

THE KHYBER PAKHTUNKHWA REGULARIZATION OF SERVICES IN
ERSTWHILE FEDERALLY ADMINISTERED TRIBAL AREAS ACT, 2022.

(KHYBER PAKHTUNKHWA ACT NO. IX OF 2022)

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THE KHYBER PAKHTUNKHWA REGULARIZATION OF SERVICES IN
ERSTWHILE FEDERALLY ADMINISTERED TRIBAL AREAS ACT, 2022.

(KHYBER PAKHTUNKHWA ACT NO. IX 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 31st March, 2022).

AN
ACT

to provide for the appointment and regularization of services of certain employees appointed for various activities in the erstwhile Federally Administered Tribal Areas.

WHEREAS it is expedient to provide for the appointment and regularization of services of certain employees appointed for various projects and activities in the erstwhile Federally Administered Tribal Areas;

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

1. Short title, application and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Regularization of Services in Erstwhile Federally Administered Tribal Areas Act, 2022.

(2) It shall apply to all the employees as defined in clause (d) of subsection (1) of section 2 of this Act.

(3) It shall come into force at once.

2. Definitions.—(1) In this Act, unless the context otherwise requires,-

(a) "Commission" means the Khyber Pakhtunkhwa Public Service Commission;

(b) "Departmental Selection Committee" means a Departmental Selection Committee, constituted for the purpose of making selection for appointment to project post under a Department or office in the erstwhile Federally Administered Tribal Areas;

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

(d) "employees" mean persons, who were appointed on contract basis, as per project policy, to a project posts, in the erstwhile Federally Administered Tribal Areas, and such posts were duly reflected in PC-I of that

project, and who possess the prescribed qualifications, training and experience for the said posts, at the time of such appointment, as reflected in the Schedule;

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

(f) "law or rules" mean the law or rules, for the time being in force, governing the selection and appointment of civil servants;

(g) "project" means a perpetual nature project, in the erstwhile Federally Administered Tribal Areas as reflected in the Schedule, the continuation of which and conversion to regular budget is essential for service delivery, duly identified by the Departments concerned;

(h) "project post" means a post in the project; and

(i) "Schedule" means a Schedule appended to this Act.

(2) The expression "contract appointment" shall have the same meaning as is assigned to it in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

3. Appointment and regularization of services of employees.--- (1)

Notwithstanding anything contained in any law or rules, the employees, appointed in various projects, as reflected in the Schedule in the erstwhile Federally Administered Tribal Areas, and holding posts till 1st March, 2022, shall be deemed to have been validly appointed, on regular basis, from the commencement of this Act, subject to verification of their qualifications and other credentials by the concerned Department.

(2) All such employees, after the commencement of this Act, shall, in lieu of pension and gratuity, be entitled to receive such amount contributed by them towards the Contributory Provident Fund, along with the contributions made by Government to their account in the said Fund, in the prescribed manner.

(3) A Committee, headed by the Secretary of the Department concerned, with the following membership, shall scrutinize all the credentials of the employees, before issuance of the regularization orders:

(a) head of the Attached Department concerned;

(b) representative of the Establishment and Administration Department of Government;

(c) representative of the Finance Department of Government;

(d) representative of the Planning and Development Department of Government; and

(e) Deputy Secretary of the Department concerned.

4. General conditions for regularization.---For the purpose of regularization of the employees under this Act, the following general conditions shall be observed:

(a) the service promotion quota of all service cadres shall not be affected;

(b) the employees shall possess the same qualification and experience as required for a regular post;

(c) the employees have not resigned from their services or terminated from service on account of misconduct, inefficiency or any other grounds before the commencement of this Act; and

(d) the services of such employees shall be deemed to have been regularized only on the publication of their names in the official Gazette.

5. Determination of seniority.--- (1) All employees, whose services are regularized under this Act, shall rank junior to all civil servants, belonging to the same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other persons, if any, who, in pursuance of the recommendation of the Commission or Departmental Selection Committee, as the case may be, made before the commencement of this Act, are to be appointed to the respective service or cadre, irrespective of their actual date of appointment.

(2) The seniority inter-se of the employees, whose services are regularized under this Act, within the same service or cadre, shall be determined as per provisions of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) and rules made thereunder.

6. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, the Chief Minister of Khyber Pakhtunkhwa may make such order, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing such difficulty.

7. Overriding effect.---Notwithstanding anything to the contrary contained in any other law or rules, the provisions of this Act shall have an overriding effect and the provisions of any such law or rules to the extent of inconsistency to this Act shall cease to have effect.

8. Amendment of the Act No. XXIV of 2010.— In the National Disaster Management Act, 2010 (Act No. XXIV of 2010), after section 17 A, the following new section shall be inserted, namely:

“17B. Appointment and regularization of services of employees.--- (1) Notwithstanding anything contained in any law or rules, the employees, appointed for various activities, as reflected in the Table below, in the erstwhile Federally Administered Tribal Areas, and holding posts till 1st March, 2022, shall

be deemed to have been validly appointed, on regular basis, from the commencement of this Act, subject to verification of their qualifications and other credentials by the Authority in the prescribed manner:

Table

1. Citizen Losses Compensation Program (CLCP).
2. FATA Temporary Displaced Persons Early Recovery Project.
3. Contingent Employees of PDMA (Ex-FDMA).

(2) The Seniority and other terms and conditions of service of the employees shall be determined in the prescribed manner.”.

9. Amendment of Khyber Pakhtunkhwa Act No. XII of 2015---In the Khyber Pakhtunkhwa Technical Education and Vocational Training Authority Act, 2015 (Khyber Pakhtunkhwa Act No. XII of 2015), after section 16, the following new section shall be inserted, namely:

“16A. Appointment and regularization of services of employees--- (1) Notwithstanding anything contained in any law or rules, the employees, recruited in various projects, as reflected in the Table below, in the erstwhile Federally Administered Tribal Areas, and holding posts till 1st March, 2022, shall be deemed to have been validly appointed, on regular basis, from the commencement of this Act, subject to verification of their qualifications and other credentials by the Authority in the prescribed manner:

Table

1. Tribal Districts Youths Skills Program in Health Courses.
2. FATA Youths Skills Development through Field Internship Phase-II.
3. Establishment of Women Skills Development Centres in

Northern Tribal District-Phase-III.

Establishment of Women Skills Development Centres in Central FATA-Phase-II.

5. Establishment of Women Skills Development Centres in Southern FATA-Phase-II.

(2) The Seniority and other terms and conditions of service of the employees of the said projects shall be determined in the prescribed manner.”.

Schedule

[see sections 2(d) & (g) and 3]

Potential of Ground Water Surface, Irrigation System.

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National Program for Improvement/Lining of Water Courses in FATA.

O&M of 13 Nos. of Completed Dams in FATA.

Topping-Up of MNCH Program.

Oil & Gas Facilitation Unit.

Livestock Productivity Enhancement in Merged Areas.

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Twenty Nine (29) Employees of AOM&R/Alteration/Renovation and Re-construction of Merged Areas Secretariat and Ex-FATA Colony, Warsak Road, Peshawar, C&W Department.