

THE KHYBER PAKHTUNKHWA BOARD OF INVESTMENT
AND TRADE ACT, 2015.

(KHYBER PAKHTUNKHWA ACT NO. XL OF 2015)

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AN
ACT

to provide for the establishment of the Khyber Pakhtunkhwa Board of Investment and Trade in the Province of the Khyber Pakhtunkhwa.

AND WHEREAS it is expedient to provide for the establishment of the Khyber Pakhtunkhwa Board of Investment and Trade to promote, encourage, assist and facilitate investors in the Province of the Khyber Pakhtunkhwa and coordinate with all Departments of the Federal Government, the Government of the Khyber Pakhtunkhwa and other strategic stakeholders from public and private sectors for investment friendly policy reforms and sustainable economic growth,

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Board of Investment and Trade Act, 2015.

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

(3) It shall come into force at once.

2. Definitions.---In this Act, unless there is anything repugnant in the subject or context-

(a) "Board" means the Khyber Pakhtunkhwa Board of Investment and Trade established under section 3;

(b) "Chairman" means the Chairman of the Board;

(c) "Chief Executive Officer" means the Chief Executive Officer of the Board appointed under section 7;

(d) "Department" means a Department as defined in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

(e) "Fund" means the Fund established under section 10;

(f) "Government" means the Government of the Khyber Pakhtunkhwa;

(g) "member" means a member of the Board;

(h) "prescribed" means prescribed by rules or regulations;

(i) "Province" means the Province of the Khyber Pakhtunkhwa;

Gj) "regulations" mean regulations made under this Act;

(k) "rules" mean rules made under this Act; and

() "Vice Chairman" means Vice Chairman of the Board appointed under

sub-section (5) of section 4.

3. Establishment of the Khyber Pakhtunkhwa Board of Investment and Trade.---

(1) As soon as after the commencement of this Act, Government shall establish a Board to be known as the Khyber Pakhtunkhwa Board of Investment and Trade.

(2) The Board shall be a body corporate having perpetual succession and a common seal with the powers to acquire and dispose of property both movable and immovable and shall by the said name sue and sued.

(3) The Board in discharging its function shall be guided by such direction as Government may from time to time give and shall be accountable to Government for its performance.

(4) The head office of the Board shall be at Peshawar and the Board may, with the approval of Government, establish sub-offices within the Province.

4. Constitution of the Board.---(1) The Board shall consist of such number of public and private sectors members, not less than fifteen not more than twenty members including the Chairman as a Government may determine.

(2) The public sector members shall include Additional Chief Secretary, Planning and Development Department, Secretary to Government, Finance Department, Industries Department and Managing Director, Bank of Khyber.

(3) The private sector members shall include person of renowned integrity, expertise, experiences and knowledge including inter alia, academia, sciences, agriculture, banking business, commerce, economic, engineering, finance, industry, investment, law, marketing, mathematics, statistics and technology.

(4) The private sector members shall be appointed by Government for non extendable period of three years.

(5) The Chief Minister Khyber Pakhtunkhwa shall be the Chairman of the Board and the Vice Chairman shall be appointed by Government both from public or private sector on such terms and conditions as Government may determine for non extendable period of three years.

(6) The Vice Chairman shall be a person of known integrity and having background of sound policy making and policy implementation skills.

(7) The Board may co-opt any Government officer on case-to-case basis. A co-opted member shall be entitled to participate in meetings with no right to vote.

(8) The Vice Chairman and members from the private sector may at any time resign from their offices by notice in writing addressed to Government.

(9) A vacancy in the Board caused by the death, resignation or removal of any member from private sector shall be filled in by Government by appointment of another member within thirty days, for the remaining term of his predecessor.

(10) No person shall be appointed or remain as Vice Chairman or a Member of the Board, if he-

(a) is of unsound mind;

(b) is a defaulter of any financial institution of Federal Government or Government;

(c) has applied to be adjudicated as an insolvent and his application is pending;

(d) is an un-discharged insolvent;

(e) has been convicted by a Court of law for an offence involving moral turpitude;

(f) has been debarred from holding any office under any provisions of law; or

(g) has conflict of interest with such position.

(11) | The Chief Executive Officer shall be the member of the Board by virtue of his office and shall also act as Secretary of the Board.

5. Meetings of the Board.---(1) The meeting of the Board shall regulated in accordance with the procedure as may be prescribed.

(2) The Chairman shall preside over a meeting of the Board and in the absence of Chairman, the Vice Chairman shall preside over meeting of the Board.

(3) The quorum shall be two-third of the total membership of the Board for a meeting.

(4) All decisions of the Board shall be taken by majority of the members present and voting, and in case of tie, the Chairman shall have a second or casting vote.

(5) Meetings of the Board shall be held as and when required, but once at least in a quarter, at the time and place as the Chairman may determine.

6. Powers and functions of the Board.---The Board shall exercise and perform the following powers and functions-

(a) facilitate the investors by proactively engaging and coordinating with all concerned Departments for the purposes of promoting, encouraging and facilitating both local and foreign investment in the Province;

(b) facilitate Government on creating an enabling environment for investment;

(c) assist Government in the implementation of Public Private Partnership Act, 2014 (Khyber Pakhtunkhwa Act No. XX of 2014);

(d) undertake sub-sectors studies and develop concepts, briefs and fact sheets both internally in consultation with government department and through outsourcing to consultants on different priority sectors of the Province economy that have the potential for growth and employment generation and share the same with private and institutional investors including multilateral and bilateral donors;

(e) assist in identification of sector wise potential projects and prepare pre-feasibility reports of such projects wherever possible in consultation with concerned Departments;

(f) to do advocacy and to hold conferences, seminars, roundtables and presentations locally and internationally, to attract potential investors by creating awareness about Government policies, building confidence and exchanging practical and feasible investment ideas;

(g) engage on a regular basis with the larger business community including but not limited to business association, forums, trade bodies and chambers of commerce and industry, both in the Province and nationally to stimulate ideas for investment in the Province;

(h) to prescribe by regulations any fee for services rendered or facilitation extended by the Board; and

(i) to exercise and perform such powers and functions as may be assigned by Government.

7. Chief Executive Officer.---(1) Government shall appoint Chief Executive Officer, on the recommendations of the Board,-

(a) from amongst Government Officers not below the rank of grade 20; or

(b) from private sector on such terms and conditions and having such qualification as may be determined by Government.

(2) The Chief Executive Officer shall be answerable to the Board for all administrative and financial matters. The Board may delegate administrative and financial powers to the Chief Executive Officer for carrying out day to day affairs of the Board.

(3) Notwithstanding a change in the term of his office by an order of Government, the Chief Executive Officer shall continue to hold office till his successor

enters upon office:

Provided that existing Chief Executive Officer will continue till the appointment of Chief Executive Officer under this Act.

(4) The Chief Executive Officer, while acting as Secretary to the Board, shall be responsible for-

(a) convening of meetings of the Board with the approval of Chairman;

(b) the preparation of the agenda, working paper and its distribution among the members of the Board;

(c) recording the minutes of each meeting of the Board and its prompt dispatch to the concerned quarters;

(d) proper follow-up of all matters connected with or arising out of a meeting of the Board;

(e) monitoring and evaluation of the progress of projects approved by the Board; and

(f) for such other functions as may be assigned by the Board.

8. Committees.---(1) The Board may constitute committees to assist it in the performance of its functions. Such committees shall consist of such persons as the Board

may deem fit, including any member or officer of the Board. The Board may co-opt as member of a committee or committees, other person as it may deem fit:

Provided, however, that all decisions and recommendations of a committee shall be subject to approval of the Board.

(2) The meetings of the committees shall be in such manner as may be prescribed by regulations.

9. Delegation of powers.---The Board may delegate any of its powers, to any of its member or officer in such a manner, extent and period as may be prescribed by regulations.

10. Fund.---(1) There shall be a Fund to be known as the Khyber Pakhtunkhwa Board of Investment and Trade Fund which shall consist of-

(a) grants by Federal Government or Government;

(b) local and foreign aid or loans or donations obtained or raised by the Board with the approval of Government;

(c) fees and charges received by the Board; and

(d) any other sum which may in any manner become payable to or vested in the Board.

(2) The Fund shall be utilized for achieving the purposes of this Act including the administrative expenditures for running the affairs of the Board in the prescribed manner.

(3) The Board may, so far as its money is not required for immediate expenses, invest the surplus money in such manner as may be prescribed.

(4) The Board shall open and maintain accounts at such scheduled banks as it may from time to time determine. The Board shall, with the approval of Government, open and maintain foreign currency accounts.

11. Audit and accounts.---(1) | The accounts of the Fund shall be maintained in such form and in such manner as may be prescribed.

(2) Accounts of the Fund shall be audited by the Auditor General of Pakistan.

12. Annual report.---(1) Within ninety days from the end of each financial year, the

Board shall cause a report to be prepared on the activities of the Board during that financial year.

(2) The Board shall, within one hundred and twenty days of the end of each financial year send a copy of the annual report of the Board under sub-section (1) together with a copy of the statement of accounts of the Board certified by the auditors and a copy of the auditors' report to Government which shall be laid before the Provincial Assembly within two months of the receipt and caused to be published in the official Gazette.

13. Appointment of Officers, etc.---The Board may employ officers, advisors, consultants and other employees in service of the Board on contract and regular basis, as may be necessary for the efficient administration of the Board in such manner and on such terms and conditions, as may be prescribed.

14. Public servants.---All employees recruited by the Board shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Ordinance No. XLV of 1860).

15. Assistance to the Board.---The Board may assist any Department, statutory body, corporation, agency of Government, to review such proposals, policies, directions, guidelines, notifications, circulars, orders, regulations and rules, which, in its opinion, concern any matter relating to the Board, and the concerned Department, statutory body, corporation, agency of Government may give its decision in writing based on sound reasons within reasonable time.

16. Indemnity.---No suit, prosecution, or other legal proceeding shall lie against the Board or its Chairman, Vice Chairman, Members, Chief Executive, employees or consultants for anything in good faith done or intended to be done under this Act or any regulations made there under.

17. Power to make rules.---Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

18. Power to make regulations.---The Board may, by notification in the Gazette, make regulations, not inconsistent with the provisions of this Act, for carrying out the purposes of this Act.

19. Power of Government to issue directives.---Government may, as and when it considers necessary, issue policy directives to the Board, not inconsistent with the provisions of this Act, and the Board shall comply with such directives.

20. Removal of difficulties.---If any difficulty arises in giving effect to any provision of this Act, Government may, in consultation with the Board, issue orders, not inconsistent with the provisions of this Act, or the rules made there-under, for the removal of the difficulty upto two year.

21. Transfer of employees and assets.---(1) On the commencement of this Act, the existing Khyber Pakhtunkhwa Board of Investment and Trade, Board constituted under executive orders vide notifications number AEA (IND)3-58/2012/ BOIT/14993 dated 2

September 2013; AEA(IND)3-58/2012/ BOIT/ 14994 dated 2 September 2013; and AEA(IND)3-58/2012/BOIT/17423 dated 31 October 2013 shall be dissolved (hereinafter to referred as the "dissolved Board").

(2) All assets, rights, powers, authorities and privileges and property, movable and immovable, cash and bank balances, reserve funds, investments and all other interests and rights in, or arising out of such property and all debts, liabilities and obligations of whatever kind of the dissolved Board before the commencement of this Act, shall stand transferred to and vest in the Board.

(3) Notwithstanding anything contained in any law or rules, employees of the dissolved Board, who are holding various posts in the dissolved Board till the commencement of this Act, shall be deemed to have been validly appointed to these posts on the commencement of this Act, having the same qualification and experience for the said posts:

Provided that the seniority of the employees of the dissolved Board shall be determined by the Board as may be prescribed by regulations.

(4) Save as otherwise provided in sub-section (2), all the debts and obligations incurred or contracts entered into or rights acquired and all matters and things engaged to be done by, with or for the dissolved Board before the commencement of this Act, shall be deemed to have been incurred, entered into, acquired or engaged to be done by, with or for the Board, as the case may be.

(5) All suits and other legal proceedings instituted by or against the dissolved Board before the commencement of this Act shall be deemed to be suits and proceedings by or against the Board and may proceed and be dealt with accordingly.