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KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 08th December, 2021.

No. PA/Khyber Pakhtunkhwa/Bills-193/2021/9055.— The Khyber Pakhtunkhwa Waqf Properties (Amendment) Bill, 2021 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 22nd November, 2021 and assented to by the Governor of the Khyber Pakhtunkhwa on 07th December, 2021 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA WAQF PROPERTIES (AMENDMENT) ACT, 2021.

(KHYBER PAKHTUNKHWA ACT NO. XXXV OF 2021)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 08th December, 2021).

AN ACT

*further to amend the Khyber Pakhtunkhwa
Waqf Properties Ordinance, 1979*

Preamble.---WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Waqf Properties Ordinance, 1979 (Khyber Pakhtunkhwa Ordinance No. 1 of 1979), 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 Waqf Properties (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Insertion of new section 7B in the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.---In the Khyber Pakhtunkhwa Waqf Properties Ordinance, 1979 (Khyber Pakhtunkhwa Ordinance No. 1 of 1979), hereinafter referred to as the said Ordinance, after section 7A, the following new section shall be inserted, namely:

“7B. Incorporation of waqf property in revenue record and land register.--
-After issuance of the notification regarding taking over of the waqf property under section 7 of this Ordinance, the Chief Administrator, either himself or through an officer authorized by him, shall request, in writing, to the concerned authority, for incorporating notified waqf property in land record, maintained by the concerned authority, under the relevant laws and rules for the time being in force.”.

3. Amendment of section 8 of the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.---In the said Ordinance, in section 8, for sub-section (1), the following shall be substituted, namely:

“(1) The Chief Administrator or an officer authorized by him in this behalf, shall have power of an authorized officer in terms of the Khyber Pakhtunkhwa Public Property (Removal of Encroachment) Act, 1977 (Khyber Pakhtunkhwa Act No.V of 1977) to evict any person, who is in occupation of, or enters upon, or is using any immovable waqf property to the occupation or use of which he is not, or has ceased to be, entitled by virtue of any provision of this Ordinance, or on expiration of lease agreement.”.

4. Amendment of section 8A of the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.---In the said Ordinance,-

- (a) the existing provision of section 8A shall be numbered as sub-section (1) of section 8A and in sub-section (1), as so numbered, after the word “period”, the words and comma “and terms and conditions,” shall be inserted; and
- (b) after sub-section (1), as so numbered, the following new sub-section shall be added, namely:

“(2) No person, institution or organization shall occupy any waqf property, unless entered into a lease agreement with Chief Administrator, under the provisions of this Ordinance.”.

5. Insertion of new sections 8B, 8C and 8D in the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.---In the said Ordinance, after section 8A, as so amended, the following new sections shall be inserted, namely:

“8B. Reserve rental value.--- The reserve rental value per square feet for lease of the commercial, residential and agricultural waqf property shall be determined by a committee to be constituted in the prescribed manner:

Provided that the reserve rental value shall be at the best available market rate.

8C. Renewal of lease agreement.--- (1) Every lease agreement shall be for specific period as referred to in section 8A and there shall be no renewal *per se*:

Provided that the Chief Administrator may renew a lease agreement by specifying cogent reasons that such renewal is in the interest of the waqf property.

(2) After the expiry of the lease period of a waqf property, if its further leasing out is deemed desirable in the public interest, such waqf property shall be put to open competitive bidding for leasing it out for another period.

8D. Registration of lease agreement.---All lease agreements, exceeding the period of one year, shall be registered with the office of Registrar:

Provided that the expenses of such registration, if any, shall be borne by the lessee.”.

6. Insertion of new section 9A in the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.---In the said Ordinance, after section 9, the following new section shall be inserted, namely:

“9A. Revocation of lease agreement.--- Notwithstanding anything contained in this Ordinance, the Chief Administrator may, with the prior approval of Government, at any time during the currency of lease agreement, revoke such lease agreement, if deemed appropriate in the public interest.”.

7. Amendment of section 15 of the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.--- In the said Ordinance, in section 15,-

- (a) in sub-section (1), for the word "scheme", the words "purpose specific scheme" shall be substituted; and
- (b) after sub-section (1), as so amended, the following new sub-section shall be inserted, namely:

"(1A) Notwithstanding anything contained in sub-section (1), for better utilization and development of a commercial waqf property, the Chief Administrator may enter into agreement with private entrepreneur or organization or company, registered under the relevant law, in accordance with the Khyber Pakhtunkhwa Public Private Partnership Act, 2020 (Khyber Pakhtunkhwa Act No. XLII of 2020)."

8. Insertion of new section 15A in the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.--- In the said Ordinance, after section 15, as so amended, the following new section shall be inserted, namely:

"15A. Services of the facility management company.---The Chief Administrator may hire services of a public or private sector company registered, under the relevant law, after completion of all codal formalities, for cleaning, security, rent collection or any other services as may be prescribed."

9. Insertion of new sections 20A, 20B and 20C in the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.---In the said Ordinance, after section 20, the following new sections shall be inserted, namely:

"20A. Submission of report to Chief Administrator.---(1) The Deputy Administrator or Manager, as the case may be, shall provide to the Administrator, details of immovable property or properties forming part of the waqf property to be leased out, specifying the period of lease, lease rent, terms and conditions of the lease and such other details thereof, as specified in the Form appended to this Ordinance.

(2) The Administrator shall give report of all lease agreements to the Chief Administrator as early as possible but not later than one month from the date on which the lease agreement was so executed.

(3) In case of failure of Deputy Administrator, Manager or Administrator to submit details and report under sub-sections (1) and (2), the same shall be deemed to be a misconduct within the meaning of the Khyber Pakhtunkhwa Efficiency and Discipline Rules, 2011 and shall be proceeded under the said rules.

20B. Initiation of process before expiry of lease agreement.---(1) Subject to the approval of the Chief Administrator, the Manager shall, before four months to the expiry of the existing lease agreement, initiate the case for the lease of the waqf property.

(2) In case of failure of Manager to initiate the case for the lease of waqf property under sub-section (1), the same shall be deemed to be a misconduct within the meaning of the Khyber Pakhtunkhwa Efficiency and Discipline Rules, 2011 and shall be proceeded under the said rules.

20C. Surrender of leased waqf property on expiration or termination of lease agreement.---Upon expiration or termination of the lease agreement, the lessee shall immediately surrender possession of the leased waqf property and all authorized leasehold improvements, in proper condition except only reasonable wear and tear, and all rights, title, and interest of the lessee in the leased waqf property shall be extinguished.”

10. Amendment of section 24 of the Khyber Pakhtunkhwa Ordinance No. 1 of 1979.---In the said Ordinance, in section 24, after sub-section (3), the following new sub-sections shall be added, namely:

“(4) In addition of eviction of person wrongfully in possession of waqf property under section 8 of this Ordinance, any person or institution in private sector, who-

- (a) occupies any waqf property in whole or part without proper authorization or lease agreement; or
- (b) occupies any waqf property, whose lease agreement has been terminated for any reason whatsoever or either the period of such lease agreement has already been expired; or
- (c) builds or extends a structure on waqf property without the authority of law or lease agreement,

shall be liable to punishment with imprisonment which may extend to ten years or fine which may extend to Rs. 5 million or with both, notwithstanding anything contained in any other law for the time being in force.

(5) In case of death of lessee, the provision of sub-section (4) shall be mutatis mutandis applicable to the legal representative of lessee.”.

11. Addition of Form to the Khyber Pakhtunkhwa Ordinance No. I of 1979.---In the said Ordinance, after section 26, the following shall be added, namely:

**“Form
(see section 20A (1))**

S.No	Lessee Name with CNIC No.	District wherein the waqf property is situated	Nature of lease agreement and land use	Date of Rent Assessment/ Reserve rental value	Date of Registration of lease agreement with period	Total Land in Kanal/Sqft	Lease Rent Per Month/Annum	Expiry date of lease agreement	No. of Extension of lease agreement Availed

Note: Copies of the lease agreement and notification under section 7 of this Ordinance shall be attached.

Deputy Administrator/Manager”

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA**

(KIFAYAT ULLAH KHAN AFRIDI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa