



KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 31st July, 2019.

No. PA/Khyber Pakhtunkhwa/Bills-39/2019/2328.— The Khyber Pakhtunkhwa Education Monitoring Authority Bill, 2019 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 18th July, 2019 and assented to by the Governor of the Khyber Pakhtunkhwa on 30th July, 2019 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA EDUCATION MONITORING AUTHORITY ACT, 2019. (KHYBER PAKHTUNKHWA ACT NO. XXVIII OF 2019)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 31st July, 2019).

**AN
ACT**

*to provide for establishment of the Khyber Pakhtunkhwa
Education Monitoring Authority.*

WHEREAS, it is expedient to provide for establishment of the Khyber Pakhtunkhwa Education Monitoring Authority for an effective system of monitoring of entities imparting elementary and secondary education in public sector of the Province of the Khyber Pakhtunkhwa in order to achieve desired outcomes, strengthen accountability, promote transparency, ensure value for money and for the matters connected therewith or ancillary thereto;

It is hereby enacted as follows:

- 1. Short title, extent and commencement** – (1) This Act may be called the Khyber Pakhtunkhwa Education Monitoring Authority Act, 2019.
- (2) It shall extend to the whole Province of the Khyber Pakhtunkhwa.
- (3) It shall come into force at such date as may be determined by the Government.

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) "Authority" means the Khyber Pakhtunkhwa Education Monitoring Authority established under section 3 of this Act;
- (b) "committee" means a committee of the Authority constituted under section 5 of this Act;
- (c) "Department" means the Elementary and Secondary Education Department of the Government;
- (d) "Director General" means the Director General of the Authority;
- (e) "district" means a district notified under the West Pakistan Land Revenue Act, 1967 (XVII of 1967);
- (f) "elementary education" means education up to class VIII;
- (g) "entity" means an entity imparting elementary and secondary education in public sector of the Province;
- (h) "Government" means the Government of the Khyber Pakhtunkhwa;
- (i) "Independent Monitoring Unit" means an Independent Monitoring Unit created under the development project namely 130545- DFID Support to Khyber Pakhtunkhwa Education Sector Program-continuation of Independent Monitoring Unit (IMU) (Phase-II);
- (j) "information system" means an electronic system for creating, generating, sending, receiving, storing, reproducing, displaying, recording or processing information;
- (k) "information" includes text, message, data, voice, sound, database, video, signals, software, computer programs and codes;
- (l) "member" means a member of the Authority;
- (m) "monitoring indicators" means parameters on which information is collected by the Authority;
- (n) "monitoring" means collecting, analysing and reporting information;
- (o) "prescribed" means prescribed by rules or regulations made under this Act;
- (p) "Province" means the Province of the Khyber Pakhtunkhwa;
- (q) "rules" and "regulations" respectively means the rules and regulations made under this Act;

- (r) "secondary education" means education pertaining to Class IX, X, XI and Class XII; and
- (s) "Secretary" means the Secretary of the Department.

3. Establishment of the Authority.---(1) As soon as after the commencement of this Act, there shall be established an Authority under the administrative control and supervision of Government, to be known as the Khyber Pakhtunkhwa Education Monitoring Authority, which shall consist of the Secretary as its Chairperson, the Director General of the Authority and the Director, Elementary and Secondary Education.

(2) The Authority may nominate any relevant person as co-opted member. Co-opted member shall have no right of vote.

(3) No act or proceeding of the Authority shall be invalid merely by reason of vacancy in or defect in membership of the Authority.

4. Meetings of the Authority.---Matters relating to meetings of the Authority shall be regulated in the manner as may be prescribed:

Provided that the Authority shall meet not less than four times during a calendar year.

5. Committees of the Authority.---Authority may constitute committees to perform such functions, as may be assigned to them by the Authority.

6. Transaction of business of the Authority.---Business of the Authority shall be allocated and transacted in such manner and in accordance with such procedures as may be prescribed and, until these matters are prescribed, as may be determined by the Authority.

7. Functions and powers of the Authority.---(1) Subject to the provisions of this Act, the Authority under the administrative control, direction and supervision of Government, shall establish, control, run and continuously improve an effective system of monitoring of entities, under this Act.

(2) Without prejudice to generality of sub-section (1), the Authority shall-

- (a) make and execute policies and plans to achieve objects and purposes of this Act with economy, efficiency and effectiveness;
- (b) monitor the entities to assess their working and performance;
- (c) approve annual report of the Authority;
- (d) review the execution of the approved budget of the Authority;
- (e) examine accounts of the Authority and audit reports thereon and issue directions relating thereto;
- (f) control and supervise the Independent Monitoring Unit and the employees of the Authority;

- (g) approve annual management plan of the Authority;
- (h) approve monitoring indicators, additions or deletions thereof and changes therein;
- (i) recommend to the Department measures required to be taken to improve the working of entities;
- (j) approve standing operating procedures for monitoring; and
- (k) perform such other functions as may be assigned to it by the Department.

