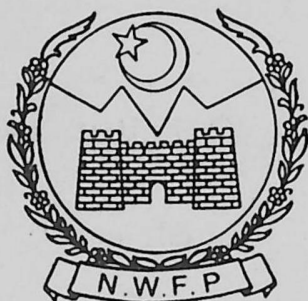


EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P. 111

G A Z E T T E

North-West Frontier Province

Published by Authority

PESHAWAR, WEDNESDAY, 7TH AUGUST, 2002.

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE,
LAW DEPARTMENT.

NOTIFICATION

7th August, 2002.

No. Legis:1(18)/70-IX-6057-62.—The following Ordinance by the Governor of the North-West Frontier Province is hereby published for general information:-

**THE NORTH-WEST FRONTIER PROVINCE LOCAL GOVERNMENT
(FOURTH AMENDMENT) ORDINANCE, 2002.**

N.-W.F.P. ORDINANCE NO. XXVI OF 2002.

**AN
ORDINANCE**

*further to amend the North-West Frontier Province
Local Government Ordinance, 2001.*

WHEREAS it is expedient further to amend the North-West Frontier Province Local Government Ordinance, 2001 (N.-W.F.P. Ord. No. XIV of 2001), for the purposes hereinafter appearing;

AND WHEREAS the Governor of the North-West Frontier Province is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended uptodate, and the Provisional Constitution Order No. 1 of 1999, read with Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of the North-West Frontier Province is pleased to make and promulgate the following Ordinance:

1. **Short title and commencement.**—(1) This Ordinance may be called the North-West Frontier Province Local Government (Fourth Amendment) Ordinance, 2002.

(2) It shall come into force at once.

2. Amendment of section 1 of N.-W.F.P. Ord. No. XIV of 2001.— In the North-West Frontier Province Local Government Ordinance, 2001 (N.-W.F.P. Ord. No. XIV of 2001), hereinafter referred to as the said Ordinance, in section 1, for subsection (3), the following shall be substituted, namely:

"(3) It shall come into force as under:

- (a) the provisions contained in sections 107, 108, 109, 112, 114 and the Second Schedule shall come into force at once and shall be deemed to have taken effect on the 1st July, 2002;
- (b) the provisions contained in Chapter XII shall come into force at once; and
- (c) the remaining provisions shall come into force at once and shall be deemed to have taken effect on the fourteenth day of August, 2001."

3. Amendment of section 2 of N.-W.F.P. Ord. No. XIV of 2001.— In the said Ordinance, in section 2,-

- (a) in clause (vii), before the word "management", the words and comma "operation, functioning and" shall be inserted;
- (b) in clause (ix), for the word "damages" the word "damage" shall be substituted;
- (c) for clause (xvii), the following clause shall be substituted, namely:

"(xvii) 'mal-administration' means and includes-

- (a) an act of omission or commission, a decision, process or recommendation, which
 - (i) is contrary to the law, rules, or regulations or is a departure from established practice or procedure; or
 - (ii) is arbitrary, biased, discriminatory, oppressive, perverse, unjust or unreasonable; or
 - (iii) is based on irrelevant grounds; or
 - (iv) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as administrative excess, bribery, favouritism, jobbery and nepotism;

- (b) delay, inaction, incompetence, inefficiency, ineptitude or neglect in the administration or discharge of duties and responsibilities;
 - (c) repeated notices, prolonged hearings or unnecessary attendance while deciding cases; or
 - (d) avoidance of disciplinary action against an officer or official whose action is held by a competent authority to be biased, capricious, patently illegal or vindictive;"
- (d) after clause (xxvii), the following new clauses shall be inserted, namely:
- "(xxviiia) 'Provincial Allocable Amount' means the amount allocated to the local governments from the Provincial Consolidated Fund;
 - (xxviiib) 'Provincial Consolidated Fund' means the Fund referred in Article 118 of the Constitution of the Islamic Republic of Pakistan;
 - (xxviiic) 'Provincial Retained Amount' means the balance amount of the Provincial Consolidated Fund after subtraction of the Provincial Allocable Amount from it."; and
- (e) in clause (xxx), after the word "land", the words and comma "or use of any machinery, equipment or vehicle" shall be added.

4. **Amendment of section 16 of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, in section 16, in sub-section (1), between the word "the" and the word "management", the word and comma "operation," shall be inserted.

5. **Amendment of section 39 of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, in section 39, in clause (b), after the words "Second Schedule" appearing at the end, the commas and the words ", or in case of a City District, on subjects specified in Part-II of the Second Schedule" shall be added.

6. **Amendment of section 54 of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, in section 54, in sub-section (1),-

- (a) for clause (l), the following shall be substituted, namely:
 - "(l) propose taxes, cesses, user fees, rates, rents, tolls, charges, surcharges, levies, fines and penalties under Part III of the Second Schedule for approval of the Tehsil Council and notify the same after such approval;"
- (b) in clause (r), the words "and Tehsil Council", appearing at the end, shall be deleted.

7. **Insertion of section 54A to N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, after section 54, the following new section shall be inserted, namely:

"54A. Functions and powers of the Town Municipal Administration.— The functions and powers of the Town Municipal Administration shall be to-

- (a) prepare, within the framework of the spatial/master plans for the City District, spatial plans for the Town in collaboration with Zilla Councils and Union Councils including plans for land use, zoning and functions for which the Town Municipal Administration is responsible;
- (b) enforce, in additions to its own, all municipal laws for and on behalf of City District Government, if required by such City District Government at the cost and expense of the latter;
- (c) execute and manage development plans for the functions which are performed by the Town Municipal Administration;
- (d) exercise, within the framework of the spatial and Master plan for the City District, control over land use, land sub-division, land development and zoning by public and private sectors for any purpose, including for agriculture, industry, commerce markets, shopping and other employment centers, residential, recreation, parks, entertainment, passenger and transport freight and transit stations;
- (e) prevent and remove encroachment;
- (f) procure and compile information provided by Union Councils, Village Councils and Neighbourhood Councils of prioritized projects in the towns;
- (g) prepare budget and long term and annual town municipal development programmes in collaboration with the Union Councils, under the directions of Town Nazim;
- (h) maintain, with the assistance of the City District Government, Union Councils, Village Councils and Neighbourhood Councils, and comprehensive data base and information system for Town Municipal Administration and provide public access to it on nominal charges;
- (i) propose taxes, cesses, user fees, rates, rents, tolls, charges, levies, fines and penalties under Part-IV of the Second Schedule for approval of the Town Council and notify the same after such approval;

- (j) collect taxes, cesses, user fees, rates, rents, tools, charges, fines and penalties;
- (k) organize local sports, cultural and recreational events, fair and shows;
- (l) organize cattle fairs and cattle markets;
- (m) regulate markets and services and issue licences, permits, grant permissions and impose penalties for violations thereof as and where applicable;
- (n) manage properties, assets and funds vested in the Town Municipal Administration;
- (o) develop and manage schemes, including site development in collaboration with City District Government and Union Administration;
- (p) provide, manage, operate, maintain and improve the municipal infrastructure and services, including-
 - (i) water supply distribution other than integrated systems maintained by or on behalf of the City District;
 - (ii) sewerage system other than an integrated systems maintained by or on behalf of City District excluding sewerage treatment and disposal;
 - (iii) solid waste collection and conveyance to transfer stations designated by the Town but excluding treatment and disposal of waste;
 - (iv) street lighting;
 - (v) fire fighting;
 - (vi) parks, playgrounds, open spaces and arboriculture, other than major facility maintained by the City District; and
 - (vii) slaughter houses;
- (q) authorize an officer or officers to issue notice to a person committing any municipal offence and initiate legal proceedings for continuance of commission of such offence or for failure to comply with the directions contained in such notice;
- (r) prosecute, sue and follow criminal, civil and recovery proceedings against violations of municipal laws;

- (s) maintain town municipal records and archives; and
- (t) prepare financial statements and present them for internal and external audit in the manner as may be prescribed."

8. **Insertion of section 58A to N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, after section 58, the following new section shall be inserted, namely:

"58A. **Town Officers or Tehsil Officer.**—The functions and powers of the Town Officer or Tehsil Officer of the Town Municipal Administration or Tehsil Municipal Administration shall be to-

- (a) ensure that the business of the office under his administrative control is carried out in accordance with law and the rules and the human and material resources placed at his disposal are optimally utilized to improve governance;
- (b) co-ordinate and supervise the activities of the office and ensure efficient service delivery by the functionaries under his administrative control;
- (c) supply information to the Monitoring Committees of the Town Councils or Tehsil Councils and Union Councils;
- (d) take appropriate corrective actions based on the information received from Monitoring Committee;
- (e) enforce relevant Federal, Provincial and Municipal laws and rules;
- (f) prepare development plans and propose budgetary allocations for their executions;
- (g) implement approved plans and policies;
- (h) authorize disbursement of performance bonuses to the employees;
- (i) prepare proposals for expenditure necessary for the proper conduct of programmes, projects, services, and other activities;
- (j) propose relevant bye laws on service delivery to the Town or Tehsil Municipal Officer; and
- (k) act as Departmental Accounting Officer for his respective office and be responsible to the Accounts Committee of the Town or Tehsil Council."

9. **Amendment of section 67 of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, in section 67, in clause (i), for the word and figure "Part II", the word and figure "Part III" shall be substituted.

10. **Insertion of section 67A to N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, after section 67, the following new section shall be inserted, namely:

"67A. Functions and powers of the Town Council.— The functions and powers of the Town Council shall be to-

- (a) approve taxes, cesses, rates, rents, fees, user charges, tolls, levies, fines and penalties proposed by Town Municipal Administration specified in Part-IV of the Second Schedule;
- (b) approve annual budget and appropriation for the Town Municipal Administration;
- (c) approve long and short term development plans;
- (d) approve posts of personal staff for the office of Town Nazim and the terms and conditions of their service to be appointed on contract basis; provided that, no post of advisor special assistant, press or political secretary to the Town Nazim shall be sanctioned or approved;
- (e) elect monitoring committees of the Town Council to monitor the working of the Town Municipal Administration and the provision of municipal services;
- (f) ensure that monitoring committees perform their functions in a non-intrusive manner without interfering in the day to day working of the relevant offices of the Town Municipal Administration and do not assume a command and control role;
- (g) review the reports of the monitoring committees and make appropriate recommendations to the Town Nazim;
- (h) elect Code of Conduct Committee which shall be responsible for enforcing the code of conduct for regulating the conduct of the members of the Town Council;
- (i) elect an Insaaf Committee for interacting with the Insaaf Committee of the Zilla Council;
- (j) elect Town Accounts Committee to review the audit reports of the accounts of Town Municipal Administration;
- (k) review the performance of Town Municipal Administration presented by the Town Nazim;
- (l) recommend by resolution to City District Government to undertake measures for improving delivery of municipal services to the towns;
- (m) to approve bye-laws for delivery of municipal services;
- (n) to approve land use, zoning and master plan of the town development and maintenance programmes or projects proposed by the Town Municipal Administration;

- (o) to require by resolution, the Town Municipal Administration to undertake measures for improvement in the delivery of municipal service."

11. **Amendment of section 75 of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, in section 75, after sub-section 3), the following new sub-section shall be added, namely:

"(4) The Union Nazim may declare one of the secretaries of the Union Administration to act as the Principal Accounting Officer of the Union Administration."

12. **Amendment of section 88 of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, in section 88, in sub-section (1), in clause (b), for the word and figure "Part III", the word and figure "Part IV" shall be substituted.

13. **Substitution of section 98 of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, for section 98, the following shall be substituted, namely:

"98. **Composition of Citizen Community Board.**— (1) In every local area, groups of non elected citizens may, through voluntary, proactive and self help initiatives, set up any number of Citizen Community Boards.

(2) Such Citizen Community Boards shall be set up for the purposes of, *inter alia*,—

- (a) energizing the community for development and improvement in service delivery;
- (b) development and management of a new or existing public facility;
- (c) identification of development and municipal needs;
- (d) mobilization of stakeholders for community involvement in the improvement and maintenance of facilities;
- (e) welfare of the handicapped, destitute, widows and families in extreme poverty;
- (f) establishment of farming, marketing and consumers cooperatives; provided that grants will be available subject to section 119 of this Ordinance, and reinforcing the capacity of a special Monitoring Committee at the behest of the concerned Council.

(3) Notwithstanding anything to the contrary contained in sub-section (1), no person shall be eligible to set up a Citizen Community Board or become its member or hold the office of the Chairman or Secretary of the Citizen Community Board, if such person:

- (a) is a minor;
- (b) is of unsound mind;

- (c) has applied to be adjudicated as an insolvent and his application is pending;
- (d) is an undischarged insolvent;
- (e) is a defaulter under law and his name has been published as such.

(4) In carrying out its purposes, a Citizen Community Board may interact with voluntary organizations for community welfare.

(5) The Citizen Community Board shall be set up, registered with the registration authority, and carry on its functions and activities in such manner and subject to such rules as may be prescribed.

(6) The Citizen Community Board shall have a general body of its members who shall elect a Chairman, Executive Committee and a Secretary of the Board for carrying out its functions.

(7) The term of office of the Chairman, members of the Executive Committee and Secretary of the Citizen Community Board shall be two years extendable through election for a similar term or terms by the general body.

(8) The liability of the Executive Committee of a Citizen Community Board, its officers and members shall be as prescribed."

14. Amendment of section 99 of N.-W.F.P. Ord. No. XIV of 2001.— In the said Ordinance, in section 99, for sub-section (6), the following shall be substituted, namely:

"(6) The Secretary shall present the annual statement of accounts in the annual meeting of the Citizen Community Board and, after its approval, the statement shall be submitted to the registration authority, or such other authority as may be prescribed, within thirty days or such other time period specified in this behalf."

15. Substitution of section 101 of N.-W.F.P. Ord. No. XIV of 2001.— In the said Ordinance, for section 101, the following shall be substituted, namely:

"101. Citizen Community Board to be non-profit organizations: (1) A Citizen Community Board shall be a non-profit organization and its income and assets shall be used solely for the attainment of its objectives.

(2) The properties and income of a Citizen Community Board shall vest, and be held, in the name of its Executive Committee. It shall sue and be sued in the name of its Executive Committee. No portion of its income shall be paid by way of salary, dividend, profit or bonuses or otherwise distributed to any of its members or contributors, whether past or present.

(3) If a Citizen Community Board is not carrying on its functions and activities in accordance with this Ordinance, the registration authority may appoint an administrator, with such powers and functions as the registration authority deems appropriate, to run its affairs, take over its assets, its dissolution, holding fresh elections or for the disposal of any other matter.

(4) Where a local government has contributed towards creation of any assets or funds of a Citizen Community Board, in case of dissolution or de-registration, its assets shall pass on to such local government and the assets shall continue to be used for community welfare by the local government through any of its agencies or any other Citizen Community Board designated by such local government in this behalf.

(5) The accounts of the Citizen Community Board shall be subject to audit as may be prescribed."

16. **Amendment of Chapter XII of N.-W.F.P. Ord. No. XIV of 2001.**— In the said Ordinance, for Chapter XII, the following Chapter shall be substituted, namely:

"CHAPTER XII LOCAL GOVERNMENT FINANCE

107. **Establishment of Funds and Public Accounts.**— There shall be established a District Fund, a Tehsil Fund, a Town Fund and a Union Fund, as the case may be, for each respective Local Government.

(2) All revenues received by a Local Government shall form part of the respective Local Government Fund including:

- (a) monies transferred by another Local Government under this Ordinance;
- (b) grants made to or monies received by a Local Government from the Government or other authorities in Pakistan;
- (c) the proceeds of taxes or charges levied by a Local Government under this Ordinance;
- (d) rents and profits payable or accruing to a Local Government from immovable property vested in or controlled or managed by it;
- (e) proceeds or any other profits howsoever known or called from bank accounts, investments of commercial enterprises of a Local Government;
- (f) gifts, grants or contributions to a Local Government by individuals or institutions;
- (g) income accruing from markets or fairs regulated by a Local Government;

- (h) fines paid with respect to offences under this Ordinance or by-laws or under any other law for the time being in force in which provision is made for the fines to be credited to the Funds established under this Ordinance;
- (i) proceeds from other sources of income which are placed at the disposal of a Local Government under directions of the Government; and
- (j) all monies transferred to a Local Government by the Government.
- (3) All other moneys including-
 - (a) receipts accruing from trusts administered or managed by a Local Government;
 - (b) refundable deposits received by a Local Government; and
 - (c) deferred liabilities shall be credited to the Public Account of the respective Local Government.

108. **Custody of Funds.**— Monies credited to a Local Government Fund or a Public Account shall be kept in the State Bank, government treasury, a post office or a bank in such manner as shall be specified by the Government from time to time and shall be operated through the Accounts Officer specified under section 114 of the concerned Local Government.

109. **Application of Funds.**— (1) The monies credited to a Fund shall be expended by Local Government in accordance with the annual budget and Supplementary Budget approved by its Council.

(2) A local government may transfer approved budgeted amounts to any local government, Village Council or Neighbourhood Council or Citizen Community Board, within its local area, for expenditure for carrying out a project service or activity transferred to, or managed by, the recipient local government, Village Council or Neighbourhood Council or Citizen Community Board.

(3) No local government shall transfer monies to a higher level of government except by way of repayment of debts contracted before the coming into force of this Ordinance or for carrying out deposit works.

(4) The application of a fund of Local Government shall as provided by a council be subjected to budgetary constraints by ratio to be prescribed for development works and expenditure on establishment:

Provided that the schedule of establishment shall be maintained by the Local Governments as may be prescribed.

(5) The development budget shall be prioritized in accordance with the bottom up planning system as laid down in section 119:

Provided that not less than twenty five percent of the development budget shall be set apart for utilization in accordance with the provisions of section 119.

(6) Where a new Local Government is to take over during a financial year as a result of fresh elections, the outgoing Local Government shall not spend funds or make commitments for any expenditure, under any Demand for Grant or Appropriation, in excess of eight per cent per mensem of the budgeted funds for remainder of its term in office in that financial year.

(7) In every budget a provision may be made for payment of performance incentive bonuses.

110. **Charged Expenditure.**—The following expenditure shall be treated as charged expenditure:

- (a) in relating to District Fund:
 - (i) the budget of the Zilla Council;
 - (ii) any sum to satisfy any judgment, decree or award against a Local Government by any Court or Tribunal;
 - (iii) all sums to be paid in connection with the administration of the functions of the Zilla Mohtasib; and
 - (iv) interest payments.
- (b) In relation to Tehsil or Town or Union Fund:
 - (i) the budget of the Tehsil or Town Council the case may be, the Union Council;
 - (ii) any sum to satisfy any judgment, decree or award against a Local Government by any Court or Tribunal; and
 - (iii) interest payments;

Provided any other expenditure may be declared as charged expenditure as prescribed.

111. **Budget Preparation.**—(1) The annual budget for each Local Government shall contain estimates of:

- (a) grants-in-aid from the Government;
- (b) amounts available in the respective Fund;
- (c) receipts for the next year; and

(d) expenditures to be incurred for the next year.

(2) To enable the budget preparation by Local Government, the Government shall, sufficiently before the beginning of each financial year, notify the provisional shares, which may be credited to the Fund of respective Governments from the Provincial Allocable amount.

(3) The Auditor-General shall prescribe the chart of classifications and accounts to be followed by Local Governments from time to time.

(4) Each District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall re-appropriate budgetary provisions in accordance with the re-appropriation powers delegated to them by the respective Council as prescribed:

Provided that at the end of a financial year a full statement of all re-appropriations made shall be submitted to the Council.

(5) No demand for a grant shall be made except on the recommendation of the Local Government.

(6) Conditional grants from the provincial retained amount will be shown separately in the budget and will be governed by conditions provided therein.

(7) Before the commencement of a financial year each Local Government shall, for its Fund, prepare in the prescribed manner, a budget for that year, in conformity with the provisions of section 119.

112. **Approval of Budget.**—(1) Following the presentation of the Provincial budget but, before the commencement of the next financial year, each Nazim shall, present the budget for approval by the respective Council before the beginning of such financial year:

Provided that the charged expenditure may be discussed but shall not be voted upon by the Councils.

(2) When a Local Government assumed office for the first time, it may within ten weeks, present to the respective Council a budget for the remaining part of the financial year for approval.

(3) The budget of a Local Government shall be approved by simple majority of the total membership of the respective Council.

(4) No other business shall be taken up by a Council during the budget session.

(5) In case a budget is not approved by a Council before the commencement of the financial year to which it relates, the concerned Local Government shall spend money under various heads on *pro rata*

basis in accordance with the budgetary provisions of the preceding financial year for a period not exceeding thirty days. In case the budget is not passed within the extended period a period not exceeding thirty days. In case the budget is not passed within the extended period the budget shall be prepared, approved and authenticated by the Government for the full year.

(6) At any time before the expiry of the financial year to which a budget relates, a revised budget for the year shall be prepared by a Local Government and approved by its Council.

(7) A budget shall not be approved if:

- (a) the sums required to meet estimate expenditures exceed the estimated receipts; and
- (b) the constraints specified in section 119 have not been complied with.

(8) The Nazim shall authenticate by his signature a Schedule specifying the:

- (a) grants made or deemed to have been made by the District, Tehsil, Town or Union Council; and
- (b) the several sums required to meet the expenditure charged upon the District, Tehsil, Town or Union Fund.

(9) The Schedule so authenticated shall be laid before the Council, but shall not be open to discussion or vote thereon.

(10) The Schedule so authenticated shall be communicated to the respective Accounts