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KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA

NOTIFICATION

Dated Peshawar, the 24th October, 2024.

No. PA/Khyber Pakhtunkhwa/Bills-28/2024/11715.— The Khyber Pakhtunkhwa Provincial Assembly Secretariat Employees (Terms and Conditions of Service) Bill, 2024 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 16th October, 2024 and assented to by the Governor of the Khyber Pakhtunkhwa on 21st October, 2024 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA PROVINCIAL ASSEMBLY SECRETARIAT EMPLOYEES (TERMS AND CONDITIONS OF SERVICE) ACT, 2024. (KHYBER PAKHTUNKHWA ACT NO. IX OF 2024)

*(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 October, 2024).*

AN
ACT

*to regulate the terms and conditions of service of employees of the
Provincial Assembly Secretariat of Khyber Pakhtunkhwa.*

WHEREAS, it is expedient to regulate the terms and conditions of service of employees of the Provincial Assembly Secretariat of Khyber Pakhtunkhwa, as required by Article 87 of the Constitution of the Islamic Republic of Pakistan, read with the Article 127 thereof, and to provide for matters connected therewith and ancillary thereto;

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

CHAPTER-I
PRELIMINARY

1. **Short title, application and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Provincial Assembly Secretariat Employees (Terms and Conditions of Service) Act, 2024.

(2) It shall apply to all the employees, as defined in clause (i) of sub-section (1) of section 2 of this Act.

(3) It shall come into force at once.

2. **Definitions.**---(1) In this Act, unless, the context otherwise requires,-

- (a) **“adhoc appointment”** means appointment of a duly qualified person made otherwise than in accordance with the prescribed method of recruitment, pending recruitment in accordance with such method;
- (b) **“Appointing Authority”** means the Speaker of the Provincial Assembly of Khyber Pakhtunkhwa;
- (c) **“Basic Pay Scale”** means the basic pay scales prescribed by the Government from time to time and adopted by the Secretariat;
- (d) **“civil servant”** shall have the same meaning as assigned to it in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973);
- (e) **“Competent Authority”** means the Appointing Authority;
- (f) **“Constitution”** means the Constitution of the Islamic Republic of Pakistan, 1973;
- (g) **“deputation”** means temporary transfer of the services of an employee from the Secretariat or temporary transfer to the Secretariat of a person from Federation or any Province;
- (h) **“directions”** mean written directions, issued by the Speaker, from time to time, duly notified in the official Gazette;

- (i) **“employee”** means an employee of the Secretariat, but does not include-
- (i) a person who is on deputation to the Secretariat; and
 - (ii) a person who is employed on contract or work-charged basis or who is paid from contingencies;
- (j) **“Finance Committee”** means the Finance Committee of the Provincial Assembly, constituted in pursuance of Article 88 of the Constitution, read with the Article 127 thereof;
- (k) **“Government”** means the Government of Khyber Pakhtunkhwa;
- (l) **“initial recruitment”** means appointment made otherwise than by promotion, deputation or transfer;
- (m) **“pay”** means the amount drawn monthly by an employee as pay and includes technical pay, special pay, personal pay and other emoluments declared as such by Government for the civil servants, subject to such modifications as the Speaker or the Finance Committee, as the case may be, may make;
- (n) **“permanent post”** means a permanent post sanctioned in the Secretariat without limit of time;
- (o) **“post”** means the permanent post and temporary post;
- (p) **“prescribed”** means prescribed by rules or directions of the Speaker, as the case may be, notified in the official Gazette from time to time;
- (q) **“Provincial Assembly”** means the Provincial Assembly of Khyber Pakhtunkhwa;
- (r) **“rules”** mean rules made or deemed to have been made under this Act;
- (s) **“Secretariat”** means the Secretariat of the Provincial Assembly;
- (t) **“Secretary”** means the Secretary of the Secretariat and in case of absence of Secretary, any senior officer, authorized by the Speaker to perform the functions as Acting Secretary for the time being;

- (u) **“Selection Authority”** means the selection committee or other authority or body in the Secretariat, on the recommendation of or in consultation with which any appointment or promotion on a post is made; and
- (v) **“Speaker”** means the Speaker of the Provincial Assembly.

(2) All words and expressions, used but not defined in this Act, shall, unless the context otherwise requires, have the meanings respectively assigned to them in the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973) or Constitution.

CHAPTER-II
THE SECRETARIAT, ITS EMPLOYEES AND THEIR TERMS AND CONDITIONS
OF SERVICE.

3. **Secretariat.**---There shall be a Secretariat, to be known as the Khyber Pakhtunkhwa Provincial Assembly Secretariat, headed by the Secretary.

4. **Strength and composition of the Secretariat.**---(1) The Secretariat shall consist of all such permanent and temporary posts as may, from time to time, be sanctioned by the Speaker.

(2) The Speaker may create, upgrade, re-designate or abolish any post:

Provided that no such order sanctioning the creation, up-gradation, re-designation or abolition of a post in BPS-17 or above for a period of exceeding six months, shall be made except after consultation with the Finance Committee.

(3) When a post is created, upgraded, re-designated or, as the case may be, abolished, it shall be notified in the official Gazette.

5. **Terms and conditions of service.**---(1) The terms and conditions of service of an employee shall be such as provided under this Act and the rules.

(2) The terms and conditions of service of any person, to whom this Act applies, shall not be varied to his disadvantage.

(3) Subject to this Act and rules, all other terms and conditions of service, including pay, allowances, advances, retirement, deputation, pension, gratuity, provident fund, benevolent fund, retirement benefits and death compensation, financial or family assistance packages, including in- service death, leave or all other rights, perks, privileges,

prerogatives, concessions, entitlements, memberships, facilities, including medical, housing, education and all other schemes of Government, notwithstanding any judgment or order of any court, tribunal or a quasi-judicial authority, shall be **such as** governed by the law, rules, policies, instructions and guidelines for the time being in **force and applicable**, admissible or enjoyed or available to the civil servants in the **corresponding posts** or Basic Pay Scales, subject to such modifications, variations or exceptions **as may be made** by the Speaker in consultation with the Finance Committee:

Provided that in case of urgency, the Speaker in anticipation of the Finance Committee, may make such modifications, variations or **exceptions**.

6. **Appointment.**---Appointment in the Secretariat **shall be made** by the Appointing Authority by one or more of the following methods in the **prescribed manner**:

- (a) by promotion of a person employed **in the Secretariat**;
- (b) by initial recruitment;
- (c) by transfer on deputation; and
- (d) by transfer within the Secretariat **in the same** Basic Pay Scale from amongst employees having relevant **or same** qualification prescribed for the post.

7. **Probation.**---(1) Appointment to a permanent **post** by initial recruitment or by promotion, as the case may be, under section 6, not being an **ad-hoc** appointment, shall be on probation for such period as may be prescribed.

(2) If in the opinion of the Appointing Authority, the work or conduct of an employee on probation is unsatisfactory or shows that **he is unlikely** to become efficient, or where, in respect of any post, the satisfactory completion of probation includes the passing of a prescribed examination, test or course or **successful completion** of any training, a person, appointed on probation to such post, who, **before the expiry** of the original or extended period of his probation, has failed to pass **such** examination or test or to successfully complete the course or the training, **shall, except** as may be prescribed otherwise,-

- (a) if he was appointed to such post by **initial recruitment**, be discharged;
or

- (b) if he was appointed to such post by promotion, deputation or by transfer, be reverted to the post from which he was promoted or transferred and against which he holds a lien or, if there be no such service or post, be discharged:

Provided that in the case of initial recruitment to a post, an employee shall not be deemed to have completed his period of probation satisfactorily until his competence, character and antecedents have been verified as satisfactory in the opinion of the Appointing Authority.

8. Confirmation.---(1) A person, appointed to a post by initial recruitment, shall, on satisfactory completion of his probation, be eligible for confirmation in the manner as may be prescribed.

(2) An employee, promoted on regular basis, shall be eligible for confirmation, after rendering satisfactory service, for the period prescribed for confirmation therein.

(3) An employee, who, during the period of his service, was eligible to be confirmed against any permanent post, retires from service before being confirmed, shall not merely by reason of such retirement, be refused confirmation against such post or any benefits accruing there-from.

(4) Confirmation of an employee against a post shall take effect from the date of occurrence of permanent vacancy of that post or from the date of continuous officiation on such post, whichever is later.

(5) There shall be no confirmation against any temporary post.

9. Seniority.---(1) For proper administration of a service, cadre, group or category of the employees, the Appointing Authority shall cause a seniority list of such service, cadre, group or category of employees to be prepared, but nothing herein contained shall be construed to confer any vested right to a particular seniority in such group, category or post, as the case may be.

(2) Subject to the provisions of sub-section (1), the seniority of an employee shall be reckoned in relation to other employees belonging to the same service, cadre, group or category of the employees, in the manner as may be prescribed.

(3) **Seniority** on initial recruitment and promotion to a service, cadre, group or category of the employees, shall be determined as may be prescribed.

(4) **Seniority** in a service, cadre, group or category of the employees, to which an employee is promoted shall take effect from the date of regular appointment to such service, cadre, group or category of the employees:

Provided that employees who are selected for promotion to a higher post in one batch shall, on their promotion to the higher post, retain their inter se seniority as in the lower post.

10. Promotion.—(1) An employee, possessing such minimum qualifications as may be prescribed, shall be eligible for promotion to a higher post in the service, cadre, group or category of the employees, for the time being reserved under the rules, for promotion to such service, cadre, group or category of the employees, to which he belongs.

(2) A post, referred to in sub-section (1), may either be a selection post or a non-selection post to which promotions shall be made in the manner as may be prescribed.

Explanation: For the purpose of sub-section (2), the selection and non-selection posts shall respectively mean promotion on the basis of selection on merit and promotion on the basis of seniority-cum-fitness.

11. Pay.—An employee appointed to a post shall be entitled in accordance with the rules to the pay sanctioned for such post:

Provided that where the appointment is made on a current-charge basis or by way of additional charge, his pay shall be fixed in the prescribed manner:

Provided further that where an employee has been dismissed or removed from service or reduced in rank under an order, which is later set aside, he shall, on the setting aside of such order, be entitled to such arrears of pay, as the authority setting aside such order, may determine.

CHAPTER-III TERMINATION, REMOVAL, RETIREMENT, REPRESENTATION ETC.

12. Termination of service.—(1) The service of an employee may be terminated without notice,-

- (a) during the initial or extended period of his probation:

Provided that where such employee is appointed by **promotion** on probation, his service shall not be so terminated so long as he holds a lien against his former post, but he shall be reverted to **his former post**; and

- (b) if the appointment is made adhoc terminable on the appointment of a person on the recommendation of the Selection Authority, on the appointment of such person or conclusion of the selection process.

(2) Where, on the abolition of a post or reduction in the number of posts in a service, cadre, group or category of the employees, are required to be terminated, the person whose services are terminated shall ordinarily be the one who is the most junior in such service, cadre, group or category.

(3) Notwithstanding the provisions of sub-section (1), but subject to the provisions of sub-section (2), the service of an employee shall be liable to **termination** on fourteen (14) days notice or pay in lieu thereof.

13. Reversion to original post.---An employee appointed on acting charge, temporary or officiating basis shall be liable to reversion to his original post.

14. Removal and dismissal.---No employee shall be dismissed or removed from service or reduced in rank by the Appointing Authority, until he has been given a reasonable opportunity of showing cause against the action proposed to be taken against him:

Provided that the opportunity of showing cause under this sub-section shall not be given,-

- (a) where an employee is dismissed or removed from service or reduced in rank on the grounds of conduct which has led to his conviction on a criminal charge; or
- (b) where the employee is on probation or working on ad-hoc basis; or
- (c) where the Appointing Authority under this Act, is satisfied, for reasons to be recorded in writing, that in the interest of the security of Pakistan or any part thereof, it is not expedient to give to that employee such an opportunity.

15. Retirement from service:---(1) An employee shall retire from service-

- (a) on the completion of the **sixtieth (60)** year of his age, if no option is exercised under clause (b) or, **as the case may be**, direction is given under clause (c);
- (b) if he opts to retire early from **service**, after completion of twenty five (25) years of service **qualifying for pension** and other retirement benefits or attaining the age of **fifty five (55)** years, whichever is later; and
- (c) on such date after he has **completed** twenty (20) years of service qualifying for pension and **other retirement** benefits as the Competent Authority may, in public interest, **direct**.

(2) No direction under clause (c) of **sub-section (1)** shall be made until the employee has been informed in writing of the **grounds, as may be prescribed**, on which it is proposed to make the direction and has been **given a reasonable** opportunity of showing cause against the said direction.

16. Conduct:---The conduct of an employee shall be regulated by rules or directions, whether general or in respect of a specified group of employees.

17. Efficiency and discipline:---An employee shall be liable to disciplinary action and penalties in accordance with the rules, as may be **prescribed**.

18. Right to representation:---Any employee, **who is aggrieved** from any order of the Appointing Authority, such employee may file a **representation** to the Appointing Authority within thirty (30) days of issuance of such order **and in such manner** as may be prescribed.

CHAPTER-IV
MISCELLANEOUS

19. Indemnity:---No suit, prosecution or other **legal proceedings** shall lie against an employee for anything done in his official capacity **which is in good faith** done or intended to be done under this Act or the rules, instructions or **directions** made or issued or adopted from time to time by the Secretariat.

20. Jurisdiction barred:---Save as provided **under this Act**, rules and the Khyber Pakhtunkhwa Services Tribunal Act, 1974 (Khyber Pakhtunkhwa Act No. I of 1974), no order made or proceedings taken under this Act or **the rules**, by the Speaker or any officer

authorized by him, shall be **called** in question in any court and no injunction shall be granted by any court in respect of any decision made or proceedings taken in pursuance of any power conferred by, or under, **this** Act or the rules.

21. Removal of difficulties.—If any difficulty arises in giving effect to any of the provisions of this Act, the **Speaker** may make such order, not inconsistent with the provisions of this Act, as may **appear** to him to be necessary for the purpose of removing the difficulty.

22. Matters not specifically covered.— All matters, which are required to be covered in the prescribed manner under **this Act**, but have not yet prescribed, shall be dealt with, under the relevant rules of **Government**, applicable to the civil servants, subject to such modifications, variations or **exceptions**, if any, in such rules and orders, as the **Speaker** may, from time to time by order, **specify**, till the framing of relevant rules under this Act.

23. Appointment of advisors etc.—The **Speaker** may, on such terms and conditions and for such period as he may **specify**, not exceeding one year, appoint advisors, consultants, interns and experts on work **charged** basis on temporary posts, who are paid out of contingencies.

24. Interpretation.—All questions relating to interpretation of provisions of this Act shall be referred to the **Speaker** whose decision thereon shall be final.

25. Gender.—In this Act, **unless** there is anything repugnant in the subject or context, words importing the masculine **gender** shall be taken to include feminine.

26. Power to make rules.—The **Speaker** may, by notification in official Gazette, make rules for carrying out the purposes of this Act:

Provided that the **Speaker** shall, by invoking the power of rules making for the first time under this sub-section, make **rules** within ninety (90) days on the commencement of this Act.

27. Directions of the Speaker.—All matters, not specifically provided under this Act or the rules, the **Speaker** may, from **time** to time, issue such directions, as may be notified in the official Gazette, for carrying out the purposes of this Act.

28. Relaxation of rules.---Where the Speaker is satisfied that the operation of any provision of the rules made under this Act causes any hardship in any particular case, he may, by order, dispense with or relax the requirements of that provision to such extent and subject to such conditions as he may consider necessary for dealing with the case in a just and equitable manner.

29. Delegation of powers.---(1) The Speaker may delegate any of his powers under this Act and rules made there-under to the Secretary or any officer of the Secretariat, not below the rank of BPS-20, fully or partly and subject to such restrictions or conditions as he may deem appropriate.

(2) The officer, to whom such powers are delegated by the Speaker under subsection (1), shall not delegate them further to any other officer.

30. Repeal and savings.---(1) On commencement of this Act, the Khyber Pakhtunkhwa Provincial Assembly Secretariat (Recruitment) Rules, 1974, after making of relevant rules under this Act, within ninety (90) days, as specified in section 26 of this Act, shall be deemed as repealed.

(2) Notwithstanding the repeal of the Khyber Pakhtunkhwa Provincial Assembly Secretariat (Recruitment) Rules, 1974, all orders made, proceedings taken and acts done, including appointments made either through initial recruitment, induction, absorption, promotion, regularization or on contract basis, obligation, liability or penalty incurred, power conferred or exercised, by any authority or by any person, under the said rules and anything done in exercise of the powers, or purported exercise of the powers, conferred by or under the said rules, shall continue and be deemed to be and always to have been validly made, taken, done, incurred, conferred, exercised or issued under this Act and shall not be called in question in any court on any ground whatsoever.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(KIFAYATULLAH KHAN AFRIDI)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa