



KHYBER PAKHTUNKHWA

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PROVINCIAL ASSEMBLY SECRETARIAT KHYBER PAKHTUNKHWA.

NOTIFICATION

Dated Peshawar, the 3rd July, 2015.

No. PA/Khyber Pakhtunkhwa/Bills/2015/225 The Khyber Pakhtunkhwa Lissail-e-Wal Mahroom Foundation Bill, 2015 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 23rd June, 2015 and assented to by the Governor of the Khyber Pakhtunkhwa on 30th June, 2015 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA LISSAAIL-E-WAL MAHROOM FOUNDATION ACT, 2015

(KHYBER PAKHTUNKHWA ACT NO. XXVI OF 2015)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa. (Extraordinary), dated the 03/07/2015)

AN
ACT

to provide for the establishment of the Khyber Pakhtunkhwa Lissail-e-Wal Mahroom Foundation in the Province of the Khyber Pakhtunkhwa.

Preamble----WHEREAS, it is expedient to provide for the establishment of a Foundation for the welfare of the indigent and dispossessed persons including Widows and Persons with Disabilities in the Province of the Khyber Pakhtunkhwa, through financial assistance for health, education, trainings, tools, equipments, shelters, enterprises etc in line with the spirit of well-being of the people as envisaged in the Constitution of the Islamic Republic of Pakistan;

It is hereby enacted as follows:

1. Short title, extent and commencement---(1) This Act may be called the Khyber Pakhtunkhwa Lissail-e-Wal Mahroom Foundation Act, 2015.

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

(3) It shall come into force at once.

2. Definitions.---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 constituted under section 5 of this Act;
- (b) **"Chairperson"** means Chairperson of the Board;
- (c) **"Conditional grant"** means a grant, donation or contribution, made for specific objective or activity of the Foundation;
- (d) **"Foundation"** means the Foundation established under section 3 of this Act;
- (e) **"Government"** means the Government of Khyber Pakhtunkhwa;
- (f) **"indigent and dispossessed persons"** mean persons who are deserving for khairat, sadqat or any assistance for food, shelter, health, training, small business, education and permanent rehabilitation etc. and includes-
 - (i) persons with disabilities; and
 - (ii) widows, who cannot meet their requirements for food, shelter, health, training, small business, education and permanent rehabilitation as the case may be;
- (g) **"Managing Director"** means Managing Director of the Foundation;
- (h) **"member"** means a member of the Board including the Chairperson;
- (i) **"persons with disabilities"** mean and include persons with disabilities, declared as such by authorized medical board including persons who are permanently incapacitated due to their un-rehabilitated or irrecoverable disability or vulnerably, aged persons who are not capable to do any work or job whatsoever and cannot earn to afford basic needs of their own and their minor dependents;

- (j) **"prescribed"** means prescribed by rules or regulations;
- (k) **"Province"** means the Province of the Khyber Pakhtunkhwa;
- (l) **"regulations"** mean regulations made under this Act;
- (m) **"repealed Act"** means the Khyber Pakhtunkhwa Deserving Widows and Special Persons Welfare Foundation Act, 2014 (Khyber Pakhtunkhwa Act No. VI of 2014) as repealed under section 27 of this Act;
- (n) **"rules"** mean rules made under this Act; and
- (o) **"unconditional grant"** means a grant other than conditional grant.

3. Establishment of the Foundation.---(1) As soon as may be, after the commencement of this Act, Government shall establish a Foundation to be known as the Khyber Pakhtunkhwa Lissail-e-Wal Mahroom Foundation, which, in Urdu may be named as "IDARA BARAI FALAH-E-NADARAN, KHYBER PAKHTUNKHWA".

(2) The Foundation shall be a body corporate having perpetual succession, and a common seal with the power subject to the provision of this Act, to enter into contract, acquire, hold and dispose of property, both movable and immovable in its name and shall by the said name can sue and be sued.

(3) The head office of the Foundation shall be at Peshawar.

(4) The Foundation may establish its offices at divisional or district level or at such other places within the Province as may be deemed necessary.

4. Objectives of the Foundation.---The following shall be objectives of the Foundation:

- (a) enhance the availability of specified facilities to the indigent and dispossessed persons in health, education and social welfare sectors;
- (b) further synergize the welfare activities of the charity organizations and evolve a partnership with more private charities;
- (c) protect the indigent and dispossessed persons by facilitating the provision of health care, education, skill development and entrepreneurship; and
- (d) encourage and support philanthropist individuals and institutions to improve their activities and interventions.

5. Constitution of the Board.---(1) The Board constituted under section 4 of the repealed Act shall continue their functions under this Act, till the expiration of the tenure of the existing Chairperson and members of the Board under the repealed Act:

Provided that on commencement of this Act the member at clause (c) of sub-section (1) of section 4 of the repealed Act shall be replaced by Secretary to Government Establishment Department:

Provided further that the Secretary of the Board appointed under the repealed Act shall be re-designated as a Managing Director to be re-appointed under this Act.

(2) After the expiration of the tenure of the Chairperson and members of the Board constituted under the repealed Act, the Board shall be reconstituted under this Act which shall consist of a Chairperson and the following members:

- (a) Chairman, Provincial Zakat Council; Member
- (b) Chairperson, Provincial Commission on the Status of Women; Member
- (c) Secretary to Government of the Khyber Pakhtunkhwa, Establishment Department; Member
- (d) Secretary to Government of the Khyber Pakhtunkhwa, Finance Department; Member
- (e) Secretary to Government of the Khyber Pakhtunkhwa, Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department; Member
- (f) eight persons to be appointed by Government for a period of three years on the recommendation of the Search Committee from the panel of known philanthropists; Member
- (g) three representatives or executive heads of well-reputed welfare organizations to be appointed by Government for a period of three years on the recommendation of the Search Committee from the panel of representative of such organizations; and Member

(h) Managing Director of the Foundation.

Secretary

6. Appointment, disqualification and removal of Chairperson and member of the Board.---(1) The Chairperson shall be appointed by Government on the recommendations of Search Committee on such terms and conditions and with such qualifications as Government may determine.

(2) The Search Committee for the recommendation of Chairperson and members at clauses (f) and (g) of sub-section (2) of section 5 shall be constituted and notified by Government in the prescribed manner.

(3) The Chairperson shall hold office for a term of three years and shall be eligible for reappointment for another such term as Government may deem fit.

(4) The Chairperson or any members at clauses (f) and (g) of sub-section (2) of section 5 may resign from his office by writing under his hand addressed to Government.

(5) Subject to sub-section (5), the Chairperson or a member at clauses (f) and (g) of sub-section (2) of section 5 as the case may be, shall continue to hold office until his resignation is accepted by Government.

(6) The Chairpersons and members at clauses (f) and (g) of sub-section (2) of section 5 shall not be appointed if he-

- (a) has, at any time been convicted of an offence involving moral turpitude; or
- (b) has been adjudicated as insolvent by a competent court; or
- (c) is of unsound mind and has been so declared by a competent court; or
- (d) is a minor; or
- (e) has been disqualified for an employment in, or dismissed from service of, any Provincial or Federal Government, or any organization controlled by such government; or
- (f) has been dismissed from service of any organization in the private sector on account of fraud or theft.

(7) Government may remove the Chairperson or member, at clauses (f) and (g) of sub-section (2) of section 5 on the grounds of inefficiency or misconduct after giving him an opportunity of being heard.

Explanation.---The expression "misconduct" means bribery, corruption, jobbery, favoritism, nepotism, willful mal-administration or willful diversion of funds and shall include an attempt or abetment of such misconduct.

(8) The Chairperson or member, at clauses (f) and (g) of sub-section (2) of section 5 may also be removed by Government if he or she fails to attend three consecutive meetings without any cogent reason.

(9) Any vacancy caused due to death, resignation or removal of the Chairperson or member, at clauses (f) and (g) of sub-section (2) of section 5 shall be filled in by Government through nomination of another person qualified as Chairperson or member, as the case may be, and such appointee shall hold office for the unexpired term of his predecessor.

7. Meetings of the Board.---(1) A meeting of the Board shall be convened by the Chairperson on such date and at such place, as he may deem appropriate.

(2) The Board shall meet at least once in three months.

(3) Meeting of the Board shall be presided over by the Chairperson, or in his absence, a member to be nominated by the Chairperson.

(4) Quorum for the meeting shall be one-third of the total membership of the Board.

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

8. Powers and functions of the Board.---(1) Subject to the provisions of this Act and rules, the Board shall exercise such powers and perform such functions, as may be necessary, to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing sub-section, the Board shall-

- (a) lay down the policy, guidelines and issue directions for efficient and effective performance of the Foundation and achievement of its objectives;
- (b) maintain general supervision over the affairs of the Foundation;
- (c) create the posts and approve terms and conditions of the service of the employees, officers, consultants and advisors of the Foundation;

- (d) approve the budget of the Foundation with allocations for different programs;
- (e) examine and approve the procedure for scrutiny of applications from and disbursement of funds to the indigent and dispossessed persons;
- (f) lay down the criteria for the mode of assistance;
- (g) enable the indigent and dispossessed persons to play their due role in the national development;
- (h) mobilize and motivate the general public for all kinds of contributions for the well-being of the indigent and dispossessed persons;
- (i) generate resources for the well-being of indigent and dispossessed persons;
- (j) introduce innovative programs related to skill oriented disciplines for the indigent and dispossessed persons; and
- (k) perform such other functions as may be assigned by government for carrying out the purposes of this Act.

9. **Committees.**—The Board may constitute executive, financial, technical, assessment, monitoring and other committees as it may deem necessary and such Committees shall exercise such powers and functions as may be assigned to it by the Board.

10. **Delegation of powers.**—The Board may by general or special order, delegate to the Managing Director, or any officer of the Foundation, any of its powers or functions under this Act subject to such conditions as it may deem fit.

11. **Managing Director of the Foundation.**—(1) There shall be a Managing Director of the Foundation, who shall be appointed by Government on such terms and conditions, as may be prescribed by rules:

Provided that, till framing of the rules, Government may appoint an officer of Government not below the rank of Additional Secretary as Managing Director of the Foundation for a period of six months.

(2) The Managing Director shall be the Chief Executive Officer of the Foundation and shall exercise such powers and perform such functions, as may be prescribed by Board.

12. Appointment of employees, etc.—The Foundation may appoint officers, advisors, consultants and other employees in service of Foundation, for the efficient administration of Foundation, in such manners and on such terms and conditions, as may be prescribed.

13. Public servants.—All employees of the Foundation shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

14. Assistance to the Foundation.—For the purpose of collection or verification of data regarding indigent and dispossessed persons as well as disbursement or monitoring of financial or any other assistance to the indigent and dispossessed persons, all the public and private sector organizations and authorities in the Province shall assist the Foundation for the performance of its functions under this Act.

15. Endowment Fund.—(1) There shall be a Fund to be known as the Khyber Pakhtunkhwa Lissail-e-Wal Mahroom Foundation Endowment Fund, which shall consist of grants, contributions, donations, trusts and bequests by-

- (a) Federal Government;
- (b) Government;
- (c) International and local donor agencies;
- (d) conditional grant;
- (e) fifty percent (50%) of the annual income from investment of endowment fund;
- (f) ten (10%) of unconditional grant; and
- (g) others.

(2) The Endowment Fund shall be used only for the welfare of the indigent and dispossessed persons.

16. General Fund.—(1) There shall be a General Fund, which is used for the administrative expenditure of the Foundation and welfare operations for the indigent and dispossessed persons, which shall consist of the following-

- (a) Federal Government;
- (b) Government;

- (c) international and local donor agencies;
- (d) ninety percent (90%) of unconditional grant;
- (e) fifty percent (50%) of the annual income from investment of endowment fund; and
- (f) others.

(2) The General Fund shall be used in the manner as may be prescribed by the Board.

17. Budget of the Foundation.---The Managing Director shall, in respect of each financial year, prepare and place before the Board for approval, the budget of the Foundation. The budget shall comprise of-

- (a) a Regular Budget, representing the expenditure to be incurred on administration and organization of the Foundation which shall include salaries of officers, staff and other expenditure of the Foundation;
- (b) a Program Budget, representing the disbursements planned to be made on various programs and activities for the welfare of indigent and dispossessed persons in, the achievement of objectives of the Foundation; and
- (c) a Receipts Budget, indicating the probable sources from where the funds shall be pooled to meet the Regular Budget and the Program Budget.

18. Bank accounts.---(1) Both Funds shall be kept in a Scheduled Bank and shall be operated in the manner as may be prescribed.

(2) The bank account shall be operated jointly by the Managing Director and any other officer of the Foundation as authorized by the Board.

(3) The Board may, so far as its money is not required for immediate expenses, invest the surplus money in such manner as may be prescribed.

19. Audit and accounts.---(1) The accounts of the Foundation shall be maintained in such form and in such manner as may be prescribed.

(2) Accounts of the Foundation shall be audited by the Auditor General of Pakistan.

20. Annual financial statement.---(1)The Managing Director shall prepare Annual financial statements of the Foundation within thirty days of closing of the respective financial year and submit these Statements along with audit report there upon to the Board within ninety days of the close of financial year.

(2) A copy of the audited financial statements along with audit report shall be sent to Secretary to Government, Finance Department, through the Secretary to Government, Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department.

21. Annual report of the Foundation.---The Board shall prepare an annual report of the Foundation which shall be submitted to Secretary to Government, Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department for laying before the Provincial Assembly.

22. Merger of the development project "Tanzeem Lissaaile-Wal Mahroom" in the Foundation.---(1) On coming into force of this Act, the ongoing development project "Tanzeem Lissaaile-Wal Mahroom" (hereinafter referred to as "project") shall be made a part of the Foundation and all its assets and liabilities shall stand transferred to the Foundation and its administrative and financial responsibilities shall be undertaken by the Board in the prescribed manner.

(2) Notwithstanding anything contained in any other law or rule for the time-being in force, in order to provide a skeleton to the Foundation with desired skills set, experience and ongoing welfare programs for the indigent and dispossessed persons, all posts, with their designation up to BPS-19 of the project shall be deemed as to have been created for the Foundation.

(3) Notwithstanding anything contained in any law or rules, employees except civil servants on deputation to the project, who are holding various posts in the project till the commencement of this Act, shall be deemed to have been validly appointed to these posts on regular basis on the commencement of this Act, having the same qualification and experience for the said posts:

Provided that the seniority of the employees of the project shall be determined by the Board as may be prescribed by regulations;

(4) Any contract or MOU signed with any public or private organization or financial assistance or procedure approved for indigent and dispossessed persons under the project, shall, subject to availability of funds, be deemed to have been signed or approved by the Foundation established under this Act, until cancelled, withdrawn, amended or altered by the Board.

23. Indemnity.---No suit, prosecution or other legal proceedings shall lie against the members, Managing Director, officers, experts or consultants or any other employee of the Board in respect of anything done or intended to be done in good faith, in exercise of powers and performance of functions under this Act.

24. Application of other laws not barred.---The provisions of this Act shall be in addition to, and not in derogation of any other law for the time being in force.

25. Power to make rules.---Subject to the provisions of this Act, Government may, by notification in the official Gazette, make rules for carrying out the purpose of this Act.

26. Power to make regulations.---Subject to the provisions of this Act and the rules, made there-under, the Board may make regulations, as may be necessary, for carrying out the purposes of this Act.

27. Removal of difficulties.---If any difficulty arises in giving effect to any provision of this Act, Government may, in consultation with the Board, issue orders, not inconsistent with the provisions of this Act, or the rules made there-under, for the removal of the difficulty upto one year.

28. Repeal, and savings.---(1) The Khyber Pakhtunkhwa Deserving Widows and Special Persons Welfare Foundation Act, 2014 (Khyber Pakhtunkhwa Act No. VI of 2014) is hereby repealed.

(2) All assets and liabilities of the Foundation established under the repealed Act, shall stand transferred to the Foundation.

(3) Notwithstanding the aforesaid repeal, anything done, action taken, rules made, and notification or order issued under the repealed Act, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued, under this Act, and shall have effect accordingly.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa