



GOVERNMENT OF KHYBER PAKHTUNKHWA  
INFORMATION & PUBLIC RELATIONS  
DEPARTMENT  
091-9223527

123/


No. SO.Estr.(INF)11-99/2018/RTI Act-2013/Vol:IV  
Dated Peshawar the 14<sup>th</sup> March, 2019

To

The Chief Information Commissioner,  
RTI Commission, Khyber Pakhtunkhwa.

Subject:- EXTENSION OF KHYBER PAKHTUNKHWA RIGHT TO INFORMATION ACT, 2013 TO MALAKAND DIVISION AND NEWLY MERGED DISTRICTS (ERSTWHILE FATA)

I am directed to refer to your letter No. RTIC/AR/PATA/18, dated 20-7-2018 on the subject noted above and to enclose herewith a copy of summary for Chief Minister Khyber Pakhtunkhwa duly approved for information and further necessary action.

  
Section Officer (Establishment)

Encls. as above:  
Endst: of even No & date.

Copy of the above is forwarded to the P.S. to Secretary, Information & PRs Department, Khyber Pakhtunkhwa for information.

  
Section Officer (Establishment)

Necessary action pl.

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GOVERNMENT OF KHYBER PAKHTUNKHWA  
INFORMATION & PUBLIC RELATIONS  
DEPARTMENT

SUMMARY FOR CHIEF MINISTER, KHYBER PAKHTUNKHWA

SUBJECT:- EXTENSION OF KHYBER PAKHTUNKHWA RIGHT TO INFORMATION (RTI) ACT, 2013 TO MALAKAND DIVISION AND NEWLY MERGED DISTRICTS (ERSTWHILE FATA)

The Chief Information Commissioner, Right to Information Commission intimated vide *Annex-I* that in order to provide a legal framework to the citizens for having access to information of public importance in accordance with article 19-A of the Constitution of Pakistan, the provincial Government of Khyber Pakhtunkhwa enacted the Khyber Pakhtunkhwa Right to Information Act in late 2013. Soon after its enactment, the law was implemented in all districts of the province, except Malakand Division, being part of the former PATA. Since the extension of any law passed by the Assembly to PATA required a specific procedure to be followed in accordance with article 247(c) of the Constitution. Therefore, a case was moved in the year 2014, by the Home Department to Governor Khyber Pakhtunkhwa for approval and it's onwards submission to the Ministry of SAFRON, Islamabad for seeking consent of the President of Pakistan, as required under the Constitution (*Annex-II*).

2. In the meanwhile now, Article 247 of the Constitution has been deleted from the Constitution through 25<sup>th</sup> constitutional amendment. This Department is of the view that in absence of protection given under article 247 of the Constitution, and in view of section 1 (2) of the Khyber Pakhtunkhwa Right to Information Act, 2013 (*Annex-III*), the Act ibid automatically stands extended to the Malakand Division (erstwhile PATA).

3. The Law Department forwarded views of the Advocate General, Khyber Pakhtunkhwa who examined the subject matter and said that as Malakand Division was PATA before the 25<sup>th</sup> Constitutional Amendment and now is part of Khyber Pakhtunkhwa, so the laws applicable to the Khyber Pakhtunkhwa shall automatically apply to the Malakand Division unless there is some law by which it is specifically excluded. He added that the following case law is applicable to such situation (*Annex-IV*):

- i. PLD 1969 SC 485 (510)
- ii. 1996 SCMR 886
- iii. PLD 2005 SC 246 (Paras 3, 4, 5 & 7)



GOVERNMENT OF THE KHYBER PAKHTUNKHWA  
LAW, PARLIAMENTARY AFFAIRS AND  
HUMAN RIGHTS DEPARTMENT

205

SUBJECT: EXTENSION OF KHYBER PAKHTUNKHWA RIGHT TO  
INFORMATION (RTI) ACT, 2013 TO MALAKAND DIVISION  
AND NEWLY MERGED DISTRICTS (ERSTWHILE FATA)

Reference para-7 of the Summary.

08. The case has been examined in the Law Department and this Department is of the view that after enactment of the Constitution (Twenty-Fifth) Amendment Act, 2018, all laws immediately in force in the Province of Khyber Pakhtunkhwa, stand extended to PATA and FATA, and these views are also endorsed by the Advocate General at Annex-V of the Summary.

*Zakaullah Khattak*  
(ZAKAULLAH KHATTAK)  
SECRETARY LAW

SECRETARY/HOME,  
DEPARTMENT.

09. Home Department endorses the viewpoint of Law Department as contained in para 8

Chief Secretary

*S/3/19*  
Home Secretary  
Khyber Pakhtunkhwa

10.

*Endorsed*

*Chief Minister*

*S/3/19*  
Secretary