

A

BILL

*to provide for the establishment of an Authority to register
and regulate functioning of the Private Schools
in the province of the Khyber Pakhtunkhwa.*

WHEREAS it is expedient to establish an Authority for registration, regulation and supervision of Private Schools in the Province of the Khyber Pakhtunkhwa and for matters connected therewith or incidental thereto:

It is hereby enacted as follows:

1. Short title, extent and commencement---(1) This Act may be called the Khyber Pakhtunkhwa Private Schools Regulatory Authority Act, 2016.

(2) It shall extend to the whole province of the Khyber Pakhtunkhwa.

(3) It shall come into force at once.

CHAPTER-I

Preliminary

2. Definitions---(1) In this Act, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:

- (a) “Board” means a Board of Intermediate and Secondary Education concerned or any other certificate awarding body, as the case may be, established by Government under any law for the time being in force;
- (b) “Chairperson” means the Chairperson of the Regulatory Authority;
- (c) “Company” means a company as defined in the Companies Ordinance, 1984 (Ord. No. XLVII of 1984);
- (d) “Fund” means the Private Schools Regulatory Authority Fund establishment under section13;
- (e) “Government” means the Government of the Khyber Pakhtunkhwa;

- (f) “Managing Director” means the Managing Director of the Regulatory Authority;
- (g) “prescribed” means prescribed by rules or regulations;
- (h) “Province” means the province of the Khyber Pakhtunkhwa;
- (i) “provincial law” means a law passed or deemed to have been passed by the Provincial Assembly of the Khyber Pakhtunkhwa;
- (j) “regulations” means regulations made under this Act;
- (k) “Regulatory Authority” means the Khyber Pakhtunkhwa Private Schools Regulatory Authority established under section 3 of this Act;
- (l) “rules” mean rules made under this Act;
- (m) “School” means a School in the private sector including Montessori, Kindergarten, tuition academy or centre, primary, middle, high, higher Secondary Schools or an institution of equivalent level imparting education through any system of education or medium of instruction in private sector;
- (n) “Society” means a society registered under the Societies Registration Act, 1860 (XXI of 1860); and
- (o) “Trust” means a trust established under the Trust Act, 1882 (II of 1882).

(2) Words and phrases used in this Act, but not defined, shall have the same meanings as respectively assigned to them under the relevant law.

CHAPTER-II

Establishment and Functions of the Regulatory Authority

3. Establishment of Regulatory Authority.---(1) As soon as after the commencement of this Act, Government shall establish an Authority to be called “the Khyber Pakhtunkhwa Private Schools Regulatory Authority.

(2) The Regulatory Authority shall be a body-corporate having perpetual succession and a common seal with powers, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and shall, by the said name, sue or be sued.

(3) The headquarters of the Regulatory Authority shall be at Peshawar and it may set up regional offices or district bodies at such place or places as it may deem fit, subject to the approval of Government.

4. Composition of the Regulatory Authority.---(1) The Authority shall consist of the following members:

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|-----|---|------------------------------|
| (a) | the Minister for Elementary and Secondary Education Department; | Chairperson |
| (b) | the Secretary Elementary & Secondary Education Department; | Member |
| (c) | the Director Elementary & Secondary Education. | Member |
| (d) | two members from the private schools. | Member |
| (e) | two members from parents. | Member |
| (f) | two members from educationists/
philanthropists | Member |
| (g) | Managing Director | Member-
cum-
Secretary |

(2) The members, other than ex-officio members, shall be nominated by Government, from a panel of three persons for each seat, on such terms and conditions as Government may determine and shall hold office for a period of two years and may be eligible for re-nomination for similar term or for such other shorter term as Government may determine, but not exceeding four years in total.

(3) The members, other than ex-officio members, may not be removed from office before expiry of their term except on established charges of corruption, misconduct, inefficiency, permanent disability or failure to attend three consecutive meetings of the Regulatory Authority without any valid reason.

5. Honoraria and allowance of members.---The members, other than ex-officio members, shall be paid honoraria and allowances as may be determined by the Authority.

6. Resignation and filling of vacancy.---(1) The member, other than ex-officio members, may resign his office by writing under his hand addressed to Government.

(2) The Government shall notify the method of filling of vacancy occurring in the membership of the Regulatory Authority.

7. Meetings of the Regulatory Authority.---(1) In addition to annual meeting, the Regulatory Authority shall meet once a quarter on such day, time and place as the Chairperson may determine or on the request of half of the members of the Regulatory Authority.

(2) The Chairperson shall preside over the meetings of the Regulatory Authority and in his absence the Secretary to Government, Elementary and Secondary Education Department shall preside over the meeting.

(3) Quorum for the meeting of the Authority shall be half of its total membership.

(4) Decisions of the Regulatory Authority shall be expressed in terms of the opinion of the majority of its members present and voting and in the event of tie, the Chairperson or the member presiding over the meeting, as the case may be, shall have a casting vote.

8. Powers and functions of the Regulatory Authority.---(1) Subject to the provisions of this Act and rules and regulations, the Regulatory Authority shall exercise such powers, as may be necessary for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the fore-going sub-section, the Regulatory Authority shall-

- (a) register and regulate school, supervision of their curricula, scheme of studies, fee structure, academic schedules, co-curricular activities and ensuring observance of vacations of summer, winter, spring and other holidays in schools as being observed by schools in public sector;
- (b) formulate policy, guiding principles and criteria for the establishment and registration of School for supplementing public sector investment in education;
- (c) determine minimum qualification, training, service and pay structure for teachers in private Schools;
- (d) prescribe conditions under which School may be opened and operated;
- (e) prescribe training programmes for teachers in School and monitoring their implementation;
- (f) evaluate academic performance of private schools;
- (g) categorize School on the basis of quality of education and facilities provided thereof for the purpose of fixation of different fee structures to be observed or implemented by School accordingly,
- (h) fix the maximum amount of fee which may be charged by an institution or a category of institutions from a student or a category of students; ensure kinship fee concession
- (i) either reject the application or allow reasonable increase of the fee after recording reasons, but such increase for any academic year shall not be more than five per cent of the fee charged in the preceding academic year
- (j) set up District Scrutiny Committees to carry out inspections of School to assess and report on their feasibility and functioning;

The District Committee in each District, comprising of the following:

- (i) the District Education Officer (E&SE) Chairman
District concerned.

- (ii) The Dy: District Education Officer (E&SE) Member
District concerned.
 - (iii) Secretary of the Board concerned. Member
 - (iv) Senior Principal of the District. Member
 - (v) an Educationist or a social worker as Member
determined by the Board.
 - (vi) a representative of the Zilla Nazim of the Member.]
District concerned.
- (i) collect and circulate information and statistics on School.

9. Delegation of powers.—The Regulatory Authority may, by general or special order, delegate to the Managing Director or any officer of the Regulatory Authority, any of its powers or functions under this Act.

10. Constitution of Committees.---The Authority may constitute such academic, administrative, financial, technical and special committees as may be deemed necessary for carrying out the purposes of this Act and such committees shall exercise such powers and perform such functions as may be delegate or assigned to them by the Regulatory Authority.

CHAPTER –III

Managing Director and Staff

11. Appointment and term of office.---(1) There shall be a Managing Director of the Regulatory Authority, who shall be appointed by Government on deputation basis from amongst Government Officers of Basic Pay Scale 19 or 20.

(2) The Managing Director shall be the Chief Executive of the Regulatory Authority.

(3) Unless earlier removed, the Managing Director shall hold office for three years.

12. Appointment of officers and employees.—The Regulatory Authority may, from time to time, appoint such officers, officials, consultants and Advisors, as it may consider necessary for its efficient performance, on such terms and conditions as it may deem fit, subject to the approval of Government.

CHAPTER-IV

Fund

13. Fund.---There shall be established a fund to be known as Private Schools Regulatory Authority Fund which shall consist of-

- (a) grants made by the Federal Government or Government or other authorities from time to time;
- (b) proceeds or any other profits howsoever known or called from bank accounts and investments;
- (c) gifts, grants or contributions to the Regulatory Authority by individuals or institutions;
- (d) all fees received by and fines paid to the Regulatory Authority;
- (e) contributions for training and welfare of teachers, employees and deserving students in schools; and
- (f) refundable deposits received by the Regulatory Authority.

14. Custody of the Fund.---Money credited to the Fund shall be kept in the State Bank, Government treasury, a post office or a bank in such a manner as shall be specified by Government.

15. Application of the Fund.---The money credited to the Fund shall be spent in accordance with the annual budget approved by the Regulatory Authority.

16. Budget preparation.---(1) Annual budget for the Regulatory Authority shall contain estimates of-

- (a) grants-in-aid from the Government;
- (b) amounts received from other sources available in the Fund;

- (c) anticipated receipts for the next year; and
- (d) expenditure to be incurred during the next year.

(2) The Managing Director shall re-appropriate budgetary provisions in accordance with the re-appropriation powers delegated to him by the Regulatory Authority:

Provided that at the end of each financial year, a full statement of all re-appropriations made, shall be submitted to the Regulatory Authority for confirmation.

17. Approval of budget.---(1) Managing Director shall present the budget for approval of the Regulatory Authority before the beginning of each financial year.

(2) The budget of the Regulatory Authority shall be approved by simple majority of the total members of the Regulatory Authority.

18. Accounts.---The accounts of receipts and expenditures of the Regulatory Authority shall be maintained in such forms and in accordance with principles and methods laid down by the Auditor-General of Pakistan.

19. Audit.---(1) The Auditor General of Pakistan shall, on the basis of such audit as he may consider appropriate or necessary, certify the accounts compiled and prepared by the Managing Director of the Authority for each financial year, showing under the respective heads of annual receipts and disbursements and shall submit the certified accounts with such notes, comments or recommendations as he may consider necessary to the Chairperson.

(2) The Chairperson shall cause the audit report to be laid before the Regulatory Authority.

(3) The Regulatory Authority shall, after the end of each year, submit to the Government audited annual statement of accounts of the Regulatory Authority, together with the audit report and its response thereto.

(4) The Regulatory Authority shall also submit an annual report to the Government on the state of Schools and their contributions to the promotion of education in the Province.

20. Internal Audit.---The Regulatory Authority shall appoint an Internal Auditor as an independent consulting activity for adding value and improving financial management in the Regulatory Authority and its offices.

CHAPTER-V

Registration of Schools and Punishment for Violations

21. Registration of schools.---(1) No School shall be opened or operated in the Province, irrespective of its affiliation if any, with the inland or foreign Board or certificate awarding body or students' assessment and testing body, as the case may be, without registration with the Regulatory Authority.

(2) No Board shall affiliate a School without the same being registered with the Regulatory Authority.

(3) If a Board de-affiliates any School, the Regulatory Authority shall forthwith suspend its registration and notify it to the School to show cause as to why its registration should not be revoked.

22. Offences and punishment.---(1) Whoever open or operates a school without registration with the Regulatory Authority shall be punished-

(a) with imprisonment for term which may extend to one year or with a fine of rupees two hundred thousands or both in case of high, higher secondary school and Intermediate College or an institution of equivalent level; and

(b) with imprisonment for term which may extend to six months or with a fine of rupees fifty thousands or both in case of a Montessori, kindergarten, a tuition academy or centre, primary, lower middle and middle schools or an institution of equivalent level.

(2) Whoever contravenes any other provision of this Act shall be punished with imprisonment for a term which may extend to three months or with a fine of rupees twenty thousands or both.

(3) Whoever contravenes any other provisions of rules or regulations made under this Act, shall be punished with imprisonment for a term which may extend to one month or with a fine of rupees ten thousands or both.

(4) Where the person quilt of an offence under this Act is a Company, a Corporation, a Society or a Trust, every Director, partner and Employee of the Company, Corporation, Society or Trust, as the case may be, shall unless he proves that the offence was committed without his knowledge or consent, be guilty of the offences.

23. Cognizance of offences.---(1) No court, other than a Judicial Magistrate of the First Class, shall take cognizance of any offence punishable under this Act or the rules and regulations made thereunder, except on a complaint in writing made by the Regulatory Authority or a person authorized by the Regulatory Authority in this behalf.

(2) The provisions of Code of Criminal Procedure, 1898 (Act V of 1998), shall mutatis mutandis apply to the complaints filed under this Act.

24. Opportunity of hearing in regulatory proceedings.---In case of any disciplinary proceedings against the School under or rules regulations this Act for revocation of registration, the Regulatory Authority shall, before passing an order, serve the respondent School with a show cause notice and afford it a fair opportunity of hearing.

25. Finality of order.---Save as otherwise expressly provided in this Act, every order passed or decision made by the Regulatory Authority or on its behalf under this Act, shall be final and shall not be called in question in any court. (*Redressal mechanism -----*).

CHAPTER-VI

General

26. Nomenclature.---(1) No School shall be named after any prestigious or famous foreign educational institution, unless it is an authorized branch of the said institution and is duly approved by the Regulatory Authority.

(2) No School shall be named after a national or international figure without prior permission of the Government.

(3) No School shall be named in the manner which may encourage parochial, racial, tribal, religious and sectarian prejudices among the citizens.

27. Public Opinion.—(1) Whenever an application is received for registration, the District Committee concerned shall notify the intention of the applicant in the form of a notice, posted at some conspicuous place, for information of public in general, inviting suggestions and objections in respect of registration of the proposed School or College as the case may be.

(2) In case of a Inter college or a higher secondary school, a public notice shall also be published at least in two leading newspapers; one in English and one in Urdu, at the cost of the applicant for inviting objections and suggestions within a prescribed period to be indicated in the notice.

(3) On receipt of the suggestions or objections, as the case may be, the District Committee shall scrutinize the public views and if the Committee needs any further information, it may interview such interested persons who may like to be interviewed on invitation of the Committee.

(4) Each public notice, published by the District Committee, shall have the salient features of the proposed School or inter College, as the case may be, with particular emphasis on-

- (a) physical infrastructure provided;
- (b) proposed staff and pay scales etc;
- (c) admission fee;
- (d) tuition fee;

- (e) uniform;
- (f) medium of instruction;
- (g) books chosen: and
- (h) any other specialty which the applicant may like to notify for public.

28. Accessibility of schools.---All the registered schools shall be accessible to all students without caste, creed, religion and place of birth or residence and there shall be no restraint for admission except on merit.

29. Settlement of disputes.---The Regulatory Authority shall have exclusive authority in respect of registration of School within its jurisdiction and in respect of matters relating to disputes arising between Government and registered Schools or the Regulatory Authority and the registered Schools, or the schools and its staff, or complaints of parents about fees and Schools, conditions of buildings of the Schools, and other related matters.

30. Revision before the Regulatory Authority.---(1) Any person aggrieved by an order of the Regulatory Authority or any delegatee of the Regulatory Authority, as the case may be, may prefer a revision petition before the Regulatory Authority for redressal of grievances.

(2) While disposing off a revision petition, the Regulatory Authority shall have all the powers of a civil court under the Code of Civil Procedure, 1908, (V of 1908), in respect of the following matters,-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring production of documents;
- (c) receiving witnesses on affidavit, and
- (d) issuing commissions for the examination of witness or documents.

(3) The decision of the Regulatory Authority in revision shall be final.

CHAPTER-VII

Miscellaneous

31. Power to make rules.--- (1) Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

- (a) the terms and conditions on which Government servants may be transferred to the Regulatory Authority;
- (b) the frequency of meetings of the Regulatory Authority and the procedure that shall be followed at such meeting;
- (c) the forms and registers for keeping the accounts;
- (d) the manner in which and the time at which the annual financial statement shall be submitted to Government for approval;
- (e) the returns, statements, estimates, statistics, information or reports which may be submitted to Government;
- (f) the manner in which the accounts of the Regulatory Authority shall be audited;
- (g) the custody in which the Regulatory Authority Fund shall be kept; and
- (h) any custody matter incidental or ancillary to the provisions of this Act.

32. Power to make regulations.—(1) The Regulatory Authority may frame regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for-

- (a) opening and operation, including supervision of private schools;
- (b) assessing resource availability for commissioning and resource flow for suitability and development of private.
- (c) periodic inspections of private schools for the purpose of monitoring compliance with the terms and conditions of registration;
- (d) soliciting public opinion on applications expressing interest for establishing private schools;
- (e) constitution, composition and terms of reference for scrutiny committees;
- (f) annual financial and academic audit of private schools for evaluating their performance;
- (g) creating enforcement regime for compliance with the pre-requisites of registration and conditions for operation of private schools;
- (h) closure, locking and sealing of private schools operating in contravention of this Act, rules and regulations;
- (i) receipt and recovery of fees levied, penalties imposed and contributions prescribed in rules;
- (j) facilitating opening of private schools in backward areas of the Province;
- (k) issuing notices, including show cause notices, the process of service on respondents and the mode of entertaining petitions, review petitions, representations and hearing;
- (l) conducting its business; and
- (m) any other matter incidental or ancillary to the provisions of this Act.

33. Indemnity.---Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceedings shall lie against the Regulatory Authority or any person acting on behalf of the Regulatory Authority for anything done or intended to be done in good faith under this Act or the rules or the rules or the regulations.

34. Repeal and Saving.---(1) The Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions Ordinance, 2001 (Khyber Pakhtunkhwa Ord. No. XXVII of 2001) is hereby repealed to the extent of matter pertaining to the Elementary & Secondary Education Department and Board of Intermediate concerned as Regulatory Authority for schools.

(2) Notwithstanding the repeal of the said Ordinance, all Schools registered there under shall be deemed to have been registered under this Act, on the same terms and conditions as determined unless altered by the Regulatory Authority after due notice.

(3) All Schools operating without registration on the date of coming into force of this Act shall be allowed ninety days to apply for registration with the Regulatory Authority.

35. Act to override other laws.---Notwithstanding anything repugnant or contrary contained in any other law for the time being in force, the provisions of this Act shall take precedence in matters relating to opening, commissioning, registration, regulation and supervision of schools in the province and in matters connected therewith or incidental thereto.