

AN
ACT

further to amend the Khyber Pakhtunkhwa Sarhad Development Authority Act, 1972 and the Khyber Pakhtunkhwa Small Industries Development Board 1972.

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Sarhad Development Authority Act, 1972 (Khyber Pakhtunkhwa Act No. XI of 1973), the Khyber Pakhtunkhwa Small Industries Development Board Act, 1972 (Khyber Pakhtunkhwa Act No. II of 1972) and to repeal the Khyber Pakhtunkhwa Investment Facilitation Agency Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No. XXXVI of 2002), for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. Short title and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa (Amendment of Laws) Act, 2015.

(2) It shall come into force at once.

2. Amendment of certain laws.---The laws specified in column 3 of the Schedule appended to this Act shall be amended to the extent and in the manner specified against each in column 4 of the said Schedule.

SCHEDULE
(See section 2)

S. No.	Number and year of the enactment.	Short title.	Amendments.
1.	2.	3.	4.
1.	Khyber Pakhtunkhwa Act No. XI of 1973.	The Khyber Pakhtunkhwa Sarhad Development Authority Act, 1972.	<p>1. In section 2, for clause (d), the following shall be substituted, namely:</p> <p>“(d) “Director” means a Director of the Board;”.</p> <p>2. In section 5, in clause (3), after the words “remove the Directors”, the words and comma “remove the Directors, except Ex-officio Directors” shall be inserted.</p> <p>3. For section 6, the following shall be substituted, namely:</p> <p>“6. Constitution of the Board of Directors.---(1) Government shall by notification in the official Gazette, constitute a Board of Directors, which shall consist of a Chairman and the following Directors:</p> <p>(a) Secretary to Government, Planning and Development Department, Industries, Commerce and Ex-officio Directors</p>

			<p>Technical Education Department and Finance Department;</p> <p>(b) one Industrialist from Small Industries to be nominated by Government; Director</p> <p>(c) three Industrialist from large and medium scale industries representing various industrial estates of the Province to be nominated by Government; Directors</p> <p>(d) one Director of the Khyber Pakhtunkhwa Board of Investment and Trade to be nominated by the said Board; Director</p> <p>(e) Managing Director of the Small Industries Development Board; and Director</p> <p>(f) Managing Director of the Sarhad Development Authority. Director-cum-Secretary</p> <p>(2) Secretary to Government, Industries, Commerce and Technical Education Department shall be the Executive Director of the Board and preside over its meeting in the absence of Chairman and perform such functions as assigned by the Board.</p> <p>(3) Except the Ex-officio Directors, no person shall be nominated or shall continue to be Director including Chairman, unless he-</p> <p>(a) has atleast ten years experience of running industry;</p> <p>(b) is not less than forty years of age;</p> <p>(c) is not defaulter of any bank, government or semi-government organization; and</p> <p>(d) is tax payer for atleast five years and has not defaulted on any taxes, duty or charge levied under any federal or provincial laws for the time being in vogue and shall</p>
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			<p>also not be defaulter of any financial institution or bank.</p> <p>(4) Each Director shall,-</p> <p>(a) be a whole time or part time officer of the Authority;</p> <p>(b) perform such duties as the Board may by regulations assign to him;</p> <p>(c) divest himself of any directorship or other interest held by him in any other corporation, company or concern other than public companies sponsored by the Authority, under sub-section (5) of section 17 before assuming office as whole time Director;</p> <p>(d) subject to the provisions of section 9, hold office for a term of three years and may be re-nominated thereafter for a further term or terms of such duration as Government may determine; and</p> <p>(e) except Ex-officio Directors, receive such salary and allowances as Government may determine:</p> <p>Provided that Government may, in exceptional circumstances where it considers necessary to do so in the public interest, exempt, by a special order, any person, who has been appointed or is about to be appointed a Director, from the application of clause (c).”.</p> <p>2. For section (7), the following shall be substituted, namely:</p> <p>“7. Chairman and Directors.---(1) The Chairman and Directors other than Ex-Officio Directors shall be appointed on the recommendation of Search and Scrutiny Committee comprising the following:</p> <p>(a) Minister for Industries; Chairman</p> <p>(b) Chairman Khyber Pakhtunkhwa Member Board of Investment and Trade; and</p> <p>(c) Secretary to Government, Member Industries, Commerce and Technical Education Department.</p>
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			<p>(2) The Chairman and Directors except Ex-officio Directors shall be appointed for a term of three (03) years and shall be re-appointed for a further period of such term.</p> <p>(3) Whenever the office of the Chairman is vacant due to completion of tenure, the incumbent Chairman shall remain in his office until his successor in that office is appointed as Chairman.</p> <p>3. Section 8 shall be deleted.</p> <p>4. In section 9,-</p> <p>(a) for the short title occurring before sub-section (1), the following shall be substituted, namely:</p> <p>“Disqualifications of Directors and Chairman”;</p> <p>(b) in sub-section (1), before clause (a), after the words “a Director”, the words “the Chairman or a Director except Ex-officio Director” shall be substituted;</p> <p>(c) in sub-section (2), before clause (a), after the word “Director”, the words “except Ex-officio Director” shall be inserted; and</p> <p>(d) in sub-section (3), after the word “Director”, the words “except an Ex-officio Director” shall be inserted;.</p> <p>5. After section 9, the following new section shall be inserted, namely:</p> <p>“9A. Appointment of Managing Director.---</p> <p>(1) Managing Director of the Authority shall be posted by Government from amongst the civil servants, who shall work under the general supervision and control of the Board.</p> <p>(2) The Managing Director shall be responsible for all administrative functions of the Authority.</p> <p>(3) The Managing Director shall perform such functions as may be prescribed or assigned to him by the Board and shall act as the Principal Accounting officer of the Authority.</p> <p>(4) The Managing Director, while acting as Secretary to the Board, shall be responsible for-</p> <p>(a) convening meetings of the Board;</p>
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			<p>(b) the preparation of the agenda, working paper and its distribution among the members of the Board;</p> <p>(c) recording the minutes of each meeting of the Board and its prompt dispatch to the concerned quarters;</p> <p>(d) proper follow-up of all matters connected with or arising out of a meeting of the Board; and</p> <p>(e) monitoring and evaluation of the progress of projects approved by the Board.</p> <p>(5) The tenure of office of the Managing Director shall be as such as may be determined by Government.”.</p> <p>6. In section 14, for sub-section (2), the following shall be substituted, namely:</p> <p>“(2) The quorum necessary for transacting business at a meeting of the Board shall be seven in which the presence of Ex-officio Directors should be mandatory.”.</p> <p>7. For section 16, the following shall be substituted, namely:</p> <p>“16. Delegation or powers.---The Authority may by general or special orders in writing, delegate all or any of its power to Chairman, Director or any officer or employees of the Authority as may be specified therein.”.</p>
2.	Khyber Pakhtunkhwa Act No. II of 1972.	The Khyber Pakhtunkhwa Small Industries Development Board Act, 1972.	<p>1. In this Act, for the words “General Manager” wherever occurring, the words “Managing Director” shall be substituted.</p> <p>2. In section 2, for clause (e), the following shall be substituted, namely:</p> <p>“(e) “Director” means a Director of the Board;”.</p> <p>3. For section 3, the following shall be substituted, namely:</p> <p>“3. Establishment of the Board.---(1) The Board of Directors constituted under section 6 of the Khyber Pakhtunkhwa Sarhad Development Authority Act, 1972, shall be</p>

