

EXTRAORDINARY



REGISTER NO. P.111

GOVERNMENT

GAZETTE

Khyber Pakhtunkhwa Province

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GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
LAW DEPARTMENT.

NOTIFICATION
15th October, 2001

No. LEGIS:1(2)/93/6557-62. The following Ordinance by the Governor of the Khyber Pakhtunkhwa is hereby published for general information: -

The Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions Ordinance, 2001.

Khyber Pakhtunkhwa, Ordinance No: XXVII of 2001, Amended Vide No: Legis: 1(2)93/7649 dated 25th October 2002.

AN
ORDINANCE

to streamline, supervise, and regulate the functioning of the private educational institutions in the Khyber Pakhtunkhwa Province.

WHEREAS it is expedient to streamline, supervise and regulate the functioning of private educational institutions in the Khyber Pakhtunkhwa Province and to provide for the registration of such institutions;

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

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended upto date, and the Provisional

Constitution, Order No: 1 of 1999, read with Article 4 of the Provisional Constitution (Amendment) Order No: 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of the Khyber Pakhtunkhwa Province is pleased to make and promulgate the following Ordinance;

1. Short title, extent and commencement:---

1. This Ordinance may be called the Khyber Pakhtunkhwa Province Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.
2. It shall extend to whole of the Khyber Pakhtunkhwa Province.
3. It shall come into force at once in such area or areas, and on such date or dates, as Government may, by notification in the Official Gazette, specify.

**CHAPTER-I
PRELIMINARY**

2. Definitions:---

1. In this Ordinance, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-
 - (a) “Board” means a Board of Intermediate and Secondary Education¹concerned or any other certificate awarding Board, as the case may be, established by Government under any law for the time being in force;
 - ²(aa) “Chief Minister” means the Chief Minister of the Khyber Pakhtunkhwa Province;
 - (b) “College” means any institution or center in the private sector imparting education to students leading to award of a degree;

¹Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

²Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

- (c) “Department” means the Department of Education of Government;
- (d) “Government” means the Government of the Khyber Pakhtunkhwa Province;
- (e) “Governor” means the Governor of the Khyber Pakhtunkhwa Province;
- ³(ee) “Higher Education Commission” means the Higher Education Commission Established under the Higher Education Commission Ordinance, 2002;
- (f) “Prescribed” means prescribed by rules made under this Ordinance;
- (g) “Province” means the Khyber Pakhtunkhwa Province;
- (h) “Provincial Law” means a law passed or deemed to have been passed by the legislature of the Province;
- (i) “Regulatory Authority” means a Regulatory Authority constituted under this Ordinance;
- (j) “School” means any institution in the private sector imparting education to students leading to award of a certificate or diploma;
- (k) “Society” means a society registered under the Societies Registration Act, 1860 (XXI of 1860);
- (l) “Trust” means a trust established under the Trust Act, 1882 (II of 1882; ⁴and
- (m) “University” means a University established under the provincial law and includes any other University or a Branch thereof established by

³Insertion of new sub-section vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

⁴Insertion vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

law outside the Province, if registered under this Ordinance.⁵ (and) deleted.

⁶(n) Clause (n) deleted.

2. Word and phrases used in this Ordinance but not defined, shall have the same meaning as respectively assigned to them under the relevant federal law or provincial law, as the case may be,

3. Nomenclature:---

1. No private educational institution shall be named after any prestigious or famous foreign educational institution, unless it is an authorized branch of the said institution and is duly approved by the Regulatory Authority, ⁷“or as the case may be, the Board”.
2. No private educational institution shall be named after a national or international leader without prior permission of Government.
3. No private educational institution shall be named after a secretarian group.

**CHAPTER-II
PRIVATE UNIVERSITY**

4. Establishment of private University:---

1. No person or organization shall apply for establishment of a University in the private sector, unless the person concerned has created a trust for the purpose under the Trust Act, 1882 (II of 1882), or, as the case may be, the organization, which includes a person or persons, has been registered as a society under the Societies Registration Act, 1860 (XXI of 1860), or as a company registered under the Companies Ordinance, 1984 (XLVII of 1984).

⁵Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

⁶Deleted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

⁷Insertion vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

2. Any person or organization, eligible under sub-section (1) may, in his or its registered name, apply to the Regulatory Authority on the form and in the manner prescribed for registration of a University in the private sector.
- ⁸3. The Regulatory Authority shall appoint a Scrutiny Committee, consisting of four members, including a Dean of the University established by Government which is nearest to the place where the university in the private sector is being established, a representative of the Higher Education Department not below the rank of Additional Secretary and the two other members as appointed by it and forward all application received under sub-section (2) to the said committee for scrutiny in accordance with the guidelines issued from time to time by Higher Education Commission and Government and to submit its report to the Regulatory Authority.
4. The Scrutiny Committee shall have the power to examine documents, required documents to be produced, receive statements on oath and direct the applicant to file affidavits and in the discharge of such functions shall have the powers of a civil court under the Code of Civil Procedure, 1908 (V of 1908).
5. The Scrutiny Committee shall forward the applications duly scrutinized with its final recommendations to the Regulatory Authority for further processing.
5. **Establishment and Incorporation of University.---**
 1. If the Regulatory Authority favourably recommends the establishment of the University in the private sector, the Management Committee, the Board of Governors or the Board of Trustees of the proposed private educational institution, as the case may be, shall furnish a charter to Government in the form of a bill

⁸Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

after obtaining a no objection certificate from the ⁹Higher Education Commission, for further processing of the bill by Government.

2. Unless the bill is passed and enacted as an Act of the Provincial Assembly, the applicant shall not start functioning of the proposed University;

Provided that an Ordinance promulgated by the Governor of the Province in this behalf shall, of the purposes of this sub-section, be deemed to be an Act passed by the Assembly.

3. Subject to sub-section (2), the Regulatory Authority shall, on payment of such fee as may be prescribed, issue a registration certificate whereupon the University so registered may start functioning as such.

6. Branches of the University.---

1. No branch of any other University working in the province shall be recognized by or under this Ordinance unless it is registered under sub-section (3) of section-5 of this Ordinance.
2. For the purpose of sub-section (1), the Scrutiny Committee constituted under sub-section (3) of section 4 of this Ordinance shall scrutinize the courses, methods of teaching and assess compatibility of the courses with the courses approved by the Universities in the Provinces, and if it is of the opinion that the courses are of the standard of equivalence with the degrees or post-graduation of the Universities in the province, then, notwithstanding anything contained in any other law for the time being in force, the Regulatory Authority may, on the recommendation of the Scrutiny Committee, and subject to

⁹Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

permission of the ¹⁰Higher Education Commission, as required under the law, allow any other University to be registered in the manner prescribed.

2. **EXPLANATION: ~** In this section other University means any University which is not constituted under the provincial law.

CHAPTER-III PRIVATE COLLEGES

7. **Opening of a College. ~~**

1. No person or an organization shall apply for opening of a private college, unless, in the case of an individual, he has set apart a sizable amount in a bank in the name of the college as security deposit, or in the case of an organization, it has been registered as a society, trust, foundation or business enterprises under the relevant law for the time being in force.
- ¹¹2. Any person or an organization, as mentioned in sub-section (1), interested in establishing a college, other than an Inter College, may apply for registration to the Regulatory Authority in such manner and form as may be prescribed.
- ¹²3. The Regulatory Authority shall refer the case to the Scrutiny Committee appointed under sub-section (3) of section 4 for scrutiny of the case within the meaning of the said provisions.
- ¹³4. Any person or organization, as mentioned in sub-section (1), interested may apply to the Board concerned in such form and manner as may be prescribed, and the Board shall forward all such applications to the District Committee concerned constituted under

¹⁰Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

¹¹Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

¹²Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

¹³Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

- sub-section (4) of section-9 for scrutiny of the cases in accordance with the provisions of this Ordinance; and
- ¹⁴5. Subject to the other provisions of this Ordinance, if the Scrutiny Committee, or, as the case may be, the District Committee is satisfied that the applicant has submitted a correct feasibility report and the establishment of the respective college shall help in the furtherance of the cause of education, it shall:-
- a. In the case of a Degree College, recommend to the Regulatory Authority; and.
 - b. In the case of an Inter College, recommend to the Board concerned for the establishment of the respective college and the college may be provisionally registered.
6. The college in question shall apply for affiliation to the Board or the University in the jurisdiction of which the college is situated and upon obtaining the affiliation, the provincial registration issued under sub-section (5) shall stand confirmed.
7. In case the college is a professional college requiring approval of an authority under the federal law, like the Pakistan Medical and Dental Council in case of a Medical College or Pakistan Engineering Council in case of a College of Engineering and Technology, it shall be the responsibility of the college concerned to fulfill the legal formalities and obtain the approval of the Council concerned directly, in the manner specified in the relevant federal law.

¹⁴Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

8. Issuance of registration certificate.---

1. The Regulatory Authority, or, as the case may be, the ¹⁵Board shall issue a registration certificate in respect of the college in the prescribed manner for such period as may be provided in the rules, which shall be renewable on such terms and conditions as may be prescribed.

