

THE KHYBER PAKHTUNKHWA PUBLIC PRIVATE SCHOOLS REGULATORY AUTHORITY ACT, 2017.

(KHYBER PAKHTUNKHWA ACT NO. XXV OF 2017)

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THE KHYBER PAKHTUNKHWA PUBLIC PRIVATE SCHOOLS REGULATORY AUTHORITY ACT, 2017.

(KHYBER PAKHTUNKHWA ACT NO. XXV OF 2017)

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AN

ACT

to provide for the establishment of an Authority to register and regulate functioning of the Private Schools in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to establish an Authority for registration, regulation and supervision of Private Schools in the Province of the Khyber Pakhtunkhwa and for matters connected therewith or incidental thereto:

It is hereby enacted as follows:

1. Short title, extent and commencement---(1) This Act may be called the Khyber Pakhtunkhwa Private Schools Regulatory Authority Act, 2017.

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

(3) It shall come into force at once.

CHAPTER-I

Preliminary

2. Definitions.---(1) 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) "Board" means a Board of Intermediate and Secondary Education concerned or any other certificate awarding body, as the case may be, established by Government under any law for the time being in force;

(b) "Chairperson" means the Chairperson of the Regulatory Authority;

(c) "Company" means a Company as defined in the Companies Ordinance, 1984 (Ord. No. XLVII of 1984);

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“Fund” means the Private Schools Regulatory Authority Fund established under section 13 of this Act;

“Government” means the Government of the Khyber Pakhtunkhwa;

“Managing Director” means the Managing Director of the Regulatory Authority;

“prescribed” means prescribed by rules or regulations;

“Province” means the Province of the Khyber Pakhtunkhwa;

“provincial law” means a law passed or deemed to have been passed by the Provincial Assembly of the Khyber Pakhtunkhwa;

“regulations” mean regulations made under this Act;

“Regulatory Authority” means the Khyber Pakhtunkhwa Private Schools Regulatory Authority established under section 3 of this Act;

“rules” mean rules made under this Act;

“School” means a School in the private sector including Montessori, Kindergarten, tuition academy or centre, primary, middle, high, higher Secondary Schools or an institution of equivalent level imparting education through any system of education or medium of instruction in private sector;

“Society” means a Society registered under the Societies

Registration Act, 1860 (XXI of 1860);

“Trust” means a Trust established under the Trusts Act, 1882
(Act No.II of 1882);and

“District Scrutiny Committee” means the District Scrutiny Committee constituted by the Regulatory Authority for the inspection of the Schools for their registration.

(2) | Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant law.

CHAPTER-II

Establishment and Functions of the Regulatory Authority

3. Establishment of Regulatory Authority.---(1) Soon after the commencement of this Act, but not later than one hundred and eighty (180) days, Government shall establish a Regulatory Authority to be called the Khyber Pakhtunkhwa Private Schools Regulatory Authority.

(2) The Regulatory Authority shall be a body corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue or be sued.

(3) | The headquarter of the Regulatory Authority shall be at Peshawar and it may set up regional offices or district offices at such place or places as it may deem fit, subject to the approval of Government.

4. Composition of the Regulatory Authority.---(1) The Regulatory Authority shall consist of the following members:

(a) '[Secretary to Government, Elementary and Chairperson Secondary Education Department;]

(b) 7? [Special Secretary to Government, Member Elementary and Secondary Education Department;]

(c) Secretary to Government, Establishment Member and Administration Department;

(d) Secretary to Government, Finance Member Department;

(e) Director, Elementary and Secondary Member Education;

(f) four members from the private schools; Members

(g) three members from parents; Members

*Substituted vide Khyber Pakhtunkhwa Act No. XXVII of 2017

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(h) two members from educationists of the Members Government Education sector to be nominated by Government for period of three years on rotation basis; and

(i) Managing Director. Member-cum-Secretary

(2) The members at clauses (f) and (g) of sub-section (1), shall be selected and nominated respectively for the fix term of three years in the manner and on the conditions as may be prescribed.]

(3) |The members at clauses (f) and (g) of sub-section (1), may not be removed from office before expiry of their term except on established charges of corruption, misconduct, inefficiency, permanent disability or failure to attend three consecutive meetings of the Regulatory Authority without any valid reason.

5. Honoraria and allowance of members---The members at clauses (f) and (g) of sub-section (1) of section 4, shall be paid such honoraria and allowances as may be determined by the Regulatory Authority.

6. Resignation and filling of vacancy---(1) The members at clauses (f) and (g) of sub-section (1) of section 4, may resign his office by writing under his hand addressed to Government.

(2) | Government shall notify the method of filling of vacancy occurring in the membership of the Regulatory Authority.

7. Meetings of the Regulatory Authority---(1) In addition to annual meeting, the Regulatory Authority shall meet once a quarter on such day, time and place as the Chairperson may determine or on the request of half of the members of the Regulatory Authority.

(2) | The Chairperson shall preside over the meetings of the Regulatory Authority and in his absence the *[Special Secretary] to Government, Elementary and Secondary Education Department shall preside over the meeting.

'Substituted vide Khyber Pakhtunkhwa Act No. XXVII of 2017

*Substituted vide Khyber Pakhtunkhwa Act No. XXVII of 2017

(3) Quorum for the meeting of the Authority shall be half of its total membership.

(4) Decisions of the Regulatory Authority shall be expressed in terms of the opinion of the majority of its members present and voting and in the event of tie, the Chairperson or the member presiding over the meeting, as the case may be, shall have a casting vote.

8. Powers and functions of the Regulatory Authority.---(1) Subject to the provisions of this Act, rules and regulations, the Regulatory Authority shall exercise such powers, as may be necessary for carrying out the purposes of this Act.

(2) | Without prejudice to the generality of the fore-going sub-section, the Regulatory Authority shall-

(a) register and regulate school, supervision of their curricula, scheme of studies, academic schedules, co-curricular activities and ensuring observance of vacations of summer, winter, spring and other holidays in Schools as being observed by schools in public sector;

(b) formulate policy, guiding principles and criteria for the establishment and registration of School for supplementing public sector investment in education;

(c) | devise and implement criteria for categorization of a school to ensure minimum standard of education and facilities in each category;

(d) based on the categorization as provided under clause(c) of this sub-section, determine the maximum fee to be charged from a student, and minimum remuneration payable to a teacher;

(e) prescribe conditions under which School may be opened and operated;

(f) prescribe minimum qualifications and training programmes for teachers of different categories of schools and monitor their implementation;

(g) | evaluate academic performance of Schools and provide mechanism for rewarding best performing schools;

(h) issue standing orders allowing fee concession on '[sibling] basis not less than twenty five percent (25%) of the fee;

(i) sanction annual increase in fee in excess of upto ten percent (10%)to be charged from students; provided that a school shall not increase fee

[‘]Substituted vide Khyber Pakhtunkhwa Act No. XXVII of 2017

more than once during an academic year; provided further that such increase shall be announced one month prior to the commencement of an academic year; and

G) constitute a District Scrutiny Committee from time to time in consultation with Government.

9. Delegation of powers.... The Regulatory Authority may, by general or special order, delegate to the Managing Director or any officer of the Regulatory Authority, any of its powers or functions under this Act.

10. Constitution of Committees...The Authority may constitute such academic, administrative, financial, technical and special committees as may be deemed necessary for carrying out the purposes of this Act and such committees shall exercise such powers and perform such functions as may be delegated or assigned to them by the Regulatory Authority.

CHAPTER -II

Managing Director and Staff

11. Appointment and term of office.---(1) There shall be a Managing Director of the Regulatory Authority, who shall be posted by Government from amongst

Government Officers in Basic Pay Scale 19 and above.

(2) | The Managing Director shall be the Chief Executive of the Regulatory Authority.

(3) | Unless earlier removed, the Managing Director shall hold office for three years.

12. Appointment of officers and employees.—The Regulatory Authority may, from time to time, appoint such officers, officials, Consultants and Advisors, as it may consider necessary for its efficient performance, subject to the eligibility criteria and method of appointment laid down in the terms and conditions of service prescribed by rules.

CHAPTER-IV

Fund

13. Fund.---There shall be established a fund to be known as Private Schools Regulatory Authority Fund which shall consist of-

- (a) grants made by the Federal Government or Government or other authorities from time to time;
- (b) proceeds or any other profits howsoever known or called from bank accounts and investments;
- (c) gifts, grants or contributions to the Regulatory Authority by individuals or institutions;
- (d) all fees received by and fines paid to the Regulatory Authority;
- (e) contributions from training and welfare of teachers, employees and deserving students in Schools; and
- (f) refundable deposits received by the Regulatory Authority.

14. Custody of the Fund.---Money credited to the Fund shall be kept in the State Bank, Government treasury, a post office or a bank in such a manner as specified by Government.

15. Application of the Fund.---The money credited to the Fund shall be spent in accordance with the annual budget approved by the Regulatory Authority.

16. Budget preparation.---(1) The Annual budget for the Regulatory Authority shall contain estimates of-

- (a) grants-in-aid from the Government;
- (b) amounts received from other sources available in the Fund;
- (c) anticipated receipts for the next year; and
- (d) expenditure to be incurred during the next year.

(2) The Managing Director shall re-appropriate budgetary provisions in accordance with the re-appropriation powers delegated to him by the Regulatory Authority:

Provided that at the end of each financial year, a full statement of all re-

appropriations made, shall be submitted to the Regulatory Authority for confirmation.

17. Approval of budget.---(1) Managing Director shall present the budget for approval of the Regulatory Authority before the beginning of each financial year.

(2) The budget of the Regulatory Authority shall be approved by simple majority of the total members of the Regulatory Authority.

18. Accounts.---The accounts of receipts and expenditures of the Regulatory Authority shall be maintained in such forms and in accordance with principles and methods laid down by the Auditor-General of Pakistan.

19. Audit.---(1) The Auditor General of Pakistan shall, on the basis of such audit as he may consider appropriate or necessary, certify the accounts compiled and prepared by the Managing Director of the Authority for each financial year, showing under the respective heads of annual receipts and disbursements and shall submit the certified accounts with such notes, comments or recommendations as he may consider necessary to the Chairperson.

(2) The Chairperson shall cause the audit report to be laid before the Regulatory Authority.

(3) | The Regulatory Authority shall, after the end of each year, submit to the Government audited annual statement of accounts of the Regulatory Authority, together with the audit report and its response thereto.

(4) The Regulatory Authority shall also submit an annual report to the Government on the state of Schools and their contributions to the promotion of education in the Province.

20. Internal Audit.---The Regulatory Authority shall appoint an Internal Auditor as an independent consulting activity for adding value and improving financial management in the Regulatory Authority and its offices.

CHAPTER-V

Registration of Schools and Punishment for Violations

21. Registration of Schools.---(1) No School shall be opened or operated in the Province, irrespective of its affiliation if any, with the inland or foreign Board or certificate awarding body or students' assessment and testing body, as the case may be, without registration with the Regulatory Authority.

(2) — The Schools shall be registered for such a period and its renewal shall be done in such a manner as the Regulatory Authority may prescribe by regulations.

(3) No Board shall affiliate a School without the same being registered with the Regulatory Authority.

(4) If a Board de-affiliates any School, the Regulatory Authority shall forthwith suspend its registration and notify it to the School to show cause as to why its registration should not be revoked.

22. **Penalties.**—(1) Whoever open or operates a School without registration with the Regulatory Authority shall be fined by the Regulatory Authority of -

(a) rupees two hundred thousands in case of high, higher secondary school and intermediate college or an institution of equivalent level; and

(b) rupees fifty thousands in case of a Montessori, kindergarten, a tuition academy or centre, primary, lower middle and middle schools or an institution of equivalent level.

(2) | Whoever contravenes any other provision of this Act shall be fined of rupees twenty thousands.

(3) | Whoever contravenes any other provisions of rules or regulations made under this Act, shall be fined of rupees ten thousands.

(4) Incase of subsequent violation of sub-sections (1), (2) and (3), by the School, the Regulatory Authority shall '[take such punitive action as may be prescribed].

(5) Where the person in violation of any provision of this Act or rules or regulations is a Company, a Corporation, a Society or a Trust, every Director, partner and employee of the Company, Corporation, Society or Trust, as the case may be, shall unless he proves that the violation was committed without his knowledge or consent, shall be fined.

23. **Opportunity of hearing in regulatory proceedings.**—In case of any disciplinary proceedings against the School under this Act or rules or regulations for revocation of registration, the Regulatory Authority shall, before passing an order,

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serve the respondent School with a show cause notice and afford it a fair opportunity of hearing.

24.‘ Finality of order.---Save as otherwise expressly provided in this Act, every order passed or decision made by the Regulatory Authority or on its behalf under this Act, shall be final and shall not be called in question in any Court.

CHAPTER-VI

General

25. Nomenclature.---(1) No School shall be named after any prestigious or famous foreign educational institution, unless it is an authorized branch of the said institution and is duly approved by the Regulatory Authority.

(2) No School shall be named after a national or international figure without prior permission of the Government.

(3) No School shall be named in the manner which may encourage parochial, racial, tribal, religious and sectarian prejudices among the citizens.

26. Accessibility of Schools.---All the registered Schools shall be accessible to all students without caste, creed, religion and place of birth or residence and there shall be no restraint for admission except on merit.

27. Settlement of disputes.---The Regulatory Authority shall have exclusive authority in respect of registration of School within its jurisdiction and in respect of matters relating to disputes arising between Government and registered Schools or the Regulatory Authority and the registered Schools, or complaints of parents about fees and Schools, conditions of buildings of the Schools, and other related matters.

28. Review and Revision before the Regulatory Authority.---(1) Any person aggrieved by an order of the Regulatory Authority or any delegate of the Regulatory Authority, as the case may be, may prefer a review petition before the Regulatory Authority against the order of the Regulatory Authority, and may refer a revision petition before the Regulatory Authority against the order of the delegate of Regulatory Authority, as the case may be, for redressal of grievances.

(2) While disposing off a revision or review petition, the Regulatory Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908, (V of 1908), in respect of the following matters:

(a)

(b)

(c)

(d)

summoning and enforcing the attendance of any person and examining him on oath;

requiring production of documents;
receiving witnesses on affidavit, and

issuing commissions for the examination of witness or documents.

(3) The decision of the Regulatory Authority in revision or review shall be final.

CHAPTER-VII

Miscellaneous

29. Power to make rules.---(1) Government may make rules for carrying out the

purposes of this Act.

(2) Notwithstanding anything contained in sub-section (1), the rules shall provide for-

(a)

(b)

(c)

(d)

(e)

(f)

(g)

the terms and conditions on which Government servants may be transferred to the Regulatory Authority;

the frequency of meetings of the Regulatory Authority and the procedure that shall be followed at such meetings;

the forms and registers for keeping the accounts;

the manner in which and the time at which the annual financial

statement shall be submitted to Government for approval;

the returns, statements, estimates, statistics, information or reports which may be submitted to Government;

the manner in which the accounts of the Regulatory Authority shall be audited; and

any custody matter incidental or ancillary to the provisions of this Act.

30. Power to make regulations.---(1) The Regulatory Authority may frame regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to carry out the purposes of this Act.

(2) Notwithstanding anything contained in sub-section (1), the regulations shall provide for-

- (a) opening and operation, including supervision of Schools;
- (b) assessing resource availability for commissioning and resource flow for suitability and development of Schools;
- (c) periodic inspections of Schools for the purpose of monitoring compliance with the terms and conditions of registration;
- (d) constitution, composition and terms of reference for District Scrutiny Committees;
- (e) creating enforcement regime for compliance with the prerequisites of registration and conditions for operation of Schools;

[Deleted]

- (g) receipt and recovery of fees levied, penalties imposed and contributions made;
- (h) facilitating opening of private schools in backward areas of the Province;
- (i) issuing notices, including show cause notices, the process of service on respondents and the mode of entertaining petitions, review petitions, representations and hearing;
- (j) conducting its business; and
- (k) any other matter incidental or ancillary to the provisions of this Act.

31. Indemnity.---Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceedings shall lie against the Regulatory Authority or any person acting on behalf of the Regulatory Authority for anything done or

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intended to be done in good faith under this Act or the rules or the rules or the regulations.

32. Repeal and Saving.---(1) The Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions Ordinance, 2001 (Khyber Pakhtunkhwa Ord. No. XXVII of 2001) is hereby repealed to the extent of matter pertaining to the Elementary and Secondary Education Department and Board of Intermediate concerned as Regulatory Authority for schools.

(2) Notwithstanding the repeal of the said Ordinance, all Schools registered there under shall be deemed to have been registered under this Act, on the same terms and conditions as determined unless altered by the Regulatory Authority after due notice.

(3) All Schools operating without registration on the date of coming into force of this Act shall be allowed ninety days to apply for registration with the Regulatory Authority.

33. Act to override other laws.---Notwithstanding anything repugnant or contrary contained in any other law for the time being in force, the provisions of this Act shall take precedence in matters relating to opening, commissioning, registration, regulation and supervision of schools in the province and in matters connected therewith or incidental thereto.