

THE KHYBER PAKHTUNKHWA CIVIL ADMINISTRATION (PUBLIC SERVICE DELIVERY AND GOOD GOVERNANCE) ACT, 2020

(KHYBER PAKHTUNKHWA ACT NO. IX OF 2020)

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(KHYBER PAKHTUNKHWA ACT NO. IX OF 2020)

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AN
ACT

to establish and build an effective system of civil administration for

good governance and improved service delivery and its enforcement mechanism in the Province of Khyber Pakhtunkhwa.

WHEREAS Government of the Khyber Pakhtunkhwa considers good governance as the cornerstone of a progressive and just society, which includes, open government, public service delivery, citizen participation, performance accountability and innovative ideas as its core values;

AND WHEREAS good governance necessitates the establishment of a performance management system in a district to ensure improved service delivery, enforcement of the regulatory regime, institution of a robust grievance redressal system, and the coordination of administrative and development functions in a transparent and accountable manner;

AND WHEREAS new public management requires the creation of an environment for the expedition of change initiatives, reforms and innovation in the public sector in routine as well as special circumstances;

AND WHEREAS it is important to enhance the legal and administrative capacity of civil administration with the aim to address the governance challenges and achieve the objectives of Government and for matters connected therein and incidental thereto;

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

1. Short title, application, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Civil Administration (Public Service Delivery and Good Governance) Act, 2020.

(2) It shall apply to all Public Agencies and their field offices and District or Tehsil level formations, in the Province of Khyber Pakhtunkhwa.

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

(4) It shall come into force at once.

2. Definitions.—In this Act, unless there is anything repugnant to the subject or

context,-

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“Additional Assistant Commissioner” means an officer, appointed as such under this Act, in the manner as provided in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

“Additional Deputy Commissioner” means an officer, appointed as such under this Act, in the manner as provided in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

“Assistant Commissioner” means an officer in-charge of a sub-division, appointed as such under this Act in the manner as provided in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

“Commissioner” means an officer in-charge of a Division, appointed as such under this Act, in the manner as provided in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

“Department” means the Establishment and Administration Department of Government;

“Deputy Commissioner” means an officer in-charge of a District, appointed as such under this Act, in the manner as provided in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

“District Administration” for the purposes of this Act means a Deputy Commissioner, an Additional Deputy Commissioner, an Assistant Commissioner and an Additional Assistant Commissioner;

“Division”, “District” and “Sub-Division” respectively mean the revenue division, revenue district and revenue sub-division, constituted under the Khyber Pakhtunkhwa Land Revenue Act, 1967 (Act No.XVII of 1967);

“Government” means Government of the Khyber Pakhtunkhwa;

“Head of District Police” means an officer in-charge of the police in a District;

“prescribed” means prescribed by rules made under this Act;

“Public Agency” means any department or office of Government at the level of Tehsil, District or Division, as the case may be, notified by Government for the purposes of this Act, but does not include police, constituted under the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017), or elected representatives of the local governments constituted under the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No.XXVIII of 2013);

“rules” mean rules made under this Act;

(n)

“Service” means Pakistan Administrative Service, Provincial Management Service or Provincial Civil Service (Executive Group); and

(0) “Special Initiative” means a task or policy objective meant for public good, assigned by the Department, to be accomplished in a specified time frame, in accordance with law.

3. Commissioner of the Division.---(1) The Commissioner for each Division shall

be appointed from amongst the officers of the Service.

(2) The Commissioner shall, subject to the general control of Government,-

(a)

(b)

be the officer in-charge of general administration in the Division and the principal representative of Government in such Division; and

exercise superintendence over Public Agencies in the Division, on behalf of Government.

(3) The Commissioner shall carry out such tasks as assigned to him under this

Act, rules or any other law, rules or policy of Government for the time being in force:

Provided that the Commissioner in discharge of his responsibilities shall be aided

by all Public Agencies in a division and his directions for the purpose of achieving such tasks shall be binding upon Public Agencies.

(4) The Commissioner, in addition to the functions given in sub-section (3),

shall-

(a)

(b)

(e)

oversee the discharge of duties by the Additional Commissioners and Deputy Commissioners in the Division under his charge;

oversee and coordinate the work of all Public Agencies in the Division under his charge for purposes of integrated development, efficient use of public resources and effective service delivery;

support, assist and facilitate Public Agencies in the Division under his charge;

facilitate and coordinate any work which concerns two or more

Districts in the Division or two or more Divisions for purposes of integrated development, efficient use of public resources and effective service delivery; and

supervise and coordinate implementation of policies, instructions and guidelines of Government in the Division.

4. Deputy Commissioner of the District.---(1) The Deputy Commissioner for each District shall be appointed from amongst the officers of the Service.

(2) The Deputy Commissioner shall be the officer in-charge of general administration and shall be the principal representative of the Government in the District, exercising superintendence over Public Agencies in the District, on behalf of Government, subject to the general control of Government.

(3) The Deputy Commissioner shall carry out the tasks assigned to him under this Act, rules, or any other law, rules or policy of the Government for the time being in force:

Provided that the Deputy Commissioner in discharge of his responsibilities shall be aided by all Public Agencies and his directions for the purpose of achieving such tasks shall be binding upon Public Agencies.

(4) The Deputy Commissioner, in addition to the functions given in sub-section (3), shall-

(a) oversee the discharge of duties by the Additional Deputy Commissioners, Assistant Commissioners, and Additional Assistant Commissioners in the District under his charge;

(b) oversee and coordinate the work of all Public Agencies in the District under his charge for purposes of integrated development, efficient use of public resources and effective service delivery;

(c) support, assist and facilitate Public Agencies in the District under his charge;

(d) ensure that the standards set for any public agency are fully observed in the manner as may be prescribed; and

(e) supervise and coordinate the implementation of the policies, instructions and guidelines of Government.

5. Posting of Commissioners and Deputy Commissioners.---(1) The Department shall notify a Provincial Placement Committee, comprising senior officers of the Service.

(2) The Provincial Placement Committee shall propose a panel of suitable officers from amongst the officers of Service, against the posts of Commissioner and Deputy Commissioner for the consideration of the Chief Minister in the manner as may be prescribed.

6. Additional Commissioner, Additional Deputy Commissioner, Assistant Commissioner and Additional Assistant Commissioner.---(1) Additional Commissioner in a Division, Additional Deputy Commissioner, Assistant Commissioner and Additional Assistant Commissioner in a District shall be appointed from amongst the officers of the Service.

(2) An Additional Commissioner shall serve under the general administration and control of the Commissioner and shall perform the functions under this Act or any other law for the time being in force, or as the Commissioner may, by order, assign.

(3) An Additional Deputy Commissioner, an Assistant Commissioner or an Additional Assistant Commissioner shall serve under the general supervision and control of the Deputy Commissioner and shall perform functions under this Act or any other law, for the time being in force, and shall carry out the tasks assigned to him by the Deputy Commissioner from time to time.

(4) An Assistant Commissioner may distribute and supervise work amongst the officers subordinate to him in the manner and to the extent as may be prescribed.

7. Powers to constitute committees.---The Chief Minister may constitute such committees for the purposes of good governance, effective regulation, efficient service delivery, public welfare and better coordination amongst various Public Agencies at the level of Province, Division or District, consisting such heads of Public Agencies, public representatives, heads of Division, District and Tehsil Administrations and such other persons as may be specified.

8. Special Initiatives.---(1) The Department may assign to the Commissioner or Deputy Commissioner, as the case may be, Special Initiatives to be executed through other Public Agencies or the general public, in line with the overall policies of Government.

(2) The office of Commissioner and Deputy Commissioner shall act as the focal point at the level of Division and District respectively, for inter-governmental and inter-agency coordination to achieve the objectives of such Special Initiatives.

9. Complaint Management Cell.---(1) Soon after the commencement of this Act, each Deputy Commissioner shall set up a Complaint Management Cell in the District, to enquire, coordinate and oversee the resolution of public complaints relating to service delivery:

Provided that the Deputy Commissioner may designate an officer of District Administration or any other Public Agency to oversee the resolution of a particular class of complaints.

(2) The Complaint Management Cell shall process complaints received through automated complaint management systems instituted by Federal, Provincial or local governments, and complaints received directly from public through other means including written applications or through electronic communication devices.

(3) The Complaint Management Cell may assign the complaints to the relevant Public Agency for resolution and response within a defined timeframe and receive feedback from the complainant.

(4) In case of a disagreement between the complainant and Public Agency on the resolution of a complaint, the Deputy Commissioner may assign an officer of District Administration, or any other Public Agency to enquire into the matter and present his findings, based upon which the Deputy Commissioner shall pass an appropriate order, which shall be binding upon the parties for that particular complaint.

(5) An appeal against the order of the Deputy Commissioner, passed under sub-section (4), shall lie before the Administrative Secretary of the Public Agency concerned.

10. Information and periodic reports.---(1) Every head of Public Agency shall keep the Deputy Commissioner informed on matters of public importance, related to that Public Agency and submit a periodic report on the working of his office to the Deputy Commissioner at such time and in such form and manner as directed by the Department.

(2) The Deputy Commissioner shall keep the Commissioner informed of all matters of administration of the District, under his charge, and prepare a consolidated

report on the working of offices in the District and submit the same to the Commissioner, at such time and in such form as directed by the Department.

(3) The Commissioner shall keep the Department and _ concerned Administrative Department informed of all matters of administration of the Division, under his charge, and after reviewing the reports, submitted by the Deputy Commissioner under sub-section(2), submit them to the Department at such time and in such form as directed.

11. Public properties.---(1) The Deputy Commissioner shall oversee the use of all public properties in the District under his charge and where required direct the concerned head of Public Agency for the proper maintenance and use of a property or safeguarding it against illegal trespass, encroachment, undue wastage or destruction.

(2) The officers of District Administration shall exercise all the powers under section 10 of the Khyber Pakhtunkhwa Public Property (Removal of Encroachment) Act, 1977 (Khyber Pakhtunkhwa Act No. V of 1977).

(3) The Deputy Commissioner shall maintain a registry of all public properties in such form as may be prescribed.

12. Public nuisance.---(1) Whenever an officer of District Administration considers, upon receipt of any information, that anything causing nuisance to the public should be removed from any public pathway or water channel or common property or the keeping of any material on such way or channel or property is injurious to public safety or health or comfort, or any structure which is likely to cause injury to the public, such officer may make an order requiring such public nuisance to be removed, either by the person causing such nuisance himself within a given timeframe, failing which the same will be removed by the concerned Public Agency upon directions of the officer, at the risk and cost of the person causing such nuisance.

(2) Whenever, an officer of the District Administration has reason to believe that a person has fouled a common waterway, reservoir, river or channel, and has rendered it unfit for the purpose for which it is to be used ordinarily, or that person through his negligence or deliberate action is damaging the surroundings, crops or human habitat, then such officer may make an order, requiring such person to abstain from such action which is deemed against public comfort and order such correction to be made, as may be necessary:

Provided that where the person guilty of such action refuses to comply with such orders, the officer making the order may proceed to cause the correction to be made through the concerned Public Agency at the risk and cost of person causing such damage.

(3) For the purpose of removing public nuisance under the provisions of this section, such officer may use or cause to be used such force, as may be necessary, and recover the costs of removal of such public nuisance from the person causing it.

13. Prohibited items.---Whenever an officer of District Administration receives information that items, banned for sale or possession or distribution by Government, District Administration or any other Public Agency, to be against public interests, through a specific order, are being sold, distributed or kept in storage in violation of the order, he may require the removal of such items from such site or shop or storage,

wherever they are kept, within such time and on such conditions, as deemed appropriate in public interest:

Provided that whenever any person contravenes such order, the officer making such order may enter upon such premises wherever these banned items are kept, take possession of these items for further disposal as he may deem appropriate in public interest, seal such premises, institute criminal proceedings against the violators, use such force as may be necessary and may requisition the assistance of any Public Agency to enforce his order.

Explanation: For the meanings of this sub-section, and without limiting the generality of the foregoing provision, item may include literature or books, obscene objects, audio visual recordings, pamphlets, boards, edible items, medicines and drugs or other durable and non-durable goods.

14. Public processions.---Any public meeting, procession, assembly or gathering in public park, stadium, road, public pathway, hall or as the case may be, for any purpose, shall not take place in a District without prior permission from the Deputy Commissioner, who upon receipt of an application from the organizers, may forward it to police, and other relevant Public Agencies for opinion, and after making such enquiry as may be necessary, approve or regret the grant of permission to hold such public procession or gathering:

Provided that while granting permission to hold such public gathering, the Deputy Commissioner may set certain conditions to be observed by the organizers or may requisition the assistance and resources from a Public Agency for smooth and safe conduct of such public gathering.

15. Public order.---(1) The Deputy Commissioner may, on the receipt of any information, or on a request made by the police, or any other Public Agency, upon satisfying himself of the situation, require the Head of District Police to take such measures, as the Head of District Police considers appropriate for the maintenance of public peace, public spaces and safety of lives and properties in the District under his charge.

(2) For the purposes of ensuring public order, the Deputy Commissioner may, on his own motion, or upon the request of the District Police or any concerned Public Agency, convene a meeting of relevant heads of Public Agencies, if required, and the decisions taken in the meeting shall be complied with by all concerned accordingly.

(3) The functions given under this section shall apply mutatis mutandis to Assistant Commissioners, in their respective sub-divisions and shall take affect notwithstanding anything contained in any other Act for the time being in force.

16. Police support and enforcement.---(1) The Head of District Police shall provide such police assistance as required by an officer of District Administration from time to time in discharge of his responsibilities.

(2) In the like manner, head of any Public Agency in a District or any local government for the discharge of official responsibilities, requisition the assistance of police support from the Head of District Police, and such police assistance shall be provided:

Provided that if the Head of District Police is unable to provide the requisite police support, he shall record his reasons in writing and inform the same to the head of concerned Public Agency or local government, as the case may be, the concerned Commissioner, the Regional Police Officer and the Deputy Commissioner:

Provided further that the concerned Commissioner and Regional Police Officer shall settle the issue of such provision of police support after mutual consultation.

17. Oversight Board.---(1) Government may constitute one or more Oversight Boards, which may comprise-

- (a) senior serving officers of the Service;
- (b) retired members of the Service;
- (c) retired senior public servants and prominent members from the civil society; or
- (d) any or all of the above categories as the Government may deem appropriate.

(2) The Oversight Board may enquire into the cases of serious maladministration, dereliction from duty and any other acts or omissions detrimental to the public interest by the employees of Public Agencies including officers of the Service posted in the field in the manner as prescribed.

18. Powers of enquiry, entry, search and seizure.---(1) The officers of District Administration, in addition to other existing monitoring mechanisms, may inspect and review the quality, standard and efficiency of public facilities in a District, and render advice to concerned Public Agency to take such measures as may be necessary for improving the quality, standard and efficiency of that public facility.

(2) For any incidental and supplementary matters pertaining to actions taken under this Act, the officers of District Administration shall have the authority to enter upon and seal any premises, vehicles, vessels and aircrafts, and make seizure of any articles, in respect of which the officer has reason to believe that a contravention of the provisions of this Act has been made, is being or is about to be committed, or effect arrest of any offenders, or seize any records connected therewith.

19. Power to summon and examine.---(1) Any officer competent to take action under this Act shall, for the purposes of this Act, have the powers of a civil court under the Civil Procedure Code, 1908 (Act No. V of 1908), as to-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents or record;
- (c) examining record and witnesses for the purpose of making an enquiry; and
- (d) issuing commissions for examination of witnesses, sites or record.

(2) The proceedings before an officer of District Administration or any officer competent to hold an enquiry under any provision of this Act, shall be deemed to be

judicial proceedings within the meanings of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

20. Statistics.---For the purposes of better coordination and effective planning, the Deputy Commissioner shall maintain or cause to be maintained such updated local statistics in such manner as may be necessary to carry out the objectives of this Act.

21. Delegation of powers.---(1) Government may, by notification or order, delegate any of its powers under this Act or any other law for the time being in force, to any officer of the District Administration, for efficient disposal of official work.

(2) In the like manner, the Commissioner and Deputy Commissioner may, by order in writing, delegate any of his powers under this Act or any other law for the time being in force to any subordinate officer of the District Administration, for efficient disposal of official work:

Provided that any power involving financial liability or criminal laws shall not be delegated without prior approval from the concerned department of the Government.

22. Code of conduct.---(1) Government may, in order to curb misuse of authority and ensure due diligence and transparency, issue a code of conduct in relation to the exercise of authority and discharge of functions under this Act.

(2) Any deviation from such code of conduct shall be referred to such authority, as may be prescribed, for action in accordance with law.

23. Independent Performance Evaluation.---(1) Every Commissioner shall report the performance of such Public Agencies, as may be notified by the Department, under their respective territorial jurisdiction to Government in such manner and at such intervals as may be prescribed.

(2) In the like manner, every Deputy Commissioner shall, through the respective Commissioner, report the performance of such Public Agencies, as may be notified by Government, and if required, of the employees of such Public Agencies under their respective territorial jurisdiction to Government in such manner and at such intervals as may be prescribed.

24. Administrative penalties.---(1) Any official of a Public Agency, who is otherwise bound to provide due information or ancillary documentation or assistance required to an authority or officer, competent to ask for such information or assistance under this Act, fails to provide so, he may be proceeded against, under relevant service laws, applicable to him, by the Administrative Department concerned.

(2) Any person, other than any official of a Public Agency, who fails to comply with the provisions of this Act or the directions passed by an officer, competent to make such an order under this Act, shall, at the first instance, be liable to such administrative penalty as may be prescribed:

Provided that in case of repetition of such offence or continued disregard to directions passed thereof, such violator shall be punished with imprisonment upto six month by a court of competent jurisdiction:

Provided further that the court competent to try such offences shall try so in a summary manner, as provided in sections 260 to 265 of the Criminal Procedure Code, 1898 (V of 1898).

25. Furnishing of false information.---Any individual furnishing false information to any officer competent to take any action under this Act shall be liable to be prosecuted under section 182 of the Pakistan Penal Code, 1860 (XLV of 1860).

26. Bar on Jurisdiction.---No civil court shall have jurisdiction to entertain any proceedings or grant any injunction or make any order in relation to any action performed under this Act, or restrain any authority created under this Act from performing its functions under this Act.

27. Indemnity.---No suit, prosecution or proceeding shall lie against any person in respect of anything which is done in good faith or intended to be done under this Act.

28. Provision of finances and other resources.---Government shall provide necessary financial and human or material resources to each Commissioner and Deputy Commissioner for carrying out the purposes of this Act.

29. Recovery as arrears of land revenue.---All costs, charges, moneys and penalties, imposed under this Act, shall be recoverable as arrears of land revenue under the West Pakistan Land Revenue Act, 1967 (W.P. Act No. XVII of 1967).

30 Power to make rules, standard operating procedures and _ issue instructions.---(1) Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Subject to the provisions of this Act or rules made thereunder, the Department may, from time to time, issue standard operating procedures to standardize different procedures required to be performed under this Act.

(3) Wherever any difficulty arises in giving effect to any of the provisions of this Act, the concerned Administrative Department of Government may, with the approval of Chief Secretary Khyber Pakhtunkhwa, issue necessary orders, instructions, not inconsistent with this Act, for the purpose of removing such difficulty.

31. Overriding effect.---Notwithstanding anything to the contrary contained in any other law or rule or regulation for the time being in force, the provisions of this Act shall have an overriding effect and the provisions of any such law or rule or regulation to the extent of inconsistency to this Act shall cease to have effect.