

THE KHYBER PAKHTUNKHWA ESTABLISHMENT OF INFORMATION TECHNOLOGY BOARD ACT, 2011.

(KHYBER PAKHTUNKHWA ACT NO. XI OF 2011)

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1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

2 Inserted vide Khyber Pakhtunkhwa Act No. IV of 2018.

THE KHYBER PAKHTUNKHWA ESTABLISHMENT OF
INFORMATION TECHNOLOGY BOARD ACT, 2011.

(KHYBER PAKHTUNKHWA ACT NO. XI OF 2011)

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AN

ACT

to provide for the establishment of the Khyber Pakhtunkhwa
Information Technology Board for private sector.

'TWHEREAS it is expedient to provide for the establishment of the Khyber Pakhtunkhwa Information Technology Board for promotion, planning, execution, supervision, evaluation and regulation of the Information and Communication Technology, Information and Communication Technology enabled services and education for the public and private sectors of the Province of the Khyber

Pakhtunkhwa and for matters connected therewith or ancillary thereto;

It is hereby enacted as follows:]

1. Short title, extent_and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Establishment of Information Technology Board Act, 2011.

(2) It shall extend 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, the following expressions shall have the meanings hereby respectively

assigned to them, that is to say-

(a) "Board" means the Khyber Pakhtunkhwa_ Information Technology Board established under section 3;

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

1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

(c) "Managing Director" means the Managing Director of the Board;

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

(e) "member" means a member of the Board including the Chairman;

(f) "prescribed" means prescribed by rules or regulations made under this Act;

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

(i) "regulations" mean regulations made under _ this Act;

Gj) "rules" mean rules made under this Act; and

(k) "section" means a section of this Act.

3. Establishment of the Board.---(1) As soon as may be after the

commencement of this Act, Government shall establish, in accordance with the provisions of this Act, a Board to be called the Khyber Pakhtunkhwa Information Technology Board.

(2) The Board shall be a body corporate, having a perpetual succession and a common seal, with powers, subject to the provision of this Act, to acquire, hold and dispose of property, both movable and immovable in its name, and shall by its name sue and be sued.

(3) The head office of the Board shall be at Peshawar.

(4) The Board may establish its regional offices at such other places, as it may deem necessary.

113A. Status of the Directorate of Information Technology and its employees.--

- On commencement of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018,-

(i) the Directorate of Information Technology, shall cease to be an Attached Department of Science and Technology and Information Technology Department of Government, and shall be merged into Board and the Board shall, take over the functional, administrative,

I inserted vide Khyber Pakhtunkhwa Act No. IV of 2018.

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financial and regulatory control over all the activities, offices, projects, centers, etc. of the Directorate of Information Technology, for the disposal of its functions;

all the movable and immovable assets and liabilities including furniture, fixture, equipment, vehicles, record, data etc. of the Directorate of Information Technology shall be transferred to the Board and ownership of such assets shall vest in the Board.

all the civil servants serving in Directorate of Information Technology, shall be given an option, either to continue to serve as civil servant or may opt for the employment of the Board. The option shall be exercised within of thirty days after the commencement of the Khyber Pakhtunkhwa Establishment of Information Technology Board (Amendment) Act, 2018. Those employees, who do not opt for their absorption in the Board, shall be absorbed in the Directorate of Science and Technology where they can continue to be governed and regulated in accordance with the Khyber Pakhtunkhwa Civil Servants Act, 1973 and the rules made there under; and

projects of the Directorate of Information Technology along with its employees shall be transferred to the Board for the completion of remaining activities of such projects.]

Composition of the Board.---(1) The Board shall consist of-

(a) the Chief Minister, Khyber Chairman

Pakhtunkhwa;

(b) Minister for Science and Technology Member
and Information Technology, Khyber
Pakhtunkhwa;

(c) Chief Secretary to Government; Member

(d) Additional Chief Secretary to Member
Government Planning and
Development Department;

(e) Secretary to Government, Science and Member
Technology and Information
Technology Department;

- (f) Secretary to Government, Finance Member
Department;
- (g) Managing Director; and Member-cum-Secretary
- (h) not more than eight persons having Members

experience in information technology sector as the Government may, by notification in the official Gazette, nominate from private or public sector.

(2) Save as hereinafter provided, the members mentioned at clause (h) of sub-section (1), shall hold office for a term of three years from the date of his nomination and may be eligible for re-nomination for such further period or periods not exceeding three years at anyone time as Government may deem fit.

(3) A member mentioned at clause (h) of sub-section (1), may at any time resign from his membership by writing under his hand addressed to Government, but shall continue to perform his function until his resignation has been accepted.

(4) A vacancy caused by resignation under sub-section (3) or any other reason shall be filled by the nomination of any another person qualified to fill such vacancy.

11(5) Government may at any time terminate the nomination of any member mentioned at clause (h) of sub-section (1), by assigning cogent reasons.]

(6) No act, proceeding, decision or order of the Board shall be invalid merely by reason of any vacancy or defect in the constitution of the Board.

°[(7) The members at clause (h) of sub-section (1), shall be entitled to an amount of rupees twenty thousand as honoraria for attending a meeting of the Board.]

5. Disqualification of the member of Board.---(1) No member, other than ex-officio member, or Managing Director, shall be nominated or appointed or continue

as a member, if he-

- (a) has, at any time been convicted of an offence involving moral turpitude; or
- (b) has been adjudicated an insolvent by a competent court; or

1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

2 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

(c) is of unsound mind and has been so declared by a competent court; or

(d) is a minor; or

(e) has been disqualified for employment in, or dismissed from service of, any Provincial or Federal Government, or any organization controlled by such government; or

(f) has been dismissed from service of any organization in the private sector on account of fraud or theft; or

(g) is held by Government, on a reference received from the Secretary of the Board, to be guilty of misconduct or abstaining from attending the meetings of the Board without leave.

6. Meetings of the Board.---(1) The meetings of the Board shall be regulated in accordance with the procedure as may be prescribed by regulations.

(2) Meetings of the Board shall be called by its Chairman on such date and at such place as he may deem fit.

(3) Each meeting of the Board shall be presided-over by the Chairman or in his absence by Minister for Science and Technology and Information Technology, Khyber Pakhtunkhwa.

(4) Ten members shall constitute the quorum for a meeting of the Board.

7. Powers and functions of the Board.---(1) Subject to the provisions of this Act and any rules made thereunder, the Board shall exercise such powers, as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the fore-going sub- section, the Board shall-

(a) prepare and implement plans and schemes for the promotion of Information Technology, Call Centers and Information Technology enabled services and education in '[public and private sectors];

(b) undertake research and study on the state of the Information Technology sector and propose strategies for fast track and sustainable development of the Khyber Pakhtunkhwa

1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

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Information Technology Industry including software and services, Information Technology enabled services, and hardware in both export and domestic markets;

supervise, evaluate and lead telecom regulators, operators and service providers for provision of wide range of high quality, efficient, cost effective and competitive information and communication technology service throughout the Province, in order to reduce broadband bandwidth tariffs, improve access, protect consumer rights and interests and _ regulate arrangements with the service providers of sharing their revenue with the Board, derived from provision of services in the Province;]

plan, develop and establish Software Technology Parks, Technology Cities, for Information and Communication Technology and Electronic manufacturing and Information Technology Parks in the Province;]

determine human capital requirements of the Information Technology Industry and work to address these needs in collaboration with other entities;

develop and execute a marketing plan to help local software companies to reach potential clients abroad, attract and facilitate foreign software firms to establish their software development facilities in Province;

arrange the participation of Provincial Information Technology Industry in domestic and ___ international Information Technology events;

provide match-making facilities for foreign delegates and investors;

establish a web portal for customers, investors and companies

and prepare and disseminate marketing collateral;

develop capability of private sector by assisting them in acquiring quality, security and other certifications;

1 Deleted vide Khyber Pakhtunkhwa Act No. IV of 2018.

2 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

3 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

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take initiatives for the development of hardware and software industry including knowledge based enterprise; and

sanction individual schemes, including revision of sanctioned schemes, in terms of scope '[;

finance, promote, train and develop the human resource and entrepreneurs of the Province in the field of information and communication technology, within Pakistan as well as abroad;

launch Research and Development Programs and up-gradation of its infrastructure;

monitor and evaluate the outcome and results of Information and Communication Technology projects initiated by Government in the Province and provide policy guidelines to Government departments, Government organizations, semi-autonomous and autonomous agencies under the administrative control of Government, Research and Development institutions for their restructuring and enhancement of Information and Communication Technology activities;

advise and regulate Government departments, Government organizations, semi-autonomous and autonomous agencies under the administrative control of Government on the introduction and usage of Information and Communication Technology;

promote usage of Information and Communication Technology by awarding scholarships, awards, certificates, holding of conferences, expos, seminars, workshops, in-service training and acquiring higher education;

plan, execute, monitor, evaluate and regulate computerization, automation and all Information and Communication Technology related initiatives, activities and projects in

Government departments, Government organizations, semi-autonomous and autonomous agencies under the administrative control of Government;

plan, execute, monitor and regulate electronic governance and mobile governance of Government departments;

1 Added vide Khyber Pakhtunkhwa Act No. IV of 2018.

(u) promote, establish, monitor, evaluate and regulate electronic commerce, electronic payments, electronic payment gateways and electronic payment service providers in the Province;

(v) establish venture capital fund, angel investment fund, crowd sourcing fund, private equity fund or any other variant of fund, for financing. Investing and holding equity share in technology startup business;

(w) _ enter into Concession contract under the Khyber Pakhtunkhwa Public Private Partnership Act, 2014, for promoting Public Private Partnership;

(x) establish academia-industry linkages; and

(y) ensure that the shares of the Province in all Federal Information and Communication Technology related services, including autonomous bodies and corporations established by, or under the control of, Federal Government, such as, Universal Service Fund, National Information and Communication Technology Research and Development Fund etc, shall be secured.]

8. Managing Director of the Board.--- '[(1) The Managing Director shall be appointed by the Board, on the recommendations of a Search and Scrutiny Committee, to be constituted by the Board, on such salary and terms and conditions as may be prescribed.]

(2) The Managing Director shall be the Chief Executive Officer of the Board.

(3) The Managing Director shall exercise such powers and perform such functions, as may be assigned to him by the Board.

(4) The Managing Director shall be a person of eminence in the field of Information and Communication Technology with at least ten years relevant experience.]

31(5) The Managing Director shall hold office for a term of five years and shall be eligible for re-appointment for such further term or terms, not exceeding five years at any one time, as the Board may deem fit.]

1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

*Substituted vide Khyber Pakhtunkhwa Act No. XXXII of 2015.

Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

(6) The Managing Director may resign his office by writing under his hand addressed to '[Board]' but the resignation shall take effect on its acceptance by '[Board]'.

(7) If the Managing Director is removed from his office, resigns or dies before the completion of his tenure, '[the Board may appoint any Director of the Board]' to perform, temporarily, the functions of the Managing Director, until such time another person is appointed as the Managing Director.

41(8) The Search and Scrutiny Committee, under sub-section (1), shall comprise of five members, who shall be members of the Board, with majority of members nominated under clause (h) of sub-section (1) of section (4).

(9) The Search and Scrutiny Committee, shall seek applications through public advertisement, and recommend to the Board, a candidate with the highest score on the merit list, for appointment as Managing Director.]

9. Appointment _of Officers _and_staff_of the Board.---(1) To assist the Managing Director in the performance of his functions, the Board shall appoint not

more than five Directors on such terms and conditions as may be determined by the Board.

(2) Each Director shall be the head of respective functional organ of the Board, who shall report and responsible to the Managing Director.

(3) The Board may appoint such other Officers, servants, experts and consultants, as it may deem necessary, for the efficient performance of its functions on such terms and conditions as it deem fit.

(4) In case of urgency, the Managing Director may appoint such officers, servants, experts or consultants, as he may deem fit, and shall report every such appointment made, to the notice of Board without unreasonable delay and the decision of the Board in respect of any or all such appointments shall be final.

5[(5) A person appointed by the Board, under sub-section (1) and (3) of section 9, shall, on satisfactory completion of probation, be deemed confirmed in service with effect from initial appointment.]

10. Delegation of powers.---The Board may, by general or special order, delegate to the Managing Director, Directors or any Officer of the Board any of its powers or functions under this Act subject to such conditions as it may deem fit.

1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

2 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

3 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

4 Added vide Khyber Pakhtunkhwa Act No. IV of 2018.

5 Inserted vide Khyber Pakhtunkhwa Act No. IV of 2018.

11. Fund.---(1) There shall be established a Fund to be vested in the Board, which shall be utilized by the Board to meet all such costs and charges incurred in connection with its functions and affairs.

(2) Government shall initially allocate two hundred million rupees for the establishment of the Fund.

(3) The Fund shall consist of-

'(a) one-line budget from Government;]

(b) financial assistance extended to the Board by any local or foreign Government or Agency through Government;

(c) revenue and other receivables of the Board from any source and of any kind; and

(d) donations and endowments.

12. Budget.---The Managing Director shall, in respect of each financial year, submit for approval of the Board, by such date and in such manner as may be prescribed, a statement showing the estimated receipts, the current and development expenditures and the sums required 7[* * *] from Government.

13. Maintenance of Accounts and Audit.---(1) The Managing Director shall maintain complete and accurate books of accounts and prepare periodical financial statements in such form as may be prescribed by regulations.

(2) Financial statements prepared by the Managing Director shall include an Annual Receipts and Expenditure Account and a Balance Sheet which shall be caused to the Board 3[Deleted].

4((3) The Board may, in addition to the audit under sub-section (2), cause its accounts to be audited by any other external auditor.]

14, Submission of Annual Report.---(1) The Managing Director shall prepare and submit to Board, as soon as possible after the end of every financial year, but not later than three months after the 30th of June of that year, a report on the conduct of Board affairs, relating to proceeding year.

1 Substituted vide Khyber Pakhtunkhwa Act No. IV of 2018.

2 Deleted vide Khyber Pakhtunkhwa Act No. IV of 2018.

3Deleted vide Khyber Pakhtunkhwa Act No. XV of 2015

'Inserted vide Khyber Pakhtunkhwa Act No. IV of 2018.

(2) The Board shall, if so required by Government, furnish any document under its control to Government.

15. Employees of the Board deemed to be public servants.---Subject to the provisions of this Act, Managing Director and all other Officers and employees

appointed for carrying out the purposes of this Act, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

16. Indemnity.---No suit, prosecution or other legal proceedings shall lie against the Board, its Chairman, members, Managing Director, Directors, Officers, experts or consultants or any other employee of the Board in respect of any thing in good faith done or intended to be done under this Act.

17. Power to make rules.---Subject to the provisions of this Act Government may make rules for carrying out the purposes of this Act.

18. Power to make regulations.---Subject to the provision of this Act and the rules made thereunder, the Board may make regulations, as may be necessary, for carrying out the purposes of this Act.

19. Removal of difficulties.---If any difficulty arises in giving effect to any provision of this Act, the Government may, in consultation with the Board, issue orders, not inconsistent with the Act or the rules made thereunder, for the removal of the difficulty.