

**A
Bill**

BILL No 236

*further to amend the Khyber Pakhtunkhwa
Local Government Act, 2013.*

WHEREAS it is expedient further to amend the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013) for the purposes hereinafter appearing;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. Short title and commencement. --- (1) This Act may be called the Khyber Pakhtunkhwa Local Government (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 2 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013), hereinafter referred to as the said Act, in section 2,-

(a) for clause (r), the following shall be substituted, namely:

“(r) “municipal services” mean and include intra-city network of water supply, sanitation, conservancy, removal and disposal of sillage, refuse, garbage, sewer or storm water, solid or liquid waste, drainage, public toilets, express ways bridges, flyovers, public roads, streets, foot paths, traffic signals, pavements and lighting thereof, public parks, gardens, arboriculture, landscaping, bill boards, hoardings, fire fighting, markets, environment and construction;” and

(b) clauses (v-i) and (v-ii) shall be deleted.

3. Amendment of section 21 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 21, for sub-section (3), the following shall be substituted, namely:

“(3) The Executive Authority of Tehsil Local Government shall vest in Chairman, which shall be exercised in accordance with the provision of section 3 of this Act.”.

4. Amendment of section 23 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 23, in sub-section (1), for the words “The authority”, occurring in the beginning, the words, figure and comma “Subject to the provisions of section 3 of this Act, the authority” shall be substituted.

5. Substitution of section 23A of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, for section 23A, the following shall be substituted, namely:

“**23A. Functions and powers of the Chairman.**---The Chairman, Tehsil Local Government shall exercise and perform such powers and functions, as may be prescribed by rules.”.

6. **Deletion of section 23B of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.**---In the said Act, section 23B shall be deleted.

7. **Amendment of section 25 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.**---In the said Act, the existing section 25 shall be numbered as sub-section (1) of section 25,-

- (a) in sub-section (1), as so numbered, after clause (d), the following new clause shall be inserted, namely:

“(d-i) elect one of the members of the Tehsil Council to preside over the meetings of the Tehsil Council and during temporary absence of the Chairman, deputize him as Chairman;” and

- (b) after sub-section (1), as so numbered, the following new sub-section shall be added, namely:

“(2) Notwithstanding anything contained in sub-section (1), nothing can preclude the powers of the Provincial Government to develop, approve and implement any scheme or project for the City Local Government.”.

8. **Substitution of section 25A of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.**---In the said Act, for section 25A, the following shall be substituted, namely:

“**25A. Functions of Mayor, City Local Government.**--- The Mayor, City Local Government shall exercise and perform such powers and functions as may be prescribed by rules.”.

9. **Insertion of new section 25B in the Khyber Pakhtunkhwa Act No. XXVIII of 2013.**---In the said Act, after section 25A, as so substituted, the following new section shall be inserted, namely:

“**25B. Functions of City Local Council.**---(1) In addition to the functions specified in section 25 of the Act, the City Local Council shall perform the following functions, namely:

- (a) review implementation reports regarding functions of the City Local Government;
- (b) approve proposals related to municipal services as defined in clause (r) of section 2 of the Act;
- (c) accord approval of such macro municipal plans as may be notified by City Local Government;
- (d) approve plans for sewerage tertiary and secondary network, treatment plants, storm water drainage network and disposal;
- (e) approve plans relating to flood control protection and rapid response contingency plans;
- (f) approve measures for industrial and hospital hazardous and toxic waste treatment and disposal;
- (g) approve plans for environmental control, including control of air, water, and soil pollution in accordance with federal and provincial laws and standards;

- (h) approve of plans parks, play grounds, sporting, and other recreational facilities;
- (i) establish art galleries, libraries and community centers and their improvement and protection;
- (j) approve plans for landscape, monuments, and municipal ornamentation;
- (k) approve plans for Urban improvement, upgrading, renewal and redevelopment, with due care to preserve historical and cultural monuments; and
- (l) approve plans for regional markets and city-wide commercial centers in accordance with relevant laws, rules and byelaws for the time being enforced.

(2) Notwithstanding anything contained in sub-section (1), nothing can preclude the powers of the Provincial Government to develop, approve and implement any scheme or project for the City Local Government.”.

10. Amendment of section 27 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 27,-

- (a) for sub-section (2), the following shall substituted, namely:

“(2) The village council or the neighbourhood council, as the case may be, shall be a multimember ward for direct election of members to be held on the basis of adult franchise and joint electorate.”; and

- (b) for sub-section (4), the following shall substituted, namely:

“(4) The executive authority of the village council or neighbourhood council, as the case may be, shall vest in respective Chairman, village council or neighbourhood council, which shall be exercised in accordance with section 3 of this Act.”.

11. Amendment of section 28 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, for section 28, the following shall be substituted, namely:

“28. Functions and responsibilities of the Chairman, village council and neighbourhood council.--- The Chairman of village council or neighbourhood council shall exercise and perform such powers and functions as may be prescribed by rules.”.

12. Amendment of section 30 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 30, in sub-section (2), clause (b) shall be deleted.

13. Amendment of section 36 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 36, for sub-sections (2), (3), (4) and (5), the following shall respectively be substituted, namely:

“(2) The District Account Officer shall maintain the accounts of the devolved offices of Tehsil Local Government and pre-audit its payments before approving disbursement of monies.

(3) The Tehsil Officer (Finance) of Tehsil Municipal Administration shall maintain the accounts of their respective Tehsil Municipal Administration.

(4) The Secretary, village council or neighbourhood council, shall maintain the accounts of their respective councils.

(5) The Director, Local Fund Audit shall pre-audit all the receipts and payments from the respective fund of Tehsil Municipal Administration, village council or neighbourhood council, as the case may be, before approving the disbursement of money, in the manner as may be prescribed by rules.”.

14. Amendment of section 54 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 54,-

(a) for sub-section (3), the following shall be substituted, namely:

“(3) Government shall provide separate budget for the Local Government Commission, with Director General, Local Government and Rural Development as Principal Accounting Officer.”; and

(b) after sub-section (3), as so amended, the following new sub-section shall be inserted, namely:

“(3A) The Directorate General, Local Government, Elections and Rural Development, Khyber Pakhtunkhwa, shall be the permanent secretariat for the Local Government Commission, with appropriate organizational structure at Provincial and regional levels to meet the objective of the Local Government Commission.”.

15. Substitution of section 78A of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, for section 78A, the following shall be substituted, namely:

“78A. Disqualification on grounds of defection.---(1) If a Chairman, Tehsil Local Government or Chairman and member of a village council or neighbourhood council, as the case may be,-


- (a) resigns from membership of his political party; or
- (b) votes or abstains from voting in a council, contrary to any direction issued by the political party, to which he is a member, in the council; or
- (c) joins another political party-

he may be declared, in writing, by the Party Head to have defected from the political party, and the Party Head may forward a copy of the declaration to the Election Commission and Secretary of the council concerned. The Party Head shall also forward a copy thereof to the Chairman, Tehsil Local Government or member of village council or neighbourhood council concerned:

Provided that before making the declaration, the Party Head shall provide such member with an opportunity to show cause as to why such declaration may not be made against him.

Explanation: For the purpose of this section, "Party Head" means any person, by whatever name called or declared as such by the Party and includes the nominee of the Party Head.

(2) A Chairman, Tehsil Local Government or a member of a village council or neighbourhood council, as the case may be, shall deem to be a member of a political party, if he,-

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- (a) having been elected as a candidate or nominee of a political party which constitutes the party in the concerned council or has become a member of such political party; or
 - (b) an independent returned candidate, who joins a political party, within such reasonable time as may be notified by the Department, after the Notification of the names of such candidate by the Election Commission and duly accepted by the Party Head and delivers to the Secretary of the council concerned;

(3) Upon receipt of the declaration under sub-section (1), the Secretary of the concerned council, shall, within seven (07) working days, refer the declaration to the Chief Election Commissioner, who shall lay the declaration before the Election Commission for its decision thereon, confirming the declaration or otherwise, within thirty days of its receipt, by the Chief Election Commissioner.

(4) Where the Election Commission confirms the declaration, the Chairman of Tehsil Local Government or member of village council or neighbourhood council, referred to in sub-section (1), shall cease to be a Chairman or member of the concerned council and his seat shall become vacant.

(5) Any party aggrieved by the decision of the Election Commission may, within thirty days, prefer an appeal to the High Court which shall decide the matter within sixty days from the date of the filing of the appeal.”.

16. Substitution of section 79 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, for section 79, in sub-section (2), the following shall be substituted, namely:

“(2) In case where all members of a village council or a neighbourhood council, as the case may be, are returned unopposed, such council shall, in its first meeting and to the exclusion of any other business, elect from its general members a Chairman, in the prescribed manner.”.

17. Amendments in section 107 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 107, in sub section (2), the full stop, appearing at the end, shall be replaced by a colon and thereafter the following proviso shall be added, namely:

“Provided that all actions required for giving effect to sections 30 to 37 shall be completed within one year of the attainment of administrative transition under sub-section (1) of section 104 of this Act.”.

18. Amendment of section 112 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, in section 112, sub-section (3) shall be deleted.

19. Substitution of section 123 of the Khyber Pakhtunkhwa Act No. XXVIII of 2013.---In the said Act, for section 123, the following shall be substituted, namely:

“123. Removal of difficulty.--- (1) If any difficulty which may arise in giving effect to the provisions of this Act, the Department may constitute a committee, headed by Secretary to Government, Local Government, Elections and Rural Development Department and having representation from Finance Department, Planning and Development Department, Establishment Department and Law, Parliamentary Affairs and Human Rights Department of Government.

(2) The committee, constituted under sub-section (1) shall be mandated to pass such orders, not inconsistent with the provisions of this Act, for the purpose of removing such difficulty.

STATEMENT OF OBJECTS AND REASONS

It is desirable to amend the Khyber Pakhtunkhwa Local Government Act, 2013 (the Khyber Pakhtunkhwa Act No. XXVIII of 2013). Hence this Bill.

Peshawar,
dated the,
 , 2022.

Faisal
27/5/22
MINISTER-IN-CHARGE.
MINISTER
LGE&RD
Khyber Pakhtunkhwa

Deputy Legislation Officer
Government of Khyber Pakhtunkhwa
Law Department