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KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT,
KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 5th June, 2017.

No. PA/Khyber Pakhtunkhwa/Bills/2017/18606.—The Khyber Pakhtunkhwa Health Foundation (Amendment) Bill, 2017 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 23rd May, 2017 and assented to by the Governor of the Khyber Pakhtunkhwa on 29th May, 2017 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA MEDICAL HEALTH FOUNDATION (AMENDMENT) ACT, 2017

(KHYBER PAKHTUNKHWA ACT NO. XXIII OF 2017)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 5th June, 2017).

AN
ACT

to amend the Khyber Pakhtunkhwa Health Foundation Act, 2016.

WHEREAS it is expedient to amend the Khyber Pakhtunkhwa Health Foundation Act, 2016 (Khyber Pakhtunkhwa Act No. VII of 2016) 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 Health Foundation (Amendment) Act, 2017.

(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. VII of 2016.--- In the Khyber Pakhtunkhwa Health Foundation Act, 2016 (Khyber Pakhtunkhwa Act No. VII of 2016), hereinafter referred to as the said Act, in section 2,-

(i) for clause (f), the following shall be substituted, namely:

“(f) “Health Agency” means the Health Department or any of its Attached Department, sub-ordinate offices, autonomous bodies under its administrative control or any other organization or institution owned and controlled by Health Department;”;

(ii) After clause (f), as so substituted, the following new clauses shall be inserted, namely:

“(f-a) “Healthcare delivery services” means health services and allied services and includes infrastructure, diagnostics, equipments and other support services necessary for improvement of healthcare delivery

“(f-b) “Health Project” means a program, activity or a scheme meant to ensure, improve or consolidates healthcare delivery services, whether or not reflected in the annual development program of the Province and includes the design, construction, developmental and operation of new infrastructure facilities or the rehabilitations modernization, expansion, maintenance or operation of existing infrastructure facilities;”;

(iii) For clause (j), the following shall be substituted, namely:

“(j) “public private partnership” means the mutually binding public private partnership agreement between the Health Agency and a private party for the healthcare delivery services and for improvement of existing infrastructure or development of new infrastructure,” and

(iv) after clause (j), as so substituted, the following new clause shall be inserted, namely;

“(J-a) “private party” means a company, an entity, a firm, an association of persons, an NGO or a sole proprietor, who intends to enter into a public private partnership agreement with the Health Agency,”.

3. Amendment of section 4 of the Khyber Pakhtunkhwa Act No. V11 of 2016.---In the said Act, in section 4,-

(i) in sub-section (4),-

(a) in clause (f), the word “and ” appearing at the end shall be deleted; and

(b) In clause (g), the full stop appearing after the word "industries" shall be replaced by a semi colon and the word "and " and thereafter the following new clause shall be added, namely;

"(h) two retired medical professionals one of whom shall be female; Members

(ii) In sub-section (6), for the words and brackets "and (g)", the words and brackets "(g) and (h)" shall be substituted; and

(iii) In sub-section (7), after the word "Government", the words "with one month notice" shall be added.

4. Amendment of section 5 of the Khyber Pakhtunkhwa Act No. VII of 2016.---In the said Act, in section 5,-

(i) for sub-section (2), the following shall be substituted, namely:

"(2) The Board shall meet at least once in three months, or as frequently as required"; and

(ii) in sub-section (4), for the proviso, the following shall be substituted, namely:

"Provided that at least one official member shall be present in the meeting."

(iii) In sub-section (3), After words "in his absence" and before the words "any other member elected by the members" the following shall be inserted "any member nominated by the Chairperson"

5. Amendment of section 7 of the Khyber Pakhtunkhwa Act No. VII of 2016.--- In the said Act, in section 7, for sub-section (2), the following shall be substituted, namely:

"(2) Without prejudice to the generality of the forgoing sub-section (1), the Board shall-

(a) approve the policy guidelines on public private partnership;

(b) ensure that all the Health Projects are consistent with overall policy framework and strategies of the Government;

(c) resolve major issues and conflicts arising in public private partnership;

(d) approve standards, guidelines, procedures and mode for awarding public private partnership agreement and standardized bidding documents;

(e) approve or reject a Health project of any amount submitted by the Technical Committee or a private party for public private partnership;

- (f) create, abolish or re-designate a post; provided while creating post, the financial implication do not exceed the approved annual budget;
- (g) approve regulations and organizational structure of the Foundation;
- (h) approval of financial plans, schedule of new expenditures, annual budgets and business plans of Foundation,
- (i) enhance private sector participation and provisions of health services and operationalize public private partnership and innovative modalities in areas defined by the Government; and
- (j) undertake contract management of health projects perform such other functions as may be assigned to it by the Government.”.

6. Insertion of section 8A and 8B to the Khyber Pakhtunkhwa Act No. VII of 2016.--- In the said Act, after section 8, the following new sections shall be inserted, namely:

“8A. Technical Committee.---(1) There shall be established a Steering Committee under the Chairmanship of Managing Director with following composition:

- (i) Director General Health, members not below the rank of Additional Secretary from Health, Planning and Development Department and Finance Departments as official members.
- (ii) Technical experts from private sector as non-official members to be nominated and approved by the BOG for the period of three years.
- (iii) Such other co-opted members as the Technical Committee deems appropriate

(2) The Technical Committee shall-

- (a) implement the policies relating to the public private partnership related initiatives approved by the Board;
- (b) evaluate and privatize Health Projects proposals on the basis of prioritization conducted by the Advisory Committee of the Foundation;
- (c) prepare and apprise each public private partnership agreement to ensure its legal regulatory, social, economic and commercial viability;
- (d) make recommendations to the Board for the approval or rejection of a Health Project; (d is taken to c)
- (e) ensure that the Health Agency and the private parties in a public private partnership comply with the provisions of this Act;
- (f) submit to the Board annual and such other reports as the Board may require;

- (g) maintain record of all documentation relating to the public private partnership agreement and the Health Project;
- (h) implement the recommendations and guidelines issued by the Board; and
- (i) carry out such other functions as may be assigned to it by the Board for the purposes of this Act.

8B. Public private partnership.---Notwithstanding anything contained in the Khyber Pakhtunkhwa Public Private Partnership Act, 2014 (Khyber Pakhtunkhwa Act No. XX of 2014), the Health Agency shall be fully empowered to enter into public private partnership with private parties under mutually agreed terms and conditions in one or several Health Projects, in accordance with the provisions of this Act.”.

7. Amendment of section 9 of the Khyber Pakhtunkhwa Act No. VII of 2016.---In the said Act, in section 9, after sub-section (3), the following new sub-sections shall be inserted, namely:

“(3A) The Managing Director shall act as Principal Accounting Officer of the Board; and

(3B) The Managing Director may delegate any of its functions to any employee of the Foundation with the approval of Board of Governors.”.

8. Amendment of section 14 of the Khyber Pakhtunkhwa Act No. VII of 2016.---In the said Act, in section 14,-

- (i) in sub-section (4), the word “Deputy” shall be deleted; and
- (ii) In sub-section (5), after the word “maintained”, the words “and audited” shall be inserted.

**BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA**

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa