

UPDATED COPY UPTO 2016¹
**THE ²[KHYBER PAKHTUNKHWA] PUBLIC SERVICE
 COMMISSION ORDINANCE, 1978**

**³[Khyber Pakhtunkhwa] Ordinance No. XI of 1978
 AN
 ORDINANCE**

to repeal and with certain modifications, re-enact the ⁴[Khyber Pakhtunkhwa] Public Service Commission Act, 1973.

Preamble: - WHEREAS, it is expedient to repeal and, with certain modifications, re-enact the ⁵[Khyber Pakhtunkhwa] Public Service Commission Act, 1973, ⁶[Khyber Pakhtunkhwa] Act XIX of 1973), in the manner hereinafter appearing;

AND WHEREAS, the Governor of the [Khyber Pakhtunkhwa] is satisfied that circumstances exist, which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No.1 of 1977), and in exercise of all powers enabling him in that behalf, the Governor of the North-West Frontier Province is pleased to make and promulgate the following Ordinance:-

1. **Short title and commencement.**- (1) This Ordinance may be called the ⁷[Khyber Pakhtunkhwa] Public Service Commission Ordinance, 1978.

(2) It shall come into force at once.

2. **Definitions.**- In this Ordinance, unless the context otherwise requires, _

a) **“Commission”** means the [Khyber Pakhtunkhwa] Public Service Commission.

b) **“Government”** means the Government of the [Khyber Pakhtunkhwa];

¹ Published in the NWFP Government Gazette, extra Ordinary dated 13th May, 1978.

² The word “NWFP” substituted with words “KHYBER PAKHTUNKHWA” vide the Khyber Pakhtunkhwa Law (Amendment) Act, 2011

³ The word “NWFP” substituted with words “KHYBER PAKHTUNKHWA” vide the Khyber Pakhtunkhwa Law (Amendment) Act, 2011

⁴ The word “NWFP” substituted with words “KHYBER PAKHTUNKHWA” vide the Khyber Pakhtunkhwa Law (Amendment) Act, 2011

⁵ The word “NWFP” substituted with words “KHYBER PAKHTUNKHWA” vide the Khyber Pakhtunkhwa Law (Amendment) Act, 2011.

⁶ The word “NWFP” substituted with words “KHYBER PAKHTUNKHWA” vide the Khyber Pakhtunkhwa Law (Amendment) Act, 2011

⁷ The word “NWFP” substituted with words “KHYBER PAKHTUNKHWA” vide the Khyber Pakhtunkhwa Law (Amendment) Act, 2011

- c) “**Governor**” means the Governor of the [Khyber Pakhtunkhwa];
- d) “**Member**” means a member of the Commission and includes the Chairman thereof;
- e) “**Prescribed**” means prescribed by rules made under this Ordinance; and
- f) “**Province**” means the [Khyber Pakhtunkhwa].

3. Composition of Commission.- (1) There shall be a Commission for the Province to be called the [Khyber Pakhtunkhwa] Public Service Commission.

- (2) The Governor shall by regulations determine.
 - (a) the number of members and their terms and conditions of service; and
 - (b) the number of officers and servants of the Commission and their terms and conditions of service:

Provided that the salary, allowances and privileges of a member shall not be varied to his disadvantage during his term of office.

- (3) The Chairman and other members shall be appointed by the Governor:

⁸[Provided that a serving member of the Commission may be appointed as Chairman for a term not exceeding the un-expired portion of his term as such member.]

- (4) Not less than one-half of the members shall be persons who have held office in the service of Pakistan for not less than twenty years ⁹[and has been retired in basis pay scale 20 or above.]

4. Terms of office of members, etc.- (1) ¹⁰[A member of the Commission shall hold office for a term of ^{11, 12, 13}[Three years] from the date on which he enters upon office or till he / she attains the age of sixty-five years whichever is earlier and shall not be eligible for re-appointment”.

⁸ The proviso to sub section (3) of Section 3 inserted vide NWFP the Public Service Commission (amendment) Ordinance, 2002 (Ordinance o. XXVII of 2002), notified on 9th August, 2002.

⁹ The words [and has been retired in basic pay scale 20 or above] inserted in sub section (4) of section 3 vided NWFP Public Service Commission (Amendment Ordinance, 2002 (Ordinance NO. XXVII of 2002) notified on 9th August, 2002.

¹⁰ Sub section (1) of section 4 substituted vide NWFP (Ordinance No. XXVII of 2002). Notified on 9th August, 2002.

¹¹ In section 4 sub section (1) the word “Five” substituted with the word “Four” vide NWFP Public Service Commission (Second Amendment) Ordinance, 2002 (Ordinance No. XXXIX of 2002), Notified on 9th August, 2002.

¹² The word “Four” again substituted by word “Five” vide NWFP Public Service Commission Ordinance, 2004 (Ordinance No.1 of 2004), notified on 6th August, 2004.

¹³ The word Five substituted with the word three vide Khyber Pakhtunkhwa Public Service Commission (Amendment) Act 2011.

(1A) ¹⁴[Notwithstanding anything contained in any contract or agreement pertaining to the terms and conditions of service, a member who on the commencement of Khyber Pakhtunkhwa Public Service Commission (Amendment Act 2011, completes his tenure or attains upper age limits as specified in sub-section (1) shall cease to be a member.

¹⁵Provided that, notwithstanding his taking oath, required by the provisions of section 4A, on a date subsequent upon his entering into office, the Chairman or a member shall hold office for his respective term from the date on which he entered upon office and not from the date of oath taking, and he shall not be eligible for reappointment.

(2) A member may resign his office by writing under his hand addressed to the Governor.

¹⁶4A. **Oath of Office.-** Before entering upon office, the Chairman and a Member shall take oath in the form set out in the Schedule to this Ordinance, before the Governor in the case of Chairman, and before the Chairman in case of a member.

5. ¹⁷**Ineligibility for further employment.-** One ceasing to hold office, a member shall not be eligible for further employment in the Service of Pakistan.

6. **Removal from Office.-** A member shall not be removed from office except in the manner applicable to a Judge of a High Court and upon a reference made by the Governor.

7. ¹⁸**Functions of the Commission.-** (1) The functions of the Commission shall be_

(a) to conduct tests and examinations for recruitment of persons to_

(i) the civil services of the Provinces and civil posts in connection with the affairs of the Province in basic pay scales 16 and above or equivalent, and

(ii) ¹⁹[posts in basic pay scale 11 to 15 or equivalent in all Administrative Departments and Attached Departments of the Government except the District cadre posts].

(b) to advise the Governor____

¹⁴ Inserted vide Khyber Pakhtunkhwa Public Service Commission (Amendment) Act 2011.

¹⁵ Proviso to sub section (1) of section 4 substituted vide NWFP Public Service Commission (Second Amendment) Ordinance ,2002 (Ordinance No. XXXII of 2002, notified on 16 September, 2002.

¹⁶ Section 4A, inserted vide NWFP Ordinance, No. XXVII of 2002, notified on 9th August, 2002.

¹⁷ Section 5, which was omitted by NWFP Act No. XX of 1987, again inserted vide NWFP Ordinance No. XXVII of 2002, notified on 9th August, 2002.

¹⁸ Section 7 substituted vide NWFP Public Service Commission (Amendment) Ordinance, 2002 (Ordinance No. XXVII of 2002, notified on 9th August, 2002.

¹⁹ Substituted vide Khyber Pakhtunkhwa Public Service Commission (Amendment) Act 2011.

- (i) on matters relating to qualifications for, and method of recruitment to, services and posts referred to in clause (a);
- (ii) on the principles to be followed in making:
 - (1) initial appointments to the services and posts referred to in clause (a);
 - (2) appointments by promotion to posts in BPS-17 and above; and
 - (3) transfer from one service to another; and
- (iii) on any other matter which the Governor may refer to the Commission.

Explanation.- In This section, recruitment means initial appointment other than by promotion or transfer.

- (2) Recruitment to the following posts shall be outside the purview of the Commission:
 - (i) ²⁰posts pertaining to household staff in the Governor's House and Chief Minister House];
 - (ii) posts to be filled on adhoc basis for a period of ²¹[**one year**] or less; provided that before filling the posts, prior approval shall be obtained from the Commission;
 - (iii) posts to be filled by re-employing a retired officer; provided that the re-employment is made for a specified period not exceeding two years in a post not higher than the post in which the person was employed on regular basis before retirement ²²[and].
 - (iv) ²³[the posts of Junior Clerks in all Departments, Attached Departments and at District level].

8. Commission to be informed when its advice not accepted.- Where the Governor does not accept the advice of the Commission, he shall inform the Commission accordingly.

²⁰ Clause (i) substituted vide NWFP PSC (Amendment) Act 2003 (NWFP Act No.XIV of 2003)

²¹ The words "six months" substituted for the words "one year" vide NWFP Public Service Commission (Amendment) Act, 2008 (NWFP Act No. VI of 2008) published in NWFP Gazette extraordinary on 9th January 2009 (page-327-328)/

²² The word "and" added vide Khyber Pakhtunkhwa PSC (Amendment) Ordinance, 2016 (KP Ordinance No. 1 of 2016) dated 1.2.2016.

²³ Sub section (iv) added vide Khyber Pakhtunkhwa PSC (Amendment) Ordinance, 2016 (KP Ordinance No. 1 of 2016) dated 1.2.2016.

9. **Reports of Commission.-** (1) It shall be the duty of the Commission to present to the Governor annually a report on the work done by the Commission, and the Governor shall cause a copy of the report to be laid before the Provincial Assembly.

(2) The report referred to in sub-section (1) shall be accompanied by a memorandum setting out so far as is known to the Commission.

(a) the case, if any, in which the advice of the Commission was not accepted and the reasons therefore; and

(b) the matters, if any, on which the Commission ought to have been consulted but was not consulted and the reasons therefore.

10. **Rules.-** Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance.

²⁴10A. **Power of the Commission to make regulation.-** Subject to the provisions of this Ordinance and the rules made thereunder, the Commission may make regulations for carrying out the purposes of this Ordinance”.

11. **Repeal.-** The North-West Frontier Province Public Service Commission Act, 1973 (N.-W.F.P. Act XIX of 1973), is hereby repealed.

²⁵**SCHEDULE**
[Section 4A]

I, _____ do solemnly swear that I will bear true faith and allegiance to Pakistan. That, as a Chairman (or Member) of the North-West Frontier Province Public Service Commission, I will discharge my duties and perform my functions honestly, to the best of my ability and faithfully in accordance with the Constitution of the Islamic Republic of Pakistan and the law and always in the interest of the solidarity, integrity and well being and prosperity of Pakistan.

That I will not allow any personal interest to influence my official conduct or my official decisions and that in the performance of my functions, whether in the selection of persons for recruitment of appointment or in any other way, I will act without fear or favour, affection or ill-will”.

²⁴ Section 10 A inserted vide NWFP Public Service Commission (Amendment) Ordinance, 2002 (Ordinance No. XXVII of 2002) notified on 9th August, 20023

²⁵ Schedule, at the end of the Ordinance, added vide NWFP Public Service Commission (Amendment) Ordinance, 2002 (Ordinance No. XXVII of 2002) notified on 9th August, 2002.