



## PROVINCIAL ASSEMBLY SECRETARIAT OF KHYBER

### PAKHTUNKHWA

#### REPORT OF THE SELECT COMMITTEE ON THE KHYBER PAKHTUNKHWA

##### LAWS (AMENDMENT) BILL, 2025.

I, the Chairman of the Select Committee on the Khyber Pakhtunkhwa Laws (Amendment) Bill, 2025, have the honor to present this report on "*the Khyber Pakhtunkhwa Laws (Amendment) Bill, 2025*" as placed at "Annexure-A" which was referred by the House on 13<sup>th</sup> January 2025 to the Select Committee comprising of the following:-

i.	Mr. Aftab Alam Afridi, Minister for Law, Parliamentary Affairs & Human Rights	Chairman
ii.	Mr. Amjad Ali, Special Assistant to Chief Minister for Housing.	Member
iii.	Mr. Muhammad Idrees	Member
iv.	Mr. Mushtaq Ahmed Ghani, MPA	Member
v.	Mr. Munir Hussain, MPA	Member
vi.	Mr. Taj Muhammad Khan Tarand, MPA	Member
vii.	Mr. Ahmed Kundi, MPA	Member
viii.	Mr. Adnan Khan, MPA	Member
ix.	Arbab Muahammad Usman Khan, MPA	Member
x.	Mr. Muhammad Anwar Zeb, MPA	Member
xi.	Ms. Sobia Shahid, MPA	Member
xii.	Mr. Shah Abu Turab Khan Bangash	Member
xiii.	The Advocate-General, Khyber Pakhtunkhwa	Member

2. The Committee held two meetings on dated 17<sup>th</sup> and 24<sup>th</sup> January, 2025 in which the following members participated:-

i.	Mr. Amjad Ali, Special Assistant to Chief Minister for Housing.	Member
ii.	Mr. Mushtaq Ahmed Ghani, MPA	Member
iii.	Mr. Muhammad Idrees, MPA	Member
iv.	Mr. Munir Hussain, MPA	Member
v.	Mr. Taj Muhammad Khan Tarand, MPA	Member
vi.	Mr. Ahmed Kundi, MPA	Member
vii.	Mr. Adnan Khan, MPA	Member
viii.	Ms. Sobia Shahid, MPA	Member
ix.	Mr. Shah Faisal, Advocate-General, Khyber Pakhtunkhwa	Ex-officio Member

3. Apart from the above, the following also attended the meetings:-

- i. Mr. Akhtar Saeed Turk, Secretary, Law, Parliamentary Affairs & Human Rights Department, Khyber Pakhtunkhwa.
- ii. Mr. Imran, Deputy Legislation Officer, Law Department.

#### PROCEEDINGS:-

4. The preliminary meeting of the Committee was held to discuss the objections raised by the Governor of Khyber Pakhtunkhwa on the Khyber Pakhtunkhwa Laws (Amendment) Bill, 2025. It was emphasized that everyone should listen to each other, and that the beauty of democracy lies in promoting constructive criticism for reform.

5. Upon the invitation of the Committee, the Advocate-General, Khyber Pakhtunkhwa (Mr. Shah Faisal) stated that none of the objections involve any Article of the Constitution of Pakistan or any provision of law. He pointed out that there is an existing Act from 1989 for the Advisor and Special Assistant to the Chief Minister, under which the Chief Minister can delegate his powers to them. However, he emphasized that after hearing the objections of the concerned Members of the Assembly, arguments would be presented.

6. Thereafter, forum was opened for deliberation and the Honorable Members raised their objections/concerns as follows:-

- i. Mr. Adnan Khan, MPA, drew the Committee's attention to clause 3 of the Bill, where after the word "Minister", the words "Advisor" and "Special Assistant to the Chief Minister" have been added. He raised concerns that, under this law, any un-elected representative could become a member or Chairman of any Commission, Board, Authority, Council, Committee, Sub-Committee, etc. He questioned, how elected representatives could hold a meeting under the Chairmanship of an un-elected representative. He highlighted that the role of an Advisor is to advise to the Chief Minister, and the role of a Special Assistant to the Chief Minister is to assist the Chief Minister but not to run a department or chair any Committee. He also referenced section 2, Para (f), and section 5 of the Khyber Pakhtunkhwa Provincial Assembly (Powers, Immunities and Privileges) Act, 1988.
- ii. Mr. Ahmed Kundi, MPA, directed the Committee's attention to the preamble of the Constitution of the Islamic Republic of Pakistan, 1973 emphasizing that the framework of the state is based on the spirit of the Constitution. Whether it is the Federal or the Provincial Governments, it revolves around elected representatives. Elected representatives are accountable to the public and the Assembly. He referenced Articles 65 read with 127 of the Constitution of the Islamic Republic of Pakistan, 1973, which require an oath of office. Regarding sub-section 3 of section 3 of the Khyber Pakhtunkhwa Advisers and Special Assistants to Chief Minister (Appointment) Act 1989, he stated that **an Adviser or Special Assistant to the Chief Minister shall perform such functions as may be assigned to him by the Chief Minister from time to time.** He also stated that though the Chief Minister can delegate powers from time to time, however, this does not mean that an un-elected representative can be given unlawful powers, placing elected members under their authority. He further pointed out that there are several laws where the Chief Minister is the head of

head of committees and within these committees, many Ministers and elected members of the Provincial Assembly are included. He questioned, how an un-elected representative could chair a committee in the absence of the Chief Minister. He stressed that the beauty of democracy lies in collective decision-making, not in decisions made solely based on majority.

iii. Mr. Mushtaq Ahmad Ghani, MPA, stated that since the Governor has returned the Bill to the Assembly, it should be passed in such a form which clearly specify the distinction between "elected" and "un-elected" representatives. He raised the question of how an elected representative, who is accountable to the public and the Assembly, can work under the authority of an un-elected member.

iv. Mr. Munir Hussain, MPA said that in the past, there had been ambiguity regarding elected and un-elected representatives in certain laws, and he urged that this issue should not be extended further, and past mistakes should not be repeated. While agreeing with the Honorable Member Mr. Mohammad Idrees, MPA stated that the Chief Minister's powers are granted through the elected representatives of the Assembly.

7. In view of the above objections, the Advocate-General, drew the Committee's attention to sub-section 3 of section 5, of the Khyber Pakhtunkhwa Technical Education and Vocational Training Authority Act, 2015, which states that the Chief Minister can nominate any Minister, Advisor, or Special Assistant to the Chief Minister. Similarly, he referenced sub-section 2, of section 4, para (b) of the Khyber Pakhtunkhwa Centre of Excellence on Counter Violent Extremism Act, 2021, which mentions that in the absence of the Minister of Higher Education, the Advisor or Special Assistant to the Chief Minister can serve as the Vice-Chairman. While responding to the Advocate-General, informed the Committee that the powers delegated by the Chief Minister are not unlimited and are only delegated in exceptional circumstances. She pointed out that such provisions are not included in the Khyber Pakhtunkhwa Laws (Amendment) Bill, 2025. She further mentioned that the Provincial Government had previously enacted laws related to Medical Teaching Institutes and the Police, which led to increased difficulties for the Provincial Government. In her opinion, the current bill should include a distinction between "elected" and "un-elected" representatives.

8. Mr. Taj Muhammad Khan Tarand, MPA, drew the attention towards the Advocate-General references of laws where the trend of un-elected representatives was not prevalent, he emphasized that, in the current circumstances, it is important to ensure that this distinction is clearly made in the present and future laws. This would help avoid any ambiguity in the future.

9. At the conclusion of the first meeting, the Secretary, Law, Parliamentary Affairs and Human Rights and the Advocate-General was directed to bring all the laws and rules that contain ambiguities, to the next meeting, so that they can be addressed.

10. **In the second meeting of the Committee**, it was reiterated that the Khyber Pakhtunkhwa Laws (Amendment) Bill 2025, after being passed in the Assembly the Bill was sent to the Governor of Khyber Pakhtunkhwa for assent. After some objections, it was sent back to the Assembly for reconsideration. The main objections raised were that non-elected Advisors or Special Assistants were being treated as equals to elected representatives. If

elected Members are also part of the same Board or Committee, then non-elected Advisors or Special Assistants, even if they chair the Committee, would violate the distinction between elected and non-elected individuals' powers, which is also a violation of the Khyber Pakhtunkhwa Provincial Assembly (Powers, Immunities and Privileges) Act, 1988. It was told to the Committee that the concerns and objections were thoroughly discussed in the last meeting, and they were genuine. The Committee was informed that the Chief Minister also agreed with the Committee's grievances. In this regard, the Law Department has made necessary amendments in the current Bill. Thereafter, the Deputy Legislative Officer was invited to read out the draft amended Bill to the Committee. Afterward, the Committee Members discussed the draft amended Bill.

11. Mr. Ahmed Kundi, MPA raised an objection on the "Preamble" of the draft amended Bill, suggesting that the word 'elected' should be added before 'Advisor' and 'Special Assistant to the Chief Minister'. He argued that the entire framework of the Constitution of the Islamic Republic of Pakistan, 1973 revolves around elected representatives. He further raised the concern that simply adding the word 'elected' does not fully address the issue, as an elected representative who is also an Advisor or Special Assistant to the Chief Minister cannot preside over a meeting in the presence of a Minister. There are many precedents in the past where such appointments were invalidated by Court order. For example, in the Mustafa Impex case, the judgment by Justice Athar Minallah, regarding Mr. Shehzad Akbar, and Mr. Hafeez Shaikh, who was an Advisor and appointed as Chairman of the National Finance Commission, was invalidated by the Court order, despite the Constitution of the Islamic Republic of Pakistan, 1973 mentioning Federal Ministers. In the Local Government Act, 2013, the Minister for Finance is the Chairman of the Committee, with the Minister for Local Government as a member. Now, how can an elected Advisor or Special Assistant to the Chief Minister preside over this Committee? This law is in conflict with the Constitution of Pakistan. If the Government wants to allow any Advisor or Special Assistant to the Chief Minister to chair a meeting, they should amend these laws, accordingly. Mr. Adnan Khan and Ms. Sobia Shahid, MsPA also agreed with the point that only those laws should be amended which are intended, and such a law should not be introduced, which would require amendments later on. If the Government wishes to amend any laws, our support is with the Government.

12. Mr. Munir Hussain, MPA, asserted that neither an Advisor nor a Special Assistant to the Chief Minister, is a member of the Cabinet. In a meeting where the relevant Minister's presence is essential, how can an Advisor or Special Assistant to the Chief Minister preside over such a meeting?

13. At this point, Mr. Mushtaq Ahmad Ghani, MPA, informed the Committee that whatever action taken by the Advisors or Special Assistants to the Chief Minister, they do it on behalf of the Chief Minister. Even any business in the Assembly, it is stated in the motion that on behalf of the Chief Minister.

14. Mr. Taj Mohammad Khan Tarand, MPA, informed the Committee that after the 18<sup>th</sup> amendment in the Constitution of Pakistan, only 11% of the total members are part of the Cabinet. Since, the number of departments is higher than that, therefore, the Chief Minister requires Advisors and Special Assistants to the Chief Minister. The number of Advisors is also specified in the Constitution of Pakistan.

15. The Advocate-General, Khyber Pakhtunkhwa, after hearing all the objections, provided legal advice to the Committee that the word 'elected' should be added before

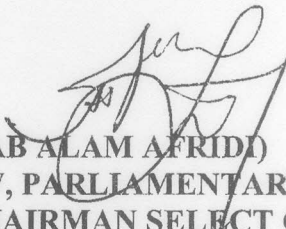
'Advisor' and 'Special Assistant to the Chief Minister' in the preamble, and the phrase 'wherever required' should also be added. He stated that this would address all the above-mentioned objections.

16. In view of the Advocate-General opinion and deliberation, the Committee, unanimously, made amendments for substitution of the long title, preamble, clauses 2 and 3 along-with the Statement of Objects and Reasons of the Bill.

**RECOMMENDATIONS:-**

17. The Committee recommends that the amended Bill at “Annexure-B” as reported by the Committee may be taken into consideration.

18. The Committee also recommends that all laws related to Advisors and Special Assistants to the Chief Minister may be amended in the context of the Bill as reported by the Committee.

  
(AFTAB ALAM AFRIDI)  
MINISTER FOR LAW, PARLIAMENTARY AFFAIRS &  
HUMAN RIGHTS/CHAIRMAN SELECT COMMITTEE  
ON THE KHYBER PAKHTUNKHWA LAWS  
(AMENDMENT) BILL, 2025

**THE KHYBER PAKHTUNKHWA LAWS (AMENDMENT)**  
**BILL, 2025 AS REFERRED BY THE HOUSE.**

A  
BILL

*to amend the Acts, Ordinances, rules, regulations, notifications, orders, bye-laws or other legal instruments, having the force of law in the Province of Khyber Pakhtunkhwa*

WHEREAS in order to accommodate the Advisors and Special Assistants to Chief Minister, in various Commissions, Boards, Authorities, Councils, Committees, Sub-Committees, etc. constituted under various Acts, Ordinances, rules, regulations, notifications, orders, bye-laws or other legal instruments having the force of law in the Province of Khyber Pakhtunkhwa;

AND WHEREAS it is expedient to amend the Acts, Ordinances, rules, regulations, notifications, orders, bye-laws or other legal instruments, having the force of law in the Province of the Khyber Pakhtunkhwa, in order to accommodate the Advisors and Special Assistants to Chief Minister in various Commissions, Boards, Authorities, Councils, Committees, Sub-Committees, etc. for smooth functioning of the Commissions, Boards, Authorities, Councils, Committees, Sub-Committees, etc. and for convenience and best interest of public;

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

1. **Short title, extent and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Laws (Amendment) Act, 2024.

(2) It shall extend to the whole of Province of Khyber Pakhtunkhwa.

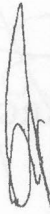
(3) It shall come into force at once.

2. **Definitions.**---In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say,-

(a) “Acts” mean the Acts in force in the Province of the Khyber Pakhtunkhwa;

(b) “Ordinances” mean the Ordinances in force in the Province of the Khyber Pakhtunkhwa; and


(c) “rules, regulations, notifications, orders or bye-laws” mean all rules, regulations, notifications, orders, bye-laws, including other legal instruments etc. framed or issued under the provisions of any Act or Ordinance.

  
Assistant Drafting Officer-IV  
Govt. of Khyber Pakhtunkhwa  
Law Department

3. Amendment of laws.---In Commissions, Boards, Authorities, Councils, Committees, Sub-Committees, etc., constituted under the Acts, Ordinances, rules, regulations, notifications, orders, bye-laws, etc., after the word "Minister", wherever occurring, the words and commas "or Advisors or Special Assistant to Chief Minister, as the case may be," wherever required, shall respectively be inserted.

### STATEMENT OF OBJECTS AND REASONS

It is desirable to provide for the accommodation of Advisors or Special Assistants to Chief Minister, in addition to the Minister concerned, in the composition of various Commissions, Boards, Authorities, Councils, Committees, Sub-Committees, etc., constituted under various Acts, Ordinances, rules, regulations, notifications, orders, bye-laws, other legal instruments having the force of law etc. for smooth functioning of the Commissions, Boards, Authorities, Councils, Committees, Sub-Committees, etc. and for convenience and best interest of public. Hence, this Bill.

  
Assistant Drafting Officer-IV  
Govt. of Khyber Pakhtunkhwa  
Law Department

Peshawar,  
dated the: 31/10/2024.

  
MINISTER-IN-CHARGE

**THE KHYBER PAKHTUNKHWA LAWS (AMENDMENT)**  
**BILL, 2025AS REPORTED BY THE COMMITTEE.**

A

**BILL**

*to enable the elected Advisors and Special Assistants to the Chief Minister in Khyber Pakhtunkhwa to chair meetings of the Commissions, Boards, Authorities, Councils, Committees, Sub-Committees.*

**WHEREAS** it is expedient to enable the elected Advisors and Special Assistant to Chief Minister, to chair meetings of various Commissions, Boards, Authorities, Councils, Committees or Sub-Committees constituted under various Acts, Ordinances, rules, regulations, notifications, orders, bye-laws or other legal instruments having the force of law in the province of Khyber Pakhtunkhwa wherever required;

**AND WHEREAS** it is expedient to amend the Acts, Ordinances, rules, regulations, notifications, orders, bye-laws or other legal instruments, having the force of law in the Province of the Khyber Pakhtunkhwa, in order to legally authorize the elected Advisors and Special Assistants to Chief Minister to chair meetings of various Commissions, Boards, Authorities, Councils, Committees or Sub-Committees so as to ensure smooth functioning of such Commissions, Boards, Authorities, Councils, Committees or Sub-Committees and to achieve administrative convenience to serve the best interest of public;

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

**1. Short title, extent and commencement.**--- (1) This Act may be called the Khyber Pakhtunkhwa Laws (Amendment) Act, 2025.

(2) It shall extend to the whole of Province of Khyber Pakhtunkhwa.

(3) It shall come into force at once.

**2. Definitions.**--- In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say,-

(a) **“Acts”** means the Acts in force in the Province of the Khyber Pakhtunkhwa whether enacted by the Provincial Assembly or devolved to the Provinces in pursuance of the Constitution (Amendment) Act, 2010;



- (b) **“Advisors”** means an Advisor to the Chief Minister appointed by the Chief Minister under clause (11) of Article 130 of the Constitution of the Islamic Republic of Pakistan;
- (c) **“Minister”** means a Provincial Minister appointed under Article 132 of the Constitution of the Islamic Republic of Pakistan;
- (d) **“Special Assistant”** means a Special Assistant to the Chief Minister appointed by the Chief Minister under the provisions of the Khyber Pakhtunkhwa Advisors, Special Assistants to the Chief Minister (Appointment) Act, 1989;
- (e) **“Ordinances”** mean the ordinance in force in the Province of Khyber Pakhtunkhwa;
- (f) **“Provincial Assembly”** means the Provincial Assembly of Khyber Pakhtunkhwa;
- (g) **“Rules, regulations, notifications, orders or bye-laws”** mean all rules, regulations, notifications, orders, bye-laws, including other legal instruments framed or issued under the provisions of any Act or Ordinance.

3. **Amendment of laws.**--- The provisions of Acts, Ordinances, rules, regulations, notifications, orders, bye-laws and legal instrument having the force of law wherein Commissions, Boards, Authorities, Councils, Committees or Sub-Committees have been constituted shall be amended to the effect that in every provision, after the word “Minister” wherever occurring, the words and commas “or Advisor or Special Assistant to Chief Minister, as the case may be, who are elected members of the Provincial Assembly” shall be inserted.

#### **STATEMENT OF OBJECT AND REASONS**

In majority departmental laws, provincial bodies, entities, boards, committees have been established headed by either by the concerned Minister or the Chief Minister. Business of these Councils, Commissions, Authorities or Committees is transacted smoothly as long as the Department concerned has a Minister-in-Charge or the Chief Minister holds that portfolio. However, in cases where a Department has no Minister or the Chief Minister has either appointed an Advisor or Special Assistant for that Department, the meetings of the statutory bodies/entities/boards/committees of that Department cannot be legally conducted by the Advisors or Special Assistant as the case may be, owing to the reason that under the law, rules or regulations only Minister has been allowed to chair the meetings of such Commissions, Councils, Boards, Committees or Sub-Committees. This causes administrative inconvenience for the Department.

Taking into consideration the afore-said difficulties, it is deemed expedient to enable the elected Advisors or Special Assistant to the Chief Minister, as the case may be, to chair meetings of the Commissions, Boards, Authorities, Boards, Committees, Sub-Committees constituted under various Acts, Ordinances, rules, regulations, notifications, orders, bye-laws or other legal instruments having the force of law. This will ensure smooth functioning of these Commissions, Boards, Authorities, Councils, Committees, Sub-Committees and will help achieve administrative convenience for the various Government Departments in the conduct of their business as well as serve the best interest of the public.

The Bill aims to achieve the above mentioned objective.

**Peshawar,**

**MINISTER-IN-CHARGE**

**Dated the: \_\_/\_\_/2025**

