

A
Bill

*further to amend the Khyber Pakhtunkhwa Child Protection
and Welfare Act, 2010.*

WHEREAS it is expedient to amend the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 (Khyber Pakhtunkhwa Act No. XIII of 2010) in the manner hereafter 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 Child Protection and Welfare (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 (Khyber Pakhtunkhwa Act No. XIII of 2010), hereinafter referred to as the said Act, in the section 2, in sub-section (1), -

(a) In clause (e), -

(i) before sub-clause (i), after the word “protection”, the words “and includes a child” shall be inserted; and

(ii) after sub-clause (xi), after the semi colon, the word “or” shall be inserted and thereafter the following new sub-clause shall be added, namely:

“(xii) any other circumstances that entitles a child to be considered as child at risk;” and

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

“(vi) **“Register of Sexual Offenders”** means a Register of Sexual Offenders maintained under section 55A of this Act;”.

3. Amendment of section 11 of the Khyber Pakhtunkhwa Act No. XIII of 2010.--- in the said Act, in section 11, in sub-section (2),-

(a) in clause (d), the word “and” shall be deleted;

(b) in clause (e), for the colon, the semi colon shall be substituted; and

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- (c) after clause (e), as so amended, following new clauses shall be inserted namely,-

“(f) keep the database of every child he rescues, including the basic information, picture and thumb impression:

Provided that, in case of missing hands, valid body identification shall be documented; and

(g) enroll a child in any school in the locality where the child is captured from and obtain a periodic report of his/her attendance and performance after every three months, up to an year.”.

4. Substitution of section 41 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, for section 41, the following shall be substituted, namely:

“41. Punishment for dealing with organs of child.---Whoever commits an offence of dealing with organs of a child may be punished with sentence of death or imprisonment of life and shall also be liable to fine which shall not be less than two million and may extend to five million rupees.”.

5. Amendment of section 46 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, in section 46 the existing provision shall be numbered as sub-section (1) of section 46 and thereafter the following new sub-section shall be added, namely:

“(2) Nothing contained in sub-section (1), shall be deemed to prevent any person from being prosecuted under any law relating to anti-narcotics.”.

6. Substitution of section 48 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, for section 48, the following shall be substituted, namely:

“48. Punishment for child Pornography.---Whoever commits an offence of child pornography shall be punished with rigorous imprisonment which shall not be less than fourteen years and may be extended to twenty years and shall also be liable to fine which may not be less than two million and may extend to seven million rupees.”

7. Substitution of section 50 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, for section 50, the following shall be substituted, namely:

“50. Exposure to seduction.---whoever seduces a child by any means whatsoever with an intent to involve him in any sexual activity or exposes him to obscene and sexually explicit material, document, a film video or a computer-generated image or attempts to do the aforementioned action, shall be punished with rigorous imprisonment of either description for a

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term which may extend to ten years and liable to fine which may extend to two million rupees.”.

8. Substitution of section 52 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, for section 52, the following shall be substituted, namely:

“52. Child trafficking.---Whoever involves himself in child trafficking within Pakistan shall be punished with imprisonment for life or a term which may extend to twenty-five years but which shall not be less than fourteen years and shall also be liable to fine which may extend to five million rupees.”.

9. Substitution of section 53 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, for section 53, the following shall be substituted, namely:

“53. Sexual abuse.---Whoever commits an offence of sexual abuse shall be punished with imprisonment for life or a term which may extend to ten years but which shall not be less than two years and shall also be liable to fine which may extend to five million rupees.”.

10. Amendment of section 54 of the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, in section 54, after sub-section (3), the following new sub-sections shall be added, namely:

“(4) Notwithstanding anything contained in section 15 of this Act, the offences under sections 41, 48, 50, 52 and 53 shall be tried by the Child Protection Courts established under this Act, and the trial shall be completed within thirty days. The trial shall be conducted in such a manner and in accordance with such procedure as may be prescribed by rules.

(5) For the purpose of investigation of the offences as referred to in sub-section (4), the Police may use audio visual devices and other scientific means including DNA evidence.

(6) DNA evidence, where collected while exercising diligence and tested by a reliable laboratory, be conclusive evidence for the purpose of conviction under this Act:

Provided that non-availability of DNA evidence shall not be a sole ground for acquittal.

(7) Upon conviction under section 50, 52, 53 and 54A of this Act, the name of the offender shall also be included in the Register of Sexual Offenders.”.

11. Insertion of new section to the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, after section 54, the following new section shall be inserted, namely:

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“54A. Special procedure in case of offences related to children.--- Whenever a person is found by a competent court of law guilty of an offence of rape, unnatural lust punishable under the Code or any other law for the time being in force and the victim is a child then, notwithstanding any other punishment provided by any other law,-

- (a) in case the accused is awarded imprisonment for life, he shall remain imprisoned for remainder of his natural life without possibility of parole or probation; and
- (b) In case of imprisonment of any other description, the person convicted shall not be entitled for any remission during his imprisonment.”.

12. Insertion of new PART to the Khyber Pakhtunkhwa Act No. XIII of 2010.---In the said Act, after Part-VIII, the following new PART shall be inserted, namely:

“PART-VIII (A)
REGISTER OF SEXUAL OFFENDERS

55A. Maintenance of Register of Sexual Offenders.---The Police in Consultation with the Commission shall maintain a Register of Sexual Offenders, which shall contain the names of convicted persons, referred by the court or by the prosecutors, who are involved in any sexual offence against the child under this Act.

55B. Prohibition on employment.---The person whose name is entered or appearing in the Register of Sexual Offenders shall not be employed in any organization relating to or dealing with children in the province.

55C. Prohibition to use public transport.---The person whose name is entered in the Register of Sexual Offenders shall be prohibited to travel on any public transport which the children use to travel.

55D. Publication on Commission’s official website---All the information relating to the person in the Register of Sexual Offenders, shall be uploaded on Commission’s official website and also shared with the National Database and Registration Authority (NADRA) and shall be accessible to general public.

55E. Review of Register of Sexual Offenders.---(1) The name of the offender enlisted in the Register of Sexual Offenders, may be reviewed, by the Commission, after every three years, for taking a decision regarding removal or retention of any of the name of the offender.

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(2) The decision for further retention or removal of the name of the offender shall be based on objective criteria to be determined in the prescribed manner.

55F. Punishment for willfully recruitment of an offender.---(1) If any private or public organization, private or public functioning in the province, employ or recruit a Sexual Offender knowingly and willfully, then, its owner or manager, as the case may be, shall be liable to be punished with imprisonment for a term which may extend to five years or fine which may extend to ten million rupees or both.

(2) During such unlawful employment, if the offender repeats any of the offences mentioned in Chapter-VIII of this Ac, the owner or manager, as the case may be, of such organization, shall also be vicariously liable for the same offence and shall be punished accordingly.”.

STATEMENT OF OBJECTS AND REASONS

In view of the increased number of cases of child abuse reported in the Province of Khyber Pakhtunkhwa, the Provincial Government Constituted a Special Committee under the Chairmanship of Speaker Provincial Assembly in order to review the Khyber Pakhtunkhwa Child Protection and Welfare Act, 2010 and proposed amendments suggesting stringent measures and punishments in order to discourage the scourge of child abuse and deter the persons inclined towards child abuse tendencies.

The Bill seeks to achieve the above mentioned objectives.

Peshawar,

Dated the: 27 / 1 /2022.



MINISTER-IN-CHARGE

ANWAR ZEB KHAN
Minister For Zakat Ushr, Social Welfare
Spl: Edu: & Women Empowerment
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