

A
BILL

to amend the Khyber Pakhtunkhwa Trust Act, 2020

WHEREAS it is expedient to amend the Khyber Pakhtunkhwa Trust Act (Khyber Pakhtunkhwa Act No. XXXIII of 2020), 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 shall be called the Khyber Pakhtunkhwa Trust (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XXXIII of 2020.---In the Khyber Pakhtunkhwa Trust Act, 2020 (Khyber Pakhtunkhwa Act No. XXXIII of 2020), hereinafter referred to as the said Act, in section 2,-

- (i) in clauses (b) and (c), for the words "the natural person" the words "any person" shall be substituted;
- (ii) after clause (s), the following new clause shall be inserted, namely:

“(s-i) **“Regulator”** means such authority as provided in section 1 of Schedule-IV of the Anti-Money laundering Act, 2010 (Act No. VII of 2010);” and

- (iii) after clause (w), the following new clause shall be inserted, namely:

“(w-i) **“specialized trusts”** means trusts created for establishment of collective investments schemes, collective investment vehicles, private funds, pensions funds, real estate investment trusts, exchange traded funds, private equity and venture capital funds, debt securities trusts, trusts in relation to any security issued by the Federal or any Provincial Government(s) through capital markets, provident funds, gratuity funds, superannuation funds, employee benefit trusts or any other trust administered by the Regulator as notified by the Government in the Gazette;”.


Asstt. Legal Officer
Govt. Of Khyber Pakhtunkhwa,
Law Department

3. **Amendment of section 5 of the Khyber Pakhtunkhwa Act No. XXXIII of 2020.**---In the said Act, in section 5, in clause (a), the word “natural” shall be omitted.

4. **Amendment of sections 7 and 9 of the Khyber Pakhtunkhwa Act No. Act XXXIII of 2020.**---In the said Act, in sections 7 and 9, the word “natural” shall be deleted and the explanation at the end shall be omitted.

5. **Amendment of section 12 of the Khyber Pakhtunkhwa Act No. XXXIII of 2020.**--- In the said Act, the existing section 12 shall be re-numbered as sub-section (1) of section 12 and thereafter the following new sub-sections shall be inserted, namely:

“(2) All trusts created under Trust Act, 1882 (Act No. II of 1882) repealed under sub-section (1) of section 118 of this Act or registered under the Registration Act, 1908 (Act No. XVI of 1908) or any other law, shall be required to be registered in accordance with sub-section (1) within such time as may be notified by Government.

(3) Any trust, which fails to register as required under sub-sections (1) and (2) shall cease to function or operate in any manner whatsoever and necessary action shall be initiated by the Director in terms of section 95 of this Act.”.

6. **Insertion of section 12A of the Khyber Pakhtunkhwa Act No. XXXIII of 2020.**---In the said Act, after section 12 as so amended, the following new section shall be inserted, namely:

“12A. **Registration of specialized trusts.**---(1) For registration of specialized trust under this Act, the trustee shall provide to the Director a No Objection Certification (NOC) from the relevant Regulator which shall contain such information as may be prescribed.

(2) Where the trustee provides the NOC to the Director in accordance with sub-section (1), the Director shall ensure that the requirements in sections 13 to 15 have been fulfilled and shall register the specialized trust in accordance with section 16.

(3) All specialized trusts created prior to the commencement of this Act shall be deemed to have been registered in accordance with section 12.

(4) As specialized trust that is deemed to have been registered under sub-section (3), shall be issued a Certificate of Registration under section 16:

Provided that the requirements of sections 13 to 15 shall be fulfilled by the trustee within such time as may be notified by Government.

(5) Any specialized trust which fails to comply with any of the requirements under sub-sections (1), (2) and (4) shall cease to function or operate in any manner whatsoever and necessary action shall be initiated by the Director in terms of section 95 of this Act.”.

7. Amendment of section 95 of the Khyber Pakhtunkhwa Act No. XXXIII of 2020.---In the said Act, in section 95, after clause (c), the following new clause shall be inserted, namely:

“(c-i) When it fails to comply with the requirements as provided in section 12 and 12A of this Act; or”.

8. Insertion of new section 116A of the Khyber Pakhtunkhwa Act No. XXXIII of 2020.--- In the said Act, after section 116, the following new section shall be inserted, namely:

“**116A. Delegation of powers.**---Notwithstanding anything contained in this Act, Government may, by notification in the Gazette, delegate any power provided in this Act to a Regulator, with respect to specialized trusts, to be exercised in such manner and the circumstances as may be specified in the said notification.”.

STATEMENT OF OBJECT AND REASONS.

The amendment of the Khyber Pakhtunkhwa Trusts Act, 2020 will enable, the legal person to create a trust and to be a beneficiary of a trust. It will provide mechanism for registration of specialized trusts. The Act will also empower the Government to delegate powers under Trust Act, 2020 (Act No. XXXIII of 2020) to a Regulator as it may deem fit with respect to specialized trusts. The Bill aims to achieve the above mentioned purpose.



MINISTER-IN-CHARGE

Peshawar,
dated the
15-01, 2021.

Asstt. Legal Drafter
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