

AN
ACT

*to regulate boilers and pressure vessels
in the Province of the Khyber Pakhtunkhwa*

WHEREAS it is expedient to regulate boilers and pressure vessels in the Province of the Khyber Pakhtunkhwa;

It is hereby enacted as follows:

1. Short title, extent and commencement.--- (1) This Act may be called the Khyber Pakhtunkhwa Boilers and Pressure Vessels Act, 2016.

(2) It extends to the whole Province of 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) “accident” means an explosion of a boiler or any part thereof which results to weaken the structural strength and render it due for further certification;
- (b) “Board” means the Khyber Pakhtunkhwa Boilers and Pressure Vessels Safety Board established and constituted under section 5;
- (c) “boiler” means any closed vessel exceeding twenty-five litres in capacity in which water is heated, steam is generated and superheated or a combination thereof under pressure, for external use by the application of heat from combustible fuels, electricity or external thermal energy and includes any mountings or other fittings attached to such vessel which are wholly or partly under pressure when steam is shut off by isolating valve mounted on steam generation equipment;
- (d) “Chief Inspector, Deputy Chief Inspector and Inspector” means respectively, to be a Chief Inspector, Deputy Chief Inspector and Inspector appointed under section 7 of this Act;
- (e) “design specification” means the specifications or standard as specified in the codes referred to in clause (i) of this section to which a boiler shall be designed or manufactured and examined;
- (f) “economizer” means any part of heat exchange surface that is wholly or partially exposed to the flue gases for the purpose of recovery of waste heat;

- (g) “Government” means the Government of the Khyber Pakhtunkhwa;
- (h) “Inspection Authority” means the Organization other than manufacturer and user, approved by the Board authorized to carry out inspection during manufacturing;
- (i) “manufacturer” means the company or firm recognized by the Board, competent to manufacture complete or in parts, a boiler or fitting and completes the product and is responsible for the product according to any one of the following codes, namely:
 - (i) Pakistan Boilers Regulations;
 - (ii) ASME (American Society of Mechanical Engineers);
 - (iii) BS (British Standard);
 - (iv) TRD (Technical Requirements Documents);
 - (v) JIS (Japanese Industrial Standard);
 - (vi) I.S.O (International Standards Organization); and
 - (vii) Any standard or code duly recognized internationally;
- (j) “owner” means any company who is in the possession of a boiler or under whose name it has been registered;
- (k) “prescribed” means prescribed by regulations or rules made under this Act;
- (l) “pressure vessel” means a vessel along with its fitting other than a boiler which is capable of being used to contain, distribute, transfer, process or otherwise handle gas, vapors, liquids and store energy under pressure internally and externally;
- (m) “Province” means the Province of the Khyber Pakhtunkhwa;
- (n) “registration certificate” means the registration certificate issued under section 9;
- (o) “regulations” mean regulations made under this Act;
- (p) “rules” mean rules made under this Act; and

- (q) "structural alteration, addition or renewal" means changes and deviations from original design in the pressure parts but shall not be deemed to include any renewal or replacement of a petty nature when the part of fitting used for replacement is not inferior in strength, efficiency or otherwise to the replaced part or fitting.

3. Limitation of application of this Act.---Nothing in this Act shall apply,-

- (a) in the case of any boiler in any steamship or in any mechanically propelled vessel;
- (b) appertaining to a sterilizer or disinfectant and the like used in hospitals, hotels, laboratories and other industries etc, if it does not exceed ninety one litres in capacity;
- (c) any boiler used in relation to the nuclear energy; and
- (d) any boiler or steam-pipe, belonging to or under the control of railways.

4. Power to limit extent.--- Government may, with the concurrence of the Board, by notification in the official Gazette, exclude any specified area from the operation of all or any of the provisions of this Act.

5. Khyber Pakhtunkhwa Boilers and Pressure Vessels Safety Board.---(1) As soon as may be, after the commencement of this Act, Government shall establish a Board to be known as the Khyber Pakhtunkhwa Boilers and Pressure Vessels Safety Board, which shall consist of the following:

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|---|-----------------------|
| (a) Secretary to Government, Industries, Commerce and Technical Education Department; | Chairman |
| (b) Director, Industries and Commerce; | Vice Chairman |
| (c) Chief Inspector; | Member |
| (d) one member of the Khyber Pakhtunkhwa Chamber of Commerce; | Member |
| (e) one member from the manufacturers of boilers, to be nominated by Government for a period of three years; | Member |
| (f) one member from users of boilers and pressure vessels, to be nominated by Government for a period of three years; and | Member |
| (g) Deputy Secretary, Industries, Commerce and Technical Education Department | Member-cum-Secretary. |

(2) The Board shall have full power to regulate its own procedure and the conduct of all business to be transacted by it, the constitution of committees and sub-committees and the delegation to them of any powers and functions of the Board.

(3) The members at clauses (d) and (e) above may resign by tendering their resignation to the Government.

(4) The members at clauses (d) and (e) may be removed by Government if they become physically unfit or ceased to be efficient.

(5) If any vacancy is caused due to death, resignation or removal shall be filled in by Government through nomination of another person.

6. Meetings and quorum of the Board.--- (1) The meetings of the Board shall be presided over by the Chairman or in the absence of Chairman, by the Vice Chairman.

(2) The quorum of the Board shall be at least five members of the Board in which representation of the manufacturers and users shall be mandatory.

(3) Meetings of the Board shall be called by the Chairman or in the absence of Chairman, by the Vice Chairman on such date and place as he may deem appropriate.

(4) Decisions of the meeting shall be taken by majority of members and in case of tie, the Chairman or the person presiding over the meeting shall have a casting vote.

(5) The Board shall meet at least twice in a year.

(6) The meetings of the Board shall be regulated in accordance with the procedure as may be prescribed.

7. Appointment of Chief Inspector, Deputy Chief Inspector and Inspector.--- (1) Government shall appoint a person to be Chief Inspector with such qualification and on such terms and conditions as may be prescribed, who may, in addition to the powers and duties conferred or imposed on the Chief Inspector under this Act, exercise any power or perform any duty so conferred or imposed on Deputy Chief Inspector and Inspector by or under this Act.

(2) Government shall appoint such person, as it thinks fit, to be Deputy Chief Inspectors with such qualification and on such terms and conditions as may be prescribed who shall, in addition to the powers and duties conferred or imposed on the Deputy Chief Inspector under this Act, exercise any power or perform any duty so conferred or imposed on Inspector by or under this Act.

(3) Government shall appoint such persons, as it thinks fit, to be Inspectors with such qualification and on such terms and conditions as may be prescribed for the purpose of this Act, and shall define the local limits within which each Inspector shall exercise the powers and perform the duties conferred or imposed by or under this Act.

(4) Every Chief Inspector, Deputy Chief Inspector and Inspector shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code, 1860 (XLV of 1860).

8. Prohibition of use of unregistered or un-certificated boilers.---Save as otherwise expressly provided in this Act, no owner shall use the boiler or permit it to be used-

- (a) unless it has been registered in accordance with the provisions of this Act;
- (b) in the case of any boiler which has been transferred from one Province to another, until the transfer has been reported in the prescribed manner;
- (c) unless a registration certificate or provisional order authorising the use of the boiler is for the time being in force under this Act;
- (d) at a pressure higher than the maximum pressure recorded in such registration certificate or provisional order or under which the boiler was constructed and stamped; and
- (e) unless the boiler is in the charge of a person holding the Boiler Engineers Competency Certificate, required by such rules and not more than sixty years old and less than twenty-one years of age. In case of above sixty years it shall subject to the provision of Medical Fitness Certificate from the Medical Board of District Head Quarters Hospital.

9. Registration.--- (1) The owner of any boiler, which is not registered under the provisions of this Act, shall apply to the Chief Inspector to have the boiler registered. The boilers which have been operated outside Pakistan shall require an examination certificate from an insurance or third party inspection company of the country where the boiler has been in operation confirming integrity of boiler in line with the guidelines for the Examination of Boiler End Plate Furnace and Shell Welded Joints issued by the Associated Offices Technical Committee, United Kingdom or country of origin. The application shall be accompanied by a copy of bill of entry and evidence of payment of customs duty and such application shall be accompanied by the prescribed fee.

(2) On receipt of an application under sub-section (1), the Chief Inspector of boilers shall fix a date within fifteen days or such shorter period as may be prescribed, from the date of the receipt of application, for the examination of the boiler and shall decide the inspection time and schedule with the owner.

(3) On the date referred to in sub-section (2), the Inspector of boilers shall proceed to examine the boiler and to determine in the prescribed manner the maximum pressure, if any, at which such boiler may be used and shall report the result of the examination to the Chief Inspector in the prescribed form.

(4) The Chief Inspector shall approve or refuse to register the boiler after receipt of the result of the examination under sub-section (3).

(5) If the Chief Inspector, after receipt of the result of such examination, approves to register the boiler, he shall order to issue a registration certificate to the owner in the prescribed form authorizing the use of the boiler for a period not exceeding twelve months at a pressure not exceeding such maximum pressure as may be prescribed by regulations.

(6) Where the Chief Inspector refuses to register a boiler he shall communicate such refusal to owner of the boiler together with the reasons thereof.

(7) The Chief Inspector of boiler, on registering the boiler, shall issue provisional order to the owner for a period of six months in the prescribed form authorising the use of boiler. The owner shall offer the boiler for steam test within a provisional order period, on successful completion of steam test provisional order shall be extended for further six months.

(8) The Inspector shall forthwith convey to the owner the order of the Chief Inspector through courier or registered post. The owner shall within seven days of receipt of registration certificate cause the register number to be permanently marked thereon in the prescribed manner.

(9) The procedure for registration of a boiler shall be completed by all means within thirty days of submission of an application for registration of the boiler subject to the fulfillment of all applicable procedures and technical requirements by the owner. The copy of all the documents submitted by the owner along with orders and notes of the Chief Inspector, shall be sent to the Board for record.

10. Cessation and Renewal of registration certificate.---(1) A registration certificate authorising the use of a boiler shall cease to be in force,-

- (a) on the expiry of the period for which it was granted;
- (b) when any accident occurs to the boiler;
- (c) when the boiler is moved from one location to another unless it is registered as mobile unit;
- (d) when any structural alteration, addition or renewal is made in or to any steam-pipe attached to the boiler; and
- (e) if the Chief Inspector in any particular case so directs, when any structural alteration, addition or renewal is made in or to any steam pipe attached to the boiler.

(2) When a registration certificate authorising the use of a boiler ceases to be in force, the owner shall apply before thirty days of expiry of the previous certificate to the concerned Inspector for a renewal thereof under intimation to the Chief Inspector for such period not exceeding twelve months.

(3) An application under sub-section (2) shall be accompanied by the prescribed fee and forwarded to the Inspector under intimation to the Chief Inspector. On receipt of intimation from the owner, the Inspector shall fix a date within fifteen days or such shorter period as may be agreed with the owner from the date of receipt, for examination of the boiler and shall give the owner thereof not less than three days notice the date so fixed:

Provided that, where the registration certificate has ceased to be in force owing to the making of any structural alteration, addition or renewal, the Chief Inspector may dispense with the payment of prescribed fee.

(4) On the date fixed under sub-section (3) the Inspector, shall examine the boiler as per approved applicable code, and if he is satisfied that the boiler is in good condition shall recommend to the Chief Inspector for renewal of the certificate authorising the use of the boiler for such period not exceeding twelve months and at a pressure not exceeding such maximum pressure as may be prescribed by regulations.

(5) Where the Inspector,-

- (a) makes recommendations as per approved codes to any structural alteration, addition or renewal to be made in or to the boiler; and
- (b) is of opinion that the boiler is not fit for use, the Inspector, shall inform the owner of the boiler in writing of findings and the reasons thereof, and shall forthwith report the case with recommendations for orders to the Chief Inspector.

(6) The Chief Inspector on receipt of a report under sub-section (5) may, subject to the provisions of this Act and of the regulations, order the renewal of the registration certificate in such terms and on such conditions, if any, as he thinks fit, or may refuse to renew it:

Provided that where the Chief Inspector refuses to renew a registration certificate, he shall forthwith communicate his refusal to the owner together with the reasons thereof.

(7) The aggrieved party may, within seven days of the order, apply to the Board regarding rejection of his request for the renewal of registration certificate and the Board shall issue appropriate orders either approving or disapproving the order of the Chief Inspector within thirty days of notice of order of the Chief Inspector.

(8) Nothing in this section shall be deemed to prevent an owner from applying for a renewal of registration certificate at any time during the currency of a registration certificate.

11. Use of boiler pending grant of registration certificate.---(1) Notwithstanding anything contained in this Act, when the period of a registration certificate relating to a boiler has expired, the owner shall, provided that he has applied before the expiry of that period for a renewal of the registration certificate, be entitled to use the boiler at the

maximum pressure entered in the former registration certificate pending the issue of orders on the application:

Provided that nothing in this section shall be deemed to authorise the use of a boiler in any of the cases referred to in clauses (b), (c), (d) and (e) of sub-section (1) of section 10, occurring after the expiry of the period of the certificate.

(2) When a boiler cannot be offered for inspection by the owner for reasons which in the opinion of the owner are beyond his control such as the existence of an emergency, the owner may approach the Chief Inspector who may authorise the use of the boiler for a period not exceeding three months after the expiry of the registration certificate. The owner may also approach the Chief Inspector for grant of a provisional certificate not exceeding three months on payment of the prescribed fee.

12. Revocation of registration certificate or provisional order.---(1) The Chief Inspector may, at any time, withdraw or revoke a registration certificate or provisional order on the report of the Inspector-

- (a) if there is reason to believe that the registration certificate or provisional order has been fraudulently obtained or has been granted erroneously or without sufficient examination; or
- (b) if the boiler in respect of which it has been granted has developed some defect or has ceased to be in good conditions; or
- (c) where Government has made rules requiring that boilers shall be in charge of persons holding certificate of competency and the boiler is in charge of a person not holding the certificate required by such rules; and
- (d) where no such rules have been made, if the boiler is in charge of a person who is not maintaining the boiler in accordance with standard operation procedures:

Provided that where the Chief Inspector withdraws or revokes a registration certificate or provisional order on the ground specified in clause (d), he shall communicate to the owner his reasons in writing for the withdrawal or revocation and the order shall not take effect until the expiry of fifteen days from the receipt of such communication.

(2) The owner shall have the right to appeal to the Board against the order of the Chief Inspector.

(3) The Board shall issue appropriate orders either approving or disapproving the order of the Chief Inspector within thirty days of notice of the order of the Chief Inspector.

13. Alterations and renewals to boilers.---No structural alteration, addition or renewal shall be made in any boiler registered under this Act, unless such alteration, addition or renewal has been sanctioned in writing by

the Chief Inspector. The execution of any modification as per approved drawings shall be verified by the approved Inspecting Authority.

14. Duty of owner at examination.---(1) On any date fixed under this Act, for the examination of a boiler, the owner thereof shall be bound-

- (a) to intimate the Inspector regarding the date of inspection , to provide all reasonable facilities for the examination and all such information as may reasonably be required of him;
- (b) to have the boiler properly prepared and ready for examination as per written examination procedures confirming to applicable codes; and
- (c) in the case of an application for the registration of a boiler, to provide such drawings, specifications, certificates and other particulars as may be prescribed.

(2) If the owner fails, without reasonable cause, to comply, the Inspector at the expense of owner shall refuse to make the examination and shall report the case to the Chief Inspector who shall, unless sufficient cause to the contrary is shown, require the owner to file a fresh application under section 9 or section 10, as the case may be, and may forbid him to use the boiler notwithstanding anything contained in section 11.

15. Production of registration certificate, etc.---(1) The owner who holds a registration certificate or provisional order relating thereto shall, at all reasonable times during the period for which the registration certificate or provisional order is in force, be bound to produce the same when called upon to do so by the Chief Inspector or the Inspector.

(2) Upon the non-compliance of an order, the Chief Inspector may take necessary action such as de-certification of the boiler.

16. Powers of entry.---An Inspector may, for the purpose of inspecting or examining a boiler or any steam-pipe attached thereto or in case of non observance of any provision of this Act or of any rules or regulations at all reasonable time enter any place or building within the limits of the area for which he has been appointed in which he has reason to believe that the boiler is in use.

17. Report of accidents.---(1) If any accident occurs to a boiler, the owner or person in-charge thereof shall, within twenty-four hours of the accident, report the same in writing to the Inspector. Every such report shall contain a description of the nature of the accident and of the injury, if any, caused thereby to the boiler or to any person, and shall be in sufficient detail to enable the Chief Inspector of boilers to determine the root cause of accident and fix responsibility for such occurrence, the same shall also be reported to the Board.

(2) Every person shall answer truly to the best of his knowledge and ability every question put to him in writing by the Accident Committee constituted by the Board for the purpose.

18. Appeal to the Board.---(1) Any person or owner aggrieved by any recommendation made by the Inspector of boilers or findings or decision of the Chief Inspector for-

- (a) refusing to register a boiler or to grant or renew a registration certificate in respect of a boiler; or
- (b) refusing to grant a registration certificate having validity for the full period applied for; or
- (c) refusing to grant a registration certificate authorizing the use of a boiler at the maximum pressure desired; or
- (d) withdrawing or revoking a registration certificate or provisional order; or
- (e) reducing the amount of pressure specified in any certificate or the period for which such certificate has been granted; and
- (f) ordering any structural alteration, addition or renewal to be made in or to a boiler which contravenes the design code or refusing sanction to the making of any structural alteration, addition or renewal in or to a boiler based on approved drawings may, within fifteen days of the communication to him of such order, prefer appeal to the Board.

(2) The Board shall communicate the decision within thirty days of receipt of an appeal, and pending final decision the Board may grant interim relief to the owner.

19. Finality of orders.---An order of the Board under section 18 shall be final and shall not be called in question in any Court.

20. Minor penalties.---Any owner who refuses or without reasonable excuse neglects to-

- (a) surrender a provisional order as required by sub-section (7) of section 9;
- (b) produce a registration certificate or provisional order when duly called upon to do so under section 15; and
- (c) hand over to the new owner a registration certificate or provisional order as required by section 15

shall be liable to imprisonment for a term which may extend to six months or fine which may extend to twenty thousand rupees or both.

21. Penalties for illegal use of boiler.---(1) Any owner who, in any case in which a registration certificate or provisional order is required for the use of the boiler under this Act, uses the boiler either without any such registration certificate or provisional order being in force or a competent boiler engineer or

at a higher pressure than that allowed thereby, shall be issued warning by the Chief Inspector.

(2) In case of continuing offence, the offender shall be liable to imprisonment for a term which may extend to one year or with fine which may extend to fifty thousand rupees or with both. For further repetition of the above mentioned offence the offender shall be liable to imprisonment for term which may extend to two years or with fine which may extend to one hundred thousand rupees or with both.

(3) In addition to this, the Court shall direct the Chief Inspector to close the factory.

22. Other penalties.---Any person who-

- (a) uses or permits to be used a boiler of which he is the owner and which has been transferred from one Province to another without such transfer having been reported as required by section 8; or
- (b) being the owner fails to cause the registered number allotted to the boiler under this Act, to be marked on the boiler as required by sub-section (8) of section 9; or
- (c) makes any structural alteration, addition or renewal in or to a boiler without first obtaining the sanction of approved drawings when so required under section 13; or
- (d) fails to report an accident to a boiler or when so required under section 17; or
- (e) hamper with a safety valve of a boiler so as to render it inoperative at the maximum pressure at which the use of the boiler is authorised under this Act,

shall be liable to the imprisonment for a term which may extend to one year or fine which may extend to fifty thousand rupees or with both.

23. Penalty for tempering with registration.---(1) Whoever removes, alters, defaces, renders invisible or otherwise tampers with the register number marked on a boiler in accordance with the provisions of this Act or the rules or the regulations, made thereunder, shall be punishable with fine which may extend to three hundred thousand rupees.

(2) Whoever uses the boiler without getting it registered under this Act shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to six hundred thousand rupees or with both.

(3) Whoever fraudulently marks upon a boiler a register number which has not been allotted to it under this Act or the rules and regulations made under this Act, shall be punishable with imprisonment for a term which

may extend to two years, or with fine which may extend to six hundred thousand rupees or with both.

24. Limitation and previous sanction for prosecution.---No prosecution for an offence made punishable by or under this Act shall be instituted-

- (a) after six months of the commission of an offence; and
- (b) without the previous sanction of the Chief Inspector.

25. Trial of offence.---(1) No court inferior to that of a Magistrate of the first class shall try an offence under this Act.

(2) All offences under this Act shall be tried in the manner provided for summary trials under the provisions of chapter XXII, of the Code of Criminal Procedure, 1898 (Act No. IV of 1898):

Provided that if the court is of the opinion that the offence is of a nature that does not justify summary trial, it may proceed with the regular trial of the said offence.

26. Power to make rules.---(1) The Board may, with the approval of Government, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:

- (a) for prescribing the qualifications and duties of the Chief Inspector, Deputy Chief Inspector and Inspectors;
- (b) for regulating the transfer of boilers;
- (c) for providing for the registration and certification of boilers in accordance with the regulations and approved codes under this Act;
- (d) for requiring boilers to be in the charge of persons holding certificate of competency and prescribing the conditions on which such certificate may be granted;
- (e) for prescribing the times within which the boiler Inspectorate shall be required to examine the boiler as per approved practice or code of examination;
- (f) for prescribing the fees payable for the renewal of registration certificates and methods of determining the amount of such fees in each case;
- (g) for regulating or advising Board enquiring into accidents;
- (h) for determining the mode of disposal of fees, costs and penalties levied under this Act ; and

- (i) generally to provide advice for any matter which is, in the opinion of the Board, a matter of local importance in the Province.

27. Power to make regulations.---(1) The Board may make regulations for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers such regulations may provide for all or any of the following matters, namely:

- (a) adopting code and procedures, as laid down in international boiler code for materials, design and construction which shall be required for the purpose of registration and certification of a boiler under this Act;
- (b) for prescribing the circumstances in which the extent to which, and the conditions subject to which variations from the standards laid down under international boiler codes may be permitted;
- (c) for prescribing the method of determining the maximum pressure at which a boiler may be used; and
- (d) for regulating the registration of boilers, prescribing the fees payable thereof, the drawings, specifications, certificates and particulars to be produced by the owner, the method of preparing a boiler for examination by the boilers Inspector, the method of marking the register number, the period within which number is to be marked on the boiler, selection and regulating the rules for Inspection Authority and nomination of insurance companies for boiler insurance.

28. Penalty for breach of rules or regulations.---Any rules or regulations made under section 26 or section 27 may direct that a person or company contravening such rules or regulations shall be issued warning by the Chief Inspector and in the case of continuing offence liable to closure of the factory and revocation of registration certificate and in repetition of an offence, the Government shall be notified for appropriate measure for enforcement.

29. Previous publication of rules or regulations.---The power to make rules and regulations conferred by sections 26 and 27 respectively shall be subject to the condition of the rules and regulations being made after previous publication.

30. Recovery of fees, etc.---All fees, costs and penalties levied under this Act, shall be recoverable as arrears of land revenue.

31. Power to suspend in case of emergency.---Government may, by notification in the official Gazette, exempt from the operation of this Act, subject to such conditions and restrictions as it thinks fit, any boiler or classes or types of boilers used exclusively for the heating of buildings or the supply of hot water.

32. Insurance of boilers.---All boilers shall be insured against damage due to accidents as per existing laws.

33. Repeal and saving.---(1) The Boilers and Pressure Vessels Ordinance, 2002 (Ordinance No. XXI of 2002) is hereby repealed, in its application to the extent of the Province of the Khyber Pakhtunkhwa.

(2) Any boiler registered, certified or licensed under the Boilers and Pressure Vessels Ordinance, 2002, shall be deemed to have been registered, certified or licensed under this Act.

(3) Notwithstanding the repeal of the Boilers and Pressure Vessels Ordinance, 2002, the rules and regulations made under the said Ordinance, and in force immediately before the commencement of this Act, shall, mutatis mutandis and in so far they are not inconsistent with any of the provisions of this Act, shall continue to remain in force until repealed or altered by rules or regulations made under this Act.

BY ORDER OF MR. SPEAKER
PROVINCIAL ASSEMBLY OF KHYBER
PAKHTUNKHWA

(AMANULLAH)
Secretary
Provincial Assembly of Khyber Pakhtunkhwa