



# KHYBER PAKHTUNKHWA

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## THE KHYBER PAKHTUNKHWA CULTURE AND TOURISM AUTHORITY

### NOTIFICATION

.Dated Peshawar the 07.10.2021.

**No.DD(Admn)/KPCTA/1-18/2021.** In exercise of powers conferred by section 56 of the Khyber Pakhtunkhwa Tourism Act, 2019 (Khyber Pakhtunkhwa Act No. XXVIII of 2019), the Khyber Pakhtunkhwa Culture and Tourism Authority is pleased to make the following regulations, namely:

### THE KHYBER PAKHTUNKHWA CULTURE AND TOURISM AUTHORITY EMPLOYEES (EFFICIENCY & DISCIPLINE) REGULATIONS, 2021

#### 1. Short title, application and commencement

- (1) These regulations may be called the Khyber Pakhtunkhwa Culture and Tourism Authority Employees (Efficiency & Discipline) Regulations, 2021.
- (2) These regulations shall apply to all employees in the Khyber Pakhtunkhwa Culture and Tourism Authority, but excluding:-
  - a. members of an All-Pakistan Service; and
  - b. employees of the Federal Government or Provincial Government deputed temporarily to serve in the Authority.
- (3) These regulations shall come into force at once.

#### 2. Definitions

- (1) In these regulations, unless the context otherwise requires,
  - (a) "Act" means the Khyber Pakhtunkhwa Tourism Act, 2019 (Khyber Pakhtunkhwa Act No. XXVIII of 2019);
  - (b) "Authority" means the Khyber Pakhtunkhwa Culture and Tourism Authority;
  - (c) "accused" means an employee against whom action is initiated under these regulations;
  - (d) "appellate authority" means the Authority next above the competent authority;

Provided that where Director General of the Authority is the competent authority, Chairman of the Board of Directors of the Authority shall be the appellate authority;

- (e) "charges" means allegations framed against the accused relating to the acts of omission or commission cognizable under these regulations;
- (f) "competent authority" means the appointing authority as specified in the Schedule-I appended to the Khyber Pakhtunkhwa Culture and Tourism Authority Employees (Appointment and Conditions of Service) Regulations, 2020;

Provided that where the proceedings are to be initiated against two or more employees jointly, the competent authority in relation to senior most employee in rank shall be the competent authority in respect of all the accused;

- (g) "conduct unbecoming" means the conduct on the part of an employee of the Authority that is contrary to public and Authority interests or which harms his standing or the standing of the Authority service in the eyes of the public or is contrary to any prescribed law/ rules/ regulations / procedures/ instructions and includes inefficiency on his part necessitating him to be proceeded against under these regulations;
- (h) "employee" means an employee in the Authority under Appointment and Conditions of Service Regulations, 2020 and to whom these regulations apply;
- (i) "inefficiency" in relation to the discharge of duties of an employee means the failure to efficiently perform functions assigned to him;
- (j) "inquiry committee" means a committee consisting of two or more officers, headed by a convener, as may be appointed by the competent authority to inquire into charges of the accused under these regulations;
- (k) "inquiry officer" means an officer appointed by the competent authority to inquire into charges of the accused under these regulations;
- (l) "misconduct" means conduct prejudicial to good order or service discipline or contrary to the Khyber Pakhtunkhwa Culture and Tourism Authority Employees (Conduct) Regulations, 2021 or unbecoming of an officer and, a gentlemen and includes any act on the part of an employee to assert or attempt to assert political or other exterior influence directly or indirectly in respect of any matter relating to the appointment, promotion, transfer, punishment, retirement or other conditions of service, or having entered into plea bargain under any law for the time being in force and has returned the assets or gains acquired through corruption or corrupt practices, voluntarily; and
- (m) "penalty" means a penalty as prescribed under these regulations.

(2) All other words and expressions used but not defined in these regulations shall, unless the context otherwise requires, have the same meanings as assigned thereto in the Act and regulations made thereunder or any other legal instrument for the time being in force.

3. **Grounds for proceedings and penalty.**—An employee shall be liable to be proceeded under these regulations by the competent authority, if he is—

- (a) considered or reported to be inefficient or has ceased to be efficient or has conduct unbecoming; or
- (b) considered or reported to be guilty of misconduct; or
- (c) considered or reported to be corrupt; or
- (d) engaged, or is reasonably suspected of being engaged, in subversive activities or is reasonably suspected of being associated with others engaged in subversive activities or is guilty of disclosure of official secrets to any unauthorized person.

- (c) Recipient of unsatisfactory performance evaluation reports, not less than one and half year.

**4. Penalties.**---

- (1) The competent authority may, by an order, in writing showing reasons, impose one or more of the penalties, in accordance with these regulations.

**(2) Minor penalties:**

- (a) censure;  
 (b) reduction in pay, equal to one day, up to a maximum of five days, for one year;

**(3) Major penalties:**

- (a) recovery of embezzled money from employee convicted of embezzlement, recovery as provided under financial rules, from pay or any other amount payable to the accused, the whole or a part of any pecuniary loss caused to the Government or the Authority. If the amount due from the employee cannot be wholly recovered from the pay or any other amount payable to him, such amount shall be recovered under the law for the time being in force;

- (b) removal; and

- (c) termination.

- (4) The penalty of removal shall not but termination, under these regulations, shall disqualify the employee for future employment of any kind in the Authority.

- (5) Subject to any restraining orders, passed by any court of competent jurisdiction, any proceedings under these regulations shall not be discontinued merely on the grounds of the matter being sub-judice:

Provided that where the holding of departmental inquiry during judicial custody is not possible or side by side with the criminal proceedings may have the effect of impeding the course of justice or of prejudicing the trial, the inquiry may be deferred by the competent authority till release on bail or termination of criminal proceedings as the case may be.

**5. Suspension and leave.**---

- (1) The competent authority may place any employee under suspension or send him on leave, against whom proceedings are proposed to be initiated for an initial period of forty days at one time, extendable in writing, by the competent authority till conclusion of the proceedings, if in the opinion of the competent authority, suspension or sending employee on leave is necessary or expedient. If the period of suspension is not extended before the expiry of initial period of suspension, the suspension of such employee shall cease to have effect:

Provided that an employee who has been charged for a criminal offence and is committed to prison shall be considered as under suspension from the date of his arrest without the formal approval of competent authority. In case such an employee is not arrested or is released on bail the competent authority may suspend him by specific order. During suspension period the employee shall be entitled to his pay, allowances and other benefits.

- (2) If an employee is sent on leave in pursuance of an order under sub regulation (1), such period shall be treated as on duty.

- (3) In case an employee is absent from official duty during the proceedings, such period shall be treated as leave without pay.

6. **Initiation of proceedings.**—Proceedings against the employee, in case where the competent authority decides that it is not necessary to hold an inquiry, shall be initiated from the date the accused is informed by an order in writing of the grounds of proceedings against him and where the competent authority decides to hold an inquiry against the accused, from the date of such order.

7. **Procedure where inquiry is dispensed with.**—If the competent authority decides that it is not necessary to hold an inquiry against the accused, —

- (1) it shall inform the accused, by an order in writing, of the grounds for proceedings against him, clearly specifying the charges therein, along with apportionment of responsibility and penalty or penalties proposed to be imposed upon him;
- (2) give him a reasonable opportunity of showing cause against the proposed action within seven working days from the receipt of the order or within such extended period as the competent authority may allow;
- (3) on receipt of reply of the accused, within the stipulated period or after the expiry thereof, if no reply is received, on the basis of available record or facts of the case, as the case may be, determine whether the charge or charges have been proved against the accused or not:

Provided that after receipt of reply to the show cause notice from the accused or in case where no reply is received the competent authority shall decide the case within a period of thirty days;

- (4) afford an opportunity of personal hearing, before passing any order of penalty under clause (1), if the charge or charges have been proved against him;
  - (5) exonerate the accused, by an order in writing, if the charge or charges have not been proved against him; and
  - (6) impose any one or more penalties, mentioned in regulation 4, by an order in writing, if the charge or charges have been proved against the accused.
8. **Provision of record.**— After initiation of order of inquiry the competent authority shall ensure that relevant record of the case and other related documents should be supplied to the inquiry officer or the inquiry committee, as the case may be, within seven days or within such an extended period which the competent authority may allow.

9. **Procedure to be followed by competent authority where inquiry is necessary.**—

- (1) If the competent authority decides that it is necessary to hold an inquiry against the accused, it shall pass an order of inquiry, in writing. An inquiry order shall include—
  - (a) subject to sub-regulation (2), the appointment of an inquiry officer or inquiry committee;
  - (b) the grounds for proceedings, clearly specifying the charges along with apportionment of responsibility which shall be communicated to accused within fourteen days, from the date of initiation of proceedings; and
  - (c) direction to the accused to submit his written defense to the inquiry officer or convener of the inquiry committee, as the case may be, within reasonable time which shall not be less than ten and more than fourteen days from the date of receipt of orders under clause (b) or within such an extended period as the competent authority may allow.

- (2) In cases where more than one employees are accused in one case, a single inquiry officer or an inquiry committee shall be appointed and the inquiry officer or convener of the inquiry committee so appointed shall, as far as possible, be of a rank senior to the senior most employee accused in the particular case.
- (3) The record of the case and the list of witnesses, if any, shall be communicated to the inquiry officer or the inquiry committee, as the case may be, along with the orders of inquiry.
- (4) In case where the inquiry officer or any of the members of the inquiry committee is required to be replaced for one reason or the other, the competent authority shall appoint another inquiry officer or the inquiry committee, as the case may be.

**10. Procedure to be followed by inquiry officer or inquiry committee.**

- (1) On receipt of reply of the accused or on expiry of the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall inquire into the charge or charges and may examine such oral or documentary evidence in support of the charge or charges or in defense of the accused, as may be considered necessary and where any witness is produced by one party, the other party shall be entitled to cross-examine such witness.
- (2) If the accused fails to furnish his reply within the stipulated period, the inquiry officer or the inquiry committee, as the case may be, shall proceed with the inquiry ex-parte.
- (3) The inquiry officer or the inquiry committee, as the case may be, shall hear the case on day to day basis and no adjournment shall be given except for reasons to be recorded, in which case the adjournment shall not be of more than seven days.
- (4) Statements of witnesses shall be recorded in the presence of accused.
- (5) Where the inquiry officer or the inquiry committee, as the case may be, is satisfied that the accused is hampering or attempting to hamper the progress of the inquiry, he or it shall administer a warning and if thereafter he or it is satisfied that the accused is acting in disregard to the warning, he or it shall record a finding to that effect and proceed to complete the inquiry in such a manner as may be deemed expedient in the interest of justice.
- (6) If the accused absents himself from the inquiry on medical grounds, he shall be deemed to have hampered or attempted to hamper the progress of the inquiry, unless medical leave, applied for by him, is sanctioned by the competent authority on the recommendations of a registered authorized medical officer. The inquiry officer or the inquiry committee, as the case may be, shall complete the inquiry within forty days or within such an extended period which the competent authority may allow on the request of inquiry officer or Inquiry Committee, as the case may be, for reasons to be recorded and shall submit his or its report to the competent authority within seven days of the date of completion of inquiry. The inquiry report must contain clear findings as to whether the charge or charges have been proved or not proved and specific recommendations:

Provided that the inquiry shall not be vitiated merely on the grounds of nonobservance of the time schedule for completion of the inquiry.

11. **Revision.**—The competent authority may call for the record of any case pending before the inquiry officer or inquiry committee, as the case may be, and pass such order in relation thereto as it may deem fit. No such order shall be passed in respect of an accused unless the competent authority has informed him in writing of the grounds on which it is proposed to make the order and has been given an opportunity of showing cause against it, including an opportunity of personal hearing if requested by the accused or is otherwise

necessary in the interest of justice, in particular, when the competent authority contemplates to pass an order adverse to the interest of the accused:

Provided that no such opportunity shall be given where the competent authority, for reasons to be recorded, is satisfied that, in the interest of security of Pakistan or any part thereof, it is not expedient to give such an opportunity.

**12. Powers of the inquiry officer or inquiry committee.—**

(1) For the purpose of an inquiry under these regulations, the inquiry officer or the inquiry committee, as the case may be, shall have the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act No. V of 1908), in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents and receiving evidence on affidavits; and
- (c) Issuing commissions for the examination of witnesses or document's.

(2) The proceedings under these regulations shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code, 1860 (Act No. XLV of 1860).

**13. Regulations 7 and 9 not to apply in certain cases.—**Nothing in regulations 7 or 9 shall apply to a case—

- (a) where the accused is convicted on the ground of conduct which has led to a sentence of fine or of imprisonment; or
- (b) where the competent authority is satisfied that, for reasons to be recorded in writing, it is not reasonably practicable to give the accused an opportunity of showing cause.

**14. Proceedings before or during leave.—** In case where an employee on leave, is required to be proceeded against, his leave shall be cancelled by the competent authority and shall be called back from the leave to join the proceedings.

**15. Order to be passed on receipt of report from the inquiry officer or inquiry committee.**

- (1) The competent authority shall examine the report and the relevant case material and determine whether the inquiry has been conducted in accordance with the provisions of these regulations.
- (2) If the competent authority is satisfied that the inquiry has been conducted in accordance with the provisions of these regulations, it shall further determine whether the charge or charges have been proved against the accused or not.
- (3) Where the competent authority is satisfied that the inquiry proceedings have not been conducted in accordance with the provisions of these regulations or the facts and merits of the case have been ignored or there are other sufficient grounds, it may, after recording reasons, either remand the inquiry to the inquiry officer or the inquiry committee, as the case may be, with such directions as the competent authority may like to give, or may order a de novo inquiry through different inquiry officer or inquiry committee.
- (4) The competent authority may also require the inquiry officer or the inquiry committee, as the case may be, to explain as to why the inquiry has not been conducted in accordance with these regulations, or as to why the facts or merits of the case have been ignored and on the receipt of reply, may determine that the omission

or commission by the inquiry officer or the inquiry committee, as the case may be, was not in good faith and there are grounds to proceed against the inquiry officer or inquiry committee, as the case may be, under these regulations.

- (5) Where the charge or charges are determined not to have been proved, the competent authority shall exonerate the accused by an order in writing.
- (6) Where the charge or charges are determined to have been proved against the accused, the competent authority shall issue a show cause notice to the accused providing him therewith a copy of inquiry report by which it shall—
  - (a) inform him of the charge or charges proved against him and the penalty or penalties proposed to be imposed upon him; and
  - (b) give him reasonable opportunity of showing cause against the penalty or penalties proposed to be imposed upon him and to submit as to why one or more of the penalties as provided in regulation 4 including the penalty of termination may not be imposed upon him and to submit additional defence in writing, if any, within seven working days or such extended period as the competent authority may allow, from the day the charge or charges have been communicated to him by affording him an opportunity of personal hearing:

Provided that the accused shall in his reply to show cause notice, indicate as to whether he wants to be heard in person or not.

- (7) After duly considering the reply of the accused to the show cause notice and affording personal hearing to the accused, as appropriate, the competent authority shall, keeping in view the findings and recommendations of the inquiry officer or the inquiry committee, as the case may be, facts of the case and defence offered by the accused if requested, by an order in writing—
  - (a) exonerate the accused if charge or charges are not proved; or
  - (b) impose any one or more of the penalties specified in regulation 4 if charges are proved:  
Provided that
    - (i) where charge or charges of grave corruption are proved against an accused the penalty of termination shall be imposed, in addition to the penalty of recovery, if any; and
    - (ii) where charge of absence from duty for a period of more than one month is proved against the accused, the penalty of termination shall be imposed upon the accused.

- (8) After receipt of reply to the show cause notice and affording opportunity of personal hearing, the competent authority shall decide the case within a period of fourteen days, excluding the time during which the post held by the competent authority remained vacant due to certain reasons.

16. **Personal hearing.**— Notwithstanding the proviso to clause (b) of sub regulation (6) of regulation 15, the competent authority may, by an order in writing, call the accused, along with relevant record of the case, to appear before him, or before a hearing officer, who shall as far as possible be senior in rank to the accused, appointed by the competent authority for personal hearing on the fixed date and time.

17. **Procedure in case of willful absence.**—

- (1) Notwithstanding anything to the contrary contained in these regulations, in case of willful absence from duty by an employee for seven or more days, a notice shall be issued by the competent authority through registered acknowledgement on his home address directing him to resume duty within fourteen days of issuance of the notice. If the same is received back as undelivered or no response is received from the absentee

within stipulated time, a notice shall be published in at least two leading newspapers directing him to resume duty within fourteen days of the publication of that notice, failing which an ex-parte decision shall be taken against the absentee. On expiry of the stipulated period given in the notice, penalty of termination may be imposed upon him.

- (2) If the absentee resumes duty during the process given in sub-regulation (1) but fails to justify his willful absence, the competent authority shall proceed against him under regulation 7 and impose a penalty along with recovery of the expenses on account of notices in newspapers highlighting his absence.

18. **Appeal.**--- An employee on whom a penalty is imposed shall have right of appeal to the appellate authority.

19. **Appearance of counsel.**--- No party to any proceedings under these regulations at any stage of the proceedings before the appellate authority, competent authority, inquiry officer or any inquiry committee as the case may be, shall be represented by an advocate or counsel.

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**DIRECTOR GENERAL**  
Khyber Pakhtunkhwa  
Culture & Tourism Authority