			<p>deemed to be a Board of Directors, established and constituted for the purposes of this Act and shall perform all functions and exercise all powers under this Act.”.</p> <p>(2) The Chairman and Directors of the Board, for the purpose of their appointment and continuation of their service under this Act, shall be subject to same criteria, qualification, disqualification and terms and conditions of service as provided in the Khyber Pakhtunkhwa Sarhad Development Authority Act, 1972.</p> <p>(3) The term of their service under this Act shall be same as provided in the Khyber Pakhtunkhwa Sarhad Development Authority Act, 1972.</p> <p>(4) For the purpose of this Act, the Managing Director appointed under section 7 of this Act, shall act as the Secretary of the Board.</p> <p>(5) The Board shall be a body corporate, shall have the power to acquire and hold property, both movable and immovable, subject to the provisions of this Act, and shall have perpetual succession and a common seal and shall by the said name sue and be sued.</p> <p>(6) The head office of the Board shall be at Peshawar.”.</p> <p>4. In section 4, in clause (3), after the words “remove the Directors”, the words and comma “remove the Directors, except Ex-officio Directors” shall be inserted.</p> <p>5. Sections 5, 6, 8, 9, 10 and 11 shall be deleted.</p> <p>6. In section 17,-</p> <p>(i) for sub-section (2), the following shall be substituted, namely:</p> <p>“(2) The quorum necessary for transacting business at a meeting of the Board shall be seven in which the presence of Ex-officio Directors should be mandatory.”;</p> <p>(ii) for sub-section (4), the following shall be substituted, namely:</p> <p>“(4) Secretary to Government, Industries, Commerce and Technical Education Department shall be the</p>
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			Executive Director of the Board and preside over its meeting in the absence of Chairman and perform such functions as assigned by the Board.”.
3.	Khyber Pakhtunkhwa Ord. No. XXXVI of 2002.	The Khyber Pakhtunkhwa Investment Facilitation Agency Ordinance, 2002.	The Act is hereby repealed.