

THE KHYBER PAKHTUNKHWA PROVINCIAL BUILDINGS (MANAGEMENT, CONTROL AND ALLOTMENT) ACT, 2018.

(KHYBER PAKHTUNKHWA ACT NO. II OF 2018)

CONTENTS

PREAMBLE

SECTIONS

a

Short title, application, extent and commencement.

2. Definition.

3. Provincial buildings.

4. Estate Officer.

5. Management of office buildings.

6. Management of Government rest houses.

7. Management and Allotment of residential accommodation.

8. Designated residential accommodation.

9. Camp offices.

10. Appeal.

11. Power to remove encroachments and evict unauthorized occupant.

12. Penalty for causing damage to Provincial building.

13. Jurisdiction of Civil Courts barred.

14. Assistance of the executive authorities.

15. Action taken in good faith.

16. Saving.

17. Removal of difficulties.

18. Power to make Standing Operating Procedures.

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(KHYBER PAKHTUNKHWA ACT NO. II OF 2018)

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 2nd February, 2018].

AN
ACT

to provide for the management, control, allotment and Cancellation of allotment of the Provincial buildings in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the management, control, allotment and cancellation of allotment of the Provincial buildings to the Government Departments, offices and public office holders in the Province of the Khyber Pakhtunkhwa and for matters connected therewith and ancillary thereto;

It is hereby enacted as follows:

1. Short title, application, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Provincial Buildings (Management, Control and Allotment) Act, 2018.

(2) It shall apply to all the Government Departments, offices, public office holders and Provincial buildings in the Province of the Khyber Pakhtunkhwa;

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

(4) It shall come into force at once.

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

(a) "allottee" means a Government Department, office or public office holder, as the case may be, possessing a valid allotment order, issued under this Act and rules;

(b) "allotment" means an authorization to a particular Government

Department, office or public office holder, as the case may be, to hold and use a Provincial building, either wholly or partly, for

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specific purpose on such terms and conditions as may be prescribed;

“competent authority” means an authority who shall be competent to allot, extend, exchange and cancel Provincial buildings in the manner as may be prescribed;

“damage” means the loss, caused to the physical structure of a Provincial building, its fittings, fixtures, including any outstanding utility bills or dues for that Provincial building;

“Deputy Commissioner” means the Deputy Commissioner of the district concerned;

“district” means the district, established under the Khyber Pakhtunkhwa Land Revenue Act, 1967 (W.P Act No. XVII of 1967);

“Establishment and Administration Department” means the Establishment and Administration Department of Government as provided in the Khyber Pakhtunkhwa Government Rules of Business, 1985;

“Estate Office” at the Provincial level means the Estate Office of the Establishment and Administration Department and at the level of a district, an officer to be notified by Government, as may be prescribed, which maintains the records relating to Provincial buildings;

“Estate Officer” means an officer authorized by Government under section 4 of this Act;

“Government” means the Government of the Khyber

Pakhtunkhwa;

“prescribed” means prescribed by rules;

“Province” means the Province of the Khyber Pakhtunkhwa;

“Provincial building” means the Provincial building, as specified in section 3 of this Act;

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“public office holder” means-

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a civil servant, appointed under the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVII of 1973), including such civil servants of the Federal Government, posted and working at Peshawar under the Government, as may be prescribed;

a Provincial Minister, an Advisor and Special Assistant to the Chief Minister;

Judges of the Peshawar High Court including its employees; [***]

employees of the Provincial Assembly of the Khyber Pakhtunkhwa; *Tand

employees defined in clause (g-1) of section 2 of Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 (Khyber Pakhtunkhwa Act No. IV of 2015).]

“residential accommodation” means a building used by a public office holder for residential purposes and includes a house, flat, bachelor hostels, bachelor officers quarters, married officers quarters and residential colonies;

“rules’ mean rules made under this Act; and

“Standing Operating Procedure” means the Standing Operating Procedure, made by the Establishment and Administration Department or the Deputy Commissioner, as the case may be, from time to time, under section 21 of this Act.

3. Provincial buildings.---(1) For the purpose of this Act, Provincial buildings shall consist of-

* Deleted vide Khyber Pakhtunkhwa Act No. XV of 2019.

? Added vide Khyber Pakhtunkhwa Act No. XV of 2019.

(a) office buildings, Khyber Pakhtunkhwa houses, Government rest houses, mess, and residential accommodation, which are owned and hired by Government and managed and control by the Establishment and Administration Department; and

(b) office buildings, Government rest houses, circuit houses, and residential accommodation, which are owned and hired by Government and managed and controlled by the respective Deputy Commissioners in a district.

(2) Notwithstanding anything contained in sub-section (1), Government may take possession of any other public building in any part of the Province and entrust its management and control to Establishment and Administration Department, any other Government Department or any Deputy Commissioner, in the manner as may be prescribed.

4. Estate Officer.---(1) Government shall notify an officer of Establishment and Administration Department as Estate Officer, who shall be authorized by the competent authority to allot, cancel, extend and exchange any Provincial building under the management and control of Establishment and Administration Department or evict any person or public office holder from such building in the manner as may be prescribed:

Provided that in cases where the Estate Officer is himself the competent authority, no authorization shall be required under this sub-section.

(2) | Government shall notify an officer in each district as Estate Officer for that district, who shall be authorized by the competent authority to allot, cancel, extend, exchange any Provincial building under the management and control of the respective Deputy Commissioner or evict any person or public office holder from such building in the manner as may be prescribed.

5. Management of office buildings.---(1) The Estate Office shall maintain a pool of office buildings as provided in section 3 of this Act in his jurisdictions for allotment amongst Government Departments and offices.

(2) | No Government Department, office or public office holder, as the case may be, shall take possession of a Provincial building without a valid allotment by the competent authority.

6. Management of Government rest houses.---(1) The Establishment and Administration Department, at the Provincial level within or outside the Province and the Estate Office at the district level, within the concerned district, as the case may

be, shall maintain, manage and reserve a pool of Government rest houses, as mentioned in section 3 of this Act, to facilitate the public office holders and such other guests and dignitaries, in the manner as may be determined by Standing Operating Procedures.

(2) A portion of Government rest houses may be designated and reserved for certain Government Departments, offices or public office holder by the Establishment and Administration Department on such terms and conditions as may be determined by Standing Operating Procedure.

7. Management and Allotment of residential accommodation.---(1) The Estate Office, at the Provincial level or at the district level, as the case may be, shall maintain a pool of residential accommodation from which eligible public office holders shall be allotted residential accommodation.

(2) The residential accommodation to a public office holder shall be allotted, exchanged, retained, cancelled or vacated, as the case may be, in such manner and criteria, as may be prescribed.

(3) Where Government provides resources to any Government Department, office or agency, as the case may be, for construction of its own pool of residential accommodation or where such Government Department, office or Government agency already has such a pool, its employees shall cease to be eligible for residential accommodation under this Act:

Provided that if such Government Department, office or agency of Government, surrenders its pool of residential accommodation to the concerned Estate Officer, then employees of such Government Department, office or Government agency, as the case may be, shall again become eligible for allotment of residential accommodation under this Act.

(4) Notwithstanding anything contained in this Act, the Chief Secretary, Khyber Pakhtunkhwa, may, in cases of extreme hardship, grave security threat to the life of public office holder or exigencies of administration, allot to a public office holder a residential accommodation according to his entitlement, out of turn basis:

Provided that the total number of such allotments, in a calendar year, shall not be more than four in each category;

Provided further that summaries already approved by the Chief Minister prior to commencement of this Act for out of turn allotment of Government accommodation shall have precedence over the allotment to be made under the foregoing provision and in that case the total number of such cases in a calendar year shall not be applicable.

(5) | Government may reserve a special quota of residential accommodation for allotment to the son, daughter or spouse, as the case may be, of the public office holder, who has been died or retired from service, as the case may be. Allotment under this sub-section shall be made in a manner as may be prescribed.

8. Designated residential accommodation.---Government may reserve a certain category of residential accommodation, to be known as designated residential accommodation, for the purpose of allotment to such public office holders and in such manner, as may be prescribed.

9. Camp offices.---The Estate Officer may, with the approval of competent authority, in special circumstances, where he is not the competent authority, declare such a Provincial building as camp office within his jurisdiction for specified public office holders, on such terms and conditions, as may be specified through Standing Operating Procedures.

10. Appeal.---(1) Any Government Department, office or public office holder, as the case may be, aggrieved from the orders of the competent authority shall have a right of appeal to be made to the Appellate Authority in the manner, as may be prescribed.

(2) A Government Department, office or public office holder, as the case may be, aggrieved from the decision or order of the Appellate Authority, may file an appeal to the second Appellate Authority consisting of Minister for Law, a nominee of the Chief Minister and such other members and in such manners, as may be prescribed.

(3) | Appellate Authority shall not review its own decision.

11. Power to remove encroachments and evict unauthorized occupant.---The Estate Officer in order to evict any person or public office holder from a Provincial building shall have all the powers for removal of encroachment, as provided under section 10 of the Khyber Pakhtunkhwa Public Property (Removal of Encroachment) Act, 1977 (Khyber Pakhtunkhwa Act No. V of 1977).

12. Penalty for causing damage to Provincial building.---In case any allottee is found causing damage to a Provincial building, either deliberately or through negligence, as the case may be, such damage shall be assessed by the Establishment and Administration Department through relevant Department or agency of Government and shall be recovered in such manner as may be prescribed.

13. Jurisdiction of Civil Courts barred.---No Civil Court shall have the jurisdiction to entertain any proceedings, grant any injunction, temporary relief, or make any order in relation to Provincial building, or any matter governed by this Act.

14. Assistance of the Executive authorities.---All executive authorities in the Province, including police, shall assist the Estate Officer for carrying out the purposes of this Act.

15. Action taken in good faith.---No suit, prosecution or any other proceeding shall lie against Government, Establishment and Administration Department, any other officer authorized to exercise powers under this Act or the rules and Standing Operating Procedure in respect of any action or anything done or intended to be done in good faith under this Act.

16. Saving.---Subject to the provisions of this Act, any order passed or action taken or arrangement made in relation to the Provincial buildings before the commencement of this Act and not inconsistent with the provisions of this Act, shall be deemed to have been taken under this Act.

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

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

19. Power to make Standing Operating Procedures.---Subject to the provisions of this Act and rules, the Establishment and Administration Department or the Deputy Commissioner for the concerned district, as the case may be, from time to time, make and issued Standard Operating Procedures for the purposes of this Act.