

**A
BILL**

further to amend the Bank of Khyber Act, 1991.

WHEREAS it is expedient further to amend the Bank of Khyber Act, 1991 (Khyber Pakhtunkhwa Act No. XIV of 1991), for the purposes hereinafter appearing;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. Short title and commencement.---(1) This Act may be called the Bank of Khyber (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 3 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the Bank of Khyber Act, 1991 (Khyber Pakhtunkhwa Act No. XIV of 1991), hereinafter referred to as the said Act, in section 3,-

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

“(a) “Bank” means Bank of Khyber established under this Act”.

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

“(f) “general meeting” means an annual or, as the case may be, an extra ordinary meeting of the shareholders of the Bank;”;

(c) clause (k) shall be deleted; and

(d) for clause (l), the following shall be substituted, namely:

“(l) “special resolution” means a resolution, passed by a majority of not less than three-fourths of members, entitled to vote and are present in person or through proxy at a general meeting;”.

3. Amendment of section 4 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, in section 4, in sub-section (1), for the words “the Bank of Khyber”, the words “Bank of Khyber” shall be substituted.

4. Amendment of section 5 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, in section 5, for sub-section (1), the following shall be substituted, namely:

“(1) Subject to the provisions of this Act, the authorized capital of the Bank shall be fifteen billion rupees, divided into one billion five hundred million ordinary shares of ten rupees each. The share capital of the Bank shall comprise of ordinary shares and other permissible instruments. The Bank shall not issue partly paid share. In case of issuance of shares for cash, the amount, payable on application, shall be the full nominal value of the shares, even if the shares are issued at discount.”.

5. Substitution of section 8 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, for section 8, the following shall be substituted, namely:

“8. **Government to be major shareholder.**---Subject to the provisions of this Act, Government shall be a major shareholder of the Bank.”.

Deputy Registrar
Government of Khyber Pakhtunkhwa
Law Department

155

6. Amendment of section 10 of Khyber Pakhtunkhwa Act No. XIV of 1991.---
In the said Act, in section 10, the existing provision shall be numbered as sub-section (1), and after sub-section (1), as so numbered, the following new sub-section shall be added, namely:

“(2) Notwithstanding anything contained in sub-section (1), Government may transfer management of the Bank to a suitable private sector investor, at any time, as it may deem appropriate.”.

7. Amendment of section 11 of Khyber Pakhtunkhwa Act No. XIV of 1991.---
In the said Act, in section 11, for sub-section (1), the following shall be substituted, namely:

“(1) The Board shall consist of the following nine Directors, namely:

- (a) three Directors shall be elected by the shareholders in a general meeting of the shareholders, whose term of office shall be three years;
- (b) four Directors, to represent Government, in the following manners:
 - (i) two official Directors, one of whom shall be Additional Chief Secretary to Government and other shall be Secretary to Government of Finance Department; and
 - (ii) two Directors, having requisite background in banking and finance, and fulfilling the criteria prescribed for independent Director, nominated by the Chief Minister, for a period of three years and may be re-appointed for another three years term only, however the Chief Minister may remove them at any time;
- (c) Managing Director; and
- (d) one Director, to be nominated by a foreign or local institutions, as the case may be, by virtue of their shares in the Bank:

Provided that the Chief Minister may nominate an independent Director, having requisite background in the banking and finance, until a Director is nominated by a foreign or local institutions.”.

8. Amendment of section 12 of Khyber Pakhtunkhwa Act No. XIV of 1991.---
In the said Act, in section 12,-

- (a) for sub-section (1), the following shall be substituted, namely:

“(1) The Managing Director shall be appointed by the Board, for a period of not less than three years, on such terms and conditions, as the Board may determine:

Provided that such terms and conditions of service shall not be varied to his disadvantage during his term of office.”;

- (b) after sub-section (1), as so amended, the following new sub-sections shall respectively be inserted, namely:

“(1A) The Managing Director shall be a senior professional banker, who fulfills the fit and proper test criteria of the State Bank of Pakistan.

Deputy Legislation Officer
Government of Khyber Pakhtunkhwa
Law Department

166

(1B) Notwithstanding anything contained in the bye-laws or any agreement between the Bank and the Managing Director the Board may, by resolution passed by not less than three fourth of the total number of Directors for the time being, remove the Managing Director before the expiration of his term of office.

(1C) On expiry of term of office, the Managing Director shall be eligible for re-appointment for such period as may be determined by the Board.”.

9. Substitution of section 13 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, for section 13, the following shall be substituted, namely:

“13. Chairman.---The Additional Chief Secretary shall be the Chairman of the Board. He shall preside over the meetings of the Board and discharge responsibilities as Chairman but shall not exercise executive powers. He shall have the casting vote.”.

10. Amendment of section 14 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, in section 14,-

- (a) in sub-section (1),-
- (i) for the word “Government” the word “Chief Minister” shall be substituted; and
 - (ii) for the brackets and word “(a)”, the brackets and word, “(d)” shall be substituted; and
- (b) sub-section (4) shall be deleted.

11. Deletion of section 15 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, section 15 shall be deleted.

12. Amendment of section 16 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, in section 16, in the proviso under sub-section (1), for the word “Government”, the words “Chief Minister” shall be substituted.

13. Amendment of section 17 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, in section 17,-

- (a) for sub-section (1), the following shall be substituted, namely:
- “(1) A general meeting of shareholders shall be held every year, after close of financial year, within the specified period. The shareholders, present, shall be entitled to discuss the annual accounts and other matters, required to be discussed, in general meetings.”; and
- (b) for sub-section (2), the following shall be substituted, namely:
- “(2) General meeting shall be convened and held as required, in such manner and at such time and place, as may be prescribed.”.

14. Amendment of section 18 of Khyber Pakhtunkhwa Act No. XIV of 1991.---In the said Act, in section 18, for sub-section (1), the following shall be substituted, namely:

“(1) Every shareholder shall be entitled to attend meeting and each shareholder, who has been registered as such, shall, when present in person and

on a show of hands, have one vote, and, on a poll, each shareholder, so registered, shall have one vote for every single share, held by such shareholder.”.

15. Amendment of section 19 of Khyber Pakhtunkhwa Act No. XIV of 1991.---
In the said Act, in section 19, in sub-section (1),-

- (a) for the words “principal banker” the word “banker” shall be substituted; and
- (b) the word “Islamic”, occurring after the word and comma “transact,” shall be deleted.

16. Substitution of section 19A of Khyber Pakhtunkhwa Act No. XIV of 1991.--
-In the said Act, for section 19A, the following shall be substituted, namely:

“19A. Shariah Board.---(1) For purpose of Islamic banking, there shall be constituted by the Board a Shariah Board, comprising of Chairman and members, appointed as per criteria laid down by the State Bank of Pakistan in its Guidelines, with such number of members and for such period as provided in the said Guidelines.

(2) The meeting of the Shariah Board and its quorum shall be as per the Guidelines of the State Bank of Pakistan.

17. Amendment of section 19B of Khyber Pakhtunkhwa Act No. XIV of 1991.--
-In the said Act, for section 19B, the following shall be substituted namely:

“19B. Functions of the Shariah Board.--- (1) The functions of the Shariah Board shall be as defined in the Guidelines for Islamic Institutions issued by the State Bank of Pakistan from time to time.

(2) The Shariah Board shall submit reports to the Board as required by the Board or under the Guidelines of the State Bank of Pakistan.

(3) The Shariah Board shall perform any other functions as may be assigned to it by the Board.”.

18. Amendment of section 21 of Khyber Pakhtunkhwa Act No. XIV of 1991.---
In the said Act, in section 21, for clause (b), the following shall be substituted, namely:

“(b) grant advances or loans to such small and medium industries as may, from time to time, be specified by the Board on such conditions as may be prescribed;”.

19. Amendment of section 22 of Khyber Pakhtunkhwa Act No. XIV of 1991.---
In the said Act, in section 22,-

- (a) for sub-section (1), the following shall be substituted, namely:

“(1) Not more than two independent audit firms, which shall be Chartered Accountants, shall be appointed at the general meeting with fixed remuneration.”; and

- (b) in sub-section (2), for the proviso, the following shall be substituted, namely:

“Provided that if any casual vacancy occurs in the office of any auditor, appointed under this section, the vacancy may be filled by the Board.”.

Deputy Legislative Officer
Government of Khyber Pakhtunkhwa
Law Department

158
20. **Amendment of section 23 of Khyber Pakhtunkhwa Act No. XIV of 1991.**---
In the said Act, in section 23, in sub-section (1), for the word "Government", the words
"Finance Department of Government" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

It is desirable to amend the Bank of Khyber Act, 1991 (Khyber Pakhtunkhwa
Act No. XIV of 1991). Hence, this Bill.


MINISTER-IN-CHARGE.

**Peshawar,
dated the
, 2022.**

Deputy Legislation Officer
Government of Khyber Pakhtunkhwa
Law Department