8. Director General of the Authority.---(1) There shall be a Director General of the Authority, who shall be posted from amongst the PMS/PAS officers in Basic Pay Scale 19 or above.

(2) The Director General shall be the chief executive officer of the Authority who shall perform such functions and exercise such powers, as may be prescribed.

9. Offices of the Authority.---(1) The Authority shall have its principal office at Peshawar.

(2) The Authority may establish such offices in the districts as may be deemed necessary for its efficient working.

(3) Offices of the Authority at district level shall be headed by the District Monitoring Officers, to be posted by Government from amongst PMS/PAS officers of BPS-18 and shall be assisted by such Monitoring Officers and employees as may be determined by the Authority.

10. District Steering Committees.---The Authority may constitute a District Steering Committee for a district with such composition and for performance of such functions in the district as may be prescribed.

11. Officers, advisers, consultants and other employees of the Authority.--- (1) The Authority may employ such officers, advisers, consultants and other employees as may be necessary for efficient performance of its functions on such terms and conditions as may be prescribed.

(2) In performance of their duties, officers, advisers, consultants and employees of the Authority shall abide by directions of the Director General.

12. Authority to maintain an information system.---The Authority may establish and maintain an information system for such purposes and in such manner as may be prescribed.

13. Annual report of the Authority.---(1) Not later than thirty working days of closing of a calendar year, the Authority shall prepare an annual report covering all aspects of policies and practices concerning monitoring, performance and working of the Authority and all other issues and subjects related to functions of the Authority under this Act and rules and regulations.

(2) The Director General may call for any information or record from any notified entity for the purpose of preparation of the report.

(3) The annual report under sub-section (1) shall be submitted by the Director General to the Secretary.

(4) The Secretary shall submit the annual report of the Authority to the Chief Secretary to Government.

14. Budget.---Government shall provide a regular budget to Authority for running its affairs under this Act.

15. Accounts, audit and financial management of the Authority.---Matters relating to budget, accounts and its audit and financial management, shall be regulated in accordance with the laws and rules, for the time being in force.

16. Application of other laws not barred.---The provisions of this Act shall be in addition to, and not in derogation of any other law, for the time being in force..

17. Protection of acts and orders.---No legal proceedings shall lie against Government, the Department, the Authority, a committee, member of a committee or sub-committee or an officer, adviser, consultant and employee of the Authority in respect of anything done or purported to have been done in good faith, in pursuance of this Act and the rules and regulations made thereunder.

18. Officers, advisers, consultants and employees of the Authority to be public servants.---Officers, advisers, consultants and employees of the Authority shall, when acting or purporting to be act in pursuance of the Act, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

19. Transition and savings.---(1) On coming into force of this Act, the Independent Monitoring Unit alongwith all its assets and liabilities shall stand transferred to the Authority and shall be deemed to be a wing of the Authority.

(2) Notwithstanding anything contained in any law or rules, all the employees of the Independent Monitoring Unit, who are holding various posts in the Independent Monitoring Unit, till the commencement of this Act, shall be deemed to have been validly appointed to these posts, on regular basis, with effect from the date of their initial appointment, having the same qualification and experience for the said posts:

Provided that the seniority of the employees of the Independent Monitoring Unit shall be prescribed by the Authority through regulation.

(3) Upon coming into force of this Act, all posts sanctioned for the Independent Monitoring Unit and its field formations shall stand transferred to the Authority and its field formations respectively.

(4) Nothing in the Act shall affect or be deemed to affect anything done, actions taken, proceedings commenced, orders issued, appointments made, agreements signed, directions given or instruments executed by or on behalf of the Independent Monitoring Unit and any such things, actions, proceedings, orders, appointments, agreements, directions or instruments shall, if not inconsistent with this Act, continue to be in force and have effect as if they were done, taken, commenced, made, directed, given, executed or issued under this Act.

20. **Overriding effect.**---In case of conflict between the Act and any other law for the time being in force, the Act shall, to the extent of such conflict, prevail.
21. **Removal of difficulties.**---Government shall have powers to issue orders to carry out purposes of this Act, and in case any difficulty arises, for removal thereof.
22. **Power to make rules.**---Government may make rules for carrying out purposes of the Act.
23. **Power to make regulations.**---Subject to the provisions of this Act and rules made thereunder, the Authority may make regulations for carrying out purposes of the Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(NASRULLAH KHAN KHATTAK)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa