

**A  
Bill**

*further to amend the Khyber Pakhtunkhwa Universities Act, 2012.*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Universities Act, 2012 (Khyber Pakhtunkhwa Act No. X of 2012), for the purposes hereinafter appearing;

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

**1. Short title and commencement.**---(1) This Act may be called the Khyber Pakhtunkhwa Universities (Amendment) Act, 2024.

(2) It shall come into force at once.

**2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. X of 2012.**---In the Khyber Pakhtunkhwa Universities Act, 2012 (Khyber Pakhtunkhwa Act No. X of 2012), hereinafter referred to as the said Act, in section 2, after clause (v), the following new clause shall be inserted, namely:

“(v-i) “student” means any person enrolled in the University or its constituent college or constituent institution as a learner for any academic degree, certificate, diploma or any other programme and includes students of affiliated colleges or affiliated institutions, private students and students of distant education duly registered in the University.”.

**3. Deletion of section 5A of the Khyber Pakhtunkhwa Act No. X of 2012.**---In the said Act, section 5A shall be deleted.

**4. Amendment of section 9 of the Khyber Pakhtunkhwa Act No. X of 2012.**---In the said Act, in section 9,-

(a) “in sub-section (1), for the word "Governor", the words “Chief Minister” shall be substituted; and

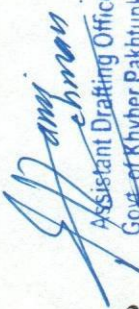
(b) sub-section (7) shall be deleted.”.

**5. Amendment of section 11 of the Khyber Pakhtunkhwa Act No. X of 2012.**--- In the said Act, in section 11, in sub-section (2), after the words “those mentioned in”, the words, brackets and letters “clauses (a), (b) and (c) of”, shall be inserted.

**6. Amendment of section 12 of the Khyber Pakhtunkhwa Act No. X of 2012.**--- In the said Act, in section 12,-

(a) for sub-section (1), the following shall be substituted, namely:

“(1) The Vice-Chancellor shall be appointed by the Chancellor, from a panel of three candidates, recommended by the Academic Search Committee:

  
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Provided that the panel shall be in alphabetic order without any preference.”; and

(b) in sub-section (2),-

(i) the words “on the advice of Government” shall be deleted;

(ii) for clauses (a) and (b), the following shall respectively be substituted, namely:

“(a) an academican of national/international level with at least fifty (50) publications in Commission’s recognized journals and ten (10) years of administrative experience, who shall be the Chairman and convener of the Academic Search Committee;

(b) two of the most eminent educationists of Pakistan with minimum thirty (30) research papers in Commission’s recognized journals, having academic and administrative experience as Chairman, Dean or Vice Chancellor etc.”; and

(iii) in clause (c), the words “of the Province of the Khyber Pakhtunkhwa” shall be deleted; and

(iv) for clause (e), the following shall be substituted, namely:

“(e) two persons from society at large being persons of eminence on recommendation of the Higher Education Department.”; and

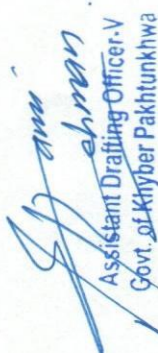
(c) for sub-section (6), the following shall be substituted, namely:

“(6) The Vice-Chancellor shall be appointed by the Chancellor for a maximum period of four years as per salary package determined by Government.”;

(d) after sub-section (6), as so substituted, the following new sub-sections shall be inserted, namely:

“(6A) The Vice-Chancellor shall, three months before completion of two years of his four years tenure, submit his performance report against the key performance indicators set by Government, to the Higher Education Department for evaluation by the Committee constituted by Government.

(6B) If the performance of the Vice Chancellor, under sub-section (6A), is satisfactory against the key

  
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performance indicators, he may be allowed by the Chancellor to complete his remaining tenure:

Provided that in case, the performance of a Vice-Chancellor is below sixty five percent (65%), the Chancellor may terminate his tenure on completion of second year.”.

**7. Amendment of section 12A of the Khyber Pakhtunkhwa Act No. X of 2012.**---In the said Act, in section 12A, for sub-section (1), the following shall be substituted, namely:

“(1) There shall be a Pro-Vice-Chancellor of a University, to be appointed by the Chancellor from amongst the three senior most Professors, for a period of three (03) years, to act as officiating Vice-Chancellor or Acting Vice-Chancellor, as the case may be, in accordance with this section:

Provided that, the Professor, who is serving or has been served as a Dean, shall be eligible for appointment as Pro-Vice-Chancellor:

Provided further that, if the number of Professors in a University is less than three, the Pro-Vice-Chancellor shall be appointed from amongst the available Professors:

Provided also that, in case of non-availability of Professor, the Higher Education Department may assign the charge of the Vice-Chancellor of the University to the Vice-Chancellor of any other public sector University of the Province.”.

**8. Substitution of section 13 of the Khyber Pakhtunkhwa Act No. X of 2012.** ---In the said Act, for section 13, the following shall be substituted, namely:

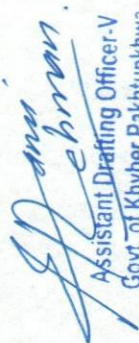
**“13. Registrar.**---(1)There shall be a Registrar of the University, who shall be the administrative head of the University.

(2) The Registrar shall be posted by the Chancellor from amongst the administrative officer of the University. In case of non-availability of suitable administrative officer within the University, the Chancellor may post suitable civil servant of the Administrative Cadre as Registrar:

Provided that the Registrar shall not be posted for a period of more than three years.

(3) The Registrar shall,-

- (a) act as Secretary of the Senate, Syndicate, Academic Council, Selection Board and such other authorities, bodies and committees as may be prescribed by or under this Act;
- (b) subject to the decision of authorities, shall have the power to enter into agreements, sign documents and authenticate records on behalf of the University;

  
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- (c) be the custodian of records, the common seal and such other property of the University as the Syndicate may assign to his charge;
- (d) conduct elections to various authorities in a manner as may be prescribed by Statutes;
- (e) to prepare and update the Handbook of Statutes, Regulations and Rules approved by authorities, bodies or committees from time to time, and make them available to public, all respective members of the authorities and officers of the University.”.

**9. Amendment of section 14 of the Khyber Pakhtunkhwa Act No. X of 2012.** ---In the said Act, in section 14, sub-section (4) shall be deleted.

**10. Amendment of section 15 of the Khyber Pakhtunkhwa Act No. X of 2012.** ---In the said Act, in section 15, sub-section (3) shall be deleted.

**11. Amendment of section 16 of the Khyber Pakhtunkhwa Act No. X of 2012.** ---In the said Act, in section 16, sub-section (3) shall be deleted.

**12. Insertion of new section 16A in the Khyber Pakhtunkhwa Act No. X of 2012.**--- In the said Act, after section 16, as so amended, the following new section shall be inserted, namely:

**“16A. Pre-audit by the Government Auditor.**---(1)There shall be a Government Auditor to supervise and verify pre-audit carried out by the Auditor under section 16 of this Act.

(2) The Government Auditor shall be posted by transfer by the Finance Department of Government.

(3) The Government Auditor shall be responsible to report, functionally to the Vice-Chancellor and administratively to the Finance Department of Government.”.

**13. Amendment of section 19 of the Khyber Pakhtunkhwa Act No. X of 2012.** ---In the said Act, in section 19, in sub-section (1), in clause (h), the semi colon, appearing at the end, shall be replaced with colon and thereafter the following proviso shall be inserted, namely:

“Provided that if the Additional Secretary is not available, the Secretary may nominate an officer not below the rank of Deputy Secretary;”.

**14. Amendment of section 22 of the Khyber Pakhtunkhwa Act No. X of 2012.** ---In the said Act, in section 22,-

(a) in sub-section (1),-

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

“(c) one senior most Dean of the University;

(ii) in clauses (d), (f) and (g), the semi colon, appearing at the end, shall be replaced with colon and thereafter the following proviso shall respectively be inserted, namely:

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“Provided that if the Additional Secretary is not available, the Secretary may nominate an officer not below the rank of Deputy Secretary;”.

- (iii) for clause (h), the following shall be substituted, namely:

“(h) Director Higher Education or his nominee not below the rank of BPS-19”;

- (iv) after clause (h), as so substituted, the following new clause shall be inserted, namely:

“(h-i) one Principal of the affiliated colleges, to be nominated by the Higher Education Department, for a period of three years;”;

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

“(i) one Professor or Associate Professor of the University, to be elected by the teachers of their respective cadres in the manner as may be prescribed by Statutes;”;

- (vi) after clause (i), as so substituted, the following new clause shall be inserted, namely:

“(i-i) one Assistant Professor or Lecturer of the University to be elected by the teachers of their respective cadres in the manner as may be prescribed by Statutes;”;

- (vii) clauses (j) and (p) shall be deleted; and

- (b) after sub-section (4), the following new sub-section shall be added, namely:

“(5) Any decision, taken by the majority of votes, shall be ratified by the Senate prior to its implementation.”.

**15. Amendment of section 31 of the Khyber Pakhtunkhwa Act No. X of 2012.**---In the said Act, in section 31, after sub-section (2), the following new sub-section shall be added, namely:

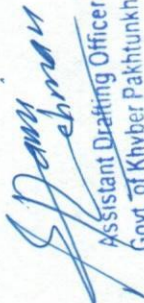
“(3) Without prejudice to sub-sections (1) and (2), Government may make rules, in matters where decision making power rests with Government under this Act.”.

**16. Amendment of Schedule-II of the Khyber Pakhtunkhwa Act No. X of 2012.**--- In the said Act, in **Schedule-II**,-


- (1) in PART ‘A’, in Serial No. 2, under the heading “Essential Qualification and Experience”,-

- (a) in clause (a),-

- (i) in sub-clause (iv), the word “and”; shall be deleted;

  
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- (ii) in sub-clause (v), the fullstop appearing at the end shall be replaced by the semi colon and the word “and” and thereafter the following new sub-clauses shall be added, namely:
    - “(vi) for a University of Veterinary and Animal Sciences, PhD in the field of Veterinary and Animal Sciences; and
    - (vii) for Women Universities, only female candidates shall be considered;”;
  - (b) for clauses (c) and (d), the following shall respectively be substituted, namely:
    - “(c) thirty (30) research papers in Commission’s recognized Journals with at least ten (10) as Principal author;
    - (d) at least five (05) years of administrative experience in the field of Higher Education;”;
  - (c) for clause (f), the following shall be substituted, namely:
    - “(f) execution of at least one major research project worth at least Rupees one million as Principal Investigator;”;
  - (d) after clause (i), the following new clause shall be added, namely:
    - “(j) upper age limit shall be sixty two (62) years at the time of submission of application;”;
- (2) in PART ‘B’, after Serial No. 3, the following new Serial No. shall be added, namely:
- “3B. The minimum Desirable Qualification of six (06) months Post Doctoral research experience shall be preferred.”; and
- (3) in PART ‘D’, in Serial No. 5,-
- (i) for clauses (b) and (c), the following shall respectively be substituted, namely:
    - “(b) the eligible candidates shall provide resume and curriculum-vitae to the Academic Search Committee. The Academic Search Committee shall shortlist the eligible candidates on the basis of criteria devised by the Academic Search Committee;
    - (c) the Academic Search Committee after interviewing the shortlisted candidates shall recommend a panel of three suitable



candidates in terms of sub-section (1) of section 12 of the Act, to the Chancellor for appointment of the Vice-Chancellor; ”; and

- (ii) after clause (c), as so substituted, the following new clause, shall be added, namely:

“(d) the Higher Education Department shall, by a notification, constitute a Scrutiny Committee to scrutinize the applications. In case of ineligibility, the grounds shall be communicated in writing to the applicant:

Provided that the applicant may prefer an appeal against the decision of the Scrutiny Committee to the Secretary of the Academic Search Committee within a period of seven (07) days, after communication of the said decision. The Secretary of the Academic Search Committee shall decide the appeal in fourteen (14) days:


Provided further that decision of the Secretary of the Academic Search Committee in all such cases shall be final.”.

### **STATEMENT OF OBJECTS AND REASONS.**

The Higher Education Department in Khyber Pakhtunkhwa faces a number of institutional issues and challenges potentially inhibiting the smooth functioning of the Department as well as the different public sector universities in the Province. This state of affairs run counter to the best interest of the higher education which is the backbone of national development.

One of the prime issues being faced by the Province in the field of higher education is the dichotomy powers between the Provincial Government and Governor. Under the existing provisions of the Khyber Pakhtunkhwa Universities Act, 2012, the Governor is the ex-officio Chancellor of all Public Sector Universities. Similarly streamlining the appointment process of the Registrar, being a key position in the University, and to ensure that it does not remain vacant in any circumstance, is yet another potential issue. Currently in many public sector universities the slot of Registrar usually remains vacant due to non-availability of suitable persons.

In order to better state the problem of dichotomy of power in some detail it is mandatory to highlight the relation of a Governor to a Province in administrative and political spheres. In a political system where parliamentary form of Government in vogue, the President or the Governor are usually figureheads or just ceremonial heads of the state or a federating unit, with no real power bestowed upon them under the Constitution except those formal, honorary or ceremonial functions which are assigned to these offices by the Constitution or in any other law or instrument, etc. The real powers of running

  
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the affairs of Government in a parliamentary system are enjoyed by the Prime Minister at national level and the Chief Minister at provincial or regional level where the constitution envisages a federal system.

The President and the Governors are nominal heads of the State and Provinces respectively with no real power. All governmental powers are granted to the Prime Minister and the Chief Minister who are the elected representatives of the people. The Governor under the present Constitutional Scheme is a ceremonial head of the Province and the Constitution does not grant him any substantial role in the affairs of the Province except the routine gubernatorial duties attached to the office of the Governor. The Chief Minister on the other hand is the fountain of all governmental and political powers and authority being an elected representative of the people.

It is pertinent to mention that education is one of the core functions of the Government, which the Provincial Government is responsible to administer and make appropriate budgetary allocations. Being a core functions of the Provincial Government, it appears very logical and prudent that the Chief Minister in the capacity of Chief Executive of the Province should have an active role in the affairs of the Public Sector Universities and to be designated as Chancellor of the universities in the Province.

Further added that in many of the Public Sector Universities the slot of Registrar remains vacant due to non-availability of suitable person. In order to overcome this issue an arrangement may be put in place where a Government officer may be posted to act as Registrar, while leaving the option open as well to appoint the Registrar from open market as per the given criteria. This will not only resolve the problem of the office of Registrar becoming vacant but also ensure efficiency and smooth administration of the universities.

The procedure of the appointment of the Vice-Chancellor is also required to amend and to proposed a penal for the appointment of Vice-Chancellor in alphabetic order for the approval of Chancellor.

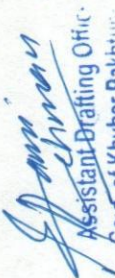
Sequel to the main changes being made in the Act, to cater for the above mentioned issues, a number of other consequential amendments are also necessitated in the Act, so as to ensure that the purpose the proposed scheme of amendment is achieved to the full. Hence, this Bill.

Peshawar,  
dated the

29 / 11 / 2024

  
MINISTER-IN-CHARGE

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