

THE KHYBER PAKHTUNKHWA APPRENTICESHIP ACT, 2022.

(KHYBER PAKHTUNKHWA ACT NO. XXXV OF 2022)

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THE KHYBER PAKHTUNKHWA APPRENTICESHIP ACT, 2022.
(KHYBER PAKHTUNKHWA ACT NO. XXXV OF 2022)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 3rd August , 2022).

AN
ACT
to provide for promotion, development and regulation of systematic apprenticeship programmes in the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for promotion, development and regulation of systematic apprenticeship programmes in the establishments in the Khyber Pakhtunkhwa Province and for securing certain minimum standards of skill;

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 Khyber Pakhtunkhwa Apprenticeship Act, 2022.

(2) It shall extend to the Province of 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) "apprentice" means a person undergoing training in an establishment through apprenticeship in pursuance of a contract of apprenticeship with the employer under section 3 of this Act but shall not be treated as worker or any class of workers other than trainee;

(b) "apprenticeship" means a system of training which combines practical training in an establishment and theoretical training in a registered institute in pursuance of a contract of apprenticeship;

(c) "Apprenticeship Committee" means the Committee established under section 5 of this Act;

(d) "Competent Authority" means the Director General Industries and Commerce, Khyber Pakhtunkhwa;

(e) "Department" means the Industries, Commerce and Technical Education Department of Government;

(f) "designated trade" means any trade or occupation or any subject, field in engineering, technology, service, vocation, management or any other trade or occupation, as may be specified by the Department through notification in official Gazette;

(g) "employer" means any person who employs another person in an establishment, including an employer who has an ultimate control over the affairs of an establishment, whether public or private, or is responsible to its owner for the affairs of the establishment;

(h) "establishment" means an industrial, commercial, business, mining, exploration, services or any other organization including such sectors as the Competent Authority may by notification in the official Gazette, specify;

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

G) "prescribed" means prescribed by rules;

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

(dd) "stipend" means a monthly emolument paid by an employer to apprentices during the entire period of training at a rate of minimum of fifty percent of minimum wages prescribed by Government from time to time.

3. Apprenticeship contract.---(1) No person shall be engaged as an apprentice to undergo apprenticeship in a designated trade unless such person enters into an apprenticeship contract with the employer as may be specified by the Competent Authority.

(2) | The employer shall, within a period to be specified by the Competent Authority, send every apprenticeship contract entered into under sub-section (1), to the Competent Authority for registration.

(3) | The Competent Authority shall register an apprenticeship contract, if he is satisfied that the person described as an apprentice in the apprenticeship contract fulfills such eligibility criteria, as may be prescribed.

4. Termination of apprenticeship contract.---(1) Unless terminated earlier under sub-section (2), the apprenticeship contract shall end on completion of the period of apprenticeship.

(2) _ Either party to the apprenticeship contract may, at any time, intimate in writing to the other party for termination of the apprenticeship contract, and such

apprenticeship contract shall stand terminated in such manner, as may be prescribed.

(3) Where a party is aggrieved of the termination of apprenticeship contract under sub-section (2), it may submit its grievance to the Competent

Authority and the decision of Competent Authority thereon shall be final:

Provided that where a contract is terminated in case of failure on the part of

the-

(a) employer to carry out the terms and conditions of the contract, the employer shall pay to the apprentice an amount equal to double the amount of stipend for the remaining period; and

(b) apprentice, he shall refund to the employer cost of training as per sub-section (2) of section 9 of this Act.

5. Apprenticeship Committee.---(1) Soon after the commencement of this

Act, the Department shall, by notification in the official Gazette, constitute an Apprenticeship Committee.

(2) The Apprenticeship Committee constituted under sub-section (1), shall have such composition and shall perform such powers and functions, as may be prescribed.

6. Account of other receipts, etc.---(1) The Competent Authority shall maintain a separate bank account in any scheduled bank to which shall be credited the sums and receipts on account of the following, namely:

(a) donations from philanthropists;
(b) — donations from other non-governmental organizations; and

(c) sums received from corporate entities under the Corporate Social Responsibility (CSR).

(2) The bank account under sub-section (1), shall be operated jointly by the Competent Authority and another officer of the Department not below the rank of BPS-19 to be nominated by the Department.

(3) The expenditures from the account under sub-section (1), shall be regulated under the overall supervision of the Department in the manner, as may be prescribed.

(4) The expenditures from the account under sub-section (1), shall be audited by the Auditor General of Pakistan.

7. Obligations of employers.---Subject to the provisions of this Act and the rules, an employer shall—

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)
- (g)

ensure compliance with the provisions of this Act and the rules in his establishment;

introduce and operate such apprenticeship programmes in his establishment and in such a manner, as may be prescribed;

train apprentices in a proportion to a maximum of ten percent of the total number of persons employed on an average in his establishment or in such other proportion, as may be prescribed:

Provided that if an employer chooses not to train apprentices in proportion as required under this clause, he shall pay training contribution which shall be in proportion to the training cost he would have otherwise incurred in meeting his liability or he may get the required number of persons trained from any other establishment at his cost. The training contribution shall be credited to the account mentioned in section 6 of this Act;

be responsible to ensure that an apprentice receives within the normal working hours related theoretical instructions to the extent as may be specified by the Competent Authority;

bear the cost of training of apprentices during his apprenticeship within the establishment;

engage any persons, with the approval in writing of the Competent Authority, as an apprentice who has been an apprentice with another employer and has left his apprenticeship under clause (f) of sub-section (1) of section 9 of this Act or has been terminated by such other employer on disciplinary grounds; and

be responsible to notify well in time an apprenticeship opportunity in his establishment on designated websites in a manner, as may be specified by the Competent Authority.

8. Obligations of apprentices.---(1) Subject to the provisions of this Act and

the rules, an apprentice shall—

(a)

(b)

learn his trade conscientiously and diligently and shall endeavor to qualify himself as a skilled worker on the completion of his apprenticeship;

attend the practical training and related theoretical instructions according to the programme laid down by the employer;

(c) carry out all lawful orders of the employer or his representative relating to his apprenticeship and shall fulfill his obligations under the contract of apprenticeship;

(d) submit himself to any assessment, test or examination held from time to time for assessing the progress of his training;

(e) in case of any grievance against his employer arising out of his apprenticeship, approach the Competent Authority for the redressal of the grievance. The decision of the Competent Authority on the grievance shall be final and binding; and

(f) not leave his apprenticeship after the completion of his probationary period, except with the prior approval in writing from the Competent Authority, in the manner as prescribed.

(2) Without prejudice to the provisions contained in any other law for the time being in force, the apprentice shall be liable to the payment of such refund of expenses and compensation, which in no case shall be more than three stipends paid to him during the period of training if he-

(a) fails to carry out the terms of the apprenticeship contract; or

(b) during the period of his training, voluntarily quits such apprenticeship; or

(c) there are continued adverse reports regarding the progress of his training; or

(d) he is terminated for misconduct which includes insubordination and breach of the rules:

Provided that the condition of refund of the cost of training may be waived off by the Competent Authority on genuine grounds or unavoidable circumstances which compelled an apprentice to terminate the apprenticeship contract.

9. Registration of apprentices.---(1) The Competent Authority shall register the apprentices at the time of their recruitment and shall issue certification after successful completion of apprenticeship to the apprentices, in such a manner and for such intervals, as may be prescribed.

(2) A list of certified apprentices shall be maintained by the Competent Authority in the manner as may be prescribed.

10. Counseling and placement service.---The Competent Authority shall-
(a) establish facilities for career counseling and placement of the

apprentices at such places and in such manner, as may be prescribed; and

(b)

publish periodical newsletters and information bulletins in print and electronic media including on official website of the Directorate of Industries and Commerce on career counseling and placement services including information on but not limited to new and emerging trades, market skills trends and employment opportunities.

11. Advice and guidance to employers.---Subject to the provisions of this Act, the Competent Authority shall offer to the employers all possible technical advice and guidance in all matters relating to the apprenticeship programme run by the employers in their establishments in accordance with the provisions of this Act and the rules.

12. Powers of entry and inspection etc.---(1) The Competent Authority shall evolve and implement an effective monitoring and evaluation system and may-

(a)

(b)

(c)

(d)

with such assistants, if any, as he thinks fit, enter, inspect and examine an establishment or part thereof at any reasonable time;

examine any apprentice employed therein or require the production of any register, record or other documents maintained in pursuance of this Act and take, on the spot or otherwise, statement of any person which it may consider necessary for carrying out the purposes of this Act;

to make such examination and inquiry as deem fit in order to ascertain whether the provisions of this Act and the rules are

being observed in the establishment; and

exercise such other powers as may be prescribed.

(2) Notwithstanding anything in sub-section (1), no person shall be compelled under this section to answer any question or make any statement, which may tend directly or indirectly to incriminate him.

13. Penalties and procedure.---(1) If an employer-

(a)

(b)

(c)

fails to engage the number of apprentices he is required to engage under this Act; or

fails to carry out the terms and conditions of a contract of apprenticeship; or

fails to furnish an information or furnishes a false information required under this Act; or

(d) fails to facilitate the Competent Authority in any inspection, examination or inquiry authorized under this Act and the rules; or

(e) | engages an apprentice otherwise than in accordance with the provisions of this Act and the rules; or

(f) otherwise contravenes any provisions of this Act and the rules:

The Competent Authority may impose, upon the employer, an administrative penalty which may extend to twice the amount of minimum stipend to be paid to the minimum number of apprentices by the employer under this Act, and the employer shall pay the administrative penalty within such period as may be specified by the Competent Authority.

(2) Incase the employer fails to pay the amount of administrative penalty within the specified time under sub-section (1), the same shall constitute an offence on the part of the employer which shall be punishable with fine which may extend to twice the amount of the administrative penalty imposed under sub-section (1), and in case of default of payment of the fine, the employer shall be liable to imprisonment for a term which may extend to six months.

(3) An offence punishable under sub-section (2), shall be tried by a Magistrate of the First Class upon a complaint in writing made by the Competent Authority regarding non-payment of the administrative penalty under sub-section

(1).

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act No. V of 1898), an offence punishable under sub-section (2), shall be tried summarily under the provision of the Code of Criminal Procedure, 1898 (Act No. V of 1898) relating to the summary trials.

14. Power to authorize.---The Competent Authority may, by order in writing, direct that any power conferred upon him under this Act, shall be exercisable by such officers subordinate to him and subject to such conditions, as may be specified in the order.

15. Power to exempt.---The Department may, on the advice of the Competent Authority and in consultation with Apprenticeship Committee, by notification in the Official gazette, exempt conditionally, any establishment or class of establishments from all or any of the provisions of this Act for not more than one year, in case of a natural calamity.

16. Annual Report.---The Department shall, within three months of each calendar year, prepare an Annual Report on the progress of apprenticeship training programme and place the same before Government.

17. Savings.---Nothing in this Act shall apply to an establishment for a period of two years from the date of coming into existence of such establishment.

18. Act to override other laws.---The provision of this Act shall have overriding effect notwithstanding anything to contrary contained in any other law for the time being in force.

19. Powers to make rules.---(1) Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of foregoing powers, such rules may provide for all or any of the following matters, namely:

(a) — method and conditions of engagement, selection, the period of probation of apprentice;

(b) conditions and terms of a contract of apprenticeship;

(c) method and procedure governing settlement of disputes between an apprentice and his employer;

(d) working hours, leave and the holidays for apprentices;

(e) system, condition and procedure for formalizing informal apprenticeships including recognition of prior learning of informal sector apprentices;

(f) conditions of employment of apprentices after training;

(g) | procedure for registration or licensing apprentices and its renewal;

(h) procedure of discipline, welfare, supervision and control of apprentices;

(i) forms of records to be maintained by the employers pertaining to the training of apprentices;

G) assessment procedure, periodical tests, final examination and grant of certificates on the successful completion of training;

(k) composition, constitution and functions of, and the filling of vacancies in the Apprenticeship Committee, and the procedure to be followed by such committee in the discharge of its functions;

() training of female and disabled persons (PWDs);

(m) — code of conduct and ethics;

(n) — environment, health and safety; and

(o) welfare schemes for apprentices including but not limited to health insurance, group insurance etc. during the entire period of training.

20. Repeal and savings.—(1) The Apprenticeship Ordinance, 1962 (LVI of 1962) is hereby repealed to the extent of the Province of Khyber Pakhtunkhwa Province.

(2) Notwithstanding the repeal of the Apprenticeship Ordinance, 1962 (LVI of 1962) any rules, notifications, orders or any action made, issued or taken under the repealed Ordinance, in so far as they are not inconsistent with the provisions of this Act, shall be deemed to have been validly taken or made under this Act.