

THE KHYBER PAKHTUNKHWA FISCAL RESPONSIBILITY AND DEBT MANAGEMENT ACT, 2022.

(KHYBER PAKHTUNKHWA ACT NO. XVI OF 2022)

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THE KHYBER PAKHTUNKHWA FISCAL RESPONSIBILITY AND DEBT MANAGEMENT ACT, 2022.

(KHYBER PAKHTUNKHWA ACT NO. XVI OF 2022)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 12<sup>th</sup> June, 2022).

AN  
ACT

to provide for sound fiscal risk management in the Province of Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the sound fiscal risk management, fiscal and public debt sustainability and transparency in Government finance statistics and public sector debt statistics and for matters connected therewith and incidental thereto.

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

1. Short title, extent and commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Fiscal Responsibility and Debt Management Act, 2022.

(2) It shall extend to whole of the Province of Khyber Pakhtunkhwa.  
(3) — It shall come into force at once.

2. Definition.—(1) In this Act, unless there is anything repugnant in the subject or context,-

(a) "Annual Budget Statement" means the annual statement of the estimated receipts and expenditures of Government, laid before the Provincial Assembly of Khyber Pakhtunkhwa, under Article 120 of the Constitution of Islamic Republic of Pakistan;

(b) "Average Revenue of the Province" means the sum of revenue of the last three financial years, divided by the number of those years;

(c) "Department" means the Finance Department of Government;

(d) "financial year" means financial year as defined in the

Constitution of Islamic Republic of Pakistan;

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

(f) "prescribed" means prescribed by rules;

(g) | "Province" means the Province of Khyber Pakhtunkhwa;



(h) "Ratio of Debt Service to Revenue" means the debt service in a given financial year, divided by revenue of that financial year;

(i) "Ratio of total debt to Revenue" means debt on the last day of a financial year, divided by revenue of that financial year; and

G) "Revenue" means a sum of Federal Tax Assignment,

Straight Transfers (Royalties on Oil and Gas), Net Rydel Profits (NHP), KP own source revenues (Tax and Non-tax) and other revenues, which does not include debt, loans or other foreign/bilateral assistance; and

(k) "rules" mean rules made under this Act.

(2) Words and expressions, used in this Act and rules, shall be in accordance with the concepts and meanings, assigned to the same or similar terms in the following international standards and guidelines, as amended or substituted from time to time:

(a) \*>Government Finance Statistics Manual 2014", as published by International Monetary Fund (IMF); and

(b) "Public Sector Debt Statistics- Guide for compilers and Users 2011", as published by International Monetary Fund (IMF).

(3) These terms include, but are not limited to asset, budget balance or fiscal balance, total debt, debt service, domestic debt, expenditure, expense, external debt, financial asset, guarantee, liability, non-financial asset, public debt, public sector and revenue.

(4) In case the concept and meaning, assigned to a particular term in the above standards and Guideline, is in conflict with the concept and meaning, assigned to the same term by a law, rule or regulation of Government, the later shall prevail.

### 3. Principles and objectives of sound fiscal and debt management---(1)

The objectives of this Act includes-

(a) identification of major fiscal risk, faced by Government and the measures to mitigate those risks;

(b) sustainability of fiscal operations and public sector debt; and

(c) transparency in Government finance statistics and public sector debt statistics.

(2) Subject to sub-section (1), Government shall pursue its policy objectives in accordance with the sound fiscal responsibility and debt limitations specified under this Act.

(3) Government may depart from the principles or limitations, specified under this Act, on grounds of unforeseen circumstances related to the

financial requirements of the Government due to exigencies of security or natural disaster, as determined by Government, but when Government does so, any such departure shall-

- (a) be temporary;
- (b) be in accordance with the provisions of this Act;
- (c) specify the reasons for departure from those principles or limitations;
- (d) specify the approach or measures, Government intends to take, to return to those principles or limitations; and
- (e) specify the time period, Government expects to take, to return to those principles or limitations.

4. Authority to borrow or issue guarantees.---(1) The authority to borrow or give a guarantee shall vest in Government.

(2) Notwithstanding anything contained in any other law for the time being in force, all Government borrowings and guarantees shall be executed by Secretary of the Department or by any other officer of Government, specifically authorized by Government for this purpose.

5. Purposes of borrowing.---Government may borrow or give guarantees for any or all of the following purposes:

- (a) — finance the fiscal deficit;
- (b) repay, refinance, reschedule, restructure, prematurely retire or swap existing debt;
- (c) meet temporary cash or liquidity needs during a financial year;
- (d) — make investment in financial assets;
- (e) make investment in non-financial assets i.e. development expenditure; and
- (f) any other purpose Government may deem appropriate.

6. Medium-term fiscal framework.---(1) Government shall prepare a three year medium term fiscal framework, aligned with the medium-term national macro fiscal framework, approved in accordance with Fiscal Responsibility and Debt Limitation Act, 2005 (Act No. VI of 2005). The medium term fiscal framework shall be published as part of the budget strategy paper of Government.

- (2) | The medium-term fiscal framework shall be updated every year.
- (3) | The annual budget shall be aligned with the medium-term fiscal framework.

(4) The medium-term fiscal framework shall include-

- (a) discussion of the national and provincial economic environment anticipated during the medium-term;
- (b) revenue estimates, both from own-sources and federal transfers and grants;
- (c) estimates of expenses and investments in non-financial assets;
- (d) estimates of primary balance, fiscal balance and borrowing requirements; and
- (e) medium-term projections of public debt and guarantees.

7. Statement of fiscal risks.—(1) Government shall approve a fiscal risk statement on annual basis and present it to the Provincial Assembly of Khyber Pakhtunkhwa along-with the annual budget.

(2) — The statement shall-

- (a) review the actual fiscal outcomes of last completed financial year with the budget estimates of that year and the projections made in medium term fiscal framework in respect of that year and identify the reasons of deviation;
- (b) identify the major sources of risk that can result in significant deviations between actual and expected fiscal outcomes;
- (c) review the measures already taken by Government to address the fiscal risks;
- (d) identify the measures needed to strengthen the management of fiscal risks; and
- (e) contain discussion on fiscal risks posed by explicit as well as implicit contingent liabilities.

8. Medium-term debt management strategy.—(1) Government shall approve a medium-term debt management strategy for managing the public debt and guarantees, covering a minimum of three years and may update it on annual basis in line with the medium-term fiscal framework. The medium-terms debt management strategy alongwith annual budget shall be presented to the Provincial Assembly of Khyber Pakhtunkhwa.

(2) The medium-term debt management strategy shall discuss-

- (a) debt portfolio of Government;
- (b) future borrowing requirements of Government as outlined in the medium-term fiscal framework;
- (c) key quantitative targets for public debt along-with the justification for setting those targets and their comparison

with the existing figures. These shall include the following:

(d)

(e)

(f)

(g)

(h)

(i) average time to maturity of the debt portfolio;

(ii) proportion of external and domestic debt;

(iii) proportion of fixed-rate and floating-rate debt; and

(iv) gross financing needs;

road map for the progress to be made towards achieving those targets.

the constraints and risks that may prevent the targets from being achieved:

major risk exposures of the debt portfolio and the strategy to manage those risks;

the projections of key measures of debt burden includes-

(i) public debt and guarantees along with its bifurcation into domestic debt and external debt;

(ii) ratio of public debt and guarantees to revenue; and

(iii) ratio of public debt service to revenue; and

any other factors that may affect the debt management strategy.

(3) The medium-term debt management strategy and the budget documents shall be made public through various sources of communication including publication on website of the Department.

9. Fiscal Limitations.---Government shall take appropriate measures to ensure adherence to the following fiscal limitations:

(a)

(b)

in any financial year, Government shall not incur overall budget deficit of more than ten (10) percent of Average Revenue of the Province; and

in any financial year, net investment in non-financial assets,

shall not be less than fifteen (15) percent of Average Revenue of the Province.

10. Debt Limitations.---Government shall manage total public debt and guarantees in a manner that the following debt limitations are adhered to-

(a)

(b)

debt servicing, in a financial year, shall not exceed ten (10) percent of the Average Revenue of the Province;

the combined stock of total public debt and guarantees does not, at any time, exceed One hundred and fifty (150) percent of the Average Revenue of the Province;

(c) the combined total stock of the total public debt, guarantees and pension liabilities shall not, at any time, exceed four hundred (400) percent of the Average Revenue of the Province; and

(d) Public Corporations debt and guarantees shall not exceed thirty (30) percent of the Average Revenue of the Province.

11. Debt Management Unit and its Functions.---(1) There shall be a Debt Management Unit , established by the Department, which shall be headed by a Team Leader, appointed on contract basis, through a competitive hiring process, for a term of three years, who shall report to the Secretary of the Department:

(2) Provided that the tenure of Team Leader may be extended for another term of three years, subject to his satisfactory performance, and a further period as may deem appropriate.

(3) The qualification and experience for the Team Leader shall be such as may be prescribed.

(4) Government may, from time to time, through Notification, constitute Debt Management Committee, headed by the Minister for Finance and including such other members as may be mentioned in the Notification, issued in this behalf.

(5) The Debt Management Committee shall make policies for effective functioning of the Debt Management Unit, including size, organizational and governance structure, other terms and conditions of employees, performance evaluation and incidental matters, with the approval of Government.

(6) Without prejudice to the generality of the foregoing powers, the Debt Management Unit shall also-

(a) prepare the medium-term debt management strategy, as required under this Act;

(b) prepare annual borrowing plan, which shall be in line with the medium-term debt management strategy. It shall be published along with the Annual Budget Statement;

(c) formulate and implement a process for raising domestic debt through various sources such as Government securities, bank loans etc. The process shall be finalized and modified, from time to time, as deem necessary with prior approval of Secretary of the Department;

(d) prepare a framework, with the approval of Government, for issuance, management, valuation, budgeting, funding, allocation and monitoring of Government guarantees;

(e) raise domestic debt through domestic Government securities, bank loans or any other domestic borrowing instruments;



- (f) raise external debt through commercial sources, including debt securities, such as bonds, sukuks, bank loans or any other commercial borrowing instruments;
- (g) coordinate with the Planning and Development Department of Government, in raising external debt through multilateral or bilateral sources and provide advice to Planning and Development Department of Government on financial terms and conditions of external debt;
- (h) propose guidelines to the Department and the Planning and Development Department of Government, regarding raising of external debt through multilateral and bilateral sources;
- (i) advise Secretary of the Department in evaluation of requests for guarantees by Government;
- G) maintain consistent and authenticated record of public debt and guarantees;
- (k) prepare a comprehensive debt bulletin on semi-annual basis;
- () monitor compliance with the limits for debt and guarantees provided under this Act;
- (m) ensure that debt sustainability analysis is carried out in accordance with the international standards, at least once in five years; provided that, if Government is non compliant with the fiscal or debt imperatives under this Act; the debt sustainability analysis shall be carried out at least once in three years;
- (n) act as the investor relations office of the Department in matters pertaining to public debt and guarantees; and
- (o) perform any other functions entrusted to the Unit by the Department, Government or any other functions as may be prescribed.

12. Standards of reporting for Government finance statistics and public sector debt statistics.---(1) Government shall maintain high standards of transparency and international comparability in the reporting of Government finance statistics and public sector debt statistics.

- (2) | Government finance statistics shall be prepared and reported in line with the international standards and guidelines, laid down in 'Government Finance Statistics Manual's, as amended from time to time.
- (3) Public sector debt statistics shall be prepared and reported in line with the international standards and guidelines, laid down in Public Sector Debt Statistics Guide for Compilers and Users', as amended from time to time.
- (4) In case the statistics, reported by Government, are not fully

compliant with the international standards and guidelines, appropriate disclosures shall be made in the relevant reports.

(5) In case there is a conflict between the international standards and guidelines and standards or guidelines, approved by Government, the standards or guidelines of Government shall prevail.

13. Reporting on compliance.---(1) Compliance with fiscal and debt imperatives, as laid down under this Act, shall be monitored on the basis of-

(a) budget estimates at the beginning of a financial year; and

(b) figures in final accounts, prepared by the Accountant General's Office and audited by the Auditor General's Office, after the end of a financial year.

(2) \_ Fiscal risk statement shall contain a section on compliance with each component of this Act, including preparation of the medium-term fiscal framework, medium-term debt management strategy and the quantitative fiscal and debt imperatives specified under this Act.

14. Compliance with the Act.---(1) Breach of any of the fiscal and debt imperatives, as laid down under this Act, for two consecutive years, shall be treated as non-compliance with this Act.

(2) In case of non-compliance, Government shall make all reasonable efforts to return to the compliant status within two (2) financial years or as soon as practicable.

(3) During the non-compliance period, Government shall make the necessary adjustments to primary balance in the medium-term fiscal framework and annual budget in order to achieve compliance.

15. Indemnity.---No suit, prosecution or any other legal proceedings shall lie against Government or any other person for anything which is done in or intended to be done in good faith under this Act or the rules.

16. Application of other laws not barred.---The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

17. Power to make rules.---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

18. Removal of difficulties.---(1) If any difficulty, arises in giving effect to the provisions of this Act, Government may, by an order published in the official Gazette, make such order, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty.

(2) Every order, made under sub-section (1), shall be laid before the Provincial Assembly of Khyber Pakhtunkhwa in the next available session.