

THE KHYBER PAKHTUNKHWA ENVIRONMENTAL PROTECTION ACT, 2014.

(KHYBER PAKHTUNKHWA ACT NO. XXXVIII OF 2014)

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement.
2. Definitions.
3. Establishment of the Khyber Pakhtunkhwa Environmental Protection Council.
4. Functions and powers of the Council.
5. Establishment of the Khyber Pakhtunkhwa Environmental Protection Agency.
6. Functions of the Agency.
7. Powers of the Agency.
'7A Deleted]
- "7B. Ban on plastic products.]
8. Establishment of the Khyber Pakhtunkhwa Environmental Improvement Fund.
9. Constitution of the Khyber Pakhtunkhwa Environmental Improvement Fund Board.
10. Powers of the Board.
11. Prohibition of certain discharge or emissions.
12. Strategic environmental assessment.
13. Initial environmental examination and environmental impact assessment.
14. Prohibition of import of hazardous waste.
15. Handling of hazardous substances.
16. Regulation of motor vehicles.

* Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

* Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

17.
18.
19.
20.
21.

22.
23.
24.
25.
26.
27.
28.
29.
30.
31.
32.
33.
34.
35.
36.
37.
38.
39.
40.

Environmental Protection Order.

Penalties.

Offences by bodies corporate.

Offences by Government Agencies, local authorities or local councils.
Establishment of Khyber Pakhtunkhwa Environmental Protection
Tribunals.

Jurisdiction and powers of the Tribunals.

Appeals.

Appeals from orders the Environmental Protection Tribunal.
Jurisdiction of Environmental Magistrates.

Appeals from orders of Environmental Magistrates.

Power to give directions.

Indemnity.

Dues recoverable as arrears of land revenue.

Act to override other laws.

Power to make rules.

Power to amend the SCHEDULE.

Removal of Difficulties.

Dress or uniform for the members of Agency.

Certain members of the Agency deemed to be Public Prosecutors.

Adaption of laws, rules.

Preventive actions.

Cognizable offences.

Heads of accounts.

Repeal and saving.

SCHEDULE

Preamble.---WHEREAS it is expedient to provide for the protection, conservation, rehabilitation and improvement of the environment, monitoring, prevention and control of pollution, and promotion of sustainable development in the Province of the Khyber

THE KHYBER PAKHTUNKHWA ENVIRONMENTAL
PROTECTION ACT, 2014.

(KHYBER PAKHTUNKHWA ACT NO. XXXVIII OF 2014)

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 11th December, 2014].

AN
ACT

to provide for the protection, conservation, rehabilitation and improvement of the environment, for the prevention and control of pollution, and promotion of sustainable development in the Province of the Khyber Pakhtunkhwa

Pakhtunkhwa, and for matters connected therewith and incidental thereto;

It is hereby enacted as follows:

1. Short title, extent and commencement. --- (1)

Khyber Pakhtunkhwa Environmental Protection Act, 2014.

(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) “administrative penalty” means a penalty imposed for violation of the provisions of this Act;

(b) “adverse environmental effect” means pollution or impairment of, or damage to, the environment, and includes,---

(i) impairment of, or damage to, human health and safety or to property or biodiversity;

(ii) pollution to physical, biological, — social, environment or to geological, hydrological resources or various land forms;

This Act may be called the

(d)

(e)

(f)

‘U(fi)

(g)

(h)

(i)

G)

(iii) damage to public comfort, aesthetic conditions, ecological balance and meteorological conditions;

(iv) damage to aquifers, vegetal canopy, cultural heritage or archeological sites; and

(v) any other adverse environmental effect as may be specified in the rules;

“Agency” means the Khyber Pakhtunkhwa Environmental Protection Agency established under section 5;

“aggrieved person” means a person whose legal right is violated by any act or omission or is directly and adversely affected by an order of any authority;

“agricultural waste” means waste from farm and agricultural activities including poultry, cattle farming, animal husbandry, residues from the use of fertilizers, of pesticides and other farm chemicals;

“air pollutant” means any substance that causes pollution of, air and includes soot, smoke, dust particles, odour, light, electro-magnetic radiation, heat, fumes, combustion exhaust, exhaust gases, noxious gases, hazardous substances and radioactive substances;

“banned plastic products” mean the plastic products, which are specified and banned under sub-section (1) of section 7B of this Act;]

“biodiversity” or “biological diversity” means the variability among living organisms from all sources, including inter-alia terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, includes diversity within species, between species and of eco-systems;

“bio-safety” means the mechanisms developed through policy and procedure to ensure human health and environmentally safe application of biotechnology;

“Board” means the Khyber Pakhtunkhwa Environmental Improvement Fund Board established under section 9;

“Complaint” means a complaint under section 200 of the Code of Criminal Procedure, 1898 (Act No. V of 1898) as defined in section 4 of the said Code;

"Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(k)

)

‘((i)

(m)

(n)

(0)

(p)

(q)

()

“Council” means the Khyber Pakhtunkhwa Environmental Protection Council established under section 3;

“climate change” means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate

variability observed over comparable time periods;

“Department” means the Forestry, Environment and Wildlife Department of Government;]

“discharge” means and includes spilling, leaking, pumping, depositing, seeping, releasing, flowing out, pouring, emitting, emptying or dumping;

“ecosystem” means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit;

“effluent” means any material in solid, liquid or gaseous form or combination thereof being discharged from industrial activity or any

other source and includes a slurry, suspension or vapour;

“electronic waste” means the waste generated due to the dismantling, repair, damage of electronic equipments;

“emission” means the extent of pollutant’s discharges per unit time or the extent of pollutant per unit volume of gas, liquid or vapour emitted;

“environment” means,---

(i) air, water and land;

- (ii) all layers of the atmosphere;
- (iii) —_ all organic and inorganic matter and living organisms;
- (iv) the ecosystem or flora and fauna, and ecological relationships;
- (v) buildings, structure's, roads, facilities, installations and works;
- (vi) all social or cultural and economic conditions and activities affecting community life; and

"Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

()

(u)

(v)

(w)

(x)

(y)

(2)

(aa)

(vii) _ the inter-relationships between any of the factors specified in sub-clauses (1) to (vi);

“environmental impact assessment” means an environmental study comprising collection of data, prediction of qualitative and quantitative impacts of a proposed developmental activity, comparison of alternatives, evaluation of preventive, mitigatory and compensatory measures, formulation of environmental management and training plans and monitoring arrangements, and framing of recommendations, measures and such other components as may be prescribed;

“Environmental Magistrate” means the Magistrate of the First Class specified in section 25;

“Environmental Protection Order” means an order issued under section 17;

“factory” means any premises in which industrial activity is being undertaken;

“Fund” means the environmental improvement Fund established under section 8 of this Act;

“genetically modified organism” means any organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology and which does not occur naturally through mating and/or recombination and includes both living and non-living modified organisms;

“Government” means the Government of the Khyber Pakhtunkhwa;

“Government Agency” includes, ---

(i) Department, Attached Department or any other office of Government; and

(ii) a developmental authority, local authority, company or body corporate established or controlled by Government;

“hazardous substance” means,---

(i) a substance or mixture of substances, except the pesticide as defined in the Agricultural Pesticides Ordinance, 1971 (II of 1971), which, by reason of its physical, chemical or biological properties or toxic, explosive, flammable, corrosive,

(bb)

(cc)

(dd)

(ee)

(ff)

(gg)

(hh)

(ai)

infectious, radioactive, persistent or having any other characteristics as may be prescribed, or is likely to cause, directly or in combination with other substances, an adverse environmental effect; and

(ii) any substance which may be prescribed as a hazardous substance;

“hazardous waste” means the waste which contains hazardous substances or as may be prescribed and includes healthcare risk wastes and radioactive waste;

“hospital waste” includes waste from medical supplies, hospital, clinics, laboratories and veterinary facilities and materials of all kinds including waste blood, tissue, organs and other parts of human and animal bodies;

“industrial activity” means any operation or process for manufacturing, making, formulating, synthesizing, altering, repairing, crushing, grinding, cleaning ornamenting, finishing, packing or otherwise treating any article or substance with a view to its use, sale, transport, delivery or disposal, or for mining, for oil and gas exploration and development, or for pumping water or sewage, or for generating, transforming or transmitting power or for any other industrial or commercial purposes;

“industrial waste” means waste resulting from an industrial activity;

“initial environmental examination” means a preliminary environmental review of the reasonably, foreseeable qualitative and quantitative impacts on the environment of a proposed project to determine whether it is likely to cause an adverse environmental effect;

“Khyber Pakhtunkhwa Environmental Quality Standards” means standards established by the Agency under clause (v) of sub-section (1) of section 6 and approved, by the Council under clause (iii) of sub-section (1) of section 4;

“local authority” means any agency set up or designated by Government, through notification in the official Gazette, to be a local authority for the purposes of this Act;

“local council” means a body constituted or established under a law regulating local government;

Gn)

(kk)

ay

(mm)

(nn)

(00)

“locomotive” a wheeled vehicle consisting of a self propelled engine that is used to draw trains along railway tracks;

“motor vehicle” means any mechanically propelled vehicle adapted for use upon land whether its power of propulsion is transmitted thereto from an external or internal source, and includes a chassis to which a body has not been attached, and a trailer;

“municipal waste” includes sewage, refuse, garbage, waste from abattoirs, sludge and human excreta and the like;

“noise” means the intensity, duration and character of sound from all sources, and includes vibration;

“nuclear waste” means waste from any nuclear reactor or nuclear plant or other nuclear energy system, whether or not such waste is radioactive;

“person” means any natural person or legal entity and includes an individual, firm, association, partnership, society, group, company, corporation, co-operative society, Government Agency, non-governmental organization, community-based organization, village organization, local council or local authority and, in the case of a vessel, the master or other person having for the time being the charge or control of the vessel;

'[(00-i)“plastic” means polymer of polyethylene, polypropylene, polystyrene,

(pp)

(qq)

(rm)

polyethylene terephthalate; |

“pollution” means the contamination of air, land or water by the discharge of emission of effluent or wastes or air pollutants or noise or other matter which either directly or indirectly or in combination with other discharges or substances alters unfavorably the chemical, physical, biological, radiational, thermal or radiological or aesthetic

properties of the air, land or water or which may, or is likely to make the air, land or water unclean, noxious or impure or injurious, disagreeable or detrimental to the health, safety, welfare or property of persons or harmful to biodiversity;

“pollution charge” means a fine imposed on any person in proportion to his load of pollution;

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

"Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(ss)

(tt)

(uu)

(vv)

(ww)

(xx)

(yy)

(zz)

(aaa)

“project” means any activity, plan, scheme, proposal or undertaking involving any change in the environment and includes,---

(i) construction by use of buildings or urban development and other works;

(ii) construction or use of roads or other transport systems;

(iii) | construction or operation of factories or industrial estates, wastes treatment, disposal facilities and other installations;

(iv) | mineral prospecting, surveying, exploration of oil and gas, mining, quarrying, stone-crushing, drilling and the like;

(v) any change of land use or water use;

(vi) energy production or refineries or transmission lines; and

(vii) alteration, expansion, repair, decommissioning — or abandonment of existing buildings or other works, roads or other transport systems, factories or other installations;

“proponent” means the person who proposes or intends to undertake a project;

“Province” means the Province of the Khyber Pakhtunkhwa;

“public complaint” means a statement of allegations leveled against any person regarding creating pollution and affecting the environment adversely;

“rules” mean rules made under this Act;

“radiation” means energy that is radiated or transmitted in the form of rays or waves;

“respondent” means the accused person against whom the Agency

proceeds or institute complaint or miscellaneous applications before the Environmental Protection Tribunal for adjudicating upon it according to provisions of this Act;

“reward” means a recompense or premium offered or bestowed by the Government or the Agency upon its members in a prescribed manner in return for special or extra ordinary service performed for special achievements to realize the objectives of this Act;

“SCHEDULE” means SCHEDULE appended to this Act;

(bbb)

(ccc)

(ddd)

(eee)

(fff)

(ggg)

(hhh)

(iii)

“sewage” means liquid or semi-solid wastes and sludge from sanitary conveniences, kitchens, laundries, washing and similar activities and from any sewerage system or sewage disposal works;

“SOPs” means Standard Operating Procedures notified by the Agency;

“standards” means qualitative and quantitative standards for air, water, soil and discharge of effluent and wastes and for emission of air pollutants and noise either for general applicability or for a particular area, or from a particular production process, or for a particular product, and includes the Khyber Pakhtunkhwa Environmental Quality Standards, emission standards and other standards established under this Act and the rules made there under;

“strategic environmental assessment” means an analysis or series of analyses that are systematic, overall and participatory to ensure that the principle of sustainable development is the basis for and is integrated into the development of a policy, plan or programme;

“sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs;

“Tribunal” means the Khyber Pakhtunkhwa_ Environmental Protection Tribunal constituted under section 21;

“vessel” includes anything made for the conveyance by water of human beings or of goods; and

“waste” means any substance or object or material which has been, is being or is intended to be, discarded or disposed of, and includes liquid waste, solid waste, waste gases, suspended waste, industrial waste, agricultural waste, radioactive and nuclear waste, mist, animal waste, electronic waste, municipal waste, hospital waste, pharmaceutical waste, plastic and polythene waste and residues from the incineration of all types of waste.

3. Establishment of the Khyber Pakhtunkhwa Environmental Protection Council.-

()

Government shall, by notification in the official Gazette, establish a Council

to be known as the Khyber Pakhtunkhwa Environmental Protection Council consisting of--

(i)

Chief Minister or any other person Chairperson
nominated by the Chief Minister;

cc)

(iii)

(iv)

(v)

(vi)

(vii)

Minister for Environment Department;

Chief Secretary of the Province;

Additional Chief Secretary Planning and
Development Department;

Secretaries to Government, Environment,
Finance, Law, Irrigation, Communication
and Works, Transport, Health, Energy and
Power, Local Government, Industries,
Tourism and Public Health Engineering
Departments;

such other persons not exceeding ten as
Government may nominate, including
representatives of the Chambers of
Commerce and Industry and industrial
associations, | engineering associations
and representatives of the medical, legal
professions, trade unions, and Non-
Governmental Organizations concerned
with the environment and development,
and scientists, technical experts and
educationists, Chairman text book
board and one vice chancellor as
representative of all universities in the
Province; and

Director General, Environmental
Protection Agency.

Vice Chairperson

Member

Member

Members

Members

Member/
Secretary

'[(A) The meeting of the Council shall be presided over by the Chairperson and in case of his absence, the Vice Chairperson shall preside over the meeting of the Council.]

(2) The members of the Council, other than ex-officio members shall be nominated in accordance with procedure as may be prescribed and shall hold office for a term of three years and shall be eligible for re-nomination, but shall not hold office for more than two consecutive terms.

(3) The Council shall frame its own rules of procedure.

(4) The Council shall hold meetings, as and when necessary, but at least one meeting shall be held in a year.

"Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(5) The Council may constitute committees of its members and entrust them with such functions as it may deem fit, and the recommendations of the committees shall be submitted to the Council for approval.

(6) The Council, or any of its committees, may invite any technical expert or representative of any Government Agency or non-governmental organization or other person possessing specialized knowledge of any subject for assistance in performance of its functions.

4. Functions and powers of the Council,--- (1) The Council shall,--

(i)

(ai)

(iii)

(iv)

(v)

(vi)

(vii)

(viii)

(ix)

co-ordinate, supervise and support enforcement of the provisions of this Act and the rules made thereunder;

approve comprehensive environmental policies, action plans and ensure their implementation;

approve the Khyber Pakhtunkhwa Environmental Quality Standards;

liaise and co-ordinate with other Provinces and Federal Government, through appropriate inter-provincial forums, or Government Agency regarding formulation and implementation of standards and policies relating to environmental matters with an inter-provincial impact;

relax or make stringent the application of existing Khyber Pakhtunkhwa Environmental Quality Standards for one time or for a particular period for a specific activity or area or source under particular circumstances notwithstanding the provisions of this Act;

provide guidelines for the protection and conservation of species, habitats and biodiversity in general, and for the conservation of, renewable and non-renewable resources, solid waste management and water sanitation;

provide guidelines for bio-safety and for the use of genetically modified organisms;

co-ordinate integration of the principles and concerns of sustainable development into development plans and policies at the provincial, district and local levels by formulating/prepared district and provincial strategies;

consider the Provincial Environment Report and give appropriate directions, thereon; and

(x) formulate a mechanism for implementation of Multilateral Environmental Agreements (MEAs) signed by the Government of Pakistan.

(2) The Council may, either itself or on the request of any person or organization, direct the Agency or Government Agency to prepare, submit, promote or implement projects for the protection, conservation, rehabilitation and improvement of the environment, the prevention and control of pollution, and the sustainable development of resources, or to undertake research in any specified aspect of the environment.

(3) [Deleted]

5. Establishment of the Khyber Pakhtunkhwa Environmental Protection Agency.-

- (1) The Khyber Pakhtunkhwa Environmental Protection Agency, already established under the Pakistan Environmental Protection Act, 1997 shall be deemed to have been established under this Act to exercise the powers and perform the functions assigned to it under the provisions of this Act and the rules made there under.

(2) The Agency shall be headed by a Director-General who shall be appointed by Government in the manner as it may determine.

(3) The Agency shall have such administrative, technical, legal and enforcement staff, as Government may appoint.

(4) The powers and functions of the Agency shall be exercised and performed by the Director-General.

(5) The Director General may, by general or special order, delegate any of the powers and functions to staff appointed under sub-section (3).

(6) For assisting the Agency in the discharge of its functions, Government may establish Advisory Committees for various sectors and appoint their members from amongst eminent position of the relevant sector, educational institutions, research institutes and non-governmental organizations.

6. Functions of the Agency.---(1) |The Agency shall---

(i) administer and implement the provisions of this Act and the rules made thereunder;

(ii) prepare, in co-ordination with the appropriate Government Agency or local council and in consultation with the concerned sectoral Advisory Committees where established, environmental policies for the approval of the Council;

* Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(iii)

(iv)

(v)

(vi)

(vii)

(viii)

(ix)

(x)

(xi)

take all necessary measures for the implementation of _ the environmental policies approved by the Council;

prepare and publish an annual Environmental Report on the state of the environment in the Province;

prepare, revise and establish the Khyber Pakhtunkhwa Environmental Quality Standards with the approval of the Council:

Provided that before seeking approval of the Council, the Agency shall publish the proposed Khyber Pakhtunkhwa Environmental Quality Standards for public opinion in accordance with the prescribed procedure;

ensure enforcement of the Khyber Pakhtunkhwa Environmental Quality Standards;

establish standards for the quality of the ambient air, water and land, by notification;

establish different standards for discharge or emission from different sources and for different areas and conditions as may be necessary:

Provided that---

(a) where these standards are less stringent than the Khyber Pakhtunkhwa Environmental Quality Standards prior approval of the Council shall be obtained; and

(b) list of areas, with the approval of the Council, in which any class of activities or projects shall not be carried out or shall only be carried out subject to certain specified safeguards;

co-ordinate with other Provinces, Federal Government, National and International Organizations for the implementation of environmental

policies, issues concerns and programmes as may be prescribed;

co-ordinate and facilitate the Government departments, agencies, organizations and institutions in the Khyber Pakhtunkhwa in adaptation to address the impacts of climate change;

establish systems and procedures for surveys, surveillance, monitoring, measurement, examination, investigation, research, inspection and audit to prevent and control pollution, and to estimate

(xii)

(xiii)

(xiv)

(xv)

(xvi)

(xvii)

(xviii)

(xix)

(xx)

(xxi)

the costs of cleaning up pollution and rehabilitating the environment in various sectors;

carry out and conduct environmental monitoring and implementation of environmental approvals provided in this Act;

carry out and conduct environmental audits of old industrial units in accordance with rules;

Explanation.-- Old industrial units means those established before the commencement of this Act;

take measures to promote research and the development of science and technology which may contribute to the prevention of pollution, protection of the environment, and sustainable development;

issue licences for the consignment, handling, transport, treatment, disposal, storage, handling or otherwise dealing with hazardous substances;

certify laboratories as approved laboratories for conducting tests and analysis and one or more research institutes as environmental research institutes for conducting research and investigation for the purposes of this Act;

identify the needs for and initiate legislation in various sectors of the environment;

provide guidance and technical assistance to the relevant Federal and Provincial Government Agencies in the management of natural and environmental incidents and disasters;

render advice and assistance in environmental matters including such

information and data available with it as may be required for carrying out the purposes of this Act:

Provided that the disclosure of such information shall be subject to the restrictions contained in the proviso to sub-section (3) of section 13;

assist Government Agencies, local councils, local authorities and other persons to implement schemes for the proper disposal of wastes so as to ensure compliance with the Khyber Pakhtunkhwa Environmental Quality Standards;

provide information and guidance to the public on environmental

(xxii)

(xxii)

(xxiv)

(xxv)

(xxvi)

(xxvii)

(xxviii)

(xxix)

matters;

recommend environmental courses, topics, literature and books for incorporation in the curricula and syllabi of educational institutions;

promote public education and awareness of environmental issues through mass media and other means including seminars and workshops;

establish and maintain mechanisms, including its own website, to disseminate information, subject to the provisions of this Act, regarding policies, plans and decisions of Government, the Council and the Agency relating to the environment;

specify safeguards for the prevention of accidents and disasters which may cause pollution, collaborate with the concerned persons in the preparation of contingency plans for control of such accidents and disasters, and co-ordinate implementation of such plans;

review and approve mitigation plans and give guidance and directions, where necessary, for clean up operations ordered under this Act;

encourage the formation and working of non-governmental organizations, community organizations and village organizations to prevent and control pollution and promote sustainable development;

take or cause to be taken all necessary measures for the protection, conservation, rehabilitation and improvement of the environment, prevention and control of pollution and promotion of sustainable development; and

perform any function which the Council may assign to it.

(2) The Agency may---

(i)

(ai)

(iii)

undertake inquiries or investigation into environmental issues, either of its own accord or upon complaint from any person or organization;

direct any person to furnish any information or data relevant to its functions;

initiate with the prior approval of Government, requests for foreign assistance in support of the purposes of this Act and enter into arrangements with foreign agencies or organizations for the exchange

(iv)

(v)

(vi)

of material or information and participate in international seminars or meetings;

recommend to Government and the Council the adoption of financial and fiscal programmes, schemes or measures for achieving environmental objectives and goals and the purposes of this Act, including---

(a) incentives, prizes, awards, rewards, subsidies, tax exemptions, and depreciation allowances; and

(b) taxes, duties and other levies;

establish and maintain laboratories to help in the performance of its functions under this Act and to conduct research in various aspects of the environment and provide or arrange necessary assistance for the establishment of similar laboratories in the private sector; and

provide or arrange, in accordance with such procedure as may be prescribed, financial assistance for projects designed to facilitate the discharge of its functions.

7. Powers of the Agency.--- Subject to the provisions of this Act, the Agency may,---

(i)

(ai)

(iii)

(iv)

(v)

(vi)

(vii)

investigate any environmental or pollution issue;

enter into any premises with proper identification on the basis of reliable information to access the site where pollution offence is being committed or may likely to be committed or has been committed;

collect all sort of evidence regarding pollution offences from any premises, area, site, office, building, factory, display, exhibition etc;

call any information from any person required in inquiry or investigation of pollution offences;

conduct surprise inspections or visits of any public or private premises for the purposes of this Act;

recover fines or charges levied upon any person by the Agency as arrears of Land Revenue;

seal or seize the attachments, holding, property, machinery, equipment or material involved in commission of pollution offences or take it into possession in a prescribed manner;

(viii)

(ix)

(x)

(xi)

(xii)

(xiii)

(xiv)

(xv)

(xvi)

(xvii)

cause registration of criminal cases against any person causing hindrances, obstructions in discharge of official functions of the Agency;

exercise special or emergency powers to enter and inspect, direct, suspend, remove, seize, seal any activity or work or installation of machinery or premises creating pollution offence at high risk or intensity or disastrous situation;

local police shall advance every sort of help and support to the members of the Agency in discharge of their official functions by making entries in daily reports register;

call the concerned officer or official of line departments / agencies for emergency help during disastrous or accidental situations declared by Government;

impose ban through an official notification, on commencement or operation of any activity or work or mobility or transport in a particular area or premises, by declaring it as environmentally sensitive or protected or prohibited, for a particular time period as and when required to safeguard the natural environment, prevent and control pollution with prior approval of the Government;

fix and release fees, rates and charges for rendering any service or providing any facility, information or data under this Act or the rules made thereunder;

enter into contracts, execute instruments, incur liabilities and do all acts or things necessary for proper management and conduct of its business;

appoint with the approval of the Government and in accordance

with such procedures as may be prescribed, such advisers, experts and consultants as it considers necessary for the efficient performance of its functions on such terms and conditions as it may deem fit;

summon and enforce the attendance of any person and require him to supply any information or document needed for the conduct of any enquiry or investigation into any environmental issue;

seek information from or the assistance of any Ministry, Division or agency of the Federal Government, any Department or Agency of a Government, Local Authority, Political Agent, District Administration or law enforcement agency, including the police and

(xviii)

(xix)

(xx)

(xxi)

'[(xxii)

7A. 7[Deleted]

it shall be the duty of such Ministry, Division, Department, Agency, Local Authority, Political Agent, District Administration or law enforcement agency, to furnish such information or render such assistance as may reasonably be required for implementation of this Act;

enter and inspect, under the authority of a search warrant issued by the Environmental Protection Tribunal or Environmental Magistrate, search at any reasonable time, any land, building, premises, vehicle or vessel or other place where or in which there are reasonable grounds to believe that an offence under this Act has been, or is being, committed;

take samples of any materials, products, articles or substances or of the effluents, wastes or air pollutants, solid waste being discharged or emitted or of air, water, soil land or agricultural crops in the vicinity of the discharge emission in a prescribed manner;

conduct test and analysis of samples at the agency's laboratory or at any laboratory certified by the agency in a prescribed manner;

confiscate any article used in the commission of the offence where the offender is not known or cannot be found within a reasonable time:

Provided that the power under clauses (xvi), (xix), (xx) and (xxi) shall be exercised in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) or the rules made thereunder or under the direction of the Tribunal or Environmental Magistrate; and

issue guidelines, with the approval of the Council, for the purposes of this Act.]

31 7B. Ban on plastic products.---(1) On commencement of the Khyber Pakhtunkhwa Environmental Protection (Amendment) Act, 2022, there shall be a complete ban on the manufacture, import, sale, purchase, storage, distribution, supply, transportation and usage of plastic bags, flat plastic bags, with or without handles or gussets and such other plastic products as the Department may notify from time to time:

* Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

? Deleted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

3 Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

Provided that the existing stock of banned plastic products shall be disposed of by the manufacturer, wholesale dealer and retailer, within a period of six month after the commencement of Khyber Pakhtunkhwa Environmental Protection (Amendment) Act, 2022.

(2) Any license or permit, issued to any person for the manufacture, sale, transportation, import etc. under any law, for the time being in force, shall cease to be effective and the holder of any such license or permit shall not commence or carry on business of the banned plastic products.

(3) After the expiration of six month period as mentioned in sub-section (1), the Agency in its own or an officer of Government or Government Agency authorized by Government in this behalf, may seize all banned plastic products, after giving the person a notice, in writing, responsible for the violation of the provisions of this section.

(4) Whoever manufactures, import, sales, purchases, stores, distributes, supplies, transports and use banned plastic bags under this section, shall be punishable with fine which may extend to rupees five lac.

(5) Notwithstanding anything contained in this Act, any contravention punishable under this section, shall exclusively be triable by Special Magistrate, appointed under section 14A of the Code of Criminal Procedure, 1898 (Act V of 1898), on a complaint, in writing, made by the Agency, or an officer, or an Government Agency duly authorized in this behalf by the Government:

Provided that in case of repetition of the violation of sub-section (4), the person who violates shall be liable to imprisonment which may extend to one month, in addition to the fine imposed upon him, and shall be triable by Environmental Magistrate empowered under this Act.]

8. Establishment of the Khyber Pakhtunkhwa Environmental Improvement Fund.--(1) There shall be established the Khyber Pakhtunkhwa Environmental

Improvement Fund.

(2) The Provincial Sustainable Development Fund established under the Pakistan Environmental Protection Act, 1997 shall be deemed to be a part of this Fund.

(3) Other sources of the Fund shall be—

(i) grants made or loans advanced by Federal and Provincial Governments;

(ii) aid and assistance, grants, advances, donations and other non-obligatory funds received from foreign governments, national or

international agencies, and non-governmental organizations;

(iii) contributions from private organizations, and other persons;

(iv)

(v)

(vi)

fee collected through review of Initial Environmental Examination (IEE) or Environmental Impact Assessment (EIA) and other Environmental Approvals;

administrative fines or charges imposed and recovered by the Agency;
and

fee or charges collected through test carried out in Laboratories and other alike services by the Agency.

(4) The Fund shall be utilized in accordance with such procedures as may be prescribed for--

(i)

(ai)

(iii)

(iv)

(v)

providing financial assistance to the projects in public and private sectors and activities/operations of the agency designed for the protection, conservation, rehabilitation and improvement of the environment, the prevention and control of pollution, the sustainable development of resources and for research in any specified aspect of environment;

creating a welfare pool for the members of the Agency to provide financial assistance and encouragement for discharging extraordinary duties or functions;

meet expenses of review of Initial Environmental Examination and Environmental Impact Assessment submitted to the Agency for approval, expenses incurring on uniforms and on other accessories required to equip the enforcement staff notified as such for the purpose of this Act;

pay professional fee to technical and legal experts for taking their services for a particular task in prescribed manner; and

regular trainings for job oriented professional enhancement and capacity building including educational improvement of members of the Agency.

(5) The Fund shall be deposited in a designated account, to be maintained in the Scheduled Banks, on the title of Environmental Improvement Fund. The Chairperson and Secretary of the Environmental Improvement Fund Board shall be authorized to operate the designated account jointly with due approval of the Board.

9. Constitution of the Khyber Pakhtunkhwa Environmental Improvement Fund Board.--- The Fund shall be managed by a Board known as the Khyber Pakhtunkhwa

Environmental Improvement Fund Board, consisting of---

@)

Gi)

(iii)

(iv)

Secretary to Government of the Environment
Department ;

representatives of the Finance, Planning and
Development, Local Government, Rural
Development, Industries and Social Welfare
Departments;

such other persons not exceeding three as
Government may nominate including
representatives of Chambers of Commerce and
Industries, Non-Governmental Organizations
and major development partners; and

Director-General of the Agency.

Chairperson

Members

Members

Member/ Secretary

10. Powers of the Board. -- (1) The Board shall have the power to--

(2)

(i) sanction financial assistance for eligible projects and other

activities mentioned in sub-section! [(4)] of section 8;

(ii) invest the Fund in such profit-bearing government bonds,

savings schemes and securities as it may deem suitable;

(iii) | take such measures and exercise such powers as may be
necessary for utilization of the Fund for the purposes specified
in sub-section *1(4)] of section 8; and

(iv) to invest the Fund in any other profitable activity which in the
opinion of the Board, helps to achieve the objectives specified

in this Act.

performance evaluation, based on the progress reports.

(3)

* Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

> Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

The Board shall constitute committees of its members to undertake regular monitoring of projects financed from the Fund and to submit progress reports to the Board which shall publish an Annual Report incorporating its annual audited accounts and

The Board shall establish its finance section in the Khyber Pakhtunkhwa Environmental Protection Agency, with a minimum staff, not exceeding five (5) in numbers on contract basis, for maintaining the accounts and other operational records of the Environmental Improvement Fund Board. The salaries and other operational expenditures of the staff shall be paid from the Environmental Improvement Fund.

11. Prohibition of certain discharges or emissions.--- (1) Subject to the provisions of this Act, rules, notifications and guidelines made thereunder---

(i)

(ai)

no person shall discharge or emit or allow the discharge or emission of any effluent or wastes or air pollutant or noise, load, concentration or level which is in excess of the Khyber Pakhtunkhwa Environmental Quality Standards or, where applicable, the standards established under sub clause (vii) and (viii) of sub-section (1) of section 6; and

no person shall discharge effluents, emissions or wastes in excess of load permitted in the conditions of environment permit or environmental approval or license.

(2) The Agency, with the approval of Government, may levy a pollution charge on any person who contravenes or fails to comply with the provisions of sub-section (1), to be calculated at such rate, and collected in accordance with such procedure as may be

prescribed.

(3) Any person who pays the pollution charge levied under sub-section (2), shall not be charged with an offence with respect to that contravention or failure.

12. Strategic environmental assessment.---(1) Government may ask to carry out strategic environmental assessment, of all or any of the plan or policy given below:

(i)

(ii)

(iii)

(iv)

(v)

(vi)

(vii)

(viii)

(ix)

socio-economic development, industrial and agricultural development, urban and rural development;

land use and water use management;

the exploitation of natural resources;

economic zones or industrial parks and estates;
transport and infrastructure;

solid, municipal and industrial waste;

tourism;

any other plan or policy likely to have an adverse impact on environment;

prevention of water pollution through improper sanitation and control flow of sanitation water into the rivers; and

(x) separate zones shall be specified for poultry and cattle farming and slaughtering houses.

(2) All Government Agencies, Local Councils and Local Authorities and Departments may be asked to conduct and formulate the strategic environmental assessment statement and shall submit it to the Agency which may contain--

(i) objectives, scale and environmental characteristics;

(ii) description of the natural, socio-economic and environmental conditions; and

(iii) | assessment of possible environmental impact likely to be caused during implementation.

(3) The Agency shall, within 120 days of the filing of a strategic environmental assessment screening statement, complete in all respects---

(i) circulate the strategic environmental assessment report and conduct a public hearing of the strategic environmental assessment report;

(ii) review any comments received from the circulation and public hearing carried out under clause (i); and

(iii) advise the Government Agency, Local Council or Local Authority concerned to include such measures and take such steps, as it deems necessary, to modify the policy or plan according to environmental objectives and thereafter the policy or plan shall stand so modified.

(4) The provisions of sub-sections (1), (2) and (3) shall apply to such categories of plans and policies and in such manner as may be prescribed.

(5) The Agency shall maintain separate registers for strategic environmental assessment reports, which shall contain brief particulars of each policy and plan and a summary of decisions taken thereon and which shall be open to inspection for the public at all reasonable hours and the disclosure of information in such registers shall be subject to the provisions of this Act.

13. Initial environmental examination and environmental impact assessment.---(1)

No proponent of a project shall commence construction and operation unless he has filed with the Agency an initial environmental examination or where the project is likely to cause an adverse environmental effect, an environmental impact assessment, and has obtained from the Agency, environmental approval in respect thereof.

(2) The Agency shall---

(a) review the initial environmental examination and accord its approval or require submission of an environmental impact assessment by the proponent; or

(b) review the environmental impact assessment and accord its approval subject to such conditions as it may deem fit to impose, require that the environmental impact assessment be re-submitted after such modifications as may be stipulated, or reject the project as being contrary to environmental objectives.

(3) Every review of an environmental impact assessment shall be carried out with public participation and no information will be disclosed during the course of such public participation which relates to---

(a) trade, manufacturing or business activities, processes or techniques of a proprietary nature, or financial, commercial, scientific or technical matters which the proponent has requested should remain confidential, unless for reasons to be recorded in writing, the Director-General of the Agency is of the opinion that the request for confidentiality is not well-founded or the public interest in the disclosure outweighs the possible prejudice to the competitive position of the project or its proponent; or

(b) International relations, national security or maintenance of law and order, except with the consent of Government; or

(c) matters covered by legal professional privilege.

(4) The Agency shall communicate its approval or otherwise within a period of four months from the date of the initial environmental examination or environmental impact assessment is filed complete in all respects in accordance with the prescribed procedure, failing which the initial environmental examination or, as the case may be, the environmental impact assessment shall be deemed to have been approved, to the extent to which it does not contravene the provisions of this Act and the rules, provided that delay is not on part of the proponent for the provision of additional information asked for during the review process or conductance of public hearing of the project.

(5) Subject to sub-section (4), Government may in a particular case extend the aforementioned period of four months if the nature of the project so warrants.

(6) The provisions of sub-sections (1), (2), (3), (4) and (5) shall apply to such categories of projects and in such manner as may be prescribed.

' {(7) The projects or any activity of a proponent, not covered under subsection (6), shall obtain General Environmental Approval, in the manner prescribed by rules.]

(8) The Agency shall maintain separate Registers for initial environmental examination and environmental impact assessment projects, which shall contain brief particulars of each project and a summary of decisions taken thereon, and which shall be open to inspection by the public at all reasonable hours and the disclosure of information in such Registers shall be subject to the restrictions specified in sub-section (3).

14. Prohibition of import of hazardous waste.--- No person shall carry, import, bring , transport or deliver hazardous waste or cause to carry, import, bring, transport or delivery of hazardous waste into the territorial jurisdiction of the Province of the Khyber Pakhtunkhwa.

15. Handling of hazardous substances.--- Subject to the provisions of this Act, no person shall generate, collect, consign, transport, treat, dispose of, store, handle, deal in and use or import any hazardous substance except---

(a) under a licence issued by the Agency and in such manner as may be prescribed; or

(b) in accordance with the provisions of any other law for the time being in force, or of any International Treaty, Convention, Protocol, Code, Standard, Agreement or other instrument to which Pakistan or the Province of the Khyber Pakhtunkhwa is a party.

16. Regulation of motor vehicles.--- (1) Subject to the provisions of this Act, and the rules, notification and guidelines made thereunder, no person shall operate a motor vehicle from which air pollutants or noise are being emitted in an amount, concentration or level which is in excess of the Khyber Pakhtunkhwa Environmental Quality Standards or where applicable the standards established under clauses (vii) and (viii) of sub-section (1) of section 6.

(2) For ensuring compliance with the standards mentioned in sub-section (1), the Agency may direct that any motor vehicle or class of vehicles or locomotive shall install such pollution control devices or other equipment or use such fuels or undergo such maintenance or testing as may be prescribed.

(3) Where a direction has been issued by the Agency under sub-section (2) in respect of any motor vehicles or class of motor vehicles, or locomotives, no person shall operate any such vehicle till such direction has been complied with.

17. Environmental Protection Order.--- (1) Where the Agency is satisfied that the discharge or emission of any effluent, waste, air pollutant or noise, or the disposal of waste, or the handling of hazardous substances, or any other act or omission is likely to occur, or is occurring, or has occurred, in violation of the provisions of this Act, rules, notifications and

* Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

guidelines or of the conditions of a licence or permit or environmental approval , and is likely to cause, or is causing or has caused an adverse environmental effect and violation of Khyber Pakhtunkhwa Environmental Quality Standards, the Agency may, after giving the person responsible for such discharge, emission, disposal, handling, act or omission, an opportunity of being heard, by order direct such person to take such measures that the Agency may consider necessary within such period as may be specified in the order.

(2) In particular and without prejudice to the generality of the foregoing power, such measures may include---

(i) immediate stoppage, preventing, lessening or controlling the discharge, emission, disposal, handling, act or omission, or to minimize or remedy the adverse environmental effect;

(ii) installation, replacement or alteration of any equipment or thing to eliminate or control or abate on a permanent or temporary basis, such discharge, emission, disposal, handling, act or omission;

(iii) | action to remove or otherwise dispose of the effluent, waste, air pollutant, noise, or hazardous substances; and

(iv) action to restore the environment to the condition existing prior to such discharge, disposal, handling, act or omission, or as close to such condition as may be reasonable in the circumstances, to the satisfaction of the Agency.

(3) Where the person, to whom directions or orders, under sub-section (1) are given, does not comply therewith, the Agency may---

(i) ask the district administration and police to enforce or execute such orders or directions;

(ii) institute complaint before Environmental Tribunal or Environmental Magistrate to prosecute the violator, polluter, offender or defaulter; and

(iii) | impose and recover administrative penalty or pollution charges as may be applicable.

(4) Notwithstanding the provisions of sub-section (1), where, for reasons to be recorded, the Agency is satisfied that prima facie evidence exists of the discharge or emission of any effluent, waste, air pollutant or noise, or the disposal of waste, or the handling of hazardous substances, or any other act or omission is likely to occur, or is occurring, or has occurred, in violation of the provisions of this Act and that the provisions of this Act will be otherwise violated, it may pass an ad-interim order without hearing requiring such person to take such measures that it may consider necessary provided that an

ad-interim order must be followed by a hearing of the person affected at the earliest possible time but not exceeding thirty days.

18. Penalties.--- (1) Whoever contravenes or fails to comply with the provisions of sections 11, 12, 13, 14, and 17 or any order passed issued thereunder, shall be punishable with a minimum fine of fifty thousand rupees which may extend to '[seventy million] rupees, and in the case of a continuing contravention *Tor] failure, with a compulsory additional fine which may extend to one hundred thousand rupees for every day during which such contravention or failure continues:

Provided that if contravention of the provisions of sections 11 also constitutes contravention of the provisions of section 16, such contravention shall be punishable under sub-section (2) only.

(2) Whoever contravenes or fails to comply with the provisions of section 15 or 16 or any rule or conditions of any license, any order or direction, issued by the Council or the Agency, shall be punishable with a minimum fine of two thousands rupees which may extend to one hundred thousand rupees, and in case of continuing contravention or failure with an additional fine which may extend to one thousand rupees for every day during which such contravention continues.

(3) Where an accused has been convicted of an offence under sub-sections (1) and (2), the Tribunal and Environmental Magistrate, as the case may be, shall, in passing sentence, take into account the extent and duration of the contravention or failure constituting the offence and the attendant circumstances.

(4) Where an accused has been convicted of an offence under sub-section (1) and the Tribunal is satisfied that as a result of the commission of the offence monetary benefits have accrued to the offender, the Tribunal may order the offender to pay, in addition to the fines under sub-section (1), further additional fine commensurate with the amount of the monetary benefits.

(5) Where a person convicted under sub-section (1) or sub-section (2) had been previously convicted for any contravention under this Act or the rules made thereunder, the Tribunal or as the case may be Environmental Magistrate may, in addition to the punishment awarded thereunder--

(i) endorse a copy of the order of conviction to the concerned trade or industrial association, if any, or the concerned Provincial Chamber of Commerce and Industry or the Federation of Pakistan Chambers of Commerce and Industry;

(ii) sentence him to imprisonment for a term which may extend to two years;

* Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

> Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(iii) — order the closure of the factory;

(iv) order confiscation of the factory, machinery and equipment, vehicle material or substance, record or document or other object used or involved in contravention of the provisions of this Act;

(v) order such person to restore the environment at his own cost, to conditions existing prior to such contravention or as close to such conditions as may be reasonable in the circumstances to the satisfaction of the Agency; and

(vi) order that compensation to be paid to any person or persons for any loss, or damage to their health or property suffered by such contravention.

(6) Where the Director-General of the Agency is of the opinion that a person has contravened any provision of this Act he may, subject to the rules, by notice in writing to that person require him to pay to the Agency a fine in the amount set out in the notice for each day the contravention continues, and a person who pays a fine for a contravention shall not be charged under this Act with an offence in respect of such contravention.

(7) The provisions of sub-section (6) shall not apply to a person who has been previously convicted of offence under this Act or who has paid a fine for a contravention of any provision of this Act.

19. Offences by bodies corporate.---Where any contravention of this Act has been committed by a body corporate, and it is proved that such offence has been committed with the consent or connivance of, or is attributed to any negligence on the part of, any director, partner, manager, secretary or other officer of the body corporate, such director, partner, manager, secretary or other officer of the body corporate, shall be deemed guilty of such contravention along with the body corporate and shall be punished accordingly:

Provided that in the case of a company as defined under the Companies Ordinance, 1984 (Act No. XLVII of 1984), only the Chief Executive as defined in the said Ordinance shall be liable under this section.

Explanation.— For the purposes of this section, “body corporate” includes a firm, association of persons and a society registered under the Societies Registration Act, 1860 (Act No.XXI of 1860), or under the Co-operative Societies Act, 1925 (Act No. VII of 1925).

20. Offences by Government Agencies, local authorities or local councils.---Where any contravention of this Act has been committed by any Government Agency or local council, and it is proved that such contravention has been committed with the consent or connivance of, or is attributable to any negligence on the part of, the Head or any other officer of the Government Agency or local council, such Head or other officer shall also be

deemed guilty of such contravention along with the Government Agency or local council and shall be liable to be proceeded against and punished accordingly.

21. Establishment of | Khyber Pakhtunkhwa__ Environmental Protection Tribunals.(1) Government shall, by notification in the official Gazette, establish one or

more Environmental Protection Tribunals as it considers necessary and, where it establishes more than one Environmental Protection Tribunals, it shall specify territorial limits within which, or the class of cases in respect of which, each one of them shall exercise jurisdiction under this Act.

(2) The Tribunal shall consist of a Chairperson who is, or has been, or is qualified for appointment as, a Judge of the High Court and two members of which at least one shall be a technical member with suitable professional qualifications and experience in the environmental field as may be prescribed.

1B) The Chairperson and the members shall be appointed by Government:

Provided that in case of appointment of Chairperson consultation shall be made with the Chief Justice of Peshawar High Court.

(4) For the purposes of this Act, the Chairperson or any single member may constitute the Tribunal.]

(5) A decision of the Tribunal shall be expressed, in terms of the opinion of the majority of its members, including, the Chairperson or if the case has been decided by the Chairperson and only one of the members and there is a difference of opinion between them, the decision of the Tribunal shall be expressed in terms of the opinion of the Chairperson.

(6) The Tribunal shall not, merely by reason of a change in its composition, or the absence of any member from any sitting, be bound to recall and rehear any witness who has given evidence, and may act on the evidence already recorded by or produced before it.

(7) The Tribunal may hold its sittings at such places within its territorial jurisdiction as the Chairperson may decide.

(8) No act or proceeding of the Tribunal shall be invalid by reason, only of the existence of a vacancy or defect in the constitution of, the Tribunal.

(9) The terms and conditions of services of the Chairperson and members of the Tribunal shall be such as may be prescribed.

22. Jurisdiction and powers of the Tribunals.--- (1) The Tribunal shall exercise such powers and perform such functions as are, or may be conferred upon or assigned to it by or under this Act or the rules made thereunder.

* Substituted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(2) All contravention punishable under sub-section (1) of section 18 shall exclusively be triable by the Tribunal.

(3) The Tribunal shall not take cognizance of any offence triable under sub-section (2) except on a complaint in writing by---

(i) the Agency or any Government Agency or local council; and

(ii) any aggrieved person, who has given a notice of not less than thirty days to the Agency in case of complaint against private person or organization or to the officer responsible, in case of a complaints against government departments, local council and local authority of the alleged contravention and of his intention to make a complaint to the Tribunal.

(4) In exercise of its civil jurisdiction, the Tribunal shall have the same powers vested in a Civil Court under the Code of Civil Procedure, 1908 (Act No. V of 1908).

(5) In exercise of its criminal jurisdiction, the Tribunal shall have the same powers as are vested in the Court of Sessions under Code of Criminal Procedure , 1898 (V of 1898).

(6) In exercise of the appellate jurisdiction under section 23 the Tribunal shall have the same powers and shall follow the same procedure as an appellate Court in the Code of Civil Procedure , 1908 (Act V of 1908).

(7) The Tribunal shall in all matters with respect to which the procedure has not been provided for in this Act, follow the procedure laid down in the Civil Procedure Code, 1908 and the Code of Criminal Procedure, 1898.

(8) The Tribunal may, on application filed by any officer duly authorized in this behalf by the Director-General of the Agency, issue a bailable warrant for the arrest of any person against whom reasonable suspicion exists, of his having been involved in contravention punishable under sub-section (1) of section 18:

Provided that such warrant shall be applied for, issued and executed in accordance with the provisions of the Code of Criminal Procedure , 1898 (Act No. V of 1898):

Provided further that if the person arrested executes a bond with sufficient sureties in accordance with the endorsement on the warrant he shall be released from custody, failing which he shall be taken or sent without delay to the officer in-charge of the nearest police station.

(9) All proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of section 193 and 228 of Pakistan Penal Code, 1860 (Act No. XLV of 1860), and the Tribunal shall be deemed to be a court for the purpose of section 480 and 482 of Code of Criminal Procedure, 1898 (Act No. V of 1898).

(10) No court other than the Tribunal shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of the Tribunal extends under this Act and the rules made thereunder.

(11) All proceedings pending in the Tribunal established under the Pakistan Environmental Protection Act, 1997 (Act No. XXXIV of 1997), in respect of the Province of the Khyber Pakhtunkhwa, shall stand transferred to the Tribunals established and having jurisdiction under this Act. On transfer of proceedings under this sub-section, the parties shall appear before the Tribunal concerned on the date previously fixed.

(12) In respect of proceedings transferred under sub-section (11), the Tribunal shall proceed from the stage to which the proceedings had reached immediately prior to the transfer and shall not be bound to recall and re-hear any witness and may act on the evidence already recorded or produced before the Court from which the proceedings were transferred.

23. Appeals.--- (1) Any person aggrieved by any order or direction of the Agency under any provision of this Act, and rules made thereunder may prefer an appeal to Tribunal of competent jurisdiction within thirty days of the date of communication of the impugned order or direction to such person.

(2) An appeal to the Tribunal shall be in such form, contain such particulars and be accompanied by such fees as may be prescribed.

24. Appeals from orders of the Environmental Protection Tribunal.--- (1) Any person aggrieved by any final order or by any sentence of the Environmental Protection

Tribunal passed under this Act may, within thirty days of communication of such order or sentence, prefer an appeal to the High Court.

'(1A) Any order, passed by the Environmental Protection Tribunal, against the Agency, the Agency may, within thirty days of communication of such order, prefer an appeal to the High Court.]

(2) An appeal under sub-section (1) shall be heard by a Bench, duly constituted by the High Court.

25. Jurisdiction of Environmental Magistrates.--- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or any other law for the

time being in force, but subject to the provisions of this Act, all contravention punishable under sub-section (2) of section 18 shall exclusively be triable by a Judicial Magistrate of the First Class acting as Environmental Magistrate especially empowered in this behalf by the High Court.

(2) An Environmental Magistrate shall be competent to impose any punishment specified in sub-sections (2) and (4) of section 18 through a summary trial.

"Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(3) An Environmental Magistrate shall not take cognizance of an offence triable under sub-section (1) except on a complaint in writing by---

- (i) the Agency, or any government organization or a local council; and
- (ii) any aggrieved person.

26. Appeals from orders of Environmental Magistrates.---Any person convicted of any contravention of this Act or the rules by an Environmental Magistrate may, within thirty

days from the date of his conviction, appeal to the Court of Sessions whose decision thereon shall be final.

27. Power to give directions.--- Government shall give directions to the Agency in connection with the performance of its functions under this Act which shall be binding thereon.

28. Indemnity.--- No suit, prosecution or other legal proceedings shall lie against Government, the Council, the Agency, the Director-General of the Agency, members, officers, employees, experts, advisors, committees or consultants of the Agency or the Tribunal or Environmental Magistrate or any other person for anything which is in good faith done or intended to be done under this Act or its rules, notifications and guidelines made thereunder.

29. Dues recoverable as arrears of land revenue.---Any dues recoverable by the Agency under this Act, or under the rules made thereunder shall be recoverable as arrears of land revenue.

30. Act to override other laws.---The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

31. Power to make rules.--- Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act including rules for implementing the provisions of the International Environmental Agreements, specified in the SCHEDULE to this Act.

32. Power to amend the SCHEDULE.--- Government may, by notification in the official Gazette, amend the SCHEDULE so as to add any entry thereto or modify or omit any entry therein.

33. Removal of Difficulties.--- If any difficulty arises in giving effect to any provision of this Act, or rules and notifications made thereunder, Government may by notification, 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.

34. Dress or uniform for the members of Agency.--- Government may by notification approve specification of dress or uniform along with accessories for the enforcement staff of the Agency in a prescribed manner.

35. Certain members of the Agency deemed to be Public Prosecutors.---Certain members of the Agency, dealing with legal and enforcement affairs of the Agency, may be deemed to be public prosecutors and shall be competent to institute and conduct any proceedings in case sent up by the Agency for trial in the Tribunal [or proceeding pending before any other court of law under this Act.]

36. Adaption of laws, rules.--- Government may adopt any law, rules, notifications and guidelines mutatis mutandis to realize the objective of this Act.

37. Preventive actions.---The members of the Agency entrusted with enforcement duties for prevention and control of pollution shall have the powers to take preventive actions in term of sections 149, 150 and 152 Code of Criminal Procedure, 1898 (Act No. V of 1898), in the prescribed manner.

38. Cognizable offences.---The offences specified in sub-section (1) of section 18, of this Act shall be cognizable to the extent of registration of case, arrest of the polluters / violators, taking action at site warranted to suspend or stop any illegal activity under the Act, rules made thereunder on a written report by any member of the Agency sent to the In-charge of Police Station concerned. The In-charge of the concerned local police station or post shall be duty bound to accompany, provide safety and security to the members of the Agency.

39. Heads of accounts.--- Administrative penalties or pollution charges or fine or fees or sums amount, except those specified in section 8, recoverable under this Act, rules made thereunder shall be separately managed to be deposited in public accounts of the Government.

40. Repeal and saving.---(1) The Pakistan Environmental Protection Act, 1997 (Act No. XXXIV of 1997), is hereby repealed to the extent of its application to the Province of the Khyber Pakhtunkhwa.

(2) Notwithstanding the repeal of the aforesaid Act, any rules or appointments made, orders passed, notifications issued, powers delegated, contracts entered into, proceedings commenced, rights acquired, liabilities incurred, penalties, rates, fees or charges levied, things done or action taken under any provisions of that Act shall, so far as they are not inconsistent with the provisions of this Act be deemed to have been made, passed, issued, delegated, entered into, commenced, acquired, incurred, levied, done or taken under this Act.

"Inserted vide Khyber Pakhtunkhwa Act No. XXX of 2022.

(3) All properties, assets and liabilities pertaining to the Khyber Pakhtunkhwa Environmental Protection Agency, established under the Act so repealed shall be the properties, assets and liabilities, of the Agency established under this Act.

10.

11.

12.

13.

14.

15.

16.

17.

18.

19.

SCHEDULE

(see section 32)

International Plant Protection Convention, Rome, 1951.

Plant Protection Agreement for the South-East Asia and Pacific Region (as amended), Rome, 1956.

Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Eastern Region of its Distribution Area in South-West Asia (as amended), Rome, 1963.

Convention on Wetlands of International Importance especially as Waterfowl Habitat, Ramsar, 1971 and its amending Protocol, Paris, 1982.

Convention Concerning the Protection of World Cultural and Natural Heritage (World Heritage Convention), 1972.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Washington, 1973.

Convention on the Conservation of Migratory Species of Wild Animals, Bonn, 1979.

Convention on the Law of the Sea, Montego Bay, 1982.

Vienna Convention for the Protection of the Ozone Layer, Vienna, 1985.

Montreal Protocol on Substances that Deplete the Ozone Layer, Montreal, 1987 and amendments thereto.

Agreement on the Network of Agriculture Centers in Asia and the Pacific, Bangkok, 1988.

Convention on the Control of Transboundary Movements of Hazardous Waste and Their Disposal, Basel, 1989.

Convention on Biological Diversity, Rio de Janeiro, 1992.

United Nations Framework Convention on Climate Change, Rio De Janeiro, 1992.

United Nation Convention to Combat Desertification (UNCCD), Paris, 1994.
Kyoto Protocol to UNFCCC, Kyoto, 1997.

Rotterdam Convention on Prior Informed Consent (PIC) for certain
Hazardous Chemical and Pesticides in International Trade, Rotterdam, 1999.

Stockholm Convention on Persistent Organic Pollutants (POPs), Stockholm, 2001.

Cartagena Protocol on Bio-Safety to the CBD, Cartagena, 2001.