

**A
BILL**

to amend the Khyber Pakhtunkhwa Environmental Protection Act, 2014.

WHEREAS it is expedient to amend the Khyber Pakhtunkhwa Environmental Protection Act, 2014, (Khyber Pakhtunkhwa Act No. XXXVIII of 2014), 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 Environmental Protection (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XXXVIII of 2014.---In the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (Khyber Pakhtunkhwa Act No. XXXVIII of 2014), hereinafter referred to as the said Act, in section 2,-

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

(f-i) “banned plastic products” mean the plastic products, which are specified and banned under sub-section (1) of section 7B of this Act;”;

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

(l-i) “Department” means the Forestry, Environment and Wildlife Department of Government;” and

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

“(oo-i)“plastic” means polymer of polyethylene, polypropylene, polystyrene, polyethylene terephthalate;”.

3. Amendment of section 3 of the Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the Khyber Pakhtunkhwa Environmental Protection Act, 2014 (Khyber Pakhtunkhwa Act No. XXXVIII of 2014), hereinafter referred to as the said Act, in section 3, after sub-section (1), the following new sub-section shall be inserted, namely:

“(1A) The meeting of the Council shall be presided over by the Chairperson and in case of his absence, the Vice Chairperson shall preside over the meeting of the Council.”.

4. Amendment of section 4 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 4, sub-section (3) shall be deleted.

Deputy Legislation Officer
Government of Khyber Pakhtunkhwa
Law Department

5. Amendment of section 7 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 7, for clause (xxii), the following shall be substituted, namely:

“(xxii) issue guidelines, with the approval of the Council, for the purposes of this Act.”.

6. Deletion of section 7A of the Khyber Pakhtunkhwa Act No. XXXVIII of 2014.---In the said Act, section 7A shall be deleted.

7. Insertion of new section 7B to the Khyber Pakhtunkhwa Act No. XXXVIII of 2014.---In the said Act, after section 7A, the following new section shall be inserted, namely:

“7B. Ban on plastic products.---(1) On commencement of the Khyber Pakhtunkhwa Environmental Protection (Amendment) Act, 2021, there shall be a complete ban on the manufacture, import, sale, purchase, storage, distribution, supply, transportation and usage of plastic bags, flat plastic bags, with or without handles or gussets and such other plastic products as the Department may notify from time to time:

Provided that the existing stock of banned plastic products shall be disposed of by the manufacturer, wholesale dealer and retailer, within a period of six month after the commencement of Khyber Pakhtunkhwa Environmental Protection (Amendment) Act, 2021.

(2) Any license or permit, issued to any person for the manufacture, sale, transportation, import etc. under any law, for the time being in force, shall cease to be effective and the holder of any such license or permit shall not commence or carry on business of the banned plastic products.

(3) After the expiration of six month period as mentioned in sub-section (1), the Agency in its own or an officer of Government or Government Agency authorized by Government in this behalf, may seize all banned plastic products, after giving the person a notice, in writing, responsible for the violation of the provisions of this section.

(4) Whoever manufactures, import, sales, purchases, stores, distributes, supplies, transports and use banned plastic bags under this section, shall be punishable with fine which may extend to rupees five lac.

(5) Notwithstanding anything contained in this Act, any contravention punishable under this section, shall exclusively be triable by Special Magistrate, appointed under section 14A of the Code of Criminal Procedure, 1898 (Act V of 1898), on a complaint, in writing, made by the Agency, or an officer, or an Government Agency duly authorized in this behalf by the Government:

Provided that in case of repetition of the violation of sub-section (4), the person who violates shall be liable to imprisonment which may extend to one month, in addition to the fine imposed upon him, and shall be triable by Environmental Magistrate empowered under this Act.”.

8. Amendment of section 10 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 10, in sub-section (1), in clauses (i) and (iii), for the figure and brackets “(3)”, the figure and brackets “(4)” shall respectively be substituted.

9. Amendment of section 13 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 13, for sub-section (7), the following shall be substituted, namely:

“(7) The projects or any activity of a proponent, not covered under sub-section (6), shall obtain General Environmental Approval, in the manner prescribed by rules.”.

10. Amendment of section 18 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 18, in sub-section (1),-

- (a) for the words, five million”, the words “fifty million” shall be substituted; and
- (b) for the word “of”, occurring after the words “in the case of a continuing contravention”, the word “or” shall be substituted.

11. Amendment of section 21 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 21, for sub-sections (3) and (4), the following shall respectively be substituted, namely:

“(3) The Chairperson and the members shall be appointed by Government:

Provided that in case of appointment of Chairperson consultation shall be made with Chief Justice of Peshawar High Court.

(4) For the purposes of this Act, the Chairperson or any single member may constitute the Tribunal.”.

12. Amendment of section 24 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 24, after sub-section (1), the following new sub-section shall be inserted, namely:

“(1A) Any order, passed by the Environmental Protection Tribunal, against the Agency, the Agency may, within thirty days of communication of such order, prefer an appeal to the High Court.”.

13. Amendment of section 35 of Khyber Pakhtunkhwa Act No. XXXVIII of 2014.--- In the said Act, in section 35, after the word Tribunal, appearing at the end, the words “or proceeding pending before any other court of law under this Act” shall be inserted.

STATEMENT OF OBJECTS AND REASONS

It is desirable to amend the Khyber Pakhtunkhwa Environmental Protection Act, 2014, (Khyber Pakhtunkhwa Act No. XXXVIII of 2014), for the purposes to ban on plastic products and regulate such products in order to make them environment friendly. It is further to provide for the projects, not covered

Deputy Commissioner
Government of Khyber Pakhtunkhwa
Law Department

under EIA/IEE, are required General Environmental Approval, so the same has been brought under the ambit of the said Act. Moreover, in order to make the provisions of the said Act more effective, as far as its implementation in a befitted manner is concerned, the amount of fine has also been proposed to be increased. It is also provided that the Agency has been given the right of appeal in case it is aggrieved from the order of the Environmental Protection Tribunal. Similarly, most of the cases against the Agency are pending in other Courts but the Prosecutors under the Act ibid have got no jurisdiction to appear on behalf of the Agency, therefore, necessary amendments have been proposed in order to authorize the Prosecutors to pursue cases, pending in other Courts, Hence this Bill.

Deputy Legislation Officer
Government of Pakntunkhwa
Law Department

Peshawar,
dated:
2022.

MINISTER-IN-CHARGE.
SYED MUHAMMAD ISHTIAQ
Minister for Forestry,
Environment & Wildlife,
Pakntunkhwa, Peshawar.