
THE [1][KHYBER PAKHTUNKHWA] EDUCATION

FOUNDATION ACT, 1992.

[2][KHYBER PAKHTUNKHWA] ACT NO. III OF 1992.

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**THE [3][KHYBER PAKHTUNKHWA] EDUCATION
FOUNDATION ACT, 1992.**

[4][KHYBER PAKHTUNKHWA] ACT NO. III OF 1992.

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[First published after having received the assent of the Governor of the [5][Khyber Pakhtunkhwa] in the Gazette of [6][Khyber Pakhtunkhwa] (Extraordinary), dated the 16th February, 1992].

AN

ACT

to provide for the establishment of the

[7][Khyber Pakhtunkhwa] Education Foundation.

Preamble. WHEREAS it is expedient to make provisions for the establishment of the [8][Khyber Pakhtunkhwa] Education Foundation to promote and finance the development of education in the private sector in the [9][Khyber Pakhtunkhwa] and matters ancillary, incidental and supplemental thereto;

It is hereby enacted as follows:

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the [10][Khyber Pakhtunkhwa] Education Foundation Act, 1992.
- (2) It extends to the whole of the [11][Province of the Khyber Pakhtunkhwa].
- (3) It shall come into force at once.

Definitions.

2. 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 the Board of Directors of the Foundation constituted under section 4;

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- (b) “Chairman” means the Chairman of the Board;
 - (c) “Director” means a Director of the Board;
 - (d) “Foundation” means the [12][Khyber Pakhtunkhwa] Education Foundation established under section 3;
 - (e) “Fund” means the Fund of the Foundation created under section 15;
 - (f) “Government” means the Government of the [13][Khyber Pakhtunkhwa];
 - (g) “Managing Director” means the Managing Director of the Foundation;
 - (h) “Prescribed” means prescribed by rules made under this Act; and
 - (i) “Section” means a section of this Act.

Establishment of the Foundation. **3.** (1) Government shall, by notification in the official Gazette, establish a Foundation to be known as the “[14][Khyber Pakhtunkhwa] Education Foundation”, hereinafter to be referred as the Foundation.

(2) The Foundation shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The Head Office of the Foundation shall be at Peshawar.

Board of Directors. **4.** (1) As soon as may be, but not later than two months from the date of commencement of this Act, Government shall constitute the Board of Directors consisting of —

- [15] (a) the Chairman, who shall be the [16][Chief Minister] of the [17][Khyber Pakhtunkhwa];
- (b) the Vice-Chairman, who shall be the Minister for Education, [18][Khyber Pakhtunkhwa];
- (c) the Minister for Finance, [19][Khyber Pakhtunkhwa]
- (d) Secretary to Government of [20][Khyber Pakhtunkhwa], Education Department;

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- ²[(dd) Secretary to Government, Planning and Development Department;]
 - (e) a nominee of the Government of Pakistan, Ministry of Education;
 - ³[(f) three nominees of the ⁴[Chief Minister], comprising a male and a female from an educational institution belonging to private sector and one person from a or non-Governmental organization other than an educational institution;]
 - ⁵[(g) the Managing Director, Bank of Khyber;]
 - (h) President, ⁶[Khyber Pakhtunkhwa] Bar Council or his nominee;
 - (i) President, Pakistan Medical Association, ⁷[Khyber Pakhtunkhwa] or his nominee;
 - (j) President, Chamber of Commerce and Industries, ⁸[Khyber Pakhtunkhwa] or his nominee;
 - (k) President, Pakistan Engineering Council or his nominee; ⁹[Deleted]
 - (l) Managing Director appointed under section 6(1), who shall also be the Secretary of the Board ¹⁰[;] ¹¹[and]
 - ¹²[(m) one eminent educationist to be nominated by the ¹³[Chief Minister].]

(2) The term of office of nominated members shall be four years and they shall be eligible for re-appointment on the expiry of their respective term.

(3) The Board may remove a Director on the ground of in-efficiency, un-suitability or misconduct after giving him an opportunity of being heard.

5. (1) The meetings of the Board shall be held at such times and places as may be prescribed, and till such time the rules are made, as may be determined by the Chairman ¹[:]

²[Provided that at least one meeting shall be held after every six month.]

³[(la) Every meeting of the Board shall be presided over by the Chairman, or in his absence, by the Vice- Chairman.]

(2) The quorum necessary for transacting business at a meeting shall be one-third of the total membership of the Board, a fraction being counted as one.

(3) All decisions at a meeting shall be made by majority of votes. In the event of equality of votes, the person presiding at the meeting shall have a second or casting vote.

Manag **6.** The administration and management of the Foundation and its affairs shall vest in the
ement. Board which may exercise all powers and do all acts and things which may be exercised or done by the Foundation.

Managing **7.** (1) The Board shall appoint a Managing Director, who shall be the Chief
Director. Executive of the Foundation.

(2) Subject to sub-section (3), the term of office of the Managing Director shall be four years, but the Board may extend the same from time to time, as it may deem proper.

(3) The Board may remove the Managing Director on grounds of in-efficiently, unsuitability or mis-conduct after giving him an opportunity of being heard.

(4) The Managing Director shall perform such functions as may be prescribed or assigned to him by the Board.

¹Replaced vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

²Added vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

³Added vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

Committee. **8.** The board may constitute such financial, technical, advisory and other committees as may be deemed necessary for carrying out the purposes of this Act.

Appoint-
ment of
Officers,
etc. **9.** The Foundation may employ such officers, advisors, consultants and employees in its service as may be necessary for the efficient performance of its functions in such manner and on such terms and conditions as may be prescribed.

Immunity
of the
Foundation
and its
employees. **10.** (1) Every Director, advisor, officer and employee of the Foundation shall be indemnified by the Foundation against all losses and expenses sustained or incurred through him in the discharge of his duties, save such losses and expenses as are sustained or incurred as a result of his own willful act or default.

(2) The Managing Director shall not be personally responsible for the acts of any other Director, Advisor, officer or employee of the Foundation which he could not have reasonably prevented by due exercise of his powers and functions under this Act and the rules made thereunder or for any loss or expense resulting to the Foundation by reason of in-sufficiency or deficiency in value of, or title to any property or security acquired or taken on behalf of the Foundation by the wrongful act of any person under a liability to the Foundation or anything done by him in good faith in execution of his duties.

Delegation
of Powers. **11.** The Board may delegate any of its powers, duties or functions to any officer or employee of the Foundation.

Business
of the
Board. **12.** (1) Subject to section 5, the meetings and the business of the Board shall be conducted in such manner and in accordance with such procedure as may be prescribed, and until these matters are prescribed, as may be determined by the Board.

(2) No act or proceedings of the Board shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Board.

Functions
of the
Foundation. **13.** (1) The Foundation shall take all such measures as it deems necessary for the promotion, development and financing of education in private sector in line with the education policy of Government.

(2) Without prejudice to the generality of the functions mentioned in sub-section (1), the Foundation shall—

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- (a) establish or cause to be established educational institutions and allied projects;
- (b) give [loan] to an individual or non-government organization for construction of building, purchase of equipments, furniture and educational materials including books, stationery and other such materials, for the establishment of an educational institution;
- (c) give loans from the Fund or assist in getting loans from scheduled banks for the purposes as given in clause (b) above;
- ²(cc) grant scholarships, stipends, fellowship to students on merit-cum-inaffordability basis, both in public and private educational institutions, including those run by autonomous bodies;]
- (d) sell or lease plots provided under Government Housing schemes for educational institutions and assist in getting plots and land from Government, Development Authorities and Housing Agencies controlled by Government;
- (e) subject to such conditions and in such manner as may be prescribed, be responsible for promoting and financing—
- (i) the development of education in all the sectors with priority being given to female education, primary education, education in the rural areas, technical and vocational education;
- (ii) surveys and studies to identify areas of malfunctioning in the educational system and suggesting remedies therefore;
- (iii) educational and innovational programmes particularly relating to achievement of universal literacy, training in skill and trade oriented disciplines, functional literacy particularly in the primary sector, and education of the exceptional, disabled, retarded and problem children;
- (iv) research and field-scale testing of educational approaches, methodologies and technologies;

¹Substituted vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

²Inserted vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

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- (v) activities of educational societies and arrangements of seminars, symposia, workshops and other such activities;
 - (vi) modernization of curricula with emphasis on Islamic, national, economic and industrial aspects;
 - (vii) in special cases, in accordance with the priorities of Education Development Programme of Government, the establishment by the foundation of educational institutions and projects in the educationally deficient areas;
 - (viii) procurement, distribution and development of educational materials and tools;
 - (ix) schemes formulated for training of teachers and other staff; and
 - (x) schemes for improving the quality and standard of education in the privately managed institutions;
- (f) perform such functions as—
- (i) preparing and submitting schemes to Government for the development of educational programmes and projects including schemes for research and modernization of education.
 - (ii) giving effect to approved schemes;
 - (iii) improving Teachers Training Institutions;
 - (iv) encouraging the formation of voluntary associations in furtherance of the purposes of this Act;
 - (v) taking appropriate measures for integration, co-ordination, consolidation and monitoring of privately managed institutions and projects; and
- (vi) preparation and submission to the Board of an annual report upto 30th June of the last year on the status of education in various sectors in the Province and activities of the Foundation by the month of September of the following year; and
- (g) perform such other functions as may be assigned to it by Government.

1[(3) The facility provided under clause (cc) of sub-section (2), shall be distributed equally among male and female students belonging to urban and rural areas. The educational institution concerned shall, in respect of every student to whom facility under the aforesaid provisions has been extended, allow concession in the tuition fee to the extent of twenty per cent of the total fee being charged by such institution.]

Power to impose conditions. **14.** ²[(1) While giving loans under this Act, the Board may impose such conditions or execute such agreements as it may consider necessary or expedient for protecting its interest and securing that the loan is put to such use by the borrower for which it was advanced.]

(2) Any condition imposed under sub-section (1) shall be valid and shall, notwithstanding anything contained in any other law for the time being in force, be enforceable.

(3) Where a borrower, who is under a liability to pay back the loan to the Board, makes any default in repayment or otherwise fails to comply with any of the conditions or terms of agreement so imposed or executed, then notwithstanding anything to the contrary contained, the Board shall be at liberty to forth-with recover the loan as arrears of land revenue.

Education Foundation Fund. **15.** (1) there shall be a Fund to be known as the “Education Foundation Fund” which shall vest in the Foundation and to which shall be credited—

- (a) grants made by Government including the Federal Government;
- (b) income from investments made by the Foundation;
- (c) donations and endowments from local and foreign organizations;
- (d) grants made by the Local bodies; and
- (e) all other sums and incomes received by the Foundation from any other source.

¹Added vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

²Substituted vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

(2) The Fund shall be kept in such custody and shall be utilized and regulated in such manner as may be prescribed by the Board.

¹[**15A. Endowment Fund.**— In addition to the Fund being maintained under section 15, there shall established a separate fund to be known as ‘Endowment Fund’ to which shall be credited grants and donations made by Government including the Federal Government, or any foreign agency or local organization, or by an individual for the specific purpose of grant of scholarships, stipends fellow-ships, etc.to the students under clause (cc) of sub-section (2) of section 13.]

Budget, audit and accounts. **16.** The budget of Foundation shall be approved and its accounts shall be maintained and audited in such manner as may be prescribed.

Rules. **17.** The Board may make rules for carrying out the purposes of this Act.

BY ORDER OF THE SPEAKER,
PROVINCIAL ASSEMBLY OF
²[KHYBER PAKHTUNKHWA]

1. Inserted vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002

2. Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011

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- [14]Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- [15]Substituted vide Khyber Pakhtunkhwa Ordinance No. XLI of 2002
- [16]Substituted vide Khyber Pakhtunkhwa Act No. XII of 2005
- [17]Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- [18]Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- [19]Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- [20]Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- 2Inserted vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002
- 3Substituted vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002
- 4Substituted vide Khyber Pakhtunkhwa Act No. XII of 2005
- 5Substituted vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002
- 6Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- 7Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- 8Substituted vide Khyber Pakhtunkhwa Act No. IV of 2011
- 9Deleted vide Khyber Pakhtunkhwa Act No.IV of 2011
- 10Replaced vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002
- 11Added vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002
- 12Added vide Khyber Pakhtunkhwa Ordinance No.XLI of 2002
- 13Substituted vide Khyber Pakhtunkhwa Act No.XII of 2005