

THE KHYBER PAKHTUNKHWA REVENUE AUTHORITY ACT, 2022.

(KHYBER PAKHTUNKHWA ACT NO. XVIII OF 2022)

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THE KHYBER PAKHTUNKHWA REVENUE AUTHORITY ACT, 2022.

(KHYBER PAKHTUNKHWA ACT NO. XVIII 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" June, 2022).

AN
ACT

to provide for the reformation of law, relating to establishment of the Khyber Pakhtunkhwa Revenue Authority in the Province of Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the reformation of law, relating to establishment of the Khyber Pakhtunkhwa Revenue Authority and to regulate the matters relating to fiscal and economic policies, administration, management, imposition, levy and collection of taxes, duties, cess and other levies by establishing an organization, capable of enforcing the tax system through application of modern techniques of information and developing automated system of collection and assessment, in the Province of Khyber Pakhtunkhwa and for matters connected therewith or ancillary thereto.

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

CHAPTER-I
PRELIMINARY

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Revenue Authority Act, 2022.

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

2. Definitions.---(1) In this Act, unless there is anything repugnant to the subject or context,-

(a) "Appellate Tribunal" means the Appellate Tribunal, established under section 11 of this Act;

(b) "Authority" means the Khyber Pakhtunkhwa Revenue Authority, established under section 3 of this Act;

(c) "Chairperson" means the Chairperson of the Policy Board or, as the case may be, Appellate Tribunal;

(d) "Chief Minister" means the Chief Minister of the Khyber Pakhtunkhwa;

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“Committee” means a Committee, constituted under section 23 of this Act;

“Director General” means the Director General, appointed or posted as the Director General of the Authority, under

section 8 of this Act;

“Finance Act” means the Khyber Pakhtunkhwa Finance Act, 2013 (Khyber Pakhtunkhwa Act No. XXI of 2013);

“Finance Department” means the Finance Department of the Government;

“fiscal law” means any statute, enactment or legal instrument, in any form, applicable in the Province, under which any direct or indirect tax or cess, by whatever name called, has been levied and has been assigned to the Authority to implement, enforce and administer;

“Government” means the Government of Khyber Pakhtunkhwa;

“Management Committee” means the Management Committee, constituted under section 6 of this Act;

“Policy Board” means the Policy Board, constituted under section 4 of this Act;

“prescribed” means prescribed by the rules or regulations; “Province” means the Province of Khyber Pakhtunkhwa;

“regulations” mean the regulations made under this Act;
“rules” mean the rules made under this Act; and

“Vice-Chairperson” means the Vice-Chairperson of Policy
Board.

(2) | Words and expressions, used but not defined in this Act, shall have
the same meanings as are respectively assigned to them under the relevant fiscal

law.

CHAPTER-II

ESTABLISHMENT OF THE AUTHORITY

Establishment of the Authority.---(1) After the commencement of this
Act, Finance Department shall establish an Authority to be known as the
Khyber Pakhtunkhwa Revenue Authority, which shall act as tax collecting

agency for the Government and to recommend policies pertaining to the tax administration, tax reforms, budget expenditure of the Authority and any other matter or matters referred to it by Government or as provided in under Act.

(2) The Authority shall be a body corporate, having perpetual succession and a common seal, with power to enter into agreements, acquire, hold, manage and dispose of property and may sue or be sued by its name.

(3) | The Headquarter of the Authority shall be in Peshawar.

(4) The Authority may establish, with the approval of Government, establish as many offices, Directorates and Collectorates, including Collectorates of Appeals, in addition to the existing offices, Collectorates and Directorates, established under section 4 of the Finance Act, at such other places in the Province, as it considers necessary for efficacious performance of its duties, functions and powers.

(5) All actions of the Policy Board and the Management Committee, executed by the duly authorized officer of the Authority under this Act or any other fiscal law, shall deem to be actions of the Authority.

4. Policy Board.---(1)There shall be a Policy Board for the management and administration of the affairs of the Authority, which shall consist of-

(a) Chief Minister, Khyber Pakhtunkhwa; Chairperson

(b) Minister for Finance, Khyber Vice-Chairperson
Pakhtunkhwa;

(c) Minister for Excise, Taxation and Member
Narcotics Control, Khyber Pakhtunkhwa;

(d) Minister for Revenue, Khyber Member
Pakhtunkhwa;

(e) Senior Member Board of Revenue; Member

(f) Secretary to Government, Finance Member
Department;

(g) Secretary to Government, Excise Member
Taxation and Narcotics Control
Department;

(h) four private members, including at least Member
one female member, nominated by the
Chairperson, having specialized

qualification and technical expertise
about taxation matters; provided that no
member from the private sector shall be

nominated for a period more than three years; and

(i) Director General of the Authority. Secretary

(2) The meetings of the Policy Board shall be presided over by the Chairperson, or in his absence, the Vice-Chairperson shall preside over such meetings:

Provided that in case of absence of the Vice-Chairperson, the members shall nominate one of the members as Chairperson for the purpose to preside over the meeting of the Policy Board.

(3) The meeting of the Policy Board shall be called by the Chairperson, on his own or otherwise on the request of the Vice-Chairman, on such date and at such time and place, as he may deem appropriate.

(4) The Policy Board shall meet at least once in every quarter, or as frequently as required by the Chairperson.

(5) At-least six members present shall constitute the quorum of the meeting of the Policy Board.

(6) All decisions at the meeting shall be made by majority of votes. In the event of equality of votes, the person preside over the meeting shall have a casting vote.

(7) In case of absence of any of the members, at clauses (b), (c) and (d) of sub-section (1), the Special Assistant or Advisor to Chief Minister for Finance, Excise, Taxation and Narcotics Control or Revenue, as the case may be, shall act as member of the Policy Board.

(8) The Policy Board, may, subject to such conditions or limitation, as it may deem fit, delegate any of its powers and functions to the Management Committee or any of the Directors, as it may deem fit.

(9) The Policy Board may co-opt any expert in the relevant field for an initiative on need basis and shall not have a casting vote.

(10) No act, proceeding or decision of the Authority shall be invalid by reason of any defect in the composition of the Authority under this Act.

(11) The members, mentioned at clause (h) of sub-section (1) shall be entitled such remunerations as may be prescribed by rules.

(12) No person shall be, or shall continue to be a member who-

(a) is or, at any time, has been convicted of an offence involving moral turpitude;

- (b) is or, at any time, has been adjudicated insolvent;
- (c) is found to be a lunatic or of unsound mind; or
- (d) has a financial interest or a conflicting interest, directly or indirectly, between his interests as a member and his private interests, and has failed to disclose such interest in writing to Government.

(13) The members at clause (h), may resign from his office by tendering his resignation to Chairperson with one month notice.

(14) Subject to sub-section (13), the members at clause (h), shall continue to hold office, until his resignation is accepted by the Chairperson.

(15) Any vacancy caused due to death, resignation or removal of a member at clause (h), shall be filled in through appointment of another person as member and such appointee shall hold such office for the unexpired term of his predecessor.

5. Powers and functions of the Policy Board.---The Policy Board shall, for the purpose to achieve the objects of this Act, exercise and perform the following powers and functions:

(a) implement, with the approval of the Government, the tax administration reforms;

(b) adopt modern effective tax administration methods, information technology system and policies to consolidate assessments, improve process, organize registration of tax payers, widen the tax base, and make departmental remedies more efficient including enforcement of, or reduction or remission in duty, penalty or tax, in accordance with the relevant fiscal law;

(c) improve productivity, through a comprehensive and effective human resource strategy and performance-based incentive strategy for the Authority;

(d) identify and select in a transparent manner, qualified work force on such terms and conditions and in such manner as may be prescribed;

(e) introduce and maintain a system of accountability of performance, competence and conduct of the employees;

(f) implement the mandate and provisions of a fiscal law assigned to the Authority, if so authorized by such law;

(g) frame regulations, policies, programs, strategies in order to carry out the purposes of this Act;

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practice transparency and public participation as a norm for all its processes and policies;

review the existing fiscal laws and suggest improvements, if necessary;

form a human resource policy committee, finance committee and may form a committee and assign or delegate any other functions to the committee;

approve the annual budget of the Authority;

perform such other functions as may be prescribed or are incidental to the above functions or assigned by Government;

establish such offices, collectorates or formations as deemed necessary for the effective functioning of the Authority;

frame regulations for allocation and transaction of business of the Authority;

arrange and use technical and professional human resource and transparent and fair inclusive system of performance-based incentives system to optimize the standards of institutional efficiency and output;

issue legal and administrative instruments, rulings, circulars, orders or instructions, as authorized or required under this Act or the relevant fiscal law;

promote voluntary complaints, taxpayers' facilitation,

including grievance redressal system and broadening of tax base through optimal utilization of modern tax management methods, geographical expansion, electronic or information technologies, highest standards of integrity or accountability and communication strategies;

establish with approval of Government, a foundation for the welfare of the present and retired employees and their families, and for creating, establishing, organizing and assisting them in the social and cultural facilities;

levy any fee, cess or charges, with the approval of Government, for provision of additional or enhance facilities to the taxpayers or may direct reimbursement of such cost or expense as is incurred by the Authority on that account; and

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exercise all such powers and perform all such functions, as are delegated or assigned to it by Government or, as the case may be, otherwise warranted or required under this Act.

6. Management Committee.---There shall be a Management Committee, which shall consist of Director General and such other Directors as the Policy Board may determine, to exercise such powers and performs such functions as may be provided under this Act, other any fiscal law or delegated to it by the Policy Board, as the case may be.

Powers

and functions of the Management Committee.---The

Management Committee shall exercise the following powers and functions:

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collection of sales tax on services and other levies or cess under the fiscal laws assigned to the Authority and implementation of tax reform, as assigned by the Policy Board from time to time;

take and implement decisions, actions and measures to ensure that the highest standards of discipline, conduct and work ethics are observed and maintained in the Authority;

take appropriate measures, including internal controls to combat corruption in the organizations under the Authority and to provide checks to ensure that the integrity of the employees is verified periodically through applicable procedures and the said verification shall constitute one of the criteria for purposes of grant of incentives and consideration for promotion;

direct or advise, where necessary, investigation or inquiry into suspected duty or tax evasion and tax or commercial fraud;

implement comprehensive policies and programs for education and facilitation of taxpayers, stakeholders and employees to improve the qualify of the performance of the Authority, as a service-oriented entity;

decide upon all issues and matters relating to registration, suspension, cancellation, deregistration, revision and all affairs related thereto;

make transfers and postings within the Authority besides changes in the appellation or description of designations and ranks as and if required to the institutional advantage of the organization or otherwise for more efficient disposal of the work in the Authority;

- (h) set up mechanism and processes for remedying the grievances and complaints of taxpayers;
- (i) exercise all such powers and perform all such functions as may be delegated or assigned by Government or the Policy Board, from time to time;
- Gg) utilization of budget assigned to it for discharge of various functions;
- (k) carry out recruitment, procurement and any other administrative functions;
- (l) regulate the functions of the offices, Directorates and Collectorates, in such manner, as it may deem proper and necessary;
- (m) develop a website and adopt, in the prescribed manner electronic communication in respect of all taxation matter such as e-filing, e-payments, e-notice, e-notification, digital imaging, protocols or agreements; and
- (n) order, with the approval of the Policy Board, for undertaking prosecution in any case or class of cases of tax frauds or other triable offences under the fiscal laws assigned to the Authority.

8. Appointment of Director General.—(1) The Chief Minister may either,-

- (a) | appoint the Director General, by initial recruitment from open market, after widely advertising the position in the prescribed manner as per the rules; or
- (b) — post a suitable Government officer of BPS-19 or above, to act as Director General of the Authority.

(2) The Director General shall be appointed for a period of three (3) years; provided that his term may be extended for a further period of three years.

(3) If the Director General is appointed by way of transfer, under clause (b) of sub-section (1), he shall be entitled to his regular salary and allowances:

(4) The Director General, appointed from the open market, under clause (a) of sub-section (1), shall possess such qualification and experience as prescribed in the rules.

(5) Notwithstanding the expiration of three (03) years terms of his office or, as the case may be, his extended term, the Director General shall continue to hold office till his successors enters upon his office:

Provided that the process of new Director General shall be completed within six(06) months from the date on which the three (03) years term, initial or extended, of the Director General, is expired.

9. Powers and functions of the Director General.--- In addition to the powers and functions, assigned or delegated under this Act or as may be prescribed, the Director General shall-

- (a) be the Chief Executive Officer of the Authority;
- (b) act as the Principal Accounting Officer of the Authority;
- (c) implement the decisions of the Policy Board and Management Committee; and
- (d) perform or supervise all day to day, routine, regular or technical work including adjudication work.

10. Appointment of Directors.---(1) The Chief Minister may either-

- (a) appoint the Director, by initial recruitment from open market, after widely advertising the position, in the manner as may be prescribed by rules; or
- (b) post a suitable Government officer of BPS-18 or above, as Director of the Authority.

(2) The Director shall be appointed for a term of three years; provided that his term may be extended for a further period of three years.

(3) | The Director is appointed by way of transfer, under clause (b) of sub-section (1), he shall be entitled to regular salary and allowances.

CHAPTER-III APPELLATE TRIBUNAL

11. Appellate Tribunal.---(1) The Appellate Tribunal, established under the Finance Act, shall deem to be established under this Act, which shall exercise the powers and perform functions, as are conferred under this Act, any other fiscal law and prescribed in the rules or regulations.

(2) Appointment of any existing member of the Appellate Tribunal, made under the Finance Act, shall deem to have been made under this Act.

(3) The Appellate Tribunal shall consist of such number of judicial and technical members as Government may, from time to time, determine.

(4) Government shall, in consultation with the Peshawar High Court, Peshawar, appoint judicial members of the Appellate Tribunal either from the serving or retired District and Sessions Judges, who has previously served on the

bench of any Federal or Provincial Tax Tribunal or in case of non-availability of any suitable judicial officer, appoint a practicing private lawyer with an extensive corporate and Government experience of more than twenty (20) years in the field of taxation and fiscal laws.

(5) | A person may be appointed as a technical member of the Appellate Tribunal, if he satisfies the following conditions:

(a) has served in substantive basic pay scale 20 or above for a minimum period of two years;

(b) has five years' cumulative experience in tax or revenue administration or financial management;

(c) belongs or has belonged to the Pakistan Administrative Service, Federal Board of Revenue, Provincial Management Service or the Service of Excise and Taxation Department of Government; or

(d) has worked as the Collector (Appeals) or Commissioner (Appeals) of the Authority or the Federal Board of Revenue, as the case may be, for a minimum period of two years.

(6) | Government shall designate the senior most judicial member of the Appellate Tribunal as its Chairperson.

(7) | The Appellate Tribunal may exercise its powers and discharge its functions in the prescribed manner in such benches as the Chairperson may constitute from amongst the members of the Appellate Tribunal.

(8) Subject to the provisions of sub-section (6), the Appellate Tribunal shall have the power to regulate its own procedure, and the procedure of its benches in all matters relating to the discharge of its functions including the places at which the benches shall hold their sittings.

CHAPTER-IV HUMAN RESOURCE MANAGEMENT

12. Human Resource Management---The Director General may, subject to delegation or restrictions, imposed by the Policy Board, in respect of its employees, where mandatory or necessary,-

(a) develop and implement human resource management policies;

(b) assess, identify, create, increase, decrease or designate or re-designate posts and prepare and execute the internal job posting regime;

- (c) lay down qualifications and criteria for the posting of employees against specialized or available posts;
- (d) transfer, select or post any employee against any post on the basis of transparent criteria of selection in any entity administered by the Authority;
- (e) take action, issue orders, regulations, guidelines and code of conduct to achieve the purposes of this Act;
- (f) fix, with the approval of Government, remuneration for the services rendered by advisers, consultants, experts, fellows, interns, officers and staff of the Authority, liaison officers and other staff engaged by the Authority; and
- (g) impart the requisite training to its employees for purposes of better tax administration.

13. Appointment of employees.---(1) The Authority may have such officers, officials and employees for the Directorates and Collectorates, as may be necessary, who shall be appointed in such a manner and on such terms and conditions as may be prescribed by regulations:

Provided that the appointment of any existing employees made under the Finance Act shall deem to have been made under this Act.

(2) For discharge of support functions, the Policy Board, so far as practicable, shall employ the mode of outsourcing.

14. Appointment of technical advisors and consultants.--- (1) The Director General may, with the approval of the Policy Board, appoint, on contract basis, such number of technical advisors and consultants and other contractual or assignment based employees from the open market of professionals and experts, on such terms and conditions, including the period of contractual appointment and subsequent extension or extensions thereof, as may be approved by the Policy Board:

Provided that the Director General may, after approval from the Policy Board, terminate the contract of any such advisor or consultant and other contractual or assignment based employees, on giving two months' advance notice or payment of two months' salary in lieu thereof.

(2) Notwithstanding anything to the contrary contained in this Act, an appointment of a person to a particular post in the Authority shall not confer any vested right on such person to retain such post.

CHAPTER-V

FINANCIAL PROVISIONS

15. Fund, budget, accounts and annual report.---(1) There shall be established a Fund to be known as the Khyber Pakhtunkhwa Revenue Authority Fund which shall be administered and controlled by the Authority.

(2) The Fund shall consist of-

- (a) the grants, if any, made by Government or any other authority or agency;
- (b) loans obtained from Government, commercial banks or any other legal source;
- (c) foreign loans, grants-in-aid or any other financial assistance;
- (d) fee and charges collected and profits earned by the Authority; and
- (e) income of the Authority from any other source.

(3) |The Authority shall put in place arrangements for a contributory pension fund and welfare fund for its employees.

(4) The Authority shall, in respect of each financial year, in accordance with the prescribed financial procedure, prepare its accounts of the receipts and payments and budget estimates and submit the same to the Finance Department.

(5) Once the budget has been approved, the Director General shall have the full powers to incur expenditure or re-appropriate funds, subject to any general or specific instructions that the Finance Department may, from time to time, issue in this regard.

(6) The Authority shall maintain its accounts in the manner as may be prescribed by the Controller General of Accounts of Pakistan.

(7) | The Authority shall prepare an annual report of its activities and present it to Government for laying before the Provincial Assembly of Khyber Pakhtunkhwa.

16. Audit.---(1)The Auditor General of Pakistan shall annually carry out audit of the accounts of the Authority.

(2) The Policy Board may arrange a third-party audit of its accounts, including performance audit by any qualified chartered accountant or a firm of chartered accountants or management accountant, approved by the Policy Board, after end of any financial year or years.

(3) | The Policy Board shall devise for itself adequate mechanisms to document internal financial and asset controls, ensure regular internal audit, including pre-audit of payments, out of the budgeted amounts or payments out of

its own funds for welfare purposes and performance evaluation from time to time.

(4) Nothing in this section shall restrict the Policy Board from undertaking a special audit of any or all of its own accounts for any specific period or periods at any point of time.

(5) The provisions of this section shall mutatis mutandis apply to the staff welfare fund, established, maintained and administered by the Authority.

CHAPTER-VI MISCELLANEOUS

17. Delegation.---The Policy Board may, subject to such conditions as it deems fit, delegate any of its duties, functions and powers to any department, agency or employee of Government.

18. Directions from Government.---(1) Government may, from time to time, give such general or specific directions to the Authority as may be necessary, for the efficient performance of its duties, functions and proper exercise of powers, under this Act or any other relevant fiscal law.

(2) Government may entrust the Authority with the duties, functions and powers under any law for the time being in force.

19. Assistance to Authority.---All departments, agencies, organizations, entities, formations and bodies, established or controlled by Government, shall provide necessary cooperation and assistance to the Authority and its officers, in carrying out the duties, functions and powers under this Act; provided that the Authority and its officers shall, where so required in the discharge of its functions, be competent to seek similar cooperation and assistance from the departments, agencies, organizations, entities and bodies, controlled by Federal Government or other Provincial Governments.

20. Power to conduct survey and research. ---The Director General may conduct or cause to be conducted such studies, researches and surveys, as it may deem necessary for the expansion in tax coverage, broadening of tax base or improvement in its working or service to the taxpayers.

21. Representation to the Director General. ---(1) Any person, aggrieved by any action done or taken for the enforcement of the fiscal laws or due to any act of mal-administration, corruption and misbehavior by any officer or employee of the Authority or any unnecessary delay or hardship, caused due to any administrative process, may prefer representation to the Director General for redressal of his grievance:

Provided that no such representation shall lie in respect of the subject matter of any case where appeal has been filed, is pending or has been decided by the relevant appellate forum under the relevant fiscal law.

(2) The Director General or any other officer, designated by the Director General in this behalf, as the case may be, after affording an opportunity of hearing, shall pass such appropriate order or take such appropriate action to redress such grievance, as he may deem fit, within a period not more than sixty days from the receipt of a representation.

22. Officers and employees, etc., to be public servants.---All the employees of Authority shall be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

23. | Committees.---The Policy Board may constitute one or more committees to carry out any specified task, work or function for any of the purposes covered under or arising out of this Act.

24. Data-bank.---(1) The Authority shall create, collect and maintain a data bank, containing information in any form necessary to achieve the purposes of this Act.

(2) The Authority shall have the power to share its data with or obtain and require data from Federal Government or any other Provincial Government or any of its statutory body, law enforcement entity or utility company, stock exchange, State Bank of Pakistan, Security Exchange Commission of Pakistan, Pakistan Telecommunication Authority, banks, financial institutions or other organizations.

(3) The Authority shall take all necessary measures for the security and safety of its data bank and keep its organizational use to serve the purposes of its tax management domains and the Authority may in this regard specify usage protocols and standard operating procedures for compliance by its own officers or officials and by the taxpayers' community or authorized representatives of the tax payers at large.

25. Properties and assets to vest in the Authority.---(1) All properties, assets and records purchased, acquired or raised by, or otherwise transferred to the Authority and all intellectual property rights, arising from technical or professional studies, research, reports, analysis, systems, conducted, written, prepared or developed or procured by the Authority, shall vest in the ownership of the Authority.

(2) The Authority may create, design, prepare, use and launch for official use its own distinct logo, insignia, stationary, forms, returns, challans and online communication mechanisms.

26. Indemnity.---No prosecution, suit or other legal proceedings shall lie or be brought against the Authority or its employees for anything done or intended to be done in good faith for carrying out the purposes of this Act, other relevant fiscal laws, rules or regulations made thereunder.

27. Act to override other laws.---Notwithstanding anything to the contrary contained in any other law, for time being in force, the provisions of this Act shall have an overriding effect.

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

29. Power to make regulations.---The Policy Board may, on the recommendations of the Management Committee, by notification in the official Gazette, make regulations for carrying out the purposes of this Act.

30. Removal of difficulties.---Government may, by order, remove any difficulty which may arise in giving effect to any of the provisions of this Act.

31. Repeal and savings.---(1) The provisions of sections 3 to 18, both inclusive, 82, 83, 103, 105, 106, 107, 108, 110 and 114 of the Finance Act, are hereby repealed, to the extent of matters covered in or under this Act.

(2) Notwithstanding the aforesaid repeal, anything done, action taken, rules or regulations made, notifications or orders issued under the repealed provisions of the Finance Act, shall, so far as they are not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under this Act and shall, unless withdrawn, rescinded, substituted or amended, continue to have effect accordingly.

32. Validation of actions.---Notwithstanding any anything to the contrary contained in this Act or any other law for the time being in force, anything done, actions taken, orders passed, rules or regulations made, notifications issued, proceedings initiated, processes or communications issued, powers conferred, assumed or exercised, by the Authority, its officers or the Appellate Tribunal on or after the 1st day of July, 2013 and before the commencement of this Act, shall be deemed to have been validly done, made, issued, taken, initiated, conferred, assumed, and exercised and provisions of this Act shall have, and shall be deemed always to have had, effect accordingly.