

**THE KHYBER PAKHTUNKHWA
PROVINCIAL OMBUDSMAN ACT, 2010**

(KHYBER PAKHTUNKHWA ACT NO. XIV OF 2010)

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¹ Substituted by Khyber Pakhtunkhwa Act No. V of 2024
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¹ . Subs. by Khyber Pakhtunkhwa Act XXVI of 2022

² . Substituted by Khyber Pakhtunkhwa Act No. V of 2024.

³ . Substituted by Khyber Pakhtunkhwa Act No. V of 2024.

⁴ . Substituted by Khyber Pakhtunkhwa Act No. V of 2024.

⁵ . Deleted by Khyber Pakhtunkhwa Act XXVI of 2022

⁶ . Subs. by Khyber Pakhtunkhwa Act XXVI of 2022

⁷ . Inserted by Khyber Pakhtunkhwa Act No. V of 2024.

THE KHYBER PAKHTUNKHWA PROVINCIAL OMBUDSMAN ACT, 2010

(Khyber Pakhtunkhwa Act No. XIV OF 2010)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 6th October, 2010).

AN ACT

to provide for the establishment of the office of Provincial Ombudsman in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the establishment of the office of the Provincial Ombudsman for protection of the rights of the people, ensuring adherence to the rule of law, redressing and rectifying any injustice done to a person through maladministration, suppress corrupt practices and to ensure good governance;

AND WHEREAS it is expedient to provide for means of effecting changes in policy, procedure and legislation, educating the public, investigating and reviewing actions of the Agencies;

¹[....]

It is hereby enacted as follows:-

1. Short title, extent and commencement.--- (1) This Act may be called the Khyber Pakhtunkhwa Provincial Ombudsman Act, 2010.

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

(3) It shall come into force at once.

2. Definitions.--- In this Act, unless there is anything repugnant in the subject or context-

(a) "Agency" means a department, commission or office of Government or a statutory corporation or other institution established or controlled by Government, but does not include the High Court and Courts working under the supervision and control of the High Court, and the Provincial Assembly of the Khyber Pakhtunkhwa and its Secretariat;

(b) "aggrieved person" means any person including a public servant, civil servant, ²[....] aggrieved of any act of maladministration;

³[(b-i) "**Law Department**" means the Law, Parliamentary Affairs and Human Rights Department of Government;]

⁴[****]

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

(e) "Governor" means the Governor of the Khyber Pakhtunkhwa;

(f) "maladministration" includes-

(i) a decision, process, recommendation, act or omission of a holder of a public office which-

(a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bonafide and for valid reasons; or

¹ . Paragraph 3 deleted by Act No. XXVI of 2013 dated 25-09-2013.

² . The words "women or a child," deleted by Act No. XXVI of 2013 dated 25-09-2013

³ . Inserted by Khyber Pakhtunkhwa Act XXVI of 2022

⁴ . Clause (c) deleted by Act No. XXVI of 2013 dated 25-09-2013.

- (b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
 - (c) is based on irrelevant grounds; or
 - (d) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favoritism, nepotism and administrative excesses;
 - (e) has or have adversely affected a person; and
- (ii) neglect, inattention, delay, incompetence, inefficiency and inaptitude, in the administration or discharge of duties and responsibilities;
- ¹[(f-i) "misconduct" means the misconduct as defined in the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules, 2011;]
- (g) "Office" means the office of the Provincial Ombudsman;
- (h) "Provincial Ombudsman" means the Provincial Ombudsman appointed for the Khyber Pakhtunkhwa under section 3 of this Act;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "Public servant" means a public servant as defined in section 21 of the Pakistan Penal Code, 1860, and includes a Minister, Advisor, the Chief Executive, Director or any other officer, employee or member of an Agency;
- ²[(j-i) "regulations" mean the regulations made under this Act;
- (j-ii) "rules" mean the rules made under this Act;
- (j-iii) "Search and Scrutiny Committee" means the Search and Scrutiny Committee constituted under section 3A of this Act;]
- (k) "staff" means any employee of Government and includes co-opted members of the staff, consultants, advisors, bailiffs, liaison officers and experts etc.; and
- (l) "Schedule" means the Schedule appended to this Act.

³**3. Appointment of Provincial Ombudsman.**---(1) There shall be a Provincial Ombudsman, for the Province of the Khyber Pakhtunkhwa, who shall be appointed by Government on the recommendations of Search and Scrutiny Committee.

- (2) The Provincial Ombudsman shall be a person, who has been-
- (a) a retired judge of the High Court; or
 - (b) a retired civil servant in BPS-20 or above, having at least three years experience as the head of a Government Department or a public sector organization.

(3) The process of appointment of the Provincial Ombudsman shall be initiated one hundred and twenty (120) days, prior to the completion of tenure of the outgoing Provincial Ombudsman and the process shall be completed before the expiry of the tenure of the outgoing Provincial Ombudsman.

(4) In case the appointment process, under sub-section (3), is not completed within the specified time, the said time period may be extended on recommendation of Law Department, for a reasonable term, with the approval of Chief Minister:

¹ Inserted by Khyber Pakhtunkhwa Act No. V of 2024

² Inserted by Khyber Pakhtunkhwa Act No. V of 2024

³ Substituted by Khyber Pakhtunkhwa Act No. V of 2024

Provided that in such a case the outgoing Provincial Ombudsman, whose tenure has expired, shall continue to act as Provincial Ombudsman during the extended period.

(5) The maximum age for application to the post of Provincial Ombudsman shall be sixty four years.

(6) Before entering upon the office, the Provincial Ombudsman shall take an oath before the Governor, in the form set out in the Schedule-I appended to this Act.

(7) The Provincial Ombudsman shall, in all matters, perform his functions and exercise his powers fairly, honestly, diligently and in accordance with relevant laws, rules, regulations, policies and by-laws for the time being in force.

(8) All executive authorities, Departments, agencies and offices of Government in the Province shall act in aid of the Provincial Ombudsman in the discharge of his duties under this Act in an effective manner.]

¹**[3A. Search and Scrutiny Committee.**---For the purpose of recommendation of a panel of three persons to Government for appointment as Provincial Ombudsman, there shall be a committee to be known as Search and Scrutiny Committee.

(2) The Search and Scrutiny Committee shall consist of the following:

- | | | |
|------|---|-----------------------|
| (a) | Minister for Law, Parliamentary Affairs and Human Rights, Khyber Pakhtunkhwa; | Chairperson |
| (aa) | One Member of the Provincial Assembly of Khyber Pakhtunkhwa nominated by the Speaker of the Assembly; | Member |
| (b) | Secretary to Government, Law Department | Member |
| (c) | Secretary to Government, Establishment Department; and | Member |
| (d) | Additional Secretary (General), Law Department. | Member-cum-Secretary. |

(3) The Chairperson of the Search and Scrutiny Committee may co-opt any person as member of the Search and Scrutiny Committee; provided that such co-opted member may participate in the discussion but cannot take part in decision making.]

4. Tenure of the Provincial Ombudsman.--- ²[(1) The Provincial Ombudsman shall hold office for a term of four years or during the pleasure of Government whichever is earlier. The term of the Provincial Ombudsman may be extended for another period of two years only once.]

³[(1A) Notwithstanding anything contained in the provisions of this Act, the provisions of the Khyber Pakhtunkhwa Provincial Ombudsman (Amendment) Act, 2022 (Khyber Pakhtunkhwa Act No. XXVI of 2022) and the provisions of the Khyber Pakhtunkhwa Provincial Ombudsman (Amendment) Act, 2024, shall be applicable to the incumbent Provincial Ombudsman who was appointed prior to the commencement of the Act *ibid*.]

5. Provincial Ombudsman not to hold any other office of profit, etc.--- (1) The Provincial Ombudsman shall not occupy any other position carrying the right to remuneration for the rendering of services.

(2) The Provincial Ombudsman, shall not hold any office of profit in the Service of Pakistan or the Province before the expiration of two years after he has ceased to hold that office nor shall he be eligible during the tenure of office and for a period of two years thereafter for election as a member of Parliament or a Provincial Assembly or any local body or take part in any political activity.

¹ Inserted by Khyber Pakhtunkhwa Act No. V of 2024.

² Substituted by Khyber Pakhtunkhwa Act No. V of 2024

³ Inserted by Khyber Pakhtunkhwa Act No. V of 2024

¹**[6. Remuneration of Provincial Ombudsman.**---The Provincial Ombudsman shall be entitled to such salary, allowances and privileges as Government may determine, which shall not be varied during the term of his office.]

²**[6A. Removal of Provincial Ombudsman.**---(1) Nothing contained in sub-section (1) of section 4 of this Act shall prevent the Government to remove the Provincial Ombudsman at any time on any of the following grounds, if he-

- (a) is guilty of misconduct; or
- (b) is being incapable of properly performing the duties of his office by reason of physical or mental incapability; or
- (c) has become bankrupt or has applied to be adjudicated as an insolvent and his application is pending; or
- (d) has been convicted by a court of law for an offence involving moral turpitude; or
- (e) is or has become inefficient in the performance of his duties; or
- (f) is or has become corrupt or is involved in corrupt practices; or
- (g) has been debarred from holding any office under any provisions of law; or
- (h) has conflict of interest with his position as Provincial Ombudsman.

(2) In case of removal of the Provincial Ombudsman, on any of the grounds mentioned in sub-section (1), a copy of charges, leveled against him, shall be provided to the Provincial Ombudsman and he shall also be given an opportunity of hearing.

(3) If the Provincial Ombudsman is removed from office on the grounds mentioned in sub-section (1), it shall debar him from holding any office under the Government or the Federal Government or any other public office.]

³**[7. Acting Ombudsman.**---If the office of the Provincial Ombudsman is vacant due to any reason, the Chief Minister may appoint an acting Ombudsman for a period not exceeding ninety days in any case.]

⁴**[7A. Grievance Commissioner.**---(1) In respect of any Agency, against which a large number of complaints is received in the office of the Provincial Ombudsman, the Provincial Ombudsman may direct the Agency to designate one of its officers, not below the rank of BPS-19, as a Grievance Commissioner.

(2) For the purpose of sub-section (1), the Grievance Commissioner shall perform such functions as may be assigned to him by the Provincial Ombudsman.]

8. Appointment and terms and conditions of service of staff.--- ⁵[(1) The member of the staff of Provincial Ombudsman Secretariat shall be appointed in the manner as may be prescribed by rules.]

⁶[****]

(3) The members of the staff shall be entitled to such salary and allowances and shall be governed by such terms and conditions of service as may be prescribed, having regard to salary, allowances and other terms and conditions of service that may for the time being be admissible to other employees of Government in the corresponding basic pay scales.

⁷[****]

¹ Substituted by Khyber Pakhtunkhwa Act No. V of 2024

² Inserted by Khyber Pakhtunkhwa Act No. V of 2024

³ Subs. by KP Act XXVI of 2022

⁴ Inserted by KP Act XXVI of 2022

⁵ Substituted by Khyber Pakhtunkhwa Act No. V of 2024

⁶ Sub-section (2) deleted by KP Act XXVI of 2022

⁷ Sub-section (4) deleted by KP Act XXVI of 2022

9. Jurisdiction, functions and powers of the Provincial Ombudsman.---¹[(1) The Provincial Ombudsman may, on a complaint made by any aggrieved person, undertake any investigation into any allegation of mal-administration on the part of any Agency or any of its officers or functionaries:

Provided that the Provincial Ombudsman shall not have any jurisdiction to investigate or inquire into any matter which is subjudice before a court or a tribunal of competent jurisdiction on the date of the receipt of a complaint in this behalf.]

²[.....]

³[***]

⁴[(5) The principal seat of the Office of Provincial Ombudsman shall be at Peshawar. However, the Provincial Ombudsman may, with the approval of Government and concurrence of the Finance Department of Government, establish Regional or Divisional Offices for proper implementation of the provisions of this Act.]

10. Procedure and evidence.--- (1) A complaint shall be made on solemn affirmation or oath and in writing addressed to the Provincial Ombudsman by the person aggrieved or, in the case of his death, by his legal representative and may be lodged in person at the office or handed over to the Provincial Ombudsman in person or sent by any other means of communication to his Office.

(2) No anonymous or pseudonymous complaints shall be entertained.

(3) A complaint shall be made not later than six months from the day on which the person aggrieved first had the notice of the matter alleged in the complaint, but the Provincial Ombudsman may conduct any investigation pursuant to a complaint which is not within the time-limit, if he considers that there are special circumstances which make it necessary to do so.

(4) Where the Provincial Ombudsman proposes to conduct an investigation, he shall issue to the principal officer of the Agency concerned, and to any other person who is alleged in the complaint to have taken or authorized the action complained of, a notice calling upon him to meet the allegations contained in the complaint, including rebuttal:

Provided that the Provincial Ombudsman may proceed with the investigation if no response to the notice is received by him from such principal officer or other person within thirty days of the receipt of the notice or within such longer period as may have been allowed by the Provincial Ombudsman.

⁵[(4A) In case there is unreasonable delay or failure to submit written comments within the time period mentioned in sub-section (4) by the Agency, the Provincial Ombudsman shall recommend to the head of the concerned Agency for disciplinary action against the concerned officer or official of the Agency under the relevant rules for the time being in force.

(4B) The head of the Agency shall, on initiating disciplinary action against the delinquent officer or official in pursuance of sub-section (4A), submit a report to the Provincial Ombudsman in this regard.

(4C) Where the delay, in filing reply under sub-section (4), is due to the inaction of head of the Agency, the same shall be construed as inefficiency on his part.]

(5) Every investigation shall be conducted informally, but the Provincial Ombudsman may adopt such procedure as he considers appropriate for such investigation and may obtain information from such persons and in such manner and make such inquiries as he thinks fit.

(6) A person shall be entitled to appear in person or be represented before the Provincial Ombudsman.

¹ . Substituted by Khyber Pakhtunkhwa Act XXVI of 2022

² Sub-section (2) deleted by Khyber Pakhtunkhwa Act No. V of 2024

³ . Sub-sections (3) and (4) deleted by Act No. XXVI of 2013 dated 25-09-2013

⁴ Substituted by Khyber Pakhtunkhwa Act No. V of 2024

⁵ Inserted by Khyber Pakhtunkhwa Act No. V of 2024

(7) The Provincial Ombudsman shall, in accordance with the rules made under this Act, pay expenses and allowances to any person who attends or furnishes information for the purpose of any investigation.

(8) The conduct of an investigation shall not affect any action taken by the Agency concerned, or any power or duty of that Agency to take further action with respect to any matter subject to the investigation.

(9) For the purpose of an investigation under this Act, the Ombudsman may require any officer or member of the Agency concerned to furnish any information or to produce any document which in the opinion of the Provincial Ombudsman is relevant and helpful in the conduct of the investigation and there shall be no obligation to maintain secrecy in respect of disclosure of any information or document for the purposes of such investigation:

Provided that the Government may, in its discretion, on grounds of its being a State secret, allow a claim of privilege with respect to any information or document.

(10) In any case where the Provincial Ombudsman decides not to conduct an investigation, he shall send to the complainant a statement of his reasons for not conducting the investigation.

(11) Save as otherwise provided in this Act, the Provincial Ombudsman shall regulate the procedure for the conduct of business or the exercise of powers under this Act.

¹**[11. Recording of findings.]**—(1) After having adjudicated the matter and concluded the proceedings, the Provincial Ombudsman is of the opinion that the act of the Agency concerned amounts to maladministration, he shall record his findings and may—

- (a) direct the Agency to rescind, modify or revoke its decision or order, as the case may be; or
- (b) remand back the case to the Agency with direction to reconsider and determine the same finally in accordance with relevant law, rules and merit; or
- (c) issue directions to the Agency for disposing of a matter on such terms as may be recorded in the findings; or
- (d) direct the Agency to take any other steps as the Provincial Ombudsman may specify.

(2) If, after conducting an investigation, it appears to the Provincial Ombudsman that an injustice has been caused to the person aggrieved in consequence of maladministration and that the injustice has not been or will not be remedied, he may, if he thinks fit, submit a special report on the case before Government through the Law Department.]

²**[12. Implementation of findings.]**—(1) The Agency shall implement the findings of the Provincial Ombudsman within forty five days from the date of receipt of the findings by it. The Agency shall accordingly inform the Provincial Ombudsman of action taken in pursuance of the findings.

(2) Notwithstanding anything contained in sub-section (1), where the Agency feels difficulty in implementing the findings or considers that the findings recorded by the Provincial Ombudsman are not well founded, it may file a review petition with the Provincial Ombudsman within forty five days from the day on which the findings are received to it.

³[(2A) On acceptance of review petition, the Provincial Ombudsman shall send notices to the Agency and the aggrieved person in the prescribed manner.]

(3) The Provincial Ombudsman, if after considering the grounds of the Agency in the review petition, is satisfied that no case of maladministration is made out, he may alter, modify or recall his findings.

(4) Where on considering the review petition, the Provincial Ombudsman determines that the stance of the Agency is not well grounded and that the findings have been rightly recorded, he shall pass an order

¹ . Subs. by KP Act XXVI of 2022

² . Subs. by KP Act XXVI of 2022

³ Inserted by Khyber Pakhtunkhwa Act No. V of 2024

dismissing the review petition. Upon the order of dismissal, the Agency shall implement the findings ¹[subject to section 31 of this Act.]]

²**[13. Powers of Government.]**—(1) In case of any difficulty in implementation of the findings of the Provincial Ombudsman, the Agency concerned may, with prior consultation of Law Department, submit a self contained case to Government for final order in the manner as provided in the Khyber Pakhtunkhwa Government Rules of Business, 1985.

(2) The decision of the Government under sub-section (1) shall be final and binding.]

³**[13A. Instructions etc. with regards to implementation of findings.]**— ⁴[(1)] The Law Department, with the approval of the Chief Minister, Khyber Pakhtunkhwa, shall issue such instructions and devise such mechanism as may appear to it to be necessary for the implementation of findings of the Provincial Ombudsman.]

⁵[(2) For the purpose of implementation of findings in accordance with the instructions issued under sub-section (1), there shall be an Implementation Committee in Law Department, which shall consist of-

- | | | |
|-----|--|-----------------------|
| (a) | Secretary to Government , Law, Parliamentary Affairs and Human Rights Department; | Chairperson |
| (b) | Law Officer of the Law Department; | Member |
| (c) | Director (Implementation), Provincial Ombudsman Secretariat; | Member |
| (d) | a representative of concerned Administrative Department or Agency, not below the rank of BPS-18; and | Member |
| (e) | Deputy Secretary (Admin), Law Department. | Member-cum-Secretary. |

(3) The Chairperson of the Implementation Committee may nominate any other person as co-opted member, if required.

(4) Without prejudice to sub-section (1), the Implementation Committee shall also perform such functions and exercise such powers as may be prescribed by rules.]

14. Powers of the Provincial Ombudsman.--- (1) The Provincial Ombudsman shall, for the purposes of this Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the matter, namely:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) receiving evidence on affidavits;
- (d) issuing commission for the examination of witnesses ⁶[; and]
- [(e) implementation of orders or directions issued to any Agency during the course of proceedings.]

¹ Inserted by Khyber Pakhtunkhwa Act No. V of 2024

² Subs. by KP Act XXVI of 2022

³ Inserted by KP Act XXVI of 2022

⁴ Number as sub- section (1) of section 13A by Khyber Pakhtunkhwa Act No. V of 2024.

⁵ Sub-section (2) added by Khyber Pakhtunkhwa Act No. V of 2024.

⁶ Replaced by Khyber Pakhtunkhwa Act No. V of 2024.

¹[****]

(3) The Provincial Ombudsman shall have the power to require any person to furnish information on such points or matters as, in the opinion of the Provincial Ombudsman, may be useful for, or relevant to, the subject-matter of any inspection or investigation.

(4) The powers referred to in sub-section (1) may be exercised by the Provincial Ombudsman or any person authorized in writing by the Provincial Ombudsman in this behalf while carrying out an inspection, investigation or implementation of findings under the provisions of this Act.

(5) Where the Provincial Ombudsman finds the complaint referred to in sub-section (1) of section 9 to be false, frivolous or vexatious, he may award reasonable compensation to the Agency, public servants or other functionary against whom the complaint was made, and the amount of such compensation shall be recoverable from the complainant as arrears of land revenue:

Provided that the award of compensation under this sub-section shall not debar the aggrieved person from seeking any other remedy.

(6) If any Agency, public or other functionary fails to comply with the direction of the Provincial Ombudsman, he may, in addition to taking other actions under this Act, refer the matter to the appropriate authority for taking disciplinary action against the person who disregarded the direction of the Provincial Ombudsman.

(7) If the Provincial Ombudsman has reason to believe that any public servant or other functionary has acted in a manner warranting criminal or disciplinary proceedings against him, he may refer the matter to the appropriate authority for necessary action to be taken within the time specified by him.

(8) The staff and the nominees of the office may be commissioned by the Provincial Ombudsman to administer oaths for the purposes of this Act and to attest various affidavits, affirmations or declarations which shall be admitted in evidence in all proceedings under this Act without proof of the signature or seal or official character of such person.

(9) The Ombudsman shall decide the complaint within six months.

²[**14A. Agency to refrain from taking any action in matters pending before the Provincial Ombudsman.**---Once the Provincial Ombudsman has taken cognizance of a matter under this Act, the Agency concerned shall not take any prejudicial action in regard to that matter till the conclusion of proceedings:

Provided that the Provincial Ombudsman may allow the Agency concerned, if so requested in writing by the Agency, to take any action or continue any proceedings if the Provincial Ombudsman is of the opinion that such action or proceeding will not prejudicially affect the matter pending before him.

14B. Willful avoidance to implement findings.---Where an Agency willfully avoids any findings recorded by the Provincial Ombudsman under the provisions of this Act within the time period specified in sub-section (1) of section 12 of this Act, without any cogent reasons and without availing the remedies available in sections 12, 13, 13A and 31 of this Act, it shall tantamount to misconduct on part of the head of the Agency and the Provincial Ombudsman in that case shall, after giving an opportunity of hearing to the head of the Agency, have the authority to recommend disciplinary action against the head of the Agency to the relevant competent authority in accordance with the relevant law or rules for the time being in force.]

³[****]

17. Inspection Team.--- (1) The Provincial Ombudsman may constitute an Inspection Team for the performance of any of the functions of the Provincial Ombudsman.

(2) An Inspection Team shall consist of one or more members of the staff and shall be assisted by such other person or persons as the Provincial Ombudsman may consider necessary.

¹ . Sub-section (2) deleted by Act No. XXVI of 2013.

² . Inserted by Khyber Pakhtunkhwa Act No. V of 2024.

³ . Sections 15 and 16 deleted by Khyber Pakhtunkhwa Act XXVI of 2022.

(3) An Inspection Team shall exercise such of the powers of the Provincial Ombudsman, as he may specify by order in writing and every report of the Inspection Team shall be first submitted to the Provincial Ombudsman with its recommendations for appropriate action.

18. Standing Committees etc.--- The Provincial Ombudsman may, whenever he thinks fit, establish standing or advisory committees, at specified places with specified jurisdiction for performing such functions of the Provincial Ombudsman as are assigned to them from time to time and every report of such committees shall be first submitted to the Provincial Ombudsman with its recommendations for appropriate action.

19. Delegation of powers.--- The Provincial Ombudsman may, by order in writing, delegate any of his powers as may be specified in the order to any member of his staff, Inspection Team or to a standing or advisory committee, to be exercised subject to such conditions as may be specified and every report of such member, Inspection Team or committee shall be first submitted to the Provincial Ombudsman with his or its recommendations for appropriate action.

¹[20. Appointment of advisors etc.--- The Provincial Ombudsman may, for the purpose of this Act, appoint advisors, consultants, fellows, bailiffs, interns, commissioners and experts in consultation with the Law Department in the manner as may be prescribed.]

21. Award of costs and compensation and refund of amounts.--- (1) The Provincial Ombudsman may, where he deems necessary, call upon a public servant, other functionary or any Agency to show cause why compensation be not awarded to an aggrieved party for any loss or damage suffered by him on account of any mal-administration committed by such public servant, other functionary or Agency, and after considering the explanation, and hearing such public servant, other functionary or Agency, award reasonable costs or compensation and the same shall be recoverable as arrears of land revenue from the public servant, functionary or Agency.

(2) In cases involving payment of illegal gratification to any employee of any Agency or to any other persons on his behalf, or misappropriation, criminal breach of trust or cheating, the Provincial Ombudsman may order the payment thereof for credit to Government or pass such other order as he may deem fit.

(3) An order made under sub-section (2) against any person shall not absolve such person of any liability under any other law.

22. Assistance and advice to Provincial Ombudsman.--- (1) The Provincial Ombudsman may seek the assistance of any person or authority for the performance of his functions under this Act.

(2) All officers of an Agency and any person whose assistance has been sought by the Provincial Ombudsman in the performance of his functions shall render such assistance to the extent it is within their powers or capacity.

(3) No statement made by a person or authority in the course of giving evidence before the Provincial Ombudsman or his staff shall subject him to or be used against him in any civil or criminal proceedings, except for prosecution of such person for giving false evidence.

23. Conduct of business. (1) The Provincial Ombudsman shall be the chief executive of the Office.

(2) The Provincial Ombudsman shall be the Principal Accounts Officer of the Office in respect of the expenditure incurred against budget grant or grants controlled by the Provincial Ombudsman and shall, for this purpose, exercise all the financial and administrative powers delegated to an Administrative Department of Government.

24. Requirement of affidavits.--- (1) The Provincial Ombudsman may require any complainant or any party connected or concerned with a complaint, or with any inquiry or reference, to submit affidavits duly attested by an authorized officer of the office of the Provincial Ombudsman, in that behalf within the time prescribed by the Provincial Ombudsman or his staff.

(2) The Provincial Ombudsman may take evidence without technicalities and may also require complainants or witnesses to take lie detection tests to examine their veracity and credibility and draw such

¹ . Subs. by Khyber Pakhtunkhwa Act XXVI of 2022

inferences that are reasonable in the circumstances of the case especially when a person refuses, without reasonable justification, to submit to such tests.

¹[**25. Remuneration of fixed pay employees.**---The Provincial Ombudsman may, through Law Department, fix remuneration of Advisors, Consultants, Investigation Officer, Fellows, Bailiffs, Interns, Commissioner and experts engaged by him from time to time for services rendered under section 20 of this Act in consultation with Finance Department.]

26. Provincial Ombudsman and staff to be public servants.--- The Provincial Ombudsman, the employees, officers and all other staff of the Office shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

²[**27. Annual and other reports.**---(1) Annual reports of the Provincial Ombudsman shall be laid before the Provincial Assembly of Khyber Pakhtunkhwa and Government each year in the month of March.

(2) The Provincial Ombudsman may, from time to time, make public any of his studies, research, conclusions, recommendations, ideas or suggestions in respect of any matter being dealt with by the Office of the Provincial Ombudsman.

(3) The Provincial Ombudsman may also, from time to time, make recommendations to any Agency or Government concerning good governance and elimination of maladministration.]

28. Bar of jurisdiction.--- No court or other authority shall have jurisdiction-

(i) to question the validity of any action taken, or intended to be taken, or order made, or anything done or purporting to have been taken, made or done under this Act; or

(ii) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Provincial Ombudsman.

29. Immunity.--- No suit, prosecution or other legal proceeding shall lie against the Provincial Ombudsman, his staff, Inspection Team, nominees, member of a standing or advisory committee or any person authorized by the Provincial Ombudsman for anything which is in good faith done or intended to be done under this Act.

30. Reference by the Governor.--- (1) The Governor may refer any matter, report or complaint for investigation and independent recommendations by the Provincial Ombudsman.

(2) The Provincial Ombudsman shall promptly investigate any such matter, report or complaint and submit his findings or opinion within a reasonable time.

³[**31. Representation to Chief Minister.**---Notwithstanding anything contained in any other provisions of this Act, any aggrieved person or Agency aggrieved from the findings or orders of the Provincial Ombudsman may file a representation before the Chief Minister within forty five (45) days from the date of communication of findings or order to him or from the date of orders in review, as the case may be.]

⁴[****]

33. Service of process.--- (1) For the purposes of this Act, a written process or communication from the Office shall be deemed to have been duly served upon a respondent or any other person by, inter alia, any one or more of the following methods, namely:

(i) by service in person through any employee of the Office or by any special process-server appointed in the name of Provincial Ombudsman by any authorized staff of the Office, or any other person authorized in this behalf; or

¹ Substituted by Khyber Pakhtunkhwa Act No. V of 2024.

² Substituted by Khyber Pakhtunkhwa Act No. V of 2024.

³ Substituted by Khyber Pakhtunkhwa Act No. V of 2024.

⁴ Deleted by Khyber Pakhtunkhwa Act XXVI of 2022

- (ii) by depositing in any mail box or posting in any post office a postage prepaid copy of the process, or any other document under certificate of posting or by registered post acknowledgement due to the last known address of the respondent or person concerned in the record of the Office, in which case service shall be deemed to have been effected seven days after the aforesaid mailing; or
- (iii) by a police officer or any employee or nominee of the Office leaving the process or document at the last known address, abode, or place of business of the respondent or person concerned and, if no one is available at the aforementioned address, premises or place, by affixing a copy of the process or other document to the main entrance of such address; or
- (iv) by publishing the process or document through any newspaper and sending a copy thereof to the respondent or the person concerned through ordinary mail, in which case service shall be deemed to have been effected on the day of the publication of the newspaper.

(2) In all matters involving service, the burden of proof shall be upon a respondent to credibly demonstrate by assigning sufficient cause that he, in fact, had absolutely no knowledge of the process, and that he actually acted in good faith.

(3) Whenever a document or process from the Office is mailed, the envelope or the package shall clearly bear the legend that it is from the Office.

34. Expenditure to be charged on Provincial Consolidated Fund.--- The remuneration payable to the Provincial Ombudsman and the administrative expenses of the Office, including the remuneration payable to the staff, nominees and grantees, shall be an expenditure charged upon the Provincial Consolidated Fund.

¹**[35. Power to make rules.**—Government may make rules for carrying out the purposes of this Act.]

²**[35A. Power to make regulations.**---Subject to the provisions of this Act and the rules, the Provincial Ombudsman may with the approval of Government, make regulations, regulating the procedure for complaints under this Act.]

36. Act to override other laws.--- The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

37. Removal of difficulties.--- If any difficulty arises in giving effect to any provision of this Act, the ³[Government] may make such order, not inconsistent with the provisions of this Act, as may appear to him to be necessary for the purpose of removing such difficulty.

38. Repeal.--- The Khyber Pakhtunkhwa Provincial Ombudsman Ordinance, 2010 (Khyber Pakhtunkhwa Ordinance No. V of 2010) is hereby repealed.

¹ . Subs. by Khyber Pakhtunkhwa Act XXVI of 2022

² . Inserted by Khyber Pakhtunkhwa Act No. V of 2024.

³ . Subs. for the word "Governor" by Act No. XXVI of 2013 dated 25-09-2013

SCHEDULE – I
[See Section 3(3)]

I, _____, do solemnly swear that I will bear true faith and allegiance to Pakistan;

That as Provincial Ombudsman I will discharge my duties, and perform my functions honestly, to the best of my ability, and faithfully, in accordance with the laws for the time being in force in the Province without fear or favour, affection or ill-will;

That I shall not allow my personal interest to influence my conduct or official decisions:

That I shall do my best to promote the best interest of Pakistan and the Province of Khyber Pakhtunkhwa;

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me, as Provincial Ombudsman, except as may be required for the due discharge of my duties as Ombudsman.

May Allah Almighty help and guide me (Aameen).

SCHEDULE – II

[See section 8(4)]

I, _____, do solemnly swear that I will bear true faith and allegiance to Pakistan;

That as an employee of the office of Ombudsman for the province of Khyber Pakhtunkhwa, I will discharge my duties and perform my functions honestly, to the best of my ability, and faithfully, in accordance with the laws for the time being in force in the Province, without fear or favour, affection or ill-will;

That I will not allow my personal interest to influence my conduct or official decisions;

And that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration, or shall become known to me, as the employee of the Office of the Ombudsman;

May Allah Almighty help and guide me (Aameen).
