

EXTRAORDINARY
GOVERNMENT



REGISTERED NO. PIII
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KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 24th August, 2015.

No. PA/Khyber Pakhtunkhwa/Bills/2015/3429.—The Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Bill, 2015 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 20th August, 2015 and assented to by the Governor of the Khyber Pakhtunkhwa on 21st August, 2015 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA EHTESAB COMMISSION
(AMENDMENT) ACT, 2015

(KHYBER PAKHTUNKHWA ACT NO. XXXI OF 2015)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 24th August, 2015).

AN

ACT

*further to amend the Khyber Pakhtunkhwa
Ehtesab Commission Act, 2014.*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2015.

(2) It shall come into force at once and shall be deemed to have taken effect from the 1st day of January, 2004.

2. Amendment of section 1 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the Khyber Pakhtunkhwa Ehtesab Commission Act, 2014 (Khyber Pakhtunkhwa Act No. I of 2014), hereinafter referred to as the said Act, in section 1, for sub-section (3), the following shall be substituted, namely:

"(3) It shall come into force at once and shall be deemed to have taken effect from the 1st day of January, 2004:

Provided that all the amendments made in this Act till the commencement of the Khyber Pakhtunkhwa Ehtesab Commission (Amendment) Act, 2015, shall be deemed to have come in to force from the 1st day of January, 2004.

3. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 2, in sub-section (1), in clause (t), after the word "rules", the words "or regulations" shall be added.

4. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 4, in sub-section (2), for the words "he enter his office", the words "they enter their offices" shall be substituted.

5. Amendment of section 23 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 23,-

(i) in sub-section (1), in clause (f), after the words "under law", the words and commas "rules, regulations, bye-laws, directives or instructions, issued from time to time," shall be inserted; and

(ii) for sub-section (3), the following shall be substituted, namely:

"(3) All offences under this Act shall be non-bailable and no Court shall have jurisdiction to grant bail to any person accused of an offence under this Act."

6. **Amendment of section 24 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 24, after sub-section (2), the following new sub-section shall be added, namely:

“(3) Notwithstanding anything to the contrary contained in any other law for the time being in force, an accused, convicted by the Court for an offence under this Act, shall not be entitled to any remission in his sentence.”.

7. **Amendment of section 27 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 27, in sub-section (3), in clause (d), after the words "as the case may be", the word "directs" shall be added.

8. **Amendment of section 32 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 32, in sub-section (2), the word "Accountability" shall be deleted.

9. **Amendment of section 34 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 34, in sub-section (1), for the figure "25", the figure "24" shall be substituted.

10. **Amendment of section 36 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 36,-

(i) in sub-section (2), in clause (a), for the word "reference", the word "matter" shall be substituted; and

(ii) in sub-section (6), for the word "reference", the words "matter is referred" shall be substituted.

11. **Amendment of section 38 of the Khyber Pakhtunkhwa Act No. I of 2014.**---In the said Act, in section 38,-

(i) in sub-section (2), the words "a copy of such" and words "of competent jurisdiction" shall respectively be deleted; and

(ii) for sub-section (5), the following shall be substituted, namely:

“(5) Government may, declare any place to be a police station for the purposes of this Act, in terms of clause (s) of sub-section (1) of section 4 of the Code:

Provided that in exigencies, which requires immediate action, the Director General, or an officer duly authorized by him, may declare and notify any place to be a police station or a sub-jail, for the purpose of arrest or efficient investigation, in the interest of justice:

Provided further that the places under this sub-section shall not be symbol of prestige and authority of other state institutions.”.

12. Amendment of section 40 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 40, in clause (c), for the word "choosing", the word "choice" shall be substituted.

13. Amendment of section 41 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 41,-

- (i) in sub-section (8), in the proviso, the word "not" shall be deleted.
- (ii) after sub-section (8) as so amended, the following new sub-section shall be added, namely:

"(9) The Administrative Judge of the Court may when he himself is unavoidably absent or on leave or incapable of acting, confer his duties of urgent nature to the next senior judge of Court:

Provided that if all judges of Court are unavoidably absent or on leave or incapable of acting, the Administrative Judge of Court may confer duties of urgent nature to Sessions Judge having territorial jurisdiction."

14. Substitution of section 42 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, for section 42, the following shall be substituted, namely:

"42. Procedure for trial.---(1) Notwithstanding anything contained in any other law for the time being in force, each matter brought before the Court under this Act, shall be disposed of within three (03) months from the date of reference being made.

(2) After framing of charge for the trial of an accused, the Court shall hear the case on day to day basis.

(3) Notwithstanding anything contained in any other law for the time being in force, unless there is anything inconsistent with the provisions of this Act, the provisions of the Code, shall mutatis mutandis, apply to all the proceedings under this Act.

(4) Subject to the provisions of this Act, Chapter XXII-A of the Code shall apply to trials under this Act.

(5) Notwithstanding anything contained in this Act, or in any law for the time being in force, the Court may, for reasons to be recorded, follow such procedure as it may deem fit in the circumstances of the case.

(6) The Court shall not grant any party more than one adjournment during the pendency of a matter from the filing of reference till its disposal.

(7) It shall be the responsibility of the Commission and the accused to arrange legal representation and presence of its attorney or pleader on each hearing, failing which the Court shall proceed in the absence of an attorney or pleader:

Provided that under no circumstances shall the Court grant adjournment of more than seven (07) days:

Provided further that once fixed the date for commencement of trial shall not be altered and during trial the Court shall not grant adjournment of more than seven (07) days.

(8) A person accused of more offences than one of the same kind committed during the space of any number of years, from the first to the last of such offences, may be charged with and tried at one trial for any number of such offences.”.

15. Amendment of section 44 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 44, in sub-section (1), after the words “no appeal”, the words “or revision” shall be inserted.

16. Amendment of section 45 of the Khyber Pakhtunkhwa Act No. I of 2014.---In the said Act, in section 45,-

- (i) for the words "the defence", the words "his defence" shall be substituted; and
- (ii) in the second proviso, for the words "of his choice", the words "on his choice" shall be substituted.

17. **Amendment of Schedule to the Khyber Pakhtunkhwa Act No. 1 of 2014.**---In the said Act, in the Schedule, in column No. 2 against serial No. 1, for the word "Commissioners", the words "officers of the Commission" shall be substituted.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa