay into fund for rehabilitation of persons with disabilities, but no such procedure has been given for rehabilitation;
- (vii) that section 12 is silent regarding the existing fund and also no provisions has been incorporated regarding utilization of fund; and
- (viii) that section 20 may be reconsidered as the regulations making power vest in the autonomous body instead of Government.

2. The Administrative Department did not clarified the above mentioned observations, therefore, the Administrative Department is advised to consider the proposed revised Bill in light of above observations and send a revised draft for vetting.

Yours faithfully,

(SAIMA SOHAIL)

ASSISTANT LEGAL DRAFTER-IV

Endst: No. & date even:-

Copy is forwarded for information to:

1. DC to Secretary, Government of the Khyber Pakhtunkhwa Law Department.