PART II
Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN
SECURITIES AND EXCHANGE COMMISSION OF PAKISTAN

NOTIFICATION
Islamabad, the 19th August, 2019

S. R. O. 942(I)/2019.—The following draft of Public Sector Companies (Appointment of Chief Executive) Regulations, 2019, proposed to be made by Securities and Exchange Commission of Pakistan in exercise of the powers conferred by section 512 read with sections 186, 187 and 188 of the Companies Act, 2017 (XIX of 2017), are hereby published for information of all persons likely to be affected thereby and notice is hereby given that objections and suggestions, if any, received within fourteen days from the date of its placement on the Commission’s website, shall be taken into consideration, namely:-

DRAFT REGULATIONS

1. **Short title, extent and commencement.**—(1) These Regulations may be called the Public Sector Companies (Appointment of Chief Executive) Regulations, 2019.

   (2) They shall come into force at once.

   1751(1—12)

   *Price : Rs. 20.00*

   [1262(2019)/Ex. Gaz.]
These regulations shall apply only for the purposes of sub-section (4) of section 186 and sub-section (4) of 187 of the Companies Act, 2017 (XIX of 2017), where chief executive is to be or has been appointed by way of nomination by the Government.

All other provisions related to matters provided in the Public Sector Companies (Corporate Governance) Rules, 2013 except those provided in these regulations, shall be applicable on a chief executive appointed by the Government and the public sector company in which such appointment is made.

2. **Definitions.**—(1) In these regulations unless there is anything repugnant in the subject or context,—

(a) “Annexure” means an annexure attached to these regulations;

(b) “fit and proper criteria” means the criteria for appointment of chief executive as specified in Annexure-A; and

(c) “Rules” means the Public Sector Companies (Corporate Governance) Rules, 2013.

(2) Words and expressions used but not defined in these regulations shall have the same meanings as are assigned to them under the Companies Act, 2017 (XIX of 2017) or any other administered legislation or the Rules.

3. **Procedure for appointment of chief executive on nomination by the Government.**—(1) The applicant desirous for the post of chief executive shall make an application on the Form as provided in Annexure-B to these regulations along with copies of the degrees/testimonials, duly verified by the Higher Education Commission or the professional body or association, whichever is relevant, and attested copies of identity documents, to demonstrate his fitness and propriety for the position of the chief executive.

(2) The applicant shall also furnish along-with the application, a declaration on non-judicial stamp paper of requisite value duly attested by an oath commissioner, as per Annexure-C to these regulations, affirming *inter alia* that he is not ineligible to act as a chief executive, in accordance with the provisions of the Act, the Rules and these regulations.

(3) For the appointment of chief executive in a public sector company on the nomination by the Federal Government, the following procedure shall be observed

(i) there shall be a Selection Committee constituted for the purpose of shortlisting and recommending the suitable candidates as chief executive of a public sector company;
(ii) the composition of the Selection Committee shall vary with the nature of business of the public sector company, and shall comprise of:

(a) Minister-in-Charge of the Administrative Division under which the public sector company falls as per Rules of Business, 1973, as Chairman and where the charge of a Ministry/Division is held by the Prime Minister, the Selection Committee shall be headed by a Minister-in-Charge/ Minister of State/ Advisor/ Special Assistant to the Prime Minister, as nominated by the Prime Minister;

(b) Secretary of the Administrative Division under which the public sector company falls as per Rules of Business, 1973, as member;

(c) One to three experts having relevant sectoral knowledge and experience to be nominated by the concerned Minister-in-Charge, as member;

(d) the Chairman of the Board of Directors or a senior member of the Board of Directors of the public sector company in cases where such Board exists; and where such Board does not exist, a person to be nominated by the Minister-in-Charge, as member;

(iii) the concerned Ministry/Division shall carry out the secretarial functions including preparation of the record of all the candidates eligible for interview, recording and circulating the minutes of the Committee meeting and preparing the short list approved by the Committee;

(iv) each requisitioning Ministry/Division shall furnish job description, eligibility criteria and skills required for the job.

(v) the Selection Committee will decide the evaluation parameters for the job in accordance with the fit and proper criteria as specified in Annexure-A;

(vi) the concerned Ministry/Division will place a public advertisement, at least three months before expiry of the term of office of the existing chief executive, in the leading newspapers and post advertisement on the relevant websites of the Government and the respective public sector company;
(vii) the concerned Ministry/Division shall submit the list of eligible candidates to the Selection Committee and arrange interviews of the candidates shortlisted by the Selection Committee;

(viii) the Chairman shall, with the approval of the Selection Committee, recommend a list of three to five candidates to the appointing authority;

(ix) the appointing authority may select any one of the candidates recommended by the Selection Committee and the appointing authority, if not satisfied with the recommended candidates, shall ask for fresh recommendations.

(x) the chief executive selected will be appointed on contract for a fixed tenure but not exceeding three years subject to the provisions of relevant law;

(xi) in case an officer working in the Government or Armed Forces is selected for the job of chief executive, he/she would have to seek premature retirement or resign from his position.

(4) In case of appointment of chief executive on nomination by a Provincial Government, the same procedure as specified in sub-regulation (3) shall apply except that the Prime Minister, Minister-in-Charge, Secretary of the relevant Ministry/Division shall be the Chief Minister, Minister-in-Charge and Secretary of the relevant Department respectively of such Province.

(5) The Selection Committee shall evaluate the candidates for appointment to the position of chief executive based on the fit and proper criteria as specified in Annexure-A.

(6) It shall be ensured by all concerned with the appointment process that the principles of transparency, merit and equal opportunity are followed while making appointment to the position of chief executive and the appointment of chief executive is finalized at least thirty days before the date of expiry of the term of the existing chief executive so that the appointment is made by the appointing authority within the period stipulated under sections 186 and 187 of the Act.

(7) The appointing authority may hire the services of an executive search agency for assistance in the appointment process, including issuance of the advertisement.

4. **Terms and conditions of appointment of chief executive.**—(1) The terms and conditions on which a chief executive may be appointed shall be
governed by an appointment contract in writing between the appointee to the 
office and the appointing authority. The contract shall specify terms and 
conditions of appointment of the chief executive including *inter alia* with regard 
to tenure of appointment, remuneration and other benefits, responsibilities, code 
of conduct, removal or separation and performance evaluation.

(2) The Board shall monitor and assess the performance of chief 
executive on a periodic basis, at least once a year, for accomplishing objectives, 
goals and key performance indicators set by the Board for this purpose and such 
performance assessment shall be shared with the Government within one month 
of the making thereof. The Government shall undertake performance evaluation 
of the chief executive annually keeping in view the assessment made by the 
Board.

(3) Where, at any point of time, it has been found that the chief 
extecutive has failed to meet the fit and proper criteria during the term of his 
office, the Government, of its own motion or upon recommendation by the 
Board, or the company may remove him before the expiration of his term of 
ofice in accordance with the provisions of section 190 of the Act.

5. **Appointment of acting chief executive.**—In case of occurrence of 
any casual vacancy in the office of chief executive, the Board shall appoint one 
of the directors as an acting chief executive within seven days, who shall perform 
the functions till the appointment of regular chief executive in accordance with 
these regulations. The Board shall also send an intimation in this regard to the 
Government within seven days from the date of appointment of the acting chief 
extecutive.

6. **Penalty.**—Any contravention of the requirements of these regulations 
shall be punishable with penalty as provided under sub-section (2) of section 512 
of the Act.

**Annexure-A**

**FIT AND PROPER CRITERIA**

FOR APPOINTMENT OF CHIEF EXECUTIVE OF A PUBLIC SECTOR 
COMPANY 

[See regulation 3(4)]

(1) In order to determine whether a candidate proposed to be appointed 
as a chief executive of a public sector company is fit and proper for the position, 
the following factors shall be taken into consideration:

(A) Competence and capability – he must have the necessary skills, 
experience, ability and commitment to carry out the role efficiently and effectively;
(B) Probity, personal integrity and reputation—he must possess personal qualities such as honesty, integrity, diligence, independence of mind and fairness, and has the ability to represent a cohesive vision and strategy to all;

(C) Financial integrity—he must be capable to manage his debts or financial affairs prudently; and

(D) Ineligibility on legal grounds—The Selection Committee shall also ensure that that the person is not ineligible to act as chief executive pursuant to section 189 read with sections 153, 171 and 172 of the Companies Act, 2017.

(2) The assessment of the above criteria shall have regard to the considerations set out below:

(A) Competence and Capability:

(a) Competence and capability are demonstrated by a person who possesses the relevant competence, experience and ability to understand the technical requirements of the business, the inherent risks and the management process required to perform his role effectively as a chief executive.

(b) In assessing a person’s competence and capability, the appointing authority shall consider matters including, but not limited to the following:

(i) whether the person has the appropriate qualification, training, skills, practical experience and commitment to effectively fulfill the role and responsibilities of the position; and

(ii) whether the person has satisfactory past performance or expertise in the nature of the business being conducted.

(c) To undertake the aforesaid assessment effectively, the following parameters are prescribed for consideration:

(i) He must,—

(I) Possess a graduate degree from a well-reputed institute or such other professional qualification relating to the principle line of business of the public sector company, including manufacturing,
mining, science, technology, agriculture, social science, or any other field commensurate to the job; or

(II) Be a member of a recognized body of professional accountants; or

(III) Be a recognized businessman or professional with a postgraduate degree in business administration or public administration or finance or commerce or marketing or equivalent; and

(ii) He must possess demonstrated experience of not less than ten years:

(I) in governance or business administration or public administration or finance or commerce or marketing or any other field commensurate to the job in significant organizations with a commercial orientation; or

(II) as chief executive or at a senior management level in similar organizations that have commercial attributes; or

(III) at senior positions in relevant professional areas including, inter-alia, science, technology, finance, law, business, agriculture, social sciences, etc.; or

(IV) in community or professional organizations; or

(V) at the level of member of governing body of a professional institute or as a head of department.

(B) **Probity, Personal Integrity and Reputation:**

(a) Probity, personal integrity and reputation are values that are demonstrated over time. These attributes demand a disciplined and on-going commitment to high ethical standards.

(b) In assessing a person’s level of probity, integrity and reputation to hold a position of a chief executive, the appointing authority shall consider matters including, but not limited to the following:
(i) whether the person is or has been subject to any adverse findings or any settlement in civil/criminal proceedings particularly with regard to investments, formation or management of a company or body corporate, or the commission of financial business misconduct, fraud, financial crime, default in payment of taxes or statutory dues, etc.;

(ii) whether the person is or has been removed/dismissed in the capacity of an employee, director/chairman or from a position of trust, fiduciary appointment or similar position because of issues arising on account of his misconduct;

(iii) whether the person is or has, directly or indirectly, i.e. through his spouse or minor children, been engaged in any business which is of the same nature as and directly competes with the business carried on by the company of which he is the chief executive or by a subsidiary of such company;

(iv) whether the person has contravened any of the requirements and standards of a regulatory body, professional body, government or its agencies;

(v) whether the person, or any business in which he has a controlling interest or exercises significant influence, has been disciplined, suspended or reprimanded by a regulatory or professional body, a court or tribunal, whether publicly or privately;

(vi) whether the person has been engaged in any business practices which are deceitful, oppressive or otherwise improper (whether unlawful or not), or which otherwise reflect discredit on his professional conduct;

(vii) whether the person has been associated as a partner or director with a company, partnership or other business association that has been refused registration, authorisation, membership or a license to conduct any trade, business or profession, or has had that registration, authorisation, membership or license revoked, withdrawn or terminated;

(viii) whether the person has been a director, partner or chief executive of any company, partnership or other business
association which is being or has been wound up by a court or other authority competent to do so within or outside Pakistan, or of any licensed institution, the license of which has been revoked under any law;

(ix) whether the person is free from any business or other relationship which could materially pose a conflict of interest or interfere with the exercise of his judgment when acting in the capacity of a director or chief executive or member of a governing body which would be disadvantageous to the interest of the public sector company; and

(x) whether the person is a Pakistani citizen or a foreign national or both.

(C) *Financial Integrity:*

(a) Financial integrity is demonstrated by a person who manages his own financial affairs properly and prudently.

(b) In assessing a person’s financial integrity, the appointing authority shall consider all relevant factors, including but not limited to the following:

(i) whether such person’s financial statements or record including wealth statements or income tax returns or assessment orders are available;

(ii) whether the latest Credit Information Bureau report of the person shows no overdue payments or default to a financial institution:

Provided that such person will be treated as a defaulter if he has failed to repay his loan exceeding one million rupees to a financial institution or is a defaulter of a stock exchange;

(iii) whether the person has been and will be able to fulfil his financial obligations, whether in Pakistan or elsewhere, as and when they fall due; and

(iv) whether the person has been the subject of a judgment debt which is unsatisfied, either in whole or in part, whether in Pakistan or elsewhere.
(c) The fact that a person may be of limited financial means does not in itself, affect the person’s ability to satisfy the financial integrity criteria.

(3) While making appointment of chief executive to a public sector company, the appointing authority shall conform to a merit-based selection procedure and shall also give due consideration to the following:

(a) Sectoral expertise;

(b) Organizational awareness;

(c) An understanding of the role of the government as a shareholder;

(d) Financial literacy and business acumen, irrespective of the professional background;

(e) A knowledge of the statutory responsibilities of a chief executive;

(f) The capability for a wide perspective on issues; and

(g) Leadership qualities.

Annexure-B

APPLICATION FORM FOR THE POST OF CHIEF EXECUTIVE OF PUBLIC SECTOR COMPANY
[See regulation 3(1)]

1. Name of Public Sector Company (post of which applied for):

2. Name: ________________________________

3. Father's Name: ________________________________

4. Date of Birth: ________________________________

5. Nationality: ________________________________

6. CNIC No.: ________________________________

7. Passport No. (if any): ________________________________

8. National Tax No.: ________________________________

9. Full Mailing address: ________________________________

10. Residential address: ________________________________

11. Telephone (Landline & Mobile No.): ________________________________

12. E-Mail address: ________________________________

Photograph (Passport Size)
12. Educational & Professional Qualifications (From Graduation onwards):

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Degree/ Course</th>
<th>Subjects/ any Specialization</th>
<th>University/ Institution</th>
<th>Year of Passing</th>
<th>Division/Class/ any Distinction</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

13. Work Experience:

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Organization</th>
<th>Post Held</th>
<th>Period (From - To)</th>
<th>Nature of Work/ Area of Specialization</th>
<th>Relevance with the post applied for</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4.</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

14. Fitness and propriety for the job in line with the fit and proper criteria (not more than 500 words):

____________________________________________________________________________________

15. Strategic vision for improving the performance and financial position as the potential chief executive of the public sector company (not more than 500 words):

____________________________________________________________________________________

16. Directorship in other companies:

(a) Present

(b) Past (during last ten years, with dates)

Signature:

____________________________________________________________________________________

Full Name (in Block Letters), and Full Address

Date:____________________

Note 1: Any information not provided will render the application incomplete and liable for rejection.

Note 2: Attach attested/verified copies of degrees/testimonials, CNIC/Passport and original Declaration on stamp paper as per Annexure-C.
Annexure-C

DECLARATION TO ACCOMPANY WITH THE APPLICATION FORM
FOR THE POST OF CHIEF EXECUTIVE OF PUBLIC SECTOR COMPANY
[See regulation 3(1)]

I, Mr./Ms ..................................... s/d/w of ......................, holder of
CNIC/Passport No. ......................... hereby solemnly declare and affirm that:

1. The contents of my application for the post of chief executive of
public sector company namely, ................................., and the
enclosures thereto, are true and correct to the best of my knowledge
and I have not withheld or concealed any information required to be
disclosed in the application;

2. I am not ineligible to act as a chief executive in terms of the fit and
proper criteria as provided in Annexure-A of the Public Sector
Companies (Appointment of Chief Executive) Regulations, 2019,
or any other relevant provisions of the Companies Act, 2017 and
the rules and regulations made thereunder; and

3. I am not suffering from any present or perceived conflict of
interests, which would interfere with the exercise of independent
judgment when acting in the capacity of chief executive of the
company, and would be disadvantageous to the interests of the
public sector company.

Signature: .........................
Full Name (in Block Letters),
and Full Address

Date: .........................
Place: .........................

Witness to the signature: [Attested by Oath Commissioner]
Signature: .........................
Full Name, Father's/ Husband's Name (in Block Letters) CNIC Number,
Occupation and
Full Address

(Note: To be made on stamp paper of requisite amount duly verified by Oath
Commissioner.)

[No. CLD/RD/ROC/CG-2004.]

BILAL RASUL,
Secretary to the Commission.