

A
BILL

BILL No 139

*to reconstitute the Khyber Pakhtunkhwa Board of Technical Education
in the Province of Khyber Pakhtunkhwa*

WHEREAS it is expedient to reconstitute the Khyber Pakhtunkhwa Board of Technical Education for the recognition, affiliation, regulation, supervision and assessment of the students of Government and Private Technical, Vocational, Industrial, Information Technology and Commerce Institutes in the Province of Khyber Pakhtunkhwa and for matters connected therewith or incidental thereto;

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

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Board of Technical and Commerce Education Act, 2021.

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

(3) It shall come into force at once.

2. Definitions.--- In this Act, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say,-

- (a) **“Board”** means the Khyber Pakhtunkhwa Board of Technical and Commerce Education to be reconstituted under section 3 of this Act;
- (b) **“Board of Technical Education”** means the Khyber Pakhtunkhwa Board of Technical Education established under section 3 of the repealed Act;
- (c) **“Chairman”** means the Chairman of the Board appointed under section 11 of this Act;
- (d) **“Committee”** means a Committee constituted under section 14 of this Act;
- (e) **“Competency Based Assessment”** means Competency Based Assessment as provided in the National Vocational Qualification Framework (NVQF);
- (f) **“Controlling Authority”** means the Chief Minister of the Khyber Pakhtunkhwa;

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- (g) **“Controller of Examinations”** means the Controller of Examinations of the Board appointed under section 12 of this Act;
- (h) **“Government”** means the Government of Khyber Pakhtunkhwa;
- (i) **“head of institution”** means the Principal of an institution or a college or a center or the officer in-charge of the institution, as the case may be;
- (j) **“institution”** means and includes a college, center, polytechnic institute, technical institute, college of technology, vocational center, skill development center, college of commerce and management sciences and any other institution imparting diploma or certificate level education and training in technical, vocational, industrial, information technology and commerce and management sciences subjects and duly recognized by and or affiliated with the Board;
- (k) **“prescribed”** means prescribed by rules or regulations made under this Act;
- (l) **“Province”** means the Province of the Khyber Pakhtunkhwa;
- (m) **“recognized or affiliated institution”** means an institution recognized by or affiliated with the Board in accordance with the regulations made under this Act;
- (n) **“regulations”** mean regulations made under this Act;
- (o) **“repealed Act”** means the Khyber Pakhtunkhwa Board of Technical Education Act, 1972 (Act No. VI of 1973) as repealed under section 26 of this Act;
- (p) **“rules”** mean rules made under this Act; and
- (q) **“Secretary”** means Secretary of the Board appointed under section 12 of this Act.

3. Reconstitution of the Board of Technical Education.---(1) As soon as may be, after the commencement of this Act, Government shall, by notification in the official gazette, reconstitute the Khyber Pakhtunkhwa Board of Technical Education established under section 3 of the repealed Act, and shall be known as the Khyber Pakhtunkhwa Board of Technical and Commerce Education:

Provided that till its reconstitution under this Act, the Board of Technical Education established under the repealed Act shall continue to function under this Act.

(2) The Board shall be a body corporate, having perpetual succession and a common seal, with power to enter into contract, acquire or dispose of property, and may, by its name, sue or be sued.

4. Composition of the Board.---(1) The Board shall be headed by the Chairman appointed under section 11 of this Act and shall consist of the following members, namely:

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| (a) | Vice Chancellor, University of Engineering and Technology, Peshawar or his nominee not below the rank of Associate Professor, Director or Registrar, as the case may be; | Member. |
| (b) | Vice Chancellor, University of Technology, Nowshera or his nominee not below the rank of Associate Professor, Director or Registrar, as the case may be; | Member. |
| (c) | Managing Director, Khyber Pakhtunkhwa Technical Education and Vocational Training Authority; | Member. |
| (d) | Director General, Commerce Education and Management Sciences, Khyber Pakhtunkhwa; | Member. |
| (e) | Director General, Regional Office of National Vocational Technical Training Commission, Peshawar; | Member. |
| (f) | representative of the Industries, Commerce and Technical Education Department, not below the rank of Deputy Secretary; | Member. |
| (g) | representative of the Higher Education Department, not below the rank of Deputy Secretary; | Member. |
| (h) | two representatives of large scale industries, to be nominated by the Controlling Authority; | Members. |
| (i) | one male and one female Principal from a Government College of Technology, Polytechnic Institution or Government Technical and Vocational Training Center, to be nominated by the Managing Director, Khyber Pakhtunkhwa Technical Education and Vocational Training Authority; | Members. |

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- (j) one male and one female Principal from Government College of Commerce or College of Commerce Education and Management Sciences, to be nominated by the Director General, Commerce Education and Management Sciences, Khyber Pakhtunkhwa; Members.
- (k) Secretary Trade Testing Board, Khyber Pakhtunkhwa; and Member.
- (l) Secretary Khyber Pakhtunkhwa Board of Technical and Commerce Education. Member-cum-Secretary.

(2) The Chairman may co-opt members belonging to the relevant expertise in relation to any matter under consideration of the Board, who shall take part in discussion but shall not be entitled to vote during the proceedings of the Board.

(3) The term of office of the members at clauses (h), (i) and (j) of sub-section (1) shall be two years.

(4) No member appointed by virtue of his office shall continue to be member if he ceases to hold that office.

(5) Where a person ceases to be a member of the Board, he shall also cease to be member of any of the Committees constituted under section 14 of this Act.

5. Resignation of members.---Any of the members of the Board at clauses (h), (i) and (j) of sub-section (1) of section 4 may resign from his membership by a letter addressed to the Chairman; provided that the resignation shall not have effect until it is accepted.

6. Removal of members.---(1) Any of the members of the Board at clauses (h), (i) and (j) of the sub-section (1) of section 4 of this Act shall be liable to be removed by the Controlling Authority, if-

- (a) he has become of unsound mind;
- (b) he has been declared insolvent by a competent court of law;
- (c) he has been convicted by a court for an offence involving moral turpitude; and
- (d) he willfully remains absent for three consecutive meetings of the Board.

(2) The decision of the Controlling Authority in this behalf shall be final.

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7. **Casual vacancies.**---(1) Whenever there occurs any vacancy in the membership of the Board due to death, resignation or removal of a non-official member mentioned at clauses (h), (i) and (j) of sub-section (1) of section 4 of this Act, the same shall be filled in accordance with the provisions of this Act.

(2) The person who fills the vacancy shall be a member of the Board for the remaining portion of the term.

8. **Meetings of Board.**---(1) Meeting of the Board shall be held at least once a quarter in a year on such day, time and place as the Chairman may determine. The Chairman may, on his own motion or on a requisition from half members of the Board, call a meeting of the Board at any time if deemed necessary.

(2) The quorum for meeting of the Board shall be nine.

(3) The decision of the Board shall be taken by the majority of the members present and, in case of a tie, the Chairman shall have a casting vote.

9. **Powers of the Board.**---(1) Subject to the provisions of this Act, the Board shall have power to organize, regulate, develop and control technical, vocational, industrial, information technology and commerce education below degree level.

(2) In particular and without prejudice to the generality of the forgoing powers, the Board shall have powers to-

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- (a) hold and conduct all final examinations pertaining to technical, vocational, industrial, information technology and commerce education below degree level and such other examinations as may be determined by the Board;
 - (b) prescribe or adopt courses of study for its examinations;
 - (c) lay down conditions for recognition and affiliation of institutions;
 - (d) accord, refuse or withdraw recognition or affiliation of an institution in the Province or in any other region wherein the qualification awarding body for the academic courses under this Act does not exist, wholly or partly, after considering inspection reports received from an Inspection Committee appointed by the Chairman in this behalf;
 - (e) call for inspection reports of the recognized or affiliated institutions;
 - (f) lay down conditions for admission to its examinations or assessments, to determine the eligibility of candidates and to admit them to the examinations or assessments;

- (g) grant certificates and diplomas to persons who have passed its examinations or who have been assessed to be competent under the Competency Based Assessment;
- (h) fix, demand and receive such fee as may be prescribed;
- (i) supervise the residence, health and discipline of students of recognized or affiliated institutions and classes with a view to promoting their general welfare;
- (j) set up regional offices, where needed;
- (k) organize and promote extra-curricular or co-curricular activities in and for recognized or affiliated institutions;
- (l) award scholarships, medals and prizes in accordance with the rules and regulations;
- (m) hold, control and administer its property and funds;
- (n) enter into and carry out contracts in exercise of its duties under this Act and the rules and regulations made thereunder;
- (o) approve the annual budget of the Board;
- (p) hold and manage endowments;
- (q) plan, coordinate, regulate and control all administrative and financial matters of the Board;
- (r) create, re-designate or abolish posts of the Board;
- (s) appoint the staff and determine their duties and conditions of service; provided that it shall be lawful for the Chairman to hire services of a suitable person on daily wage basis for a period not exceeding one year without the recommendations of the human resource committee or selection committee, as the case may be, in order to meet the emergent needs;
- (t) make provisions for buildings, premises, furniture, apparatus, books and other means required for carrying out the purposes of this Act;
- (u) introduce or adopt reform initiatives in the technical education and vocational training and commerce education sectors below degree level;


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- (v) sanction such developmental and non-developmental or operational expenditures and to appoint such officers, staff and consultants, as may be necessary, to carry out the purposes of this Act on such terms and conditions as may be prescribed in the regulations; and
 - (w) do all other acts necessary for carrying out the purposes of this Act.

(3) The Board may delegate any of its powers to the Chairman as it may deem fit.

10. Powers of the Controlling Authority.---(1) The Controlling Authority shall have power to cause an inspection to be made by such person or persons, as it may direct, of the offices, activities, funds and examinations conducted by the Board, and to cause an inquiry to be made in like manner in respect of any matter concerning the Board.

(2) The Controlling Authority shall communicate to the Board the result of such inspection or inquiry and may advise the Board to take such action within such period as may be specified by the Controlling Authority.

(3) The Board shall report to the Controlling Authority the action as it proposes to take or has taken on such communication.

(4) Where the Board does not, within a reasonable time, take action to the satisfaction of the Controlling Authority, the Controlling Authority may, after considering any explanation made by the Board, issue such directions as it deems fit, and the Chairman shall comply with such directions.

(5) If the Controlling Authority is satisfied that any proceedings of the Board or a Committee, as the case may be, are not in conformity with this Act or the rules and regulations made thereunder, the Controlling Authority may, without prejudice to the foregoing provisions of this section, by order in writing annul such proceedings:

Provided that before making any such order the Controlling Authority shall, through the Chairman, call upon the Board or the Committee, as the case may be, to show cause why such an order shall not be made.

(6) The Controlling Authority may, from time to time, direct the Board to conduct its affairs and to perform its functions in such manner as may be specified.

(7) The Controlling Authority may require the Board to furnish it with-

- (a) any return, statement, estimates, statistics or other information regarding any matter under the control of the Board; or

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- (b) a report on any such matter; or
 - (c) a copy of any document in the charge of the Board, and the Chairman shall comply with every such requisition.

(8) As soon as possible after the end of every financial year the Board shall submit to the Controlling Authority, a report on the conduct of its affairs for that financial year.

11. Chairman.---(1) There shall be a Chairman of the Board, who shall be appointed by the Controlling Authority on deputation from amongst the officers of the Khyber Pakhtunkhwa Technical Education and Vocational Training Authority institutions or Government Colleges of Commerce and Management in Khyber Pakhtunkhwa, not below the rank of BPS-19, on such terms and conditions as may be determined by the Controlling Authority.

(2) The Chairman shall hold office for a period of three years from the date of notification of his appointment and shall continue to hold office till the expiry of his term or until attaining the age superannuation, whichever is earlier:

Provided that on expiry of his term of office the Chairman shall continue to hold office till his successor enters upon his office:

Provided further that he shall be eligible for re-appointment on deputation as per deputation policy of Government and shall serve until the completion of his second term of appointment or until attaining the age of superannuation, whichever occurs earlier.

(3) When the office of the Chairman is vacant temporarily or otherwise, by reason of leave, illness or other cause for a period not exceeding one year, the Controlling Authority shall make arrangements for the period of leave.

(4) The Chairman shall be the administrative head of the Board and shall also be the Principal Accounting and Academic Officer and shall, when present, preside over the meetings of –

- (a) the Board; and
- (b) the Academic Committee, Finance Committee, Human Resource Committee, Committee for the appointment of paper-setters and head examiners, Accounts Committee and other Committees of the Board.

(5) It shall be the duty of the Chairman to ensure that the provisions of this Act and the rules and regulations made thereunder are faithfully observed and carried out and he shall exercise all powers necessary for this purpose.

(6) In any emergency arising out of the administrative and financial business of the Board and requiring, in the opinion of the Chairman immediate action, the Chairman may take such action as he may deem necessary and shall report the action so taken to the Board in its next meeting for approval.

(7) The Chairman shall exercise such other powers as may be prescribed in the regulations.

12. Secretary, Controller of Examinations and Academic Officer.---The Secretary, Controller of Examinations and Academic Officer of the Board shall be appointed by the Controlling Authority on deputation from amongst the Government Officers not below the rank of BPS-18 for a period of not exceeding three years.

13. Other officers and employees of the Board.---The Board may appoint such other officers, experts, consultants and employees, as it may considers necessary, for the efficient performance of its functions on such terms and conditions as may be prescribed by regulations.

14. Committees of the Board.---(1) The Board shall constitute the following Committees, namely:

- (a) the Academic Committee;
- (b) the Finance Committee;
- (c) the Human Resource Committee;
- (d) Committee for appointment of paper setters and head examiners;
- (e) Accounts Committee; and
- (f) such other Committees as may be prescribed.

(2) The Board or a Committee may appoint such Sub-Committees as it may deem necessary.

(3) The composition, powers and duties of the Committees mentioned in sub-section (1), shall be such as may be prescribed by regulations.

15. Fund.---(1) There shall be a Fund of the Board to be known as the Khyber Pakhtunkhwa Board of Technical and Commerce Education Fund.

(2) The Fund of the Board shall consist of-

- (a) income of the Board from fees;
- (b) endowments;
- (c) grants from Government; and

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(d) contributions from any organization through legal means.

16. Accounts and audit.---(1) The accounts of the Board shall be maintained in such manner as may be prescribed by the Board.

(2) The statement of accounts of the Board shall be submitted to Government once a year, in the prescribed manner.

(3) The accounts of the Board shall be submitted at the close of each financial year in such manner as may be prescribed by regulations.

(4) Audit of accounts of the Board shall be carried out by the auditors appointed by Government for the purpose.

17. Provident fund and pension.---(1) The Board shall establish for the benefit of its employees, such pension or provident fund or both, as it may deem fit in such manner and subject to such conditions as may be prescribed.

(2) Government may, by notification, declare that the provisions of the Provident Fund Act, 1925 (Act XIX of 1925), shall apply to such fund, and on making of such declaration, that Act shall apply accordingly as if the Boards were Government and the said fund were the Government Provident Fund.

18. Members prohibited from deriving monetary benefit.---No member of the Board shall draw any monetary benefits from the funds of the Board by entering into any contract with the Board directly or through any other person in connection with the affairs of the Board:

Provided that the emoluments of the Chairman shall, under the terms and conditions of his appointment, be paid from the fund of the Board.

19. Bar against membership.---No person who has any financial interest in any book prescribed by the Board as course of study for any examination conducted by the Board or has a financial interest as a partner or otherwise in any firm which publishes, procures or supplies any such book, shall be eligible to become a member of the Board or a Committee, as the case may be, or continue as such after having acquired any such interest.

20. Validation.---No act or proceedings of the Board or any Committee of the Board, as the case may be, shall be invalidated merely by reason of any vacancy in or defect in the constitution of the Board or that Committee.

21. Bar to settle.---All acts done, orders passed or proceedings taken by the Board shall be final and shall not be called in question in any court by a suit or otherwise.

22. Employees to be public servants.---All the employees of the Board and other persons appointed for carrying out the purposes of this Act shall be deemed to be

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public servants within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

23. Powers to make rules.---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

24. Powers of the Board to frame regulations.---The Board shall have the power to make regulations not inconsistent with this Act or the rules made thereunder, on all or any of the following matters, namely:

- (a) constitution, powers and duties of the Committees;
- (b) powers and duties of the officers of the Board, mentioned in section 12 of this Act;
- (c) service rules including rules regulating disciplinary action, grant of leave and retirement of the regular employees of the Board;
- (d) constitution of pension or provident fund or both for the benefit of regular employees of the Board;
- (e) admission of institutions to the privilege of recognition or affiliation and withdrawal of recognition or affiliation;
- (f) general scheme of studies including the total number of subjects to be taught and the duration of courses;
- (g) inspection of institutions and the reports, returns and other information to be furnished by them;
- (h) conditions of admission of candidates to the examinations and eligibility for diplomas, certificates and titles;
- (i) creation of endowment fund for the award of scholarships to the poor students of the institutions recognized by or affiliated with the Board; and
- (j) such other matters as may appear necessary for giving effect to the provisions of this Act.

25. Legal protection for acts and orders.---No suit for damages or other legal proceedings shall be instituted against Government, the Controlling Authority, the Board or a Committee thereof, any member of the Board or a Committee or an officer or employee of the Board in respect of anything done or purported to have been done under this Act in good faith.

26. Repeal and savings.---(1) The Khyber Pakhtunkhwa Board of Technical Education Act, 1972 (Khyber Pakhtunkhwa Act No. VI of 1973) is hereby repealed.

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

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STATEMENT OF OBJECTS AND REASONS

It is desirable to reconstitute the Khyber Pakhtunkhwa Board of Technical Education for the recognition, affiliation, regulation, supervision and assessment of the students of Government and Private Technical, Vocational, Industrial, Information Technology and Commerce Institutes in the Province of Khyber Pakhtunkhwa and to regulate them through effective legislative mechanism. Hence, this Bill.

Peshawar,
Dated: 03/01/2021



MINISTER-IN-CHARGE