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KHYBER PAKHTUNKHWA

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**PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA**

NOTIFICATION

Dated Peshawar, the 28th April, 2017.

No. PA/Khyber Pakhtunkhwa/Bills/2017/14989.—The Khyber Pakhtunkhwa Ehtesab Commission (Second Amendment) Bill, 2017 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 25th April, 2017 and assented to by the Governor of the Khyber Pakhtunkhwa on 27th April, 2017 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

**THE KHYBER PAKHTUNKHWA EHTESAB COMMISSION
(SECOND AMENDMENT) ACT, 2017**

(KHYBER PAKHTUNKHWA ACT NO. XIII 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 28th April, 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. 1 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 (Second Amendment) Act, 2017.

(2) It shall come into force from 20th February, 2016.

2. Amendment of Section 2 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. 1 of 2014), hereinafter referred to as the said Act, in section 2, in sub-section (1),-

(i) for clause (h), the following shall be substituted, namely:

“(h) “Commissioner” means a Commissioner appointed under section 4 of this Act;”;

(ii) clauses (o), (q) and (v) shall be deleted;

(iii) for clause (ac), the following shall be substituted, namely:

“(ac) “Selection Committee” means the Selection Committee constituted under section 6 of this Act;” and

(iv) clause (ad) shall be deleted.

3. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 4,-

(i) for sub-section (1), the following shall be substituted, namely:

“(1) The Commission shall consist of two (02) commissioners to be appointed by the Government on the recommendation of Selection Committee:

Provided that the existing Commissioners appointed before the commencement of the Khyber Pakhtunkhwa Ehtesab commission (Second Amendment) Act, 2017, shall continue their function under this Act, till the expiration of their tenure and after expiration of the tenure, the Commission shall be re-constituted by appointing two (02) Commissioners in accordance with the provisions of this Act.”;

(ii) sub-section (1A) shall be deleted.;

(iii) for sub-section (3), the following shall be substituted, namely:

“(3) Whenever, the office of Commissioner falls vacant, before the completion of the term of the said Commissioner, the Government shall upon the recommendation of the Selection Committee, appoint a new Commissioner on the recommendation of Selection Committee for the term of four (04) years.”; and

- (iv) in sub-section (10), for the word "Commission" wherever occurring, the words "Directorate General" shall be substituted.

4. Deletion of section 5 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, section 5 shall be deleted.

5. Substitution of section 6 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, for section 6, the following shall be substituted, namely:

"6. Constitution of Selection Committee.---(1) There shall be constituted a Selection Committee consisting of the Judges of the Administrative Committee of the High Court and the Advocate General for recommending suitable persons for each category to the Commission, for their appointment as Director General, Prosecutor General and Director Internal Monitoring and Public Complaints Wing, by inviting applications from the general public through advertisement:

Provided that in case of appointment of Commissioners, such recommendation shall be given to the Government.

Provided further that the recommendations given under this sub-section shall be binding on the Government:

(2) The procedure of selection shall be completed within a period of one hundred and twenty (120) days, when any position falls vacant, while the procedure for such selection shall be started within a period of seven (07) days, from the date when the position falls vacant.

(3) The criteria for evaluating the candidate shall be such as the Selection Committee may determine in this behalf; provided that before giving recommendation to the Government or the Commission, as the case may be, for appointment, comments and objections of general public may be obtained with respect to eligible candidate.

(4) Within fifteen (15) days of the receipt of recommendations of the Selection Committee, the Government or the Commission, as the case may be, shall appoint the person on the vacant position and shall issue notification accordingly.

(5) The Selection Committee shall also-

(a) inquire into allegation of abuse of authority or misconduct by the Commissioners, Director General, Prosecutor general and Director Internal Monitoring and Public Complaints Wing and after giving an opportunity to be heard in person, if found guilty, may recommend to the Government or the Commission, as the case may be, for removal and such recommendation shall have binding effect;

- (b) oversee the overall performance of the Director General, its officers and employees without interfering in day to day operational matters; and
- (c) Inquire into allegations the corruption and the corrupt practices within the Directorate General or any other officer or employee of the Directorate General and recommend competent authority for necessary action in accordance with rules and regulations.”

6. Deletion of sections 7 and 8 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in sections 7 and 8 shall be deleted.

7. Amendment of section 9 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 9, clauses (a), (f) and (i) shall be deleted.

8. Amendment of section 10 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 10,-

- (i) sub-section (2) shall be deleted; and
- (ii) for sub-section (3), the following shall be substituted, namely:

“(3) All decisions of the Commission shall be taken by consensus.”.

9. Amendment of section 12 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 12,-

- (i) for sub-section (1), the following shall be substituted, namely:

“(1) The Commission on the recommendation of Selection Committee shall appoint Director General to fulfill such duties and responsibilities as specified in this Act.”;

- (ii) in sub-section (3), clause (e) shall be deleted;

- (iii) in sub-section (4),-

- (a) in sub-clause (ii), before the word “judge”, the word “confirmed” shall be inserted; and

- (b) in sub-clause (iii), the word “or” appearing at the end shall be deleted and thereafter, clause (iv) shall also be deleted’

- (iv) in sub-section (6), for the word “Commission” occurring for the first time, the words “Directorate General” shall be substituted;

- (v) in sub-section (8), for the word "Governor", the word "Commissioner" shall be substituted; and
- (vi) in sub-section (9), for the words "Chief Ehtesab Commissioner", the word "Commission" shall be substituted.

10. Amendment of section 14 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 14, -

- (i) for sub-section (1), the following shall be substituted, namely:

“(1) The Commission on the recommendation of Selection Committee shall appoint Prosecutor General to fulfil such duties and responsibilities as specified in this Act.”; and

- (ii) in sub-section (3), clause (e) shall be deleted.

11. Amendment of section 16 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 16, for sub-section (1), the following shall be substituted, namely:

- “(1) The Commission on the recommendation of Selection Committee shall appoint Director Internal Monitoring and Public Complaints Wing to fulfill such duties and responsibilities as specified in this Act.”

12. Amendment of section 17 of the, Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 17, in clause (c), for the word "Commission", the word "Selection Committee" shall be substituted.

13. Amendment of section 23 of the Khyber Pakhtunkhwa Act No. 1 of 2014.--- In the said Act, in section 23, in sub-section (2), the colon appearing before the proviso shall be replaced by full stop and thereafter the proviso shall be deleted.

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

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa