

THE KHYBER PAKHTUNKHWA KHASADAR FORCE ACT, 2019
(KHYBER PAKHTUNKHWA ACT NO. XXXIV OF 2019)

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THE KHYBER PAKHTUNKHWA KHASADAR FORCE ACT, 2019
(KHYBER PAKHTUNKHWA ACT NO. XXXIV OF 2019)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 16th September, 2019).

AN
ACT

to regulate and maintain the Khasadar Force previously working in the erstwhile Federally Administered Tribal Areas and now in the merged districts of the Province of the Khyber Pakhtunkhwa.

WHEREAS after Constitution (Twenty-fifth Amendment) Act, 2018 (Act No. XXXVII of 2018), the erstwhile Federally Administered Tribal Areas were merged in the Province of the Khyber Pakhtunkhwa, and the special provisions for the governance system in the said areas were omitted through said amendment, leading to the extension of the executive authority of the Province of the Khyber Pakhtunkhwa to the said areas;

AND WHEREAS the Khasadar Force, which was established in the erstwhile Federally Administered Tribal Areas through Executive Orders and instructions, for management of the said areas within the framework of territorial and collective responsibility, has now lost their legal status, for working in the merged districts and sub-divisions;

AND WHEREAS it is in public interest to allow the Khasadar Force to continue their functions for better public order, peace and security in the merged districts and sub-divisions and to achieve the objectives, it is expedient to give legal status to the Khasadar Force in the merged districts and sub-divisions, and to revisit their institutional structure and functional assignment for effective discipline, better performance and optimal utility;

It is hereby enacted as follows:

1. Short title, application, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Khasadar Force Act, 2019.

(2) It shall apply to all the members of the Khasadar Force.

(3) It shall extend to the districts and sub-divisions of the Province of Khyber Pakhtunkhwa as enlisted in the Schedule.

(4) It shall come into force at once.

2. Definitions.---In this Act, unless the context otherwise requires,-

(a) "Commandant" means the District Police Officer, as defined in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);

(b) "Department" means the Home and Tribal Affairs Department the Government of the Khyber Pakhtunkhwa;

(c) "District Administration" means the Deputy Commissioner, Additional Deputy Commissioner, Assistant Commissioner, Additional Assistant Commissioner and their subordinate staff in the district;

(d) "District Police Officer" means Head of the Police, under section 21 of the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);

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

'I(e-i) "Iwazi" means a surrogate member of the Khasadar Force, who is actually performing duties in place of a member of the Khasadar Force and is getting full or split remuneration for the services rendered, whereas the salary is still drawn in name of the one in whose place he is performing such duties in the Khasadar Force;]

(f) "Khasadar Force" means the Khasadar Force, constituted through executive orders, for the erstwhile Federally Administered Tribal Areas and now re-constituted and maintained by Government under section 3 of this Act;

(g) "prescribed" means prescribed by rules;

(h) "public agency" means any department of Government, attached department, public authority, commission or autonomous body, setup under any statutory instrument, or public sector company or body corporate, owned, controlled or financed by Government;

(i) "rules" mean rules made under this Act; and

Gj) "Schedule" means Schedule appended to this Act.

3. Re-constitution, regulation and maintenance of the Khasadar Force.---(1) On commencement of this Act, the Khasadar Force, shall be re-constituted, regulated and maintained by Government in accordance with the provisions of this Act and shall be known as the Khyber Pakhtunkhwa Khasadar Force, consisting of all existing strength of its members "Tor Iwazi, as the case may be].

(2) The Khasadar Force shall be organized in senior ranks and junior ranks officers and officials.

(3) The senior rank officer shall consist of Commandant, who shall be District Police Officer, having additional charge of the Commandant in the district, while the junior ranks shall consist of the following:

(a) Subedar Major;

1 After clause (e), new clause inserted by Khyber Pakhtunkhwa Ordinance No. VIII of 2020 and thereafter the same insertion Act No. XXX of 2020.

2 Words and comma inserted by Khyber Pakhtunkhwa Ordinance No. VIII of 2020 and thereafter the same insertion also made by Ordinance No. XXX of 2020.

(b) Subedar;

(c) Naib Subedar;

(d) Havaladar; and

(e) Khasadar.

4. Superintendence, administration and control of the Khasadar Force.---(1)

The overall power of superintendence of the Khasadar Force shall vest in Government.

(2) The general administration and operational control of the Khasadar Force shall vest with the Commandant in the district.

5. Method of recruitment.---Subject to other provisions of this Act, recruitment in the Khasadar Force shall be made in the prescribed manner:

Provided that initial recruitment shall be made only in the rank of Khasadar:

Provided further that Government shall specify committee for recruitment and promotion of members of the Khasadar Force:

Provided also that members of the Khasadar Force may be absorbed in the Khyber Pakhtunkhwa Police in accordance with prescribed procedure.

6. Powers and duties of the Khasadar Force.---(1) Notwithstanding anything contained, in any other law for the time being in force, the Khasadar Force shall have parallel policing powers as are assigned to the police under the Code.

(2) Without prejudice to the generality of the forgoing policing powers under sub-section (1), the Khasadar Force shall perform such institutional or organizational functions and duties as are provided in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017).

7. Postings, transfers and distribution of the Khasadar Force.---(1) The Commandant shall be the authority for posting and transfer of members of the Khasadar Force within the district.

(2) Subject to the decision of the Department, a sufficient number of members of the Force shall be placed at the disposal of the District Administration for performing its legally mandated functions.

8. Liability of Khasadar Force.---It shall be the duty of every member of the Khasadar Force to obey and execute all lawful orders and instructions, issued to him by the Commandant.

9. Assistance and support to Government functionaries.---On the requisition of the District Administration, the Commandant shall provide assistance and support to the District Administration and Heads of all public agencies in the district, required for performing their official duties.

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

11. Act to override other laws.---The provisions of this Act shall have overriding effect, notwithstanding anything contained in any other law, on the subject, for the time being in force.

12. 'Actions taken in good faith.---No suit, prosecution or other legal proceedings shall lie against Government, any authority exercising powers under this Act or any member of the Khasadar Force for anything done in good faith under this Act or any rule made thereunder or matters specified in pursuance of this Act.

Explanation: The phrase "good faith" shall have the same meaning as given to it in section 52 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

13. Removal of difficulty.---(1) If any difficulty arises in giving effect to any of the provisions of this Act, the Department may notify a committee to take a decision, not inconsistent with the provisions of this Act, as may appear to it to be necessary for the purpose of removing the difficulty.

(2) Save as otherwise specifically provided, nothing in this Act, or any repeal effected thereby shall affect or be deemed to affect-

(a) the existing terms and conditions of service of the Khasadar Force unless amended through a substitute rule or instrument;

(b) the validity of anything done, action taken, investigations or proceedings commenced, orders issued, appointments made, directions given, proceedings taken or instruments executed or issued, under or in pursuance of any rule or regulatory instrument repealed or amended by this Act and any such thing, action, investigation, proceeding, order, appointment, direction, or instrument suit, right or claims shall, if in force at the time of commencement of this Act and not inconsistent with any of the provisions of this Act, shall continue to be in force, and have effect as if it were respectively done, taken, commenced, issued, made, directed, given, executed or issued under this Act; and

(c) anything done, action taken, rule made or notification or orders issued under the Khyber Pakhtunkhwa Khasadar Force Ordinance, 2019 (Khyber Pakhtunkhwa Ord. No. IV of 2019) shall be deemed valid and the same shall not be called in question in any Court of law.

14. Repeal.---the Khyber Pakhtunkhwa Khasadar Force Ordinance, 2019 (KP Ord. No. IV of 2019) is hereby repealed.

SCHEDULE

[see section 1(3)]

Part-A

S No. | District.

1. Bajaur
2. Mohmand
3. Khyber
4. Orakzai
5. Kurrum
6. South Waziristan
7. North Waziristan

Part-B

S No. | Sub-Division.

1. Hasan Khel in district Peshawar.

Darra Adam Khel in district Kohat.

Bettani in district Lakki Marwat.

Wazir in district Bannu.

Jandola in district Tank.

APR) Ye)

Darazinda in district Dera Ismail Khan.