**CHAPTER-IV
PRIVATE SCHOOLS**

9. Opening of Private Secondary School of Higher Secondary Schools:---

1. No person shall open a private secondary or higher secondary school without the permission of the ¹⁶Board.
2. Any person desirous of opening a school, referred to in sub-section (1), shall apply to the District Committee concerned, constituted under ¹⁷sub-section (4) on the form and in the manner as may be prescribed.
3. The District Committee shall visit the site location, scrutinize the feasibility report, assess the financial stability of the applicant, including the criteria prescribed for its affiliation with ¹⁸Board for examination purpose, and subject to the provisions contained in Chapter V, make its recommendations to the Board.
- ¹⁹4. The Board shall constitute a District Committee in each District comprising the following: -
 - i. The Executive District Officer (Education), (Chairman)
of the District concerned
 - ii. The District Officer (Education) of the District concerned (Member)

¹⁵Insertion vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

¹⁶Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

¹⁷Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

¹⁸Substituted vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

¹⁹Insertion vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

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| iii. | Secretary of the Board concerned | (Member) |
| iv. | Senior Principal of the college in the District | (Member) |
| v. | an Educationist or said worker as determined by the Board | (Member) |
| vi. | a representative of the ZillaNazim of the District concerned. | (Member) |

10. Issuance of certificate.~::~

- ²⁰1. On issuance of the registration certificate, the school shall stand recognized for imparting education.
2. Notwithstanding anything to the contrary contained in any law for the time being in force, upon registration of school under sub-section (1), the school shall stand affiliated to the respective Board.

11. Opening of primary and middle schools.~::

1. No person shall open any middle, lower middle or a primary school, including pre-primary, kindergarten, Montessori or such like institute by which ever name it may be called, without the permission of the ²¹Board.
2. Any person desirous of opening a school, referred to in sub-section (1), shall apply to the District Committee concerned, constituted under ²²sub-section (4) of section-9, on the form and in the manner as may be prescribed.
3. The District Committee shall visit the site location, scrutinize the feasibility report, assess the financial stability of the applicant, and

²⁰Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

²¹Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

²²Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

subject to the provisions contained in Chapter-V, make recommendations to the ²³Board.

4. In case the ²⁴Board decides to register the school, it shall issue the registration certificate to the applicant, whereupon the schools shall stand recognized for imparting education.

CHAPTER-V GENERAL PROCEDURE FOR REGISTRATION

12. Public Opinion.~~~

1. Whenever an application is received for registration, the District Committee concerned shall notify the intention of the applicant in the form of notice, posted at some conspicuous place, for information of public in general inviting suggestions and objections in respect of registration of the proposed School or College as the case may be.
2. In case of a college or a higher secondary school, a public notice shall also be published at least in two leading newspapers; one in English and one in Urdu, at the cost of the applicant for inviting objections and suggestions within a prescribed period to be indicated in the notice.
3. On receipt of the suggestions or objections, as the case may be, the District Committee shall scrutinize the public views and if the Committee needs any further information, it may interview such interested persons who may like to be interviewed on invitation of the Committee.

²³Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

²⁴Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

4. Each public notice, published by the District Committee, shall have the salient features of the proposed School or College, as the case may be, with particular emphasis on.
 - a. Physical infrastructure provided;
 - b. Proposed staff and pay scales etc;
 - c. Admission fee;
 - d. Tuition fee;
 - e. Uniform;
 - f. Medium of instruction;
 - g. Curricula chosen; and
 - h. Any other specialty which the applicant may like to notify for public.

CHAPTER~VI

REGULATORY AUTHORITY

²⁵13. **Constitution of Regulatory:**~~~As soon as may be after the commencement of this Ordinance, there shall be constituted a Regulatory Authority for the purpose of carrying out the functions assigned to it by or under this Ordinance.

²⁶13. **A). Settlement of disputes**

1. The Regulatory Authority or, as the case may be, the Board, shall have exclusive authority in respect of the registration of the private educational institutions within their respective jurisdiction and in respect of matters relating to disputes arising between the Government and the registered institutions, the Regulatory Authority or the Board and the registered institutions, the Regulatory Authority or the Board and the registered institutions, the University and the registered institutions, or the staff of the institutions, or the staff of the institutions or complaints of parents

²⁵Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

²⁶Amendment vide Khyber Pakhtunkhwa Registration and Functioning of Private Educational Institutions (Amendment) Ordinance, 2002.

about fees, conditions of buildings of the institutions, staff employed and other related matters.

2. The Regulatory Authority, or as the case may be, the Board shall be responsible for supervision and performance of evaluation of the registered institutions within their respective jurisdiction in the manner determined by them within their respective authority.
14. **Composition of Regulatory Authority.**---The Regulatory Authority shall consist of a Chairman and three members and may be provided with such staff as may, from time to time, be determined by Government.
 15. **Appointment of members:**---The Chairman and the members of the Regulatory Authority shall be appointed by Chief Minister on such terms and conditions as may be determined by it.
 16. **Resignation:**---The Chairman or the members of the Regulatory Authority may resign his office by writing under his hand addressed to the Chief Minister of the Province.
 17. **Revision before Regulatory Authority.**---
 1. Any person aggrieved by an order of the Regulatory Authority or any delegate of the Regulatory Authority, may prefer a revision petition before the Regulatory Authority.
 2. While disposing of a revision petition, the Regulatory Authority shall have all the power of a civil court under the code of Civil Procedure, 1908 (V of 1908), in respect of following matters:
 - a. Summoning and enforcing the attendance of any person and examining him on oath;
 - b. Requiring production of documents
 - c. Receiving witnesses on affidavit; and
 - d. Issuing Commissions for the examination of witnesses or documents.

3. The decision of the Regulatory Authority in revision shall be final.

18. Preparation of guidelines, etc.---

1. The Regulatory Authority shall prepare guidelines for the registered institutions, excluding a private University, for the qualification, pay scales and privileges of the teachers.
2. There shall be no deviation from the approved guidelines prepared under sub-section (1), without prior permission of the Regulatory Authority.

**CHAPTER-VII
OFFENCES AND PUNISHMENT**

19. Offences.---

1. Whoever, whether an individual or a registered organization, contravenes any of the provisions of this Ordinance or the rules made there under, shall be punished: -
 - a. in case he runs an un-registered private University, with a fine of rupees five lacs; or
 - b. in case he runs a private college of science or technology, with fine of rupees three lac; or
 - c. in case he runs a private college other than that stated in clause (b), with a fine of rupees two lac; or
 - d. in case he runs a private, secondary or higher secondary school, with a fine of rupees one lac; or
 - e. in case he runs a private middle, a lower middle or a primary school, with a fine of rupees fifty thousand; and
 - f. in all cases, with fine not exceeding rupees ten thousand.

- 20. Cognizance of offences:---** No court, other than a judicial Magistrate of the 1st Class, shall take cognizance of any offence punishable under this Ordinance or the rules made thereunder, except on a complaint in writing made by the Regulatory Authority or a person authorized by Government in this behalf.

21. **Offences by companies, etc.---** Where the person guilty of an offence under this Ordinance or the rules made thereunder is a Company, a Corporation, a Society or a Trust, every director, partner and employee of the Company, Corporation, Society or Trust, as the case may be, shall, unless he proves that the offence was committed without his knowledge or consent, be guilty of the offence.
22. **Finality of order, etc.---** Save as otherwise expressly provided in this Ordinance, every order passed or decision made by the Regulatory Authority or on its behalf under this Ordinance, shall be final and shall not be called in question in any court or before any other authority.

CHAPTER-VIII MISCELLANEOUS

23. **Revoking of registration.-----**
1. The Regulatory Authority shall, on issuance of show cause notice to a registered educational institution and giving its management an opportunity of being heard, revoke any registration or may refuse registration on the expiry of the existing registration certificate.
 2. Before issuance of show cause notice under sub-section (1), the University concerned shall also be informed of the grounds for initiating proceedings regarding de-affiliation in case the show cause notice is issued to an affiliated college.
 3. If the University de-affiliates any private educational institution, the Registrar shall inform the Regulatory Authority for initiating proceedings against it under sub-section (1).

24. Accessibility of private institutions.---

All the registered educational institutions shall be accessible to all students without caste, creed and religion and there shall be no restraint for admission except on merits.

25. Indemnity.---

Except as otherwise expressly provided in this Ordinance, no suit, prosecution or other legal proceedings shall lie against Government or any other authority or person for anything done or intended to be done in good faith under this Act or the rules made thereunder.

26. Power to make rules.---

1. Government may make rules for carrying out the purposes of this Ordinance.
2. The Regulatory Authority may make regulations, subject to approval of Government, for conduct of its business.

27. Provisions to override other provisions.---

If the provisions of this Ordinance come into conflict with the provisions of any other provincial law, then, notwithstanding the Provisions of that Law, the provisions of this Ordinance shall take precedence to the extent of repugnancy.

28. Repeal and saving.---

1. The West Pakistan Registration of Un-recognized educational institutions Ordinance, 1962 (w.p. No. XI of 1962), is hereby repealed.

2. Notwithstanding the repeal of the said Ordinance, all educational institutions registered thereunder shall be deemed to have been registered under this Ordinance on the same terms and conditions as determined or may be determined for registration of a corresponding educational institutions under this Ordinance.

Peshawar,
2001

(Lt. Gen. (Retd.) IFTIKHAR HUSSAIN SHAH) dated the
Governor of Khyber Pakhtunkhwa Province

(SALIM KHAN)
Secretary to Government of Khyber Pakhtunkhwa Province,
Law Department.

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