

A
BILL

*further to amend the Khyber Pakhtunkhwa
Medical Teaching Institutions Reforms Act, 2015.*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms Act, 2015 (Khyber Pakhtunkhwa Act No. IV of 2015), 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 Medical Teaching Institutions Reforms (Amendment) Act, 2020.

WHEREAS it is expedient to provide autonomy to the Government owned Medical Teaching Institutions and their affiliated teaching hospitals in the Province of the Khyber Pakhtunkhwa and to regulate on sound physical and technical footings the service being rendered by these institutions and to improve performance, enhance effectiveness, efficiency and responsiveness for the provision of quality healthcare services to the people of the Khyber Pakhtunkhwa and other matters ancillary and incidental thereto;

It is hereby enacted as follows:

CHAPTER 1

It extends to the whole of the Province of the Khyber Pakhtunkhwa.

It shall apply to all the existing Medical Teaching Institutions in the public sector and such other institutions as Government may establish under section 3 of this Act or may have been established by law.

It shall come into force at once.

CHAPTER II
DEFINITIONS

2. Definitions: In this Act, unless the context otherwise requires,

(a -i) "Basic Science Faculty" means all Medical Faculty not involved in patient care;

(a) **“Appellate Tribunal”** means the Appellate Tribunal established under section 16-A of this Act;

- (a)
- (b) "Board" means the Board of Governors constituted under section 5 of this Act;
- (c) "Chairperson" means the Chairperson of the Policy Board or the Board of Governors of a Medical Teaching Institution, or the sub-ordinate committee or sub-committee, as the case may be;
- (d) "Clinical Faculty" means a Medical Faculty involved in any manner with a clinical care of patients, whether diagnostic or therapeutic;
- (e) "College" means a Medical College or a Dental College in public sector;
- (f) **"Consultant" means the medical faculties involved in patient care;**
- (g) "Dean" means the academic head of a medical teaching institution;

Employee means

- (i) an employee of a Medical Teaching Institution appointed under this Act and regulations made under this Act; or
 - (ii) an existing employee of the Medical Teaching Institution, appointed by the Management Council, under the Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002, prior to promulgation of the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms (Amendment) Act, 2018; or
 - iii) A civil servant who has opted to become an employee of the Medical Teaching Institution under Section 16 of this Act, or
 - (iv) A civil servant who is on deputation to the Medical Teaching Institution
- h) "Medical Faculty" means and includes the Basic Science Faculty and Clinical Faculty which includes Senior Registrar and above as well as Dean of a College, involved in teaching, training or patient care;
- (i) "Medical Teaching Institution" means a Medical College, a Dental College, or other health related teaching institutions and their affiliated teaching hospitals in the public sector, the setting up of which is funded in majority by public funds and the majority operating expenses of which are funded by public funds, or which is directly under the control of Government and provides healthcare services, medical education and training, and medical research;
- (l-i) "Policy Board" means the Policy Board constituted under section 4A of this Act;".**

(J) "Government" means the Government of the Khyber Pakhtunkhwa;

"healthcare services" means preventive, curative, promotive, rehabilitative, health services and include diagnostic, support services, laboratory, accident and emergency, pharmacy and paramedic support;

(l) "member" means a member of the Board including Chairperson;

(m) "prescribed" means prescribed by rules or regulations made under this Act;

(n) "regulations" mean regulation made under this Act;

(o) "rules" mean rules made under this Act;

(p) "Search and Nomination Council" means Search and Nomination Council notified by Government under section 8 of this Act; and

(q) "section" means a section of this Act.

CHAPTER III **MEDICAL TEACHING INSTITUTIONS**

3. **Establishment of Medical Teaching Institutions.**'--(1) Government may, by notification in the official Gazette, establish such Medical Teaching Institutions, as it may deem necessary and shall apply the provisions of this Act to such institutions .

(2) A Medical Teaching Institution established under this Act to which this Act is applied or an existing Medical Teaching Institution to which this Act applies shall be a body corporate having perpetual succession and a common seal with power to acquire hold and dispose of movable and immovable property and may in its name sue and be sued.

“(3) Government may, by notification in the official Gazette, decide to dissolve a Board of Governors of any Medical Teaching Institution and may either

(a) transfer its administrative management to the Policy Board, or

(b) direct the Board of any other medical teaching institution to direct its affairs

Provided that the new Board shall be constituted under Section 5 of this Act within a period of 3 months

(4) When a notification under sub-section (3) has been issued, all the powers and responsibilities entrusted to a Board under this Act, shall be exercised by the Policy Board or the Board as the case may be, in respect of such Medical Teaching

Institution.

(5) When a new Medical Teaching Institution is established under sub-section (1) and (2) as the case may be, Government may direct that it shall be administered by the Board of any existing Medical Teaching Institution, till such time as the Government may direct..

(1)

4. Objects of the Medical Teaching Institutions.---The objects of the Medical Teaching Institutions shall be-

- (a) to undertake all functions required for providing health facilities to the people, medical education and training and research and provide health facilities and services to the people of the Khyber Pakhtunkhwa; and
- (b) to perform such other functions as are assigned to it by the Chief Minister from time to time.

4A. Policy Board.---(1) Government, on the recommendations of Search and Nomination Council, shall constitute a Policy Board at Provincial level, consisting of such number of members as Government may determine but not less than five (05) members and not more than seven (07) members, all of whom shall be from the private sector:

Provided that the Search and Nomination Council may recommend to Government that one third of the members of the Policy Board may be from the members of the Boards.

(2) The members shall hold office for a period of three (03) years, **or during the pleasure of the Government, whichever is earlier** and shall have such qualifications as provided in sub-section (5) of section 5 of this Act and shall be eligible for re-appointment.

(3) The Chairperson of the Policy Board shall be elected in the same manner as provided in sub-section (6) of section 5 of this Act.

(4) The Policy Board shall-

- (a) determine in consultation with Government, the base standards for the Medical Teaching Institutions and its enhancement from time to time, as and when required;
- (b) recommend to Government, policies for the improvement of the

Medical Teaching Institutions;

- (c) recommend to Government various rules and amendments therein that it may seek to make;
 - (d) recommend model regulations and other policies and amendments therein, to be framed by the Board of each Medical Teaching Institution;
 - (e) plan and implement specialized central training programs as and when required for management and employees of all Medical Teaching Institutions;
 - (f) establish the minimum qualification standard, for all posts in Medical Teaching Institutions to ensure merit base appointment; provided that the Board of any Medical Teaching Institution may enhance such minimum qualification of merit at their discretion;
 - (g) provide guidance and advice on any matter referred by the Board or Government;
 - (h) review the annual reports of each Medical Teaching Institution and give recommendations thereon; and
 - (i) assist, aid or advise the Government on any matter relating to the health sector as referred to them by the Government.
- (5) The Policy Board shall meet at least three times in a year, in addition to hold an annual meeting, which shall be attended by the members of the Boards of all Medical Teaching Institutions.

5. Board of Governors.-- (1) There shall be a Board of Governor for each Medical Teaching Institution to administer and manage its affairs and shall have overall superintendence and control over the functions and all matters of Medical Teaching Institutions.

(2) The Board of each Medical Teaching Institution shall comprise such number of members as determined by Government but not less than three members and not exceeding seven members, all of whom shall be from the private sector.

(3) The members shall be appointed by the Chief Minister on the recommendation of the Search and Nomination Council and they shall hold office for a period of three years (03) or at the pleasure of the Chief Minister, whichever is earlier and be eligible for re-appointment.

4) The Chairperson, Board of Governors of the Medical teaching Institution may, in case of exigency of service, appoint Deans, Medical Director, Hospital Director, Nursing Director and Finance Director on officiating basis. All such appointments will be placed before the Board of Governors for approval within three months.

(5) The Chairperson shall be elected by the members through voting from amongst itself, who shall preside over the Board meetings. In case of his absence, the Chairperson may nominate a Board member as acting Chairman or if he has not done so, the members present shall elect an acting Chairperson for that meeting.

(6) The membership of members of the Board shall cease and fall vacant if, he resigns, or fails to attend three consecutive meetings without sufficient cause or for any other reasons which incapacitate to remain as member. Any such vacancy shall be filled in within one month.

(7) Any member of the Board, who has been removed prior to completion of his term of three years may appeal the decision of his removal before the Appellate Tribunal constituted under this Act:

Provided that he shall not act as a member of the Board during the pendency of such appeal.

Provided further that no appeal shall lie in case services of any member of the Board are simply dispensed with, without any accusation or blame of misconduct.

(8) No person shall be appointed or remain as a member of the Board, if he-

- a) is of unsound mind;
- b) has applied to be adjudicated as an insolvent and his application is pending;
- c) is an un-discharged insolvent;
- d) has been convicted by a Court of law for an offence involving moral turpitude;
- e) has been debarred from holding any office under any provisions of law; or
- f) has a conflict of interest with such a position.

6. **Conduct of business.**---(1) All decisions of the Board shall be taken by consensus, and in case of division of opinion, the decision shall be taken by majority of votes:
Provided that in case of equality of votes, the Chairperson of the Board shall have a second

or casting vote.

- (2) No act or proceedings of the Board shall be invalid, merely on the ground of existence of any vacancy subject to any act or proceeding of the Board taken by less than three members on account of vacancies shall be ratified immediately by the Board upon the minimum membership of the Board as provided in sub-section (2) of section 5 of this Act.
- (3) The quorum shall be four members or two thirds of the total number of Board Members, whichever is less.
- (4) The member count shall be determined by actual members being present and proxy vote shall not count.
- (5) The Chairperson of the sub-committee or as the case may be, sub-ordinate committee, shall be appointed by the Board from amongst its members, to ensure unbiased oversight.
- (6) The Board may hold meetings as frequently as required; provided that the Board shall hold at least one meeting on quarterly basis.
- (7) Special meetings of the Board shall be convened on the special request of at least one third of the Board members for consideration of any important or urgent matter.
- (8) Subject to the provisions of this Act and the rules made thereunder, the Board may constitute sub committees of the Board and subordinate committees to perform such functions as may be prescribed by the Board:
Provided that a subordinate committee shall be headed by a member of the Board.
- (9) The remuneration for attending the Board meeting shall be such as may be prescribed by rules.
- (10) The Secretary to the Board shall be an employee of the Board, who shall perform all secretarial and office functions of the Board at the direction of the Chairperson; and would be responsible for recording minutes of the Board meetings, convening Board meetings, carrying out communication with all Board members, and all other functions as may be prescribed by the Board or the Chairperson.

7. **Functions and powers of the Board.** (1) The Board shall be responsible for:

- (a) ensuring that the objectives of the Medical Teaching Institution within the overall ambit of Government policy are achieved, overseeing the effective management, and providing strategic direction to the Medical Teaching Institution;
- (b) policy making of a Medical Teaching Institution and ensuring that the performance of a

Medical Teaching Institution and its programmes are efficient and effective;

- (c) prescribe procedure for appointment, terms and conditions of service, disciplinary matters and other service matters for the employees of a Medical Teaching Institution; creation, redesignation or abolition of posts provided that the financial implications do not exceed the approved annual budget
- (d) approval of vision and mission statement of a Medical Teaching Institution;
- (e) approval of annual business plan;
- (f) review and approval of major transactions;
- (g) approval of new programs and services and monitor organizational performance;
- (h) approval of financial plans and annual budget;
- (i) approval of bye-laws for medical staff and oversee the process for appointment of members of the medical staff;
- j) approval of programs and services to ensure that a Medical Teaching Institution fulfills legal, regulatory and accreditation requirements; and
- (k) constitution of Finance Committee and such other Committees or Sub-Committees, as it may deem appropriate.
- (l) compliance to Government and Board policies and base standards set under clause (a) of sub-section (4) of section 4A and in case of any deviation from agreed base standards or procedures, shall obtain prior approval from the Government or the Policy Board, as the case may be;
- (2) Each Medical Teaching Institution shall be accountable to the Health Minister for its performance and shall regularly provide performance based data at set intervals based on Government's set performance monitoring format for the Medical Teaching Institutions with attendant reward and discipline measures and the; Government shall also periodically evaluate the performance of the Medical Teaching Institutions against the set targets particularly related to efficiency, effectiveness and equity with attendant reward and discipline measures.
- (3) The Board may delegate its powers for recruitment to various management levels within the Medical Teaching Institution.
- (8) The Chairperson may, in case of exigency of service, appoint Deans, Hospital Director, Medical Director, Nursing Director and Finance Director on officiating basis; provided that all such appointments shall be for a period of three (03) months and thereafter, Board shall make regular appointments in the prescribed manner.

(9) The Board shall appoint the Dean, Hospital Director, Medical Director, Nursing Director and Finance Director of the Medical Teaching Institution

8. **Search and Nomination Council:** (1) The Chief Minister shall constitute and notify a Search and Nomination Council, for recommendations of persons from private sector suitable to be appointed as members of the Board and members of the Policy Board, which shall consist of-

(a) Minister for Health; Chairman

(b) Additional Chief Secretary Planning and Development Department; Vice Chairman

(c) Secretary to Government, Health Department; Member

(d) Vice Chancellor of the Khyber Medical University; Member

(e) A philanthropist with substantial contribution to the public healthcare system to be nominated by the Chief Minister; Member

(f) a retired senior person from medical profession to be nominated by the Chief Minister; Member, and

(g) a representative of civil society to be nominated by the Chief Minister. Member

(2) The Chairman shall chair the meeting of the Council and in his absence, the Vice Chairman shall chair the meeting.

(3) A member from private sector shall hold office for a period of three (03) years or during the pleasure of the Chief Minister, whichever is earlier, and shall be eligible for another term of three years or part thereof as the Chief Minister may deem appropriate:

Provided that Government may remove a non-official member at any time after giving him an opportunity of being heard.

9. Teaching Institutions---(1) All colleges in the Province of the Khyber Pakhtunkhwa shall affiliate with the Khyber Pakhtunkhwa Medical University for the purpose of their examination.

(2) The college shall be headed by a Dean and shall consist of Chairpersons and medical faculties of various departments of the college.

(3) In each college, there shall be an Academic Council, headed by the Dean and consisting of such members as may be prescribed, to set principles and standards for teaching, research, training, student admissions, curriculum development and to ensure and inculcate the

highest ethical standards.

9A. Management Committee: (1) For each Medical Teaching Institution, there shall be a Management Committee headed by Dean and consisting of-

- (a) Hospital Director;
- (b) Medical Director;
- (c) Nursing Director;
- (d) Finance Director; and
- (e) two persons nominated by the Board on the recommendation of the Dean.

(2) The Management Committee shall-

- (i) subject to delegation of powers by the Board, appoint or terminate any and all employees of a Medical Teaching Institution in accordance with the rules and regulations framed under this Act;
- (ii) review and recommend for approval to the Board, the Annual Budget, for the Medical Teaching Institution, as prescribed by regulations;
- (iii) coordinate efforts to ensure achievement of the Base Standards;
- (iv) submit a quarterly report on management, health care services and financial management on a prescribed format to the Board;
- (v) recommend to the Board any addition of a department, facility or post at the Medical Teaching Institution; and
- (vi) perform all such functions as may be specifically prescribed by regulations.

9B. Dean (1) The College shall be headed by a Dean of the College.

(2) The Dean shall be appointed by the Board for a period of five (05) years, and shall be eligible for re-appointment, on such terms and conditions and having such qualifications and experience as the Board may prescribe. The Dean shall act as the Chief Executive Officer of the Medical Teaching Institution and shall act in such capacity as per the directions of the Board and the regulations framed under this Act.

(3) The Dean, on appointment, shall simultaneously receive a faculty appointment at a level commensurate with his qualifications and the prescribed Institutional requirements for the faculty post, which appointment shall not be limited to the term applicable to the office of the Dean.

(4) The chairpersons of various departments for Medical Institutions shall be appointed by the Dean, from amongst the medical faculty on such terms and conditions and in such a manner as may be prescribed by the Board. A chairperson may be removed by the Board on the recommendation of the Dean.

(5) The Dean may be removed from the office by the Board, before the expiration of the period of five (05) years, at any time on such grounds as may be prescribed including failure to achieve targets set by the Board.

(6) In the performance of functions, the Dean shall be responsible to the Board and the chairpersons of the department shall be responsible to the Dean and Academic Council.

(7) The Board from amongst the chairpersons shall appoint a Vice-Dean to perform the functions of the Dean in the absence of the Dean

10. **Hospital Director** (1) The Board shall appoint a full time Hospital Director for the Medical Teaching Institution for a period of five (05) years, and shall be eligible to re-appointment, on such terms and conditions as the Board may determine; provided that no Board member shall be appointed as Hospital Director.

(2) The Hospital Director shall possess a recognized Master's Degree in Hospital Management or Health Services Management or Business Management or Public Health or Public Administration or any other relevant management qualifications having experience of management in an organization or institution as may be prescribed:

Provided that a person, who possesses a recognized medical degree may also apply for the post of Hospital Director with the condition that he shall have an additional management degree and experience provided in this sub-section and shall have no right to do private practice.

(3) The Hospital Director may be removed from the office by the Board, before the expiration of the period of five years, on such grounds as may be prescribed.

In performance of his functions, the Hospital Director shall be responsible to the Board.

(5) The Hospital Director shall not have any conflict of interest with such a position.

11. **Functions of the Hospital Director**---The Hospital Director shall be responsible-

(a) for all non-clinical functions of the hospital;

- (b) preparation of the annual budget, and business plan for presentation to the Management Committee and Board
- (c) maintenance of building and engineering services;
- (d) maintenance and development of all ancillary services, including but not limited to pharmacy, nursing, materials management, human resources, clerical, communications and security services;
- (e) to act as the principal accounting officer responsible and accountable for maintaining financial discipline and transparency; and
- (f) for implementation and execution of Board and Management Committee policies and to achieve the targets set by the Board.

12. **Medical Director**. - (1) The Board shall appoint a full time, Medical Director for the hospital for a period of five years and shall be eligible for re-appointment, on such terms and conditions as the Board may determine; provided that no Board member shall be appointed as Medical Director.

(1A) The Medical Director, on appointment, will simultaneously receive a faculty appointment at a level commensurate with his qualifications and the prescribed Institutional requirements for the faculty post, which appointment shall not be limited to the term applicable to the office of the Medical Director.

(2) The Medical Director shall possess a recognized Medical degree with management or administrative qualification and experience of working in management positions in an institution or organization as may be prescribed by the Board.

(3) The Medical Director may be removed from the office by the Board, before the expiration of the period of five years, on such grounds as may be prescribed by the Board.

(5) All clinical department heads will report to the Medical Director. .

(5) In performance of his functions, the Medical Director shall be responsible to the Board

(6) The Medical Director shall not have any conflict of interest with such a position.

13. **Functions of the Medical Director**--- The Medical Director shall be responsible for all clinical functions of the hospital, including but not limited to:

- (a) ensuring clinical excellence in all aspects of hospital function;
- (b) ensuring timely, appropriate management of patients;

- (c) ensuring the best outcomes for all patients;
- (d) undertaking clinical governance for quality control;
- (e) assessing and auditing existing clinical programs and developing new clinical programs; and
- (f) develop an annual clinical budget, including capital medical equipment requests for presentation to the Hospital Director, the Management Committee, and the Board.

14. **Nursing Director**.---(1) The Board shall appoint a full time, non-practicing Nursing Director for a the hospital for a period of five years, and shall be eligible for re-appointment, on such terms and conditions as the Board may determine; provided that no Board member shall be appointed as such.

- (2) The Nursing Director shall possess such qualification and experience as may be prescribed by the Board.
- (3) The Nursing Director may be removed from the office by the Board, before the expiration of the period of three years, on such grounds as may be prescribed by the Board.
- (4) In performance of his functions, the Nursing Director shall be responsible to the Board.
- (5) The Nursing Director shall not have any conflict of interest with such a position .
- (6) The Nursing Director shall be responsible for all nursing functions, including training of nurses, ensuring adequate nursing staffing for all clinical needs, maintaining the highest nursing standards and performing regular audits of nursing functions.
- (7) The Nursing Director shall perform such other functions as may be prescribed by the Board.

15. **Finance Director**.---Finance Director shall be appointed by the Board in the prescribed manner, for a period of three years, and shall be eligible for re-appointment, who shall be an employee of a Medical Teaching Institution with minimum qualifications as may be prescribed and to perform such functions in relation to financial matters as may be prescribed.

16. **Service of the Medical Teaching Institution**. (1) The Board may appoint such persons, experts or consultants in the service of a Medical Teaching Institution, as deemed necessary and on such terms and conditions as may be prescribed.

- (2) Before the commencement of this Act, all administrative and teaching staff recruited

by the Management Council in the prescribed manner under the repealed Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002, regardless of status of terms and conditions of service, shall be considered employees of the concerned Medical Teaching Institution on such terms and conditions as may be prescribed by regulations:

Provided that such terms and conditions shall not be less favorable in financial terms than the terms and conditions admissible to them immediately before the commencement of this Act.

(3) Before the commencement of the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms (Amendment) Act, 2018, all the civil servants serving in an existing Medical Teaching Institution, who opted for the employment of the Medical Teaching Institution, shall be subject to terms and conditions of employment as prescribed by regulations including but not limited to their service structure, promotion and disciplinary matters. Such opting employees shall be entitled to post-retirement benefits and emoluments as per existing government laws and rules. The Medical Teaching Institution shall deposit pension contribution on their behalf.

(3A) Civil servants, who do not opt for absorption in the Medical Teaching Institution, so notified, shall be dealt with in such a manner as provided in section 11A of the Khyber Pakhtunkhwa civil servants Act 1973, for their future posting, which includes deputation to the Medical Teaching Institution subject to a request being made by the Board:

Provided that a civil servant working in a Medical Teaching Institution, shall at all times, be deemed to be on deputation. All deductions made from the pay of such civil servants shall be deposited by the borrowing authority.

(3B) A civil servant at the request of the Board may be sent on deputation to a Medical Teaching Institution by the Government. For civil servants on deputation to the Medical Teaching Institution, pension contribution shall be made by the Medical Teaching Institution. The deputation of a civil servant to a Medical Teaching Institution may be terminated by the Board at any time without assigning any reason thereof and such civil servants services shall revert to the Government immediately upon such termination being notified by the Board.

(4) After the commencement of this Act, if the provisions of this Act are applied to any newly established Medical Teaching Institution within the meaning of section 3 of this Act, all civil servants serving in the Medical Teaching Institution, shall be dealt in a manner as provided in subsection (3).

(5) A civil servant, who opts to serve the Medical Teaching Institution, shall cease to be a civil servant from the date of his absorption in the service of the Medical Teaching

Institution concerned and their seniority, pension and other matters vis-à-vis employment in the Medical Teaching Institution, shall be determined in the manner, as may be prescribed by regulations.

(7) If at any time, a Medical Teaching Institution reverts to Government for running under its own administration and management for any reason, the employees appointed under sub-section (1) shall continue to serve the Medical Teaching Institutions, on the same terms and conditions as applicable to them immediately before such reversion.

(7) All employees of a Medical Teaching Institution, whether having opted or directly appointed prior to the commencement of this Act or pursuant to this Act, shall be at all times governed exclusively by the terms and conditions of service, as may be prescribed by regulations.

(8) All employees of a Medical Teaching Institution shall have the right to file an appeal in the manner as may be prescribed by rules, against any penalty, termination of their employment or any order in connection with their terms and conditions of their service to the Appellate Tribunal established under section 16A of this Act.

(9) Any employee aggrieved by a decision of the Board may seek resolution of the grievance by referral of the grievance or dispute to the Board of Arbitration for Medical Teaching Institutions. The decision of the Board of Arbitration shall be final in all respects.

(11) On commencement of the Khyber Pakhtunkhwa Medical Teaching Institutions Reforms (Amendment) Act, 2018, and subject to notification of establishment of the Board of Arbitration, all employment disputes as may be pending before any Court of law shall be transferred with immediate effect for adjudication to the Board of Arbitration in terms of section 16A of this Act.

16A. Appellate Tribunal.--- (1) Government shall, by notification in the official Gazette, establish an Appellate Tribunal to hear appeals under sub-section (7) of section 5 and sub-section (8) of section 16 of this Act and other matters related to or arising from the provisions of this Act.

(2) The Appellate Tribunal shall consist of a Chairman and such other members, not exceeding four in number, as the Government may appoint, in such a manner as may be prescribed by rules.

(3) The Chairman and other members of the Appellate Tribunal shall have such

qualification and experience of service as may be prescribed by rules.

(4) The Chairman and the other members of the Appellate Tribunal shall be appointed for a term of three years, in such a manner and with such other terms and conditions of service as the Government may prescribe by rules.

(5) The Appellate Tribunal shall have such staff with such terms and conditions of service as the Government may determine and until such staff is appointed, the Health Department, Government of Khyber Pakhtunkhwa shall provide Secretariat support to the Appellate Tribunal.

17. **Private practice.**---(1) After the commencement of this Act, all Consultants working in government hospitals, clinics, imaging facilities and laboratories shall be given an option either to do their private practice within the hospitals, clinics, imaging facilities and laboratories of the Medical Teaching Institutions or to do their private practice outside the hospitals, clinics, imaging facilities and laboratories of the Medical Teaching Institutions, as the case may be. The option shall be exercised within a period of sixty (60) days after the commencement of this Act. The Board may in its discretion specify further periods for exercise of the option as may be prescribed by rules.

(2) Employees who opt for private practice within the premises of the hospital, clinics, imaging facilities and laboratories of the Medical Teaching Institution, may be entitled to such increase in salary, adjustment, bonuses or other ancillary benefits, as the Board may approve.

(3) Employees, who do not opt for the private practice within the premises of the hospitals, clinics, imaging facilities and laboratories of the Medical Teaching Institutions, and shall not be entitled to any increase and adjustment, incentives, bonuses or other ancillary benefits or administrative post, except in case of extraordinary need, as decided by the Board.

(4) In the performance of functions in the Hospital, the Consultant shall be responsible to the Hospital Management, with respect to service provider to the patient in the Hospital and shall follow all the rules and regulations relating to Hospital Management.

(5) The Medical Teaching Institution shall provide facilities for the most efficient services to allow the Consultants to perform their services at the highest level of excellence, including space, equipment, nursing, ancillary or clerical staff, laboratory, imaging and inpatient and surgical services as needed. The Medical Teaching Institution will remain open as long as necessary to provide these services. The individual Consultant shall be held responsible for the most efficient use of the facilities and shall be expected to provide cost and income projections for each new facility, equipment or service request with the support of Hospital Director and staff.

(6) Consultants professional fee shall not exceed the usual and customary fees charged for the same services in the community, assuring efficiency, and value for money to the clients.

(7) Private patient billing shall consist of the professional fee component and the Institutional charges representing the charges of the clinic, imaging facility, laboratory services, or other Institutional charges:

Provided that all patient billing shall be done only by the hospital, clinic, imaging facility, or laboratory, and the professional fee component shall be returned to the Consultant.

(9) No reduction of the professional component income to the Consultant from the patient shall be permissible by the Medical Teaching Institution.

(9) A percentage share from the institutional charges shall be distributed between the employees of the Medical Teaching Institution, based on the performance and productivity, according to a format to be prescribed by regulations.

18. **Retention of fee.** (1) Notwithstanding anything contained in any law or rules, the Medical Teaching Institution shall retain receipts from various fees levied by Government or the Board to meet recurring and development expenditure of the Medical Teaching Institution. The amount realized from receipts of the Medical Teaching Institution shall not be deducted from the annual grant of the Medical Teaching Institution provided by Government and such amount realized from receipts shall be utilized as per specification by the Board.

19. **Fund.** (1) There shall be a Fund to be known by the name of each Medical Teaching Institution and shall vest in the Medical Teaching Institution concerned.

(2) The Fund established under section 16 of the Khyber Pakhtunkhwa Medical and Health Institution and Regulation of Health Care Services Ordinance, 2002, shall be deemed to have been established under this Act.

(3) The Fund shall consist of-

(a) grants from the Government as a single line budget.

(b) receipts and user charges as specified by Board in consultation with Government from to time in such manner as may be prescribed;

(c) voluntary contributions or donations; and

(d) grants from other sources.

(4) The Fund shall be kept in such custody and shall be utilized and regulated in such manner as may be prescribed by regulations after approval from Government.

(5) The Fund account shall be maintained at such Bank or Treasury as may be prescribed by regulations after approval from Government . . .

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

(7) The Board shall not invest any money in the Fund in listed securities or any derivatives thereof, whether listed or not

20. **Budget, audit and accounts.** (1) The budget of an institution shall be approved by the Board and its accounts shall be maintained and audited in such manner as may be prescribed by regulations.

(2) The Chief Minister may order to carry out special audit other than routine audit through third party as and when deemed necessary.

(3) The accounts of the Medical Teaching Institution shall be audited by the Auditor-General of Pakistan.

21. **Public servant** The Board members and all other employees of the Medical Teaching Institution shall be deemed to be public servants within the meaning of section 21 of the Pakistan Panel Code (Act XLV of 1860) provided it shall not ascribe to them any rights of employment or benefit as may be otherwise applicable to public servants.

21-A. Indemnity.--- Except as otherwise expressly provided in this Act, no suit, prosecution or other legal proceedings shall lie against the Board of Governors, Policy Board or against any authority, for anything which is, in good faith, done under this Act or the rules or regulations made thereunder.

22. **Removal of difficulties.** i) Notwithstanding anything contained in the provisions of this Act, Government may take such measures as deemed fit for the purpose of removing difficulties and ensuring effective and efficient healthcare management.

ii) Government may vest powers and functions in the Chairman under the rules, which are not inconsistent with this Act.

23. **Power to make rules.** Government may, by notification in the official Gazette, make rules for giving effect to the provisions of this Act.

24. **Power to make regulations** (1) Board may make regulations, not inconsistent with the provision of this Act and the rules, for carrying out the purposes of this Act.

(2) The power to make regulations conferred by this section shall be subject to the condition of previous publication and, before making any regulations, the draft thereof

shall be published on the website of the Medical Teaching Institution for eliciting public opinion thereon within a period of not less than fifteen days from the date of publication.

25. **Overriding effect.** Notwithstanding anything to the contrary contained in any other law, the provisions of this Act shall have an overriding effect and the provisions of any such law to the extent of such inconsistency to this Act shall cease to have effect.

26. **Repeal and saving.** (1) The Ayub Medical College Board of Governors Ordinance, 1978, (Khyber Pakhtunkhwa Ord. No. XIX of 1978), the Khyber Pakhtunkhwa Institute of Ophthalmic Sciences Ordinance, 1999 (Khyber Pakhtunkhwa Ordinance No XI of 1999) and the Khyber Pakhtunkhwa Medical Teaching Institutions and Regulation of Health-Care Services Ordinance 2002, (Khyber Pakhtunkhwa Ord. No. XLVII of 2002), are hereby repealed.

(2) All moveable or immovable property including fixed assets of the Ayub Medical College and Institute of Ophthalmic Sciences and all liabilities pertaining to them shall be the assets and liability of the concerned institution.

(3) Notwithstanding anything contained in any law for the time being in force, the services of all the employees of Ayub Medical College and Institute of Ophthalmic Sciences shall be deemed to be the services of medical institution concerned, regardless of their terms and conditions of service before the commencement of this Act.

(4) Notwithstanding the repeal of the laws under sub-section (1), the Medical Institution established under the repealed laws shall be deemed to have been established under this Act.

(5) All rules, regulations and orders made or issued under the repealed laws, shall continue to hold ground unless altered, amended, repealed or inconsistent to the provisions of this Act.

BY ORDER OF MR. SPEAKER PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

(AMANULLAH)

Secretary

Provincial Assembly of Khyber Pakhtunkhwa