

نظامتِ محنت

حکومتِ خیبر پختونخوا

سوال نمبر 5445

منجانب: محترمہ آمنہ سردار صاحبہ، رکن صوبائی اسمبلی۔

نمبر شمار	سوال	جواب
(۱)	<p>کیا وزیر محنت و افراد قوت ارشاد فرمائیں گے کہ:</p> <p>(الف) آیا یہ درست ہے کہ صوبے میں مزدور طبقہ موجود ہے؟</p> <p>(ب) اگر (الف) کا جواب اثبات میں ہو تو ان مزدوروں کے حقوق کے تحفظ اور ضمانت کیلئے کوئی حکمت عملی یا پالیسی موجود ہے تفصیل فراہم کی جائے۔</p>	<p>(الف) ہاں یہ درست ہے</p> <p>(ب) مزدوروں کے حقوق اور تحفظ کیلئے صوبے میں لیبر قوانین پہلے سے موجود تھے، لیکن اٹھارویں ترمیم کے بعد حکومت خیبر پختونخوا نے ان وفاقی قوانین کو Provincialize کیا اور ابھی تک تمام اہم لیبر قوانین جن کی تعداد 11 ہے Provincialized ہو چکے ہیں۔ ان قوانین کے اطلاق سے مزدوروں کے حقوق کے تحفظ کو یقینی بنایا جاتا ہے۔ اس بات کا ذکر ضروری ہے کہ صوبائی حکومت نے لیبر قوانین کا دائرہ کار وسیع کیا اور کئی نئے شعبے جیسے کہ پرائیویٹ ہسپتال، پرائیویٹ تعلیمی اداروں اور پرائیویٹ سکیورٹی ایجنسیز وغیرہ کو لیبر قوانین کے ماتحت کیا، تاکہ ان اداروں میں کام کرنے والے کارکنان کو لیبر قوانین کے اطلاق سے حقوق اور تحفظ فراہم کیا جاسکے، تاہم بعد میں ایک ترمیمی بل کے ذریعے پرائیویٹ تعلیمی اداروں کو چند اہم لیبر قوانین کے اطلاق سے مستثنیٰ قرار دے دیا گیا۔ مزید برآں حکومت خیبر پختونخواہ ایک ADP سکیم منظور کر چکی ہے جس کے تحت صوبائی لیبر پالیسی، صوبائی چائلڈ لیبر پالیسی اور Provincialize کئے گئے قوانین کے تحت روز بنائے جائیں گے۔ اس ADP سکیم پر کام ہو رہا ہے اور اس کی تکمیل سے عنقریب یہ پالیسیاں اور روز دستياب ہو جائیں گے۔</p>

Assembly Question No. 5445 moved by Anna Sardar, Saheba, MPA.

For the safety and Rights of the Workers working in the different Establishment, different Labour Laws exist since long. But after the Eighteenth constitutional amendment 14 Federal Laws were Provincilized and clubbed in to Eleven (11) Labour Laws. These Laws are meant to safeguard the right of Labour. The Provincial Government vastned the ambit of the Labour Laws and included various sectors i.e Private hospitals, Private Security Agencies etc to provide security to the Workers.

An ADP Scheme is also approved to make rules and there Provincilized laws.

The New Labour Laws after Eighteenth Constitutional Amendment are as under:-

1. Khyber Pakhtunkhwa Industrial Relations Act, 2010
The law relating to formation of Trade Unions, Regulations and Improvement of relations between employers and workers.
2. Khyber Pakhtunkhwa Payment of Wages Act, 2013
To regulate the Payment of Wages to certain classes of persons employed in Factories, Industrial Establishments and Commercial Establishments in the Province of the Khyber Pakhtunkhwa.
3. Khyber Pakhtunkhwa Minimum Wages Act, 2013
To provide for the regulation of Minimum Rates of wages and various allowances for different categories of workers employed in certain Industrial and Commercial undertakings and Establishments.
4. Khyber Pakhtunkhwa Factories Act, 2013.
To provide for regulation of labour in Factories of the Province of the Khyber Pakhtunkhwa.
5. Khyber Pakhtunkhwa Maternity Benefits Act, 2013.
To consolidate and rationalize the law pertaining to the employment of women, under certain natural conditions, in establishments in the Province of the Khyber Pakhtunkhwa.
6. Khyber Pakhtunkhwa Worker's Compensation Act, 2013.
To provide for compensation to the workers arising out of Industrial accidents, injuries and death of the workers.
7. Khyber Pakhtunkhwa Industrial and Commercial Employment (Standing Orders) Act, 2013.
To provide for regulation of Industrial and Commercial employment in the Province of the Khyber Pakhtunkhwa.
8. Khyber Pakhtunkhwa Industrial Statistics Act, 2013.
To facilitate the collection of statistics of certain kinds relating to factories, Industrial and Commercial establishments.
9. Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act, 2015.
To provide for abolition of Bonded labour system in the Province of the Khyber Pakhtunkhwa.
10. Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015.
To prohibit the employment of children and to regulate employment of adolescents in certain occupations and processes in the Province of Khyber Pakhtunkhwa.
11. Khyber Pakhtunkhwa Shops and Establishment Act, 2015.
A law relating to the hours and other conditions of work and employment of persons employed in shops, Commercial Establishments, Industrial Establishment and other Establishments in the province of the Khyber Pakhtunkhwa.

LIST OF OLD AND NEW LABOUR LAWS (BEFORE AND AFTER 18TH CONSTITUTIONAL AMENDMENT)

The Government of Khyber Pakhtunkhwa while provincializing labour laws in wake of 18th Constitutional Amendment, has so far provincialized 14 labour laws which after clubbing reduced to 11. List is as under: -

Sr.#	Old Labour Laws (Before 18 th Constitutional Amendment)	Sr.#	New Labour Laws (After 18 th Constitutional Amendment)	Purpose
1	Industrial Relation Act, 2008	1	Khyber Pakhtunkhwa Industrial Relations Act, 2010	The law relating to formation of Trade Unions, Regulations and Improvement of relations between employers and workers.
2	Payment of Wages Act, 1936	2	Khyber Pakhtunkhwa Payment of Wages Act, 2013	To regulate the Payment of Wages to certain classes of persons employed in Factories, Industrial Establishments and Commercial Establishments in the Province of the Khyber Pakhtunkhwa.
3	Minimum Wages Ordinance, 1961	Clubbed / merged 3	Khyber Pakhtunkhwa Minimum Wages Act, 2013	To provide for the regulation of Minimum Rates of wages and various allowances for different categories of workers employed in certain Industrial and Commercial undertakings and Establishments.
4	N.-W.F.P. (Payment of Dearness Allowance to Employees) (Amendment) Act 1991.			
5	Employees Cost of Living (Relief) Act, 1973.			
6	Factories Act, 1934	4	Khyber Pakhtunkhwa Factories Act, 2013	To provide for regulation of labour in Factories of the Province of the Khyber Pakhtunkhwa.
7	Maternity Benefits Ordinance, 1958	5	Khyber Pakhtunkhwa Maternity Benefits Act, 2013	To consolidate and rationalize the law pertaining to the employment of women, under certain natural conditions, in establishments in the Province of the Khyber Pakhtunkhwa.
8	Workmen Compensation Act, 1923.	Clubbed/ Merged 6	Khyber Pakhtunkhwa Worker's Compensation Act, 2013.	To provide for compensation to the workers arising out of Industrial accidents, injuries and death of the workers.
9	Employers Liability Act, 1938			
10	West Pakistan Industrial & Commercial Employment (Standard Orders) Ordinance, 1968.	7	Khyber Pakhtunkhwa Industrial and Commercial Employment (Standing Orders) Act, 2013	To provide for regulation of Industrial and Commercial employment in the Province of the Khyber Pakhtunkhwa.
11	Industrial Statistics Act, 1942.	8	Khyber Pakhtunkhwa Industrial Statistics Act, 2013	To facilitate the collection of statistics of certain kinds relating to factories, Industrial and Commercial establishments.
12	Bonded Labour System (Abolition) Act, 1992.	9	Khyber Pakhtunkhwa Bonded Labour System (Abolition) Act, 2015	To provide for abolition of Bonded labour system in the Province of the Khyber Pakhtunkhwa.
13	Employment of Children Act, 1991	10	Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015	To prohibit the employment of children and to regulate employment of adolescents in certain occupations and processes in the Province of Khyber Pakhtunkhwa.
14	West Pakistan Shops & Establishment Ordinance, 1969.	11	Khyber Pakhtunkhwa Shops and Establishment Act, 2015	A law relating to the hours and other conditions of work and employment of persons employed in shops, Commercial Establishments, Industrial Establishment and other Establishments in the province of the Khyber Pakhtunkhwa

LIST OF AMENDMENT OF CERTAIN LAWS

S. No.	Title of laws	Amendments
1.	The Khyber Pakhtunkhwa (Amendment of Laws) Act, 2015	The words "private educational institutes" shall be deleted.
2.	The Khyber Pakhtunkhwa (Amendment of Laws) Act, 2015	The words "private educational institutes" shall be deleted.
3.	The Khyber Pakhtunkhwa (Amendment of Laws) Act, 2015	The words "private educational institutes" shall be deleted.
4.	The Khyber Pakhtunkhwa (Amendment of Laws) Act, 2015	The words "private educational institutes" shall be deleted.
5.	The Khyber Pakhtunkhwa, Maternity Benefit (Amendment) Act, 2015.	The new sub-Section (2) shall be inserted "(2) No employer shall ask any employed woman to do any work which is of an arduous nature or which involves long hours of standing or which is likely to adversely affect her health for a period of one month immediately- (a) Preceding the period of six weeks, before the date of her expected delivery; and (b) Succeeding six weeks after the dated to her delivery".

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PC - II

Review of Policies, Laws & Rules in Wake of the
18th Constitutional Amendment

Directorate of Labour

Labour Department
Government of Khyber Pakhtunkhwa

Proposed Starting Date

January 1, 2014

Proposed Completion Date

June 30, 2015

1.	Name of the Project:	Review of Policies, Laws & Rules in Wake 18 th Constitutional Amendment
2.	Authorities responsible for;	
	(i) Sponsoring:	Labour Department, Government of Khyber Pakhtunkhwa
	(ii) Execution:	Directorate of Labour, Khyber Pakhtunkhwa
3(i).	Description & justification of the project:	<p><u>Justification</u></p> <p>1. The subject of 'Labour' previously on the concurrent list of the constitution of Pakistan has been delegated to the province as a result of the 18th Constitutional Amendment. Being on the concurrent list, almost all the legislation, the spadework for the same and the ancillary exercise was undertaken by the Federal Legislature and Federal Government. While carrying on with the exercise, the federal government had to resort to the constitutional provisions, regional and international conventions and treaties. During the process provisions contained in the constitution and regional & international conventions and treaties were accommodated in the resultant policy and legislation.</p> <p>2. Likewise, the Federal Government used to report on implementation of various conventions and treaties to different regional and international organizations like SAARC, ILO and UN. This reporting is obligatory. This reporting is at times made when Pakistan approaches certain countries, regional and international organizations for certain concessions like its request for aid and loans to World Bank, IMF</p>

the

		<p>countries with the grading e.g. US Trafficking in Person (TIP) Report.</p> <p>3. For the purpose a proper mechanism existed in the defunct Ministry of Labour and a proper cell which kept a vigil on all these issues. The cell advised provinces on the issues and made reports facilitating the government in its endeavors.</p> <p>4. As a sequel to the 18th Constitutional Amendment and delegation of the subject of 'Labour' to the provinces, the Ministry of Labour has been done away with and the matters connection with the subject like legislation, formulation of policies legislation has also been entrusted to the provinces.</p> <p>5. As the system existed at the Federal level, the provinces had very little to do with formulation of policies and proposing legislation. Resultantly the provinces could not develop the expertise. Transfer of the subject and its ancillary activities without building capacity of the provinces, especially Khyber Pakhtunkhwa, the Directorate of Labour which has mainly been entrusted with the activities has to face difficulty in discharging its role in terms of formulation of policies and provincialization of laws on the subject of labour an effective manner.</p> <p>6. It is highly desirable that a system should be made available in the Directorate of Labour to keep proposed legislation and frame rules in accordance with the provincial needs, constitution of Pakistan and in line with the International Labour Standards through institutional coordination with main stakeholders like workers, employers, government departments and academia.</p>
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7. With the introduction of the 18th Constitutional Amendment and resultant delegation of the subject of Labour to the provinces all these matters including legislation was transferred to the provinces without any transfer of expertise/capacity.

8. Now the provinces has to formulate policies, take policy measures to decide on ratification of international instruments, monitor observance of the provisions of the conventions and reporting thereupon.

9. As stated earlier, the arrangements as earlier existed at the federal level the above measures do not exist at the provincial level and need to be installed on permanent basis at the earliest.

Institutional Arrangements in the Province

10. Currently, no such arrangements exist in the province and it is highly desirable that the policies and rules under various labour laws be framed.

Description

11. Drafting of policies and rules for the legislation will be outsourced by hiring services of the experts from amongst individual/firms/Academia (public-public partnership) in the respective fields.

12. The consultant(s) after reviewing the policies will draft labour and child labour policies for the province. These policies will be shared with the stakeholders i.e. employers and workers through conducting seminars/workshops and their views will

		<p>promulgation.</p> <p>13. Likewise, the consultant(s) will be required to prepare draft rules under various labour legislation which will be put to consultation with the stakeholders i.e. employers, workers, and lawyers' fraternity and their input will be invited and incorporated, where appropriate. The rules will be finalized in light of the input of the respective stakeholders and proposed to the government for notification.</p>
3(ii).	Implementation period	The project will be implemented during the financial years 2013-14 and 2014-15
3(iii).	Year-wise estimated cost	<p>a. Framing of policies</p> <p>(i) Labour Policy 1.800 million</p> <p>(ii) Child Labour Policy 1.200 million</p> <p>b. Framing of rules under various Labour Laws 5.000 million</p> <p>(i) Rules under KP Factories Act</p> <p>(ii) Rules under KP IRA</p> <p>(iii) Rules under KP Industrial & Commercial Employment (Standing Orders) Act</p> <p>(iv) Rules under KP Minimum Wages Act</p> <p>(v) Rules under KP Payment of Wages Act</p> <p>(vi) Rules under the Workers' Compensation Act</p> <p>(vii) Rules under KP Maternity Benefits Act</p> <p>(viii) Rules Under KP Industrial Statistics Act</p> <p>(ix) Rules under KP Bonded Labour Act</p> <p>(x) Rules under KP Prohibition of Employment of Children Act</p> <p>(xi) Rules under KP Shops & Establishments Act</p>
3(iv).	Manpower Requirements:	No additional manpower at the Sponsoring and Execution Agencies level will be required. However, services of consultant(s) will be hired for the jobs.
3(v).	Financial Plan and mode of payment:	<p><u>Qualification of the Service Provider/Consultant (Local)</u></p> <p>The service provider is/are required to have at least ten years of experience in the relevant field. In case of an individual, the service provider shall have LLB</p>

degree from a recognized university and the post qualification experience in the relevant field.

In case of organization, the team at least two members of the team dedicated to the assignment shall have the above qualification and experience.

The service provider is also required to have practical experience in carrying out jobs under consultancies especially in drafting policies and rules. Drafting of policies and rules under various components of labour and social protection will be considered added experience.

Outputs

The service provider will be required to produce the following documents after consultation through seminars/workshops with the stakeholders like government organizations, workers, employers, academia, civil society and media;

- (i) Provincial Labour Policy;
- (ii) Provincial Policy on Child Labour;
- (iii) Rules under
 - KP Industrial Relations Act, 2010;
 - KP Factories Act, 2013;
 - KP Industrial & Commercial Employment (Standing Orders) Act, 2013;
 - KP Minimum Wages Act, 2013;
 - KP Payment of Wages Act, 2013;
 - KP Workers' Compensation Act, 2013;
 - KP Maternity Benefits Act, 2013
 - KP Industrial Statistics Act, 2013

- Provincial Law on Bonded Labour;
- Provincial Law on Shops & Establishments.

Literature Review

The Service Provider(s) will be required to review at least three preceding policies and draft policies with the consensus of the stakeholders. Similarly review of rules in vogue and their predecessor rules is desired so that chances of lacunae/dispute are minimized.

Cost and Financial Arrangements

Cost of the job(s) is as under;

- a. Drafting of Labour Policy
Pk. Rs.1.800 million
- b. Drafting of Child Labour Policy
Pk. Rs.1.200 million
- c. Drafting of rules under the above laws
Pk. Rs.5.000 million

Mode of payment

- | | | |
|----|----------------------------------------|-----|
| a. | On submission of 1 st draft | 40% |
| b. | On submission of 2 nd draft | 40% |
| c. | On approval by the government | 20% |

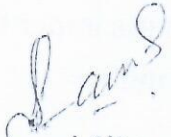
Taxes shall be levied and deducted at source as per prevailing policy of the government.

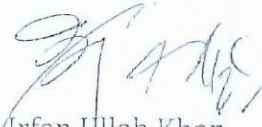
Time Schedule

1st draft shall be submitted within 60 days of signing the


		<p>agreement;</p> <p>Inputs of the stakeholders shall be obtained and incorporated within 120 days after the 60 days of the submission of the 1st draft;</p> <p>Final draft shall also be submitted within 120 days of 2nd draft.</p>
4.	Expected Outputs:	<ul style="list-style-type: none"> • Provincial Labour Policy; • Provincial Child Labour Policy; • Easy to comprehend Rules under various (11 in number) Labour Laws;

Prepared by



 Farzand Ali
 Statistical Officer
 Directorate of Labour


 Irfan Ullah Khan
 Director Labour,
 Khyber Pakhtunkhwa

Checked by


 Dr. Syed Akhtar Hussain Shah
 Additional Secretary
 Labour Department

Approved & Countersigned by


 Incharge Dr. Syed Akhtar Hussain Shah
 Secretary to Govt. of Khyber Pakhtunkhwa,
 Labour Department



LABOUR DEPARTMENT

Dated Peshawar: the 27th March, 2014

Administrative Approval

RO(LD)/B-5/Policies & Laws/2013 In exercise of the powers delegated vide Part-I Serial No.6 of 2nd Schedule of the Delegation of Powers under the Financial Rules & Powers of Re-appropriation Rules, 2001 the Khyber Pakhtukhwa Provincial Government is pleased to accord the Administrative Approval to the scheme "130480- Review of Policies Laws And Rules in wake of 18th Constitutional Amendment" at a total cost of Rs. 8.00 million (Rupees eighty Lac only) with the following breakup:-

S.No	Description	Cost (in million)
1.	Labour Policy	1.800
2.	Child Labour Policy	1.200
3.	Labour Laws	5.00
	Total	8.00

2. The Scheme was approved by the DDWP meeting held on 20th February, 2014 under the Chairmanship of Secretary Labour.

3. The expenditure involved will be met out of sanctioned budget under the function-cum-object classification 04-Economic Affairs-041-General Economic, Commercial & Labour Affairs, 0413-General Labour Affairs, 041309-Labour Welfare Measures, PR-Child & Bonded Labour.

4. The Administrative Approval does not constitute any sanction to the design/rates provided in the rough cost estimate. The financial responsibility of the design/rates rests with the authority competent to accord technical sanction to the cost estimate.

5. The sanction authority shall allow appropriate rates after observing all codal formalities /standing instructions regarding schedule of rates and financial regularity. The work shall be taken in hand after release of funds and proper technical sanction of the cost estimate.

5445
RO(LD)/8-5/Policies & Laws/2013/1554-65

Dated 27-03-2014

Copy forwarded to:

1. The Secretary to Govt: of Khyber Pakhtunkhwa P&D Department, Peshawar.
2. The Secretary to Govt: of Khyber Pakhtunkhwa Finance Department, Peshawar.
3. The Secretary to Govt: of Khyber Pakhtunkhwa, Environment Department.
4. The Accountant General Khyber Pakhtunkhwa, Peshawar.
5. The Director Labour, Khyber Pakhtunkhwa, Peshawar.
6. P.S to Minister for Labour, Khyber Pakhtunkhwa.
7. P.S to Secretary Labour, Labour Department.

(Mehnaz BiBi)

Research Officer (Labour)

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