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KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 30th January, 2017.

No. PA/Khyber Pakhtunkhwa/Bills/2017/4618.—The Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Bill, 2017 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 24th January, 2017 and assented to by the Governor of the Khyber Pakhtunkhwa on 25th January, 2017 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA EHTESAB COMMISSION (AMENDMENT) ACT, 2017

(KHYBER PAKHTUNKHWA ACT NO. V OF 2017)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 30th January, 2017).

AN
ACT

*further to amend the Khyber Pakhtunkhwa
Ehtesab Commission Act, 2014.*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. **Short title and commencement.**—(1) This Act may be called the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2017.

(2) It shall come into force at once.

2. **Amendment of section 9 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 9, in clause (h), after the word "prescribe", the words and comma "except for the Investigation and Prosecution Wings, the", shall be inserted.

3. **Amendment of section 11 of the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the said Act, in section 11,-

(i) for sub-section (2), the following shall be substituted, namely:

"(2) Each Wing shall be headed by a Director who shall be appointed in the prescribed manner.";

(ii) After sub-section (2), as so amended, the following new sub-section shall be added, namely:

"(2A) Notwithstanding anything contained in this Act regarding appointment of officers and staff of the Directorate General, the eligibility criteria and method of appointment of the officers and staff of the Investigation Wing and Prosecution Wing shall be such as may be prescribed by rules:

Provided that for the purpose of appointment of the officers and staff of the Investigation Wing, due regard shall be given to person having expertise in the legal and investigation matters:

Provided further that in case of Prosecution Wing, appointment shall be made on contract basis and due regard shall be given to persons having expertise in the legal and prosecution matters."; and

(iii) for sub-section (4), the following shall be substituted, namely:

"(4) Unless otherwise provided in this Act, the officers, staff and other employees, including Advisors and Consultants, shall be appointed by the Director General, in a transparent manner, subject to the eligibility criteria and method of appointment laid down in the terms and conditions of service prescribed:

Provided that all persons appointed in the Directorate General, before the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2017, shall be examined by a Committee, to be headed by the Director General and assisted by such officers of the Directorate General, as he may deem appropriate, in accordance with the qualification and other terms and conditions of service, prescribed under this Act."

4. **Amendment of section 12 of the Khyber Pakhtunkhwa Act No. I of 2014.**---(i), In the said Act, in section 12, in sub-section (3), for clause (e), the following shall be substituted, namely:

- (e) (i) is found liable by the divisional Bench Peshawar High Court for abuse of authority or misconduct after an inquiry conducted by the Commission in this behalf, a report whereof shall be submitted to the Peshawar High Court by the Commission within 60 days of the initiation of such inquiry".
- (ii) in sub-section 4, of section 12, of the said Act in clause (c) sub clause (i) after the words "experience in" the words "senior administrative position or" shall be inserted.

Provided that for the purpose of appointment of the Director General of the Ehtesab Commission due regards and preference should be given to person having experience in the investigation.

5. **Amendment of section 16 of the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the said Act, in section 16, in sub-section(2), for the word "Commission". the words "Directorate General" shall be substituted.

6. **Amendment of section 17 of the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the said Act, in section 17, in clause (c) for the word "Directorate General" occurring for the second time, the word "Commission" shall be substituted.

7. **Amendment of section 18 of the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the said Act, in section 18, in sub-section (3) the words "with the approval of the Directorate General" shall be deleted.

8. **Amendment of section 35 of the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the said Act, in section 35,

- (i) In sub-section 1, explanation at the end shall be deleted.
- (ii) In sub-section (1A), for the words "in any ongoing project", the words "and in ongoing scheme of Government from current budget or developmental budget as the case may be" shall be substituted.

9. **Amendment of section 36 of the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the said Act, in section 36,

- (i) in sub-section (2), in the second proviso, for the words "under intimation to the Directorate General", the words "under intimation to the Commission" shall be substituted.; and
- (ii) in sub-section (5),
 - (a) after the words "arrest any person", the words "with the permission of Court" shall be inserted.; and

- (b) in the proviso, for the words "Director General", the word "Court" shall be substituted.

10. **Insertion of section 36A to the Khyber Pakhtunkhwa Act No. I of 2014.**---- In the said Act, after section 36, the following new section shall be inserted, namely:

"36A. Inquiry, investigation or proceedings in respect of imprudent bank loans, etc.--
- Notwithstanding anything contained in this Act or any other law for the time being in force, no inquiry, investigation or proceedings in respect of imprudent loans, defaulted loans or rescheduled loans shall be initiated or conducted by the Commission against any person, company or financial institution without reference from Governor, State Bank of Pakistan.

11. **Amendment of section 37 to the Khyber Pakhtunkhwa Act No. I of 2014.**--- In the said Act, in section 37, in sub-section (4), for the word "Commission" wherever occurring, the words "Directorate General" shall be substituted.

12. **Amendment of section 38 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 38,-

- (i) In sub-section (1), after the words and comma "authorized by him.", the words and comma "with previous permission of the Court," shall be inserted.; and
- (ii) In sub-section (4), for the words "Directorate General" occurring for the first time, the word " Court" shall be substituted.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa