

A

BILL

*further to amend the Khyber Pakhtunkhwa Antiquities Act, 2016*

**WHEREAS** it is expedient further to amend the Khyber Pakhtunkhwa Antiquities Act, 2016 (Khyber Pakhtunkhwa Act No. IV of 2016) for the purposes hereinafter appearing;

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

**1. Short title and commencement.**--- (1) This Act may be called the Khyber Pakhtunkhwa Antiquities (Amendment) Act, 2022.

(2) It shall come into force at once.

**2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. IV of 2016.**---In the Khyber Pakhtunkhwa Antiquities Act, 2016 (Khyber Pakhtunkhwa Act No. V of 2016), hereinafter referred to as the said Act in section 2-

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

“(c) “Code” means the Code of Criminal Procedure, 1898 (Act V of 1898);” and

(b) after clause (f), the following new clause shall be inserted, namely:

“(f-i) “Department” means Sports, Culture, Tourism, Archaeology, Museums and Youth Affairs Department of Government;”;

(c) after clause (t), the following new clause shall be inserted, namely:

“(t-i) “Secretary” means the Secretary to Government Sports, Culture, Tourism, Archaeology, Museums and Youth Affairs Department;”.

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

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

“(1) Government shall constitute an Advisory Committee consisting of the following to perform such functions and exercise such powers as provided in this Act or the rules:

- (a) Director of Archaeology, who shall also be the Chairperson of the Advisory Committee;
- (b) three eminent scholars, archaeologists or persons from Civil Society having thorough knowledge and expertise in antiquities and cultural objects, to be nominated by the Department for a non-extendable period of three (03) years.”;
- (c) Archaeological Engineer or Litigation Officer, Directorate of Archaeology; and
- (d) Assistant Director of Archaeology who shall be the secretary of the Advisory Committee.

(b) for sub-section (5), the following shall be substituted, namely:

“(5) The Advisory Committee may co-opt any member as it deem necessary.”; and

(c) in sub-section (9), for the word “Government” the word “Secretary” shall be substituted.

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**4. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 4, after sub-section (4), the following new sub-section shall be inserted, namely:

“(4-a) The conservation and preservation of cultural property shall be carried out by the Directorate in the manner as may be advised by the Conservation Heritage Board.”.

**5. Amendment of section 8 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 8, for sub-section (1), the following shall be substituted, namely:

“(1) For ensuring continuity in the archaeological researches including explorations, survey, excavations, conservation, restoration, rehabilitation and other essential activities relating to cultural properties, Director shall open an account on the name of Directorate in any Schedule Bank.”.

**6. Amendment of section 9 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 9, for the word “Government”, the word “Secretary” shall be substituted.

**7. Substitution of section 10 of the Khyber Pakhtunkhwa Act No. IV of 2016.**---In the said Act, for section 10, the following shall be substituted.

**“10. Accidental discovery of antiquity to be reported to the Director.-**

--(1) Whoever discovers, or finds accidentally, any movable or immovable antiquity shall inform the Directorate immediately, not later than seven days of its being discovered or found.

(2) The person who discovered or found any antiquity shall hand it over to the Director or a person authorized by him, in writing in this behalf, on the directions of the Director for the purposes of custody, preservation and protection of such antiquity.

(3) Where the Director decides to take over an antiquity under sub-section (2), he may pay to the person by whom it is handed over to him such cash reward as may be decided in consultation with the Advisory Committee.

(4) If any person, who discovers or finds any movable antiquity contravenes the provisions of sub-section (1) or sub-section (2), he shall be punishable with imprisonment for a term which may extend to ten (10) years, or with fine not less than fifteen hundred thousand rupees or with both and the Court convicting such person shall direct that the antiquity in respect of which such contravention has taken place shall stand forfeited to Government.”.

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**8. Amendment of section 11 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 11, in sub-section (4), for the words “in consultation with the Advisory Committee”, the words “with the approval of the Department” shall be substituted.

**9. Amendment of section 13 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 13, for the words “Advisory Committee”, the word “Secretary” shall be substituted.

**10. Amendment of section 15 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 15,-

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

“(1) On the recommendation of the Advisory Committee, Department may by a notification in the official Gazette declare any immovable property to be a protected antiquity for the purpose of this Act.”; and

(b) in sub-sections (6) and (7) for the word “Government” the word “Department” shall be substituted.

**11. Amendment of section 17 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 17, for the word “Government” wherever occurring, the word “Department” shall be substituted.

**12. Amendment of section 18 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 18, in sub-section (2), for the word “five” the word “ten” shall be substituted.

**13. Amendment of section 19 of the Khyber Pakhtunkhwa Act No. IV of 2016.**---In the said Act, in section 19, for the word “Government” wherever occurring, the words “Chief Secretary of the Khyber Pakhtunkhwa ” shall be substituted.

**14. Amendment of section 24 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 24-

- (a) after the word “Director” wherever occurring, the words “or any officer duly authorized by him in this behalf” shall be inserted; and
- (b) in sub-section (3), for the word “five” the word “ten” shall be substituted.

**15. Amendment of section 32 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 32, in sub-section (1),-

- (a) for the word “Government” the word “Secretary” shall be substituted; and
- (b) the for words “it may direct” the words “he may request” shall be substituted.

**16. Amendment of section 33 of the Khyber Pakhtunkhwa Act No. IV of 2016.**---In the said Act, in section 33, in sub-section (1), for the words “Government” wherever occurring, the word “Secretary” shall be substituted.

**17. Amendment of section 39 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 39, in sub-section (1), for the word “Government” the word “Secretary” shall be substituted.

**18. Amendment of section 42 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 42, for the word “Government” wherever occurring, the word “Director” shall be substituted.

**19. Amendment of section 43 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 43, for the word “an announcement in the official Gazette” wherever occurring, the word “ by making entry in the Register of Antiquities” shall be substituted.

**20. Amendment of section 44 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 44, in sub-section (4), for the words “imprisonment of a term not exceeding two years”, the words “rigorous imprisonment for a term not exceeding five years” shall be substituted.

21. **Amendment of section 50 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 50, for the word "Government" wherever occurring, the word "Secretary" shall be substituted.

22. **Amendment of section 51 of the Khyber Pakhtunkhwa Act No. IV of 2016.**---In the said Act, in section 51, in sub-section (2), for the word "Government" the words "Secretary on recommendation of the Director" shall be substituted.

23. **Amendment of section 55 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- The existing section 55 shall be renumbered as sub-section (1), and thereafter, the following new sub-section shall be added, namely:

“(2) Whoever contravenes the provisions of sub-section (1), shall be punishable with rigorous imprisonment for a term, which may extend to seven years, or with fine, or with both.”.

24. **Amendment of section 56 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 56,-

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

“(1) No mega development projects for residential purpose, commercial activities, industrial development, construction of dams, development of irrigation systems, drainage system and other activity in both public sector and private sector shall be undertaken within the distance of five hundred (500) feet near immovable antiquity without obtaining clearance from the Department:

Provided that such clearness shall be given on the recommendation of the Advisory Committee.”; and

(b) sub-sections (2), (3) and (5) shall be deleted.

25. **Amendment of section 59 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 59, in sub-section (3), for the word "Government" the word "Secretary" shall be substituted.

26. **Amendment of section 64 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 64, in sub-section (2), for the word "two" the word "five" shall be substituted.

27. **Amendment of section 65 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 65, in sub-section (6), for the word "two" the word "five" shall be substituted.

28. **Amendment of section 67 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 67, in sub-section (1), for the word "Government" the word "Director" shall be substituted.

29. **Amendment of section 70 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section 70, in sub-section (1), for the word "Government" the word "Secretary" shall be substituted.

30. **Amendment of section 75 of the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, in section, 75, for the word "Government" appearing immediately after the marginal heading, the word "Directorate" shall be substituted.

31. **Insertion of new sections in the Khyber Pakhtunkhwa Act No. IV of 2016.**--- In the said Act, after section, 75, the following new sections shall be inserted namely:.

**75A. Cognizance of offences.**--- All the offences punishable under this Act shall be cognizable.

**75B. Application of the provisions of the Code.**--- For the purpose of trial and appeal under this Act, the provisions of the Code shall, mutatis mutandis be applicable.”.

#### **STATEMENT OF OBJECTS AND REASONS**

The protection of antiquities is indispensable for the preservation of thousand years old culture of the Province. Such protection is not only required for preservation of culture but it also attract the national and international tourism.

In order to achieve the objective, it is desirable to increase the punishment for various offences committed in respect of antiquities and also in order to simplify the procedures. Hence, this Bill.

Peshawar,  
dated the

08-02/ / 2022



**MINISTER-IN-CHARGE**

Deputy Legislation Officer  
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