

A  
Bill

to amend the Khyber Pakhtunkhwa Forest Ordinance, 2002

**WHEREAS** it is expedient to amend the Khyber Pakhtunkhwa Forest Ordinance, 2002 (Khyber Pakhtunkhwa Ordinance No. XIX of, 2002), for the purposes hereinafter appearing:

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

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

(2) It shall come into force at once.

**2. Amendment of section 1 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the Khyber Pakhtunkhwa Forest Ordinance, 2002 (Khyber Pakhtunkhwa Ordinance No. XIX of 2002), hereinafter referred to as the said Ordinance, in section 1, after sub-section (2), the following shall be inserted, namely:

**“Exemption:** The provisions of Chapters II, III, IV and V of this Ordinance shall not be applicable in the merged districts for a period of ten (10) years, where matters shall be regulated in accordance with Chapters I, VI, VII, VIII, IX, X, XI, XII, XIII and the special provisions, contained in **Schedule-III** of this Ordinance.”.

**3. Amendment of section 2 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 2,-

(a) the existing clause (1) shall be re-numbered as clause (1A) and before clause (1A), as so re-numbered, the following new clause shall be added, namely:

“(1) **“access and benefit sharing”** means the over-arching aim of the access and benefit-sharing of genetic resources to enable fair distribution of benefits between the users and providers;”;

(b) after clause (1A), as so re-numbered, the following new clauses shall be inserted, namely:

“(1B) **“adaptive forest management”** means an integrated, multidisciplinary approach for confronting uncertainty in the management of forests and other renewable natural resources associated with and ancillary to the forestry sector in the Province;

(1C) **“alpine or sub-alpine pastures”** mean calcareous grasslands, occur above the timberline on base-rich soils in the high

mountains, or located at altitude above three thousand (3000) meter and below the zone of perpetual snow cover;”;

(c) after clause (2), the following new clause shall be inserted, namely:

“(2A) **“arid or semi-arid grasslands”** mean the grasslands, found in sub-tropical dry ecological zone, located between tropical desert zone and sub-tropical sub-humid zone in the valleys;”;

(d) after clause (3), the following new clauses shall be inserted, namely:

“(3A) **“badlands”** mean the areas, subjected to heavy soil erosion, causing loss in biodiversity, land slides, which treats to blockage of road, main streams, water channels or rivers and human population;

(3B) **“bio-diversity”** means the bio-diversity as defined in clause (h) of section 2 of the Khyber Pakhtunkhwa Wildlife and Bio-diversity (Protection, Preservation, Conservation and Management) Act, 2015(Khyber Pakhtunkhwa Act No. I of 2015);

(3C) **“bio-prospecting”** means exploration of bio-diversity for commercially, scientifically or culturally valuable genetic and biochemical resources and any activity or process undertaken as part of discovery and commercialization of new products, based on biological resources;

(3D) **“bio-diversity reserve”** means an area of land, water or both, declared as such under this Ordinance or the rules, for the in-situ conservation of bio-diversity relating to flora;”;

(e) for clause (11), the following shall be substituted, namely:

“(11) **“Department”** means the Forestry, Environment and Wildlife Department of Government;”;

(f) after clause (13), the following new clause shall be inserted, namely:

“(13A) **“eco-tourism”** means a form of tourism involving responsible travel to natural areas by using eco-friendly transport, conserving the environment and including the wellbeing of the local people, having low negative impact on flora, eco-system and bio-diversity;”;

(g) after clause (16), the following new clause shall be inserted, namely:

“(16A) **“Forest Development Fund”** means the Forest Development Fund, established under section 104 of this Ordinance;”;

(h) in clause (18), for the words “any person”, the words “any officer or official of Forest Force” shall be substituted;

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(i) after clause (23), the following new clause shall be inserted, namely:

“(23A) **“Himalayan forest grazing lands”** mean Himalayan forest grazing lands, based on climatic and ecological conditions, which can be divided into moist temperate, sub-tropical humid and sub-tropical sub-humid zones;”;

(j) after clause (27), the following new clause shall be inserted, namely:

“(27A) **“National Park”** means the National Park, declared under section 119D of this Ordinance;”;

(k) after clause (29), the following clause shall be inserted, namely:

“(29A) **“private forests”** mean forests, owned privately by local communities or families, individually or jointly;”;

(l) after clause (32), the following new clauses shall be inserted, namely:

“(32A) **“rangelands”** mean pasture or Himalayan forest grazing lands, alpine or sub-alpine pastures, arid or semi-arid grasslands and trans-Himalayan grazing lands, where livestock are allowed to feed freely by individuals or communities;

(32B) **“REDD+”** means the framework, created by United Nations Framework Convention on Climate Change Conference of Parties, to guide activities in the forest sector that reduces emissions from deforestation and forest degradation, as well as sustainable management of forests and the conservation and enhancement of forest carbon stocks in developing countries;”;

(m) after clause (43), the following new clauses shall be inserted, namely:

“(43A) **“Shamilat”** means some portion of land, which is set apart for the purpose of common grazing, under the local traditions and customs;

(43B) **“standing operating procedures”** mean the standing operating procedures, issue by the Department from time to time;

(43C) **“strict nature reserve”** means strictly protected areas, set aside to protect bio-diversity to the extent of ecology and flora, and also possibly geological or geo-morphological features, where human visitation, use and impacts are strictly controlled and limited to ensure protection of the conservation values. Such protection areas can serve as indispensable reference areas for scientific research and monitoring;”;

(n) after clause (45), the following new clause shall be inserted, namely:

“(45A) **“trans-Himalayan grazing lands”** mean trans-Himalayan grazing lands which are found at elevation of 2300-3300 meters in dry temperate zone;”;

(o) after clause (47), the following new clause shall be inserted, namely:

“(47A) **“urban forestry”** means plantations, within cities or town, through different forestry techniques in order to quickly combat global warming and reduce city carbon rates;”;

(p) for clause (51), the following shall be substituted, namely:

“(51) **“wasteland”** means all uncultivated or uncultivable land or Shamilat, common land or lands specified for grazing or the area, comprising the Districts of Haripur, Abbottabad, Mansehra, Kohistan and Batagram and in such other area or areas in the Province, as may be declared by Government as wasteland under this Ordinance or the rules made thereunder, but shall not include reserved forests, protected forests, graveyards, sacred places, land, recorded at settlement as part of the village site, land shown as “khali” or “banjar jaded” in annual records, land in urban areas and land under roads, railway tracks or water bodies;”.

**4. Amendment of section 3 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 3, in sub-section (1), for clause (a), the following shall be substituted, namely:

“(a) protection, conservation, management and sustainable development of forests, range lands, Himalayan forest grazing lands, alpine or sub-alpine pastures, arid or semi-arid grasslands and trans-Himalayan grazing lands;”.

**5. Amendment of section 26 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 26,-

(a) in sub-section (1), for the word “No”, occurring at the beginning, the words, hyphen, figure, brackets and comma “Subject to sub-section (7), no” shall be substituted;

(b) in sub-section (3),-

(i) before the proviso, for the words “two years” and “fifty thousand rupees”, the words “three years” and “rupees five lac” shall respectively be substituted; and

(ii) in the proviso,-

(a) in clause (i), for the words “five thousand rupees”, the words “rupees fifty thousand” shall be substituted;

- (b) in clause (ii), for the words "ten thousand rupees", occurring for the second time, the words "rupees one lac" shall be substituted;
  - (c) in clause (iii), for the words "twenty thousand rupees", the words "rupees two lac" shall be substituted;
  - (d) in clause (iv), for the words "fifty thousand rupees", the words "rupees five lac" shall be substituted; and
  - (e) in clause (v), after the words "market rate", the words and comma "and in case of pole crop, it shall be five time" shall be inserted; and
- (c) in sub-section (7), for clause (a), the following shall be substituted, namely:
- "(a) the issuance of standing operating procedures to allow, in writing, such activities in the reserved forests in the manner and with such restrictions and limitations as may be specified therein;".

**6. Amendment of section 33 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 33,-

- (a) in sub-section (3),-
- (i) before the proviso, for the words "fifty thousand rupees", the words "rupees five lac" shall be substituted; and
  - (ii) in the proviso,-
    - (a) in clause (i), for the words "five thousand rupees", the words "rupees five lac" shall be substituted;
    - (b) in clause (ii), for the words "ten thousand rupees", occurring for the second time, the words "rupees one lac" shall be substituted;
    - (c) in clause (iii), for the words "twenty thousand rupees", the words "rupees two lac" shall be substituted;
    - (d) in clause (iv), for the words "fifty thousand rupees", the words "rupees five lac" shall be substituted; and
    - (e) in clause (v), after the words "market rate", the words and comma "and in case of pole crop, it shall be five time" shall be inserted; and
- (b) for sub-section (7), the following shall be substituted, namely:

“(7) Nothing in sub-sections (1) and (2) shall be deemed to prohibit the issuance of standing operating procedures to allow, in writing, such activities in the protected forests in the manner and with such restrictions and limitations as may be specified therein, except as regard any portion of a forest, closed under section 30 or as regards any rights the exercise of which has been suspended under sub-section (8) or in the exercise of any right recorded under section 29 of this Ordinance.”.

**7. Amendment of section 44 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 44, in clause (b), after the words “any rules made under this Chapter”, the words “or standing operating procedures” shall be inserted.

**8. Amendment of section 45 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 45, in sub-section (1),-

- (a) before the proviso, for the words “fifty thousand rupees”, the words “rupees five lac” shall be substituted; and
- (b) in the proviso,-
  - (i) in clause (i), for the words “five thousand rupees”, the words “rupees fifty thousand” shall be substituted;
  - (ii) in clause (ii), for the words “ten thousand rupees”, the words “rupees one lac” shall be substituted;
  - (iii) in clause (iii), for the words “twenty thousand rupees”, the words “rupees two lac” shall be substituted;
  - (iv) in clause (iv), for the words “fifty thousand rupees”, the words “rupees five lac” shall be substituted; and
  - (v) in clause (v), after the words “market rate”, the words and comma “and in case of pole crop, it shall be five time” shall be inserted.

**9. Amendment of section 53 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 53, in sub-section (1), for the words “ten thousand rupees”, the words “rupees one lac” shall be substituted.

**10. Amendment of section 55 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 55, in sub-section (7), for the words “and Battagram”, at the end, the comma and words “, Battagram and other wasteland placed under management of Divisional Forest Officer” shall be inserted.

**11. Amendment of section 59 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 59, in sub-section (1), for the words “thirty thousand rupees”, the words “rupees three lac” shall be substituted.

**12. Amendment of section 68 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 68, in sub-section (2), for the words, "fifty thousand rupees", the words "rupees five lac" shall be substituted.

**13. Amendment of section 72 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 72, in sub-section (1),-

- (a) before the proviso, for the words "five thousand rupees" and "fifty thousand rupees", the words "rupees fifty thousand" and "rupees five lac" shall respectively be substituted; and
- (b) in the proviso, for the words "thirty thousand rupees", occurring for the second time, the words "rupees three lac" shall be substituted.

**14. Amendment of section 84 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 84, in sub-section (2),-

- (a) before the proviso, for the words "fifty thousand rupees", the words "rupees five lac" shall be substituted; and
- (b) in the proviso,-
  - (i) in clause (i), for the words "one month" and "five thousand rupees", the words "three months" and "rupees fifty thousand" shall respectively be substituted;
  - (ii) in clause (ii), for the words "three months" and "ten thousand rupees", the words "six months" and "rupees one lac" shall respectively be substituted;
  - (iii) in clause (iii), for the words "six months" and "twenty thousand rupees", the words "one year" and "rupees two lac" shall respectively be substituted; and
  - (iv) in clause (iv), for the words "fifty thousand rupees", the words "rupees five lac" shall be substituted.

**15. Amendment of section 85 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---(1) In the said Ordinance, in section 85,-

- (a) in sub-section (2),-
  - (i) in clause (a), for the words "ten thousand rupees", the words "rupees one lac" shall be substituted; and
  - (ii) in clause (c), for the words "thirty thousand rupees", the words "rupees three lac" shall be substituted; and
- (b) in sub-section (3), for the words "fifty thousand rupees", the words "rupees five lac" shall be substituted.

**16. Amendment of section 86 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---(1) In the said Ordinance, in section 86, in sub-section (2), in clause (b), for the words "five hundred rupees" and "one thousand rupees", the words "rupees fifty thousand" and "rupees one lac" shall respectively be substituted.

**17. Amendment of section 98 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---(1) In the said Ordinance, in section 98, in sub-section (1), after the words and comma "forest management plan," the words and comma "adoptive forest management," shall be inserted.

**18. Amendment of section 104 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---(1) In the said Ordinance, in section 104, in sub-section (2), for clause (b), the following shall be substituted, namely:

"(b) timber surcharge, on commercial timber harvesting and sale from reserved forests, protected forests, guzara forests, protected wasteland and other forest areas, are-

- (i) Deodar timber = Rs. 100/- per cubic foot converted;
- (ii) Blue pine timber = Rs. 80/- per cubic foot converted;
- (iii) Fir/spruce timber = Rs. 60/- per cubic foot converted;
- (iv) Chir pine timber = Rs. 40/- per cubic foot converted;
- (v) Shisham timber = Rs. 100/- per cubic foot converted; and
- (vi) Timber from other = Rs. 40/- per cubic foot converted.".  
Species notified on  
Government land

**19. Amendment of section 115 of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in section 115, in sub-section (1), after clause (l), the following new clauses shall be inserted, namely:

- "(l-i) to provide procedure for preparation of plans and rules for eco-tourism, rangelands, bio-spheres, bio-diversity (ecology and flora), strict nature reserve, all categories under International Union for Conservation of Nature and Natural Resources (IUCN) of protected areas, bio-diversity reserve, bio-prospecting, urban forestry, badlands, national parks for management of ecology and flora or any rules, which are required under this Ordinance for all categories of forests and definitions therein;
- (l-ii) to provide for the protection, conservation, regulation, sustainable development and management of forests, private forests, jointly managed communal forests, socially managed forests, range management and royal trees;"

20. **Insertion of new sections to the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, after section 119, the following new sections shall be inserted, namely:

**119A. Bio-prospecting.**--- The Department, in the prescribed manner, shall regulate bio-prospecting in forest ecosystems, protected areas, rangelands, watershed lands, wetlands and riverbeds.

**119B. Forest carbon rights.**---Government shall take steps to protect and enforce forest carbon rights and make rules for carbon rights to achieve REDD+ objectives and carbon sequestration.

**119C. Establishment of protected areas categories system.**---(1) Government may declare certain areas to be protected under all categories of protected areas as specified in Guidelines for Applying Protected Area Management Categories of International Union for Conservation of Nature and Natural Resources (IUCN).

(2) For the purpose of sub-section (1), the management of ecology or flora and fauna shall rest with Chief Conservator of Forests and Chief Conservator of Wildlife, respectively.

(3) The Department may manage any reserved forest under any categories of International Union for Conservation of Nature and Natural Resources (IUCN).

**119D. National Park.**---For the purpose to protect natural, physical and biological formations or groups of such formations, which are of outstanding national or global value from the aesthetic or scientific point of view, Government may declare any forest and adjoining area to be a National Park, which shall be regulated and managed in the manner as may be prescribed.

**119E. Range Management.**---(1) For the purpose of protection, conservation and improvement of carrying capacity or sustainable use of rangelands or waste lands, the Chief Conservator of Forests may, on the recommendation of Conservator of Forests Range Management Circle and in consultation with local communities, convert any rangeland into range improvement cycle coupes.

(2) The Divisional Forest Officer Range Management may, under Chapter-XI of this Ordinance, charge any offender, for over grazing beyond carrying capacity.

(3) For purpose of this section, the Divisional Forest Officer, Range Management, may register Joint Range Management Committee.

**119F. Eco-tourism.**---The Department may, for the purpose of flourishing eco-tourism, within the Province, declare any area as eco-tourism sites, from time to time, as it may deem fit.

119G. Research, education and development.---The Department may, for the purpose of research, education and development, enter into access and benefit sharing, in the manner as may be prescribed.”.

21. **Amendment of SCHEDULE-I of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, in SCHEDULE-I, in the marginal heading, after figures and brackets “56(3)”, the word, hyphen and expression “SCHEDULE-III”, shall be inserted.

22. **Substitution of SCHEDULE-II of the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, for SCHEDULE-II, the following shall be substituted, namely:

**“SCHEDULE-II,  
[see section 55 (3)]**

**LIST OF SEIGNORAGE FEES FOR RESERVED FORESTS AND  
PROTECTED WASTELANDS IN HAZARA**

1.	2.	3		
S.No.	Name of Species.	Rate of Forest Development Charge per cubic foot.		
		1	2	3
		24 inches DBH and Above (for green trees except Serials No. 3 and 11).	16-23 inches DBH Rates High to discourage cuttings of young trees (for green trees except Serials No. 3 and 11).	Per dead Sound tree.
1.	Juniper Species-All Junipers.	Rs. 100/- per cubic foot.	Rs. 150/- per cubic foot.	One-Quarter the rate fixed for green trees in Sub-Columns 1 and 2 of Column 3.”.
2.	Taxus Species-All Taxus Species.	Rs. 100/- per cubic foot.	Rs. 150/- per cubic foot.	
3.	<i>Pinus gerardiana</i> -Chilghoza Pine (dead trees).	Rs. 150/- per cubic foot.	Rs. 150/- per cubic foot.	
4.	<i>Cedrus deodara</i> -Deodar.	Rs. 50/- per cubic foot.	Rs. 150/- per cubic foot.	
5.	<i>Pinus wallachiana</i> -Blue Pine or Kail.	Rs. 50/- per cubic foot.	Rs. 150/- per cubic foot.	
6.	<i>Abies pindrow</i> -Silver Fir.	Rs. 30/- per cubic foot.	Rs. 70/- per cubic foot.	
7.	<i>Picea smithiana</i> -Spruce.	Rs. 30/- per cubic foot.	Rs. 50/- per cubic foot.	
8.	<i>Pinus roxburghii</i> -Chir Pine.	Rs. 20/- per cubic foot.	Rs. 50/- per cubic foot.	
9.	Other Coniferous Species except protected coniferous species.	Rs. 20/- per cubic foot.	Rs. 50/- per cubic foot.	

10.	Protected Coniferous Species.	Rs. 150/- per cubic foot.	Rs. 250/- per cubic foot.
11.	<i>Juglans regia</i> -Walnut dead trees or recommended under walnut policy.	Rs. 50/- per cubic foot.	Rs. 50/- per cubic foot.
12.	<i>Dalbergia sissoo</i> -Shisham.	Rs. 50.- per cubic foot.	Rs. 100.- per cubic foot.
13.	Other Hardwood Species except protected Hardwood Species.	Rs. 50/- per cubic foot.	Rs. 100/- per cubic foot.
14.	Protected Hardwood Species.	Rs. 150/- per cubic foot.	Rs. 150/- per cubic foot.

23. **Insertion of new SCHEDULE to the Khyber Pakhtunkhwa Ordinance No. XIX of 2002.**---In the said Ordinance, after SCHEDULE-II, the following new Schedule shall be added, namely:

**“SCHEDULE-III**  
[see section 1(2)]

**SPECIAL PROVISIONS FOR REGULATION AND  
MANAGEMENT OF MERGED DISTRICTS**

**I. Forests, Private Forests, Jointly Managed Communal Forests and Socially Managed Forests:**

1. This Schedule shall apply to merged districts for a period of ten years.
2. For the purposes of this Schedule, the following words and expressions shall have the same meanings as are assigned to them below:
  - (a) **“Bandarh/Salwaishtai/Quomi-Tarun”** means socially imposed traditional mechanism of tribes to control illegal cutting of trees and natural regeneration and restoration of forests, for certain period or to stop grazing during seed dispersal, as management tool of wasteland to improve grasses or fodder;
  - (b) **“Dispute Resolution Committee”** means the Dispute Resolution Committee, constituted under Paragraph IV of this Schedule;
  - (c) **“Islahi/Aman Committee”** means group of elders, involved in management of forests and resolution of community related disputes, to be regulated in the prescribed manner;
  - (d) **“Jirgah”** means the group of elders or elites of an area, leading community or communities or traditional indigenous institution,

for administering justice in case of any dispute, to be regulated in the prescribed manner;

- (e) **“jointly managed communal forest”** means the forest, jointly managed by communities or families, individually or jointly, and the Department, through social local system or Joint Forest Management Committees;
- (f) **“Khels”** mean a group of people or different, living in a village;
- (g) **“local traditional committees”** mean group of elders, involved in the process of Bandarh, Salwaishtai or Quomi-Tarun, which also includes Islahi/Aman Committee, Jirgah, Shura Committee, etc;
- (h) **“merged districts”** means the areas merged in the Province, in sequel to the Constitution (Twenty-fifth Amendment) Act, 2019;
- (i) **“Nagha System”** means fines or punishments, socially imposed on offenders, for damage to trees or illegal grazing, carried out during Bandarh, Salwaishtai or Quoami Tarun or the compensation payable by a defaulter;
- (j) **“Qouam”** means a group of families living with named identity;
- (k) **“Riwaj”** means local traditional customs and way of living in merged district;
- (l) **“Shura Committee”** means group of nominated elders, constituted for management of forests and other community related issues;
- (m) **“socially managed forests”** mean the private or communal forests, managed under local social system i.e Bandarh, Salwaishtai, Quoami-Tarun, Nagha System etc; previously managed in erstwhile Federally Administered Tribal Areas of the Province;
- (n) **“Sub-Khels”** means a group of people or different families, living in different sub-sections, within the village; and
- (o) **“taqsim”** the most notable features of Pathan land tenure, that it was based on a strong sense of territorial right which was collective, while providing for the separate enjoyment of the individual family share in the land. The first important feature of the Pathan tenure or the division of newly conquered tracts among the tribes, their clans and sub-sections i.e. the possession of a separate tract by each tribe was parceled out into blocks and held separately by different clans or sections of clans.

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3. The ownership of the forests, private forests, jointly managed communal forests and socially managed forests shall vest with the concerned individual or the local communities, Quoam, Khels, Sub-Khels etc, as pertaqsim, however, they shall be managed in a collaborative manner through Joint Forest Management Mechanism or local traditional committee by the concerned individual, families or community/communities and the Department as per provisions of this Schedule.
4. Government may also regulate and manage any or all forests, private forests, jointly managed communal forests and socially managed forests or wastelands, whether covered with trees or not, including forest lands, rangelands, watershed areas, etc; which are owned by private persons, individually or jointly, and which is not the property of Government or over which Government has no proprietary rights.
5. The forests, private forests, jointly managed communal forests and socially managed forests may be managed and protected for the following special purposes:
  - (a) protection against storms, winds, rolling stones, floods and avalanches or any other natural calamities;
  - (b) conservation or preservation of soil on the ridges and slopes and in the valleys of hilly tracts, the prevention of land-slips or land-slides or of the formation of ravines and torrents, the protection against erosion and floods, the deposit thereon of sand, stones or gravel;
  - (c) protection of catchment basins, banks and beds of rivers, streams, torrents and ravines;
  - (d) protection, conservation and regeneration of particular types of trees, brushwood or grasses;
  - (e) maintenance of water supply in springs, rivers, tanks and reservoirs; and
  - (f) protection of lines of communication, including roads, bridges and railways and other infrastructure.
6. The following acts shall be prohibited in the forests, private forests, jointly managed communal forests and socially managed forests:
  - (a) illicit cutting, sawing, converting, obtaining, storing, selling, transporting, removal of trees and timber and the collection, manufacture and removal of forest produce from these forest and the use of any tools, implements, carriages, boats, vehicles, pack-animals, conveyances, power saw and sawing unit;
  - (b) breaking up or clearing of land for cultivation;

- (c) the irregular pasturing of cattle;
- (d) setting fire or clearing of the vegetation; or
- (e) any other act which is prohibited under the local social system or Nagha System.

7. All forests, private forests, jointly managed communal forests and socially managed forests and forest produce, found anywhere in merged districts, in a Government owned forest or Government owned lands, shall be the property of Government unless otherwise stated hereinafter.

8. Any person, being owner of the private forests, jointly managed communal forests and socially managed forests, may lawfully take a forest produce, subject to this Schedule.

9. Where a forest produce is lawfully taken under a permit to be granted by Divisional Forest Officer concerned or where a forest user rights, granted or issued under this Ordinance or rules, the ownership of such produce shall, subject to the provisions of this Ordinance or rules and to the terms and conditions of the permit, vest in the person, who holds such permit.

10. Where, before the commencement of the Khyber Pakhtunkhwa Forest (Amendment) Act, 2022, forest produce has been lawfully vested in any person or Quoam, such forest produce shall, subject to the provisions of this Ordinance or rules, vest or continue to be vested in that person or Quoam.

11. Where a person unlawfully takes any forest produce, in contravention of the provisions of this Schedule, the ownership of such forest produce shall not be transferred to that person.

12. Government may prescribe measures for the registration and management of forest produce specimens, used for cultural purposes by any traditional community.

13. The Divisional Forest Officer concerned may remove encroachments from wastelands and the forests, managed under this Schedule.

14. For the purpose of this Schedule, the concerned Forest Officer may make Forest Management Plan in the manner as provided in section 98 and sub-section (1) of section 99 of this Ordinance.

15. Notwithstanding anything contained in,-

- (a) any law for the time being in force and sub-section (1) of section 85 of this Ordinance, the offences under this Schedule, Nagha System and under local social system shall be non-bailable;

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- (b) sub-section (1) of section 101 of this Ordinance, the Divisional Forest Officer may assign to any local traditional committee all or any of its rights of management over any forests, private forests, jointly managed communal forests and socially managed forests and protected wasteland, and may cancel such assignment or such agreement, as the case may be, if he is of the opinion that such revocation is in the interest of forest conservancy. All forests so assigned shall be called jointly managed communal forests;
- (c) sub-section (1) of section 102 of this Ordinance, subject to the provisions of sections 98 and 99 of this Ordinance, the Forest Officer may, where he considers appropriate, manage forests, private forests, jointly managed communal forests, socially managed forests, wastelands, mazri-growing tracts and other forests, which have been placed under the management of a Divisional Forest Officer, with the help and participation of community-based organizations, village-based organizations, village development committees or any group of persons, representing such organizations, constituted in a prescribed manner under this Schedule, in accordance with such procedure, and on such terms and conditions, as may be deemed fit; and
- (d) sub-section (2) of section 102 of this Ordinance, for purposes of sub-clause (b) above, the Forest Officer may enter into agreements for joint management of the forests mentioned therein, which may provide, among other matters, for establishment of Joint Forest Management Committees or local traditional committee.

## **II. Rights in Forests, Private Forests, Jointly Managed Communal Forests and Socially Managed Forests:**

1. Subject to the rights and powers of Government, in respect of different fees for forest conservancy, sustainable development and management, as defined under this Ordinance, the rules made thereunder or this Schedule, all forests, private forests, jointly managed communal forests and socially managed forests are the property, held individually, jointly or severally, as the case may be, of the individual, families, or community or communities of the village or valley, in whose boundaries these are situated or settled with the then Political Agents and Assistant Political Agents, during the erstwhile Federally Administered Tribal Areas or natural boundaries, fixed between Quoam, Khels and Sub-Khels as per traditional taqsim or Riway.
2. The owner or owners of forests, private forests, jointly managed communal forests and socially managed forests are entitled to use, free of charge, for their own domestic and agricultural requirements, described in village plan or application, approved by Divisional Forest Officer, recommended by Joint Forest Management Committee or local traditional committees or whatever the case may be to be registered with

Divisional Forest Officer, any trees and forest produce, found in the said forests.

3. The commercial sale of any tree, timber, brushwood or any other forest, prescribed in the working plans for every Quoam, Khel, Sub-Khels or astaqsim or Riway or subdivision level or identified by Dispute Resolution Committee or local traditional committee, as the case may be, growing on these forests, private forests, jointly managed communal forests and socially managed forests, shall be allowed by the Divisional Forest Officer concerned.
4. All such sales shall be subject to payment to Government of timber surcharge, forest development charges, various other fees, levied by Government, and management charges, which shall be credited to the Forest Development Fund.
5. The claims of right holders, other than land owners of the village or valley, shall be recognized to the extent recorded at settlement or fixed under local social system or in case of doubt or dispute, to the extent which may hereafter be specified by the Dispute Resolution Committee or local traditional committee, previously settled during erstwhile Federally Administered Tribal Areas era, and exercise of such rights shall be subject to the provisions of this Ordinance, rules made thereunder and this Schedule.
6. Green or pole crop of all Juniper Species, *Oleaspp*, *Pinusgerardiana* (Chilghoza), *Juglansregia* (Walnut) and all *Quercusspp*, grown on these forests, private forests, jointly managed communal forests and socially managed forests, except growing on agricultural land, shall be deemed to be reserved and protected and shall not be harvested commercially, except with the permission of Divisional Forest Officer for domestic use or as prescribed in working plans or under the social control system.
7. The Department shall levy twenty percent (20%) managerial charges in case of commercial harvesting of forests, private forests, jointly managed communal forests and socially managed forests.

### III.

#### **Offences and penalties:**

Any person,-

- (a) who violates the provisions of this Schedule; or
- (b) who illegally cuts, debarks and damage to roots of any species, mentioned in clause 6 of paragraph II, within the limits of Government land or any forest under management of Divisional Forest Officer in merged districts;

shall be treated as offence, which shall be punished under sections 84 and 85 of this Ordinance.

#### IV. Dispute Resolution Committee:

1. In case any dispute arises between the stakeholders of rights of any forests, the matter shall be referred to Dispute Resolution Committee.
2. The Dispute Resolution Committee shall consist of-
  - (a) concerned Deputy Commissioner; Chairman
  - (b) concerned Divisional Forest Officer; and Member-Cum-Secretary
  - (c) Representatives or elders, each from five Quoom, three Khels and one sub khels, to be appointed by the Chairman on the recommendation of concerned Conservator of Forest. Members

3. Dispute Resolution Committee shall also recommend resolution of inter-tribe rights of forests produce as per traditional taqsim or Riwayat and clans, documented on the basis of mutually agreed agreement or notified rights with the then Political Agents and Assistant Political Agents (now Deputy Commissioners and Assistant Commissioners) or documented in official Gazette, if any, and settled principles of due share within thirty (30) days time, extendable for further thirty (30) days. The shares of rights agreed be documented and shall be notified in official Gazette, after expiry of sixty (60) days, if no dispute arises.
4. The Conservator of Forests, on the recommendation of the Divisional Forest Officer, may notify any disputed forests, private forest, jointly managed communal forest and socially managed forests as protected, in case of their illicit cutting at large, which is subjected to soil erosion and landslides. After declaring such forests as protected, the cases of such disputes shall be referred to the Dispute Resolution Committee or local traditional committee, as the case may be. In case the dispute is not resolvable, the forest shall be considered as protected forests or protected Shamilat, till the dispute is resolved.
5. Any person, aggrieved from the decision of the Conservator of Forest, under Clause 4 above, may prefer an appeal to the Chief Conservator of Forest, within such time and on such terms and conditions as may be prescribed.
6. All commercial harvesting of forests, private forests, jointly managed communal forests and socially managed forests shall be subject to the approval of management plans. The timber, harvested from any of forests, managed under working plan or timber, so confiscated, shall be put to auction in central sale depots, notified by Government.

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V. **Miscellaneous:**

1. If any difficulty arises in giving effect to any of the provisions of this Schedule, the Secretary of the Department may make such orders, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing such difficulty.
2. Where scope of mines and minerals exist in the forests, private forests, jointly managed communal forests and socially managed forests, the Mines and Mineral Committee, constituted at the level of the Minerals Department of Government, may make recommendations with regard to such forests.

**STATEMENT OF OBJECTS AND REASONS**

It is desirable to amend the Forest Ordinance, 2002 (Khyber Pakhtunkhwa Ordinance No. XIX of 2002), for the purposes to increase the amount of fine and imprisonment and to regulate the forests, private forests, jointly managed communal forests and socially managed forests in merged districts, as per traditions and customs, prevailing therein, in order to avoid any untoward situation, which may likely arise with the enforcement of the Ordinance in totality. Hence, this Bill.

Peshawar,  
dated:  
2022.

**MINISTER-IN-CHARGE.**

**SYED MUHAMMAD ISHTIAQ**  
Minister For Forestry, Environment & Climate  
Khyber Pakhtunkhwa.

Deputy Legislation Officer  
Government of Khyber Pakhtunkhwa  
Law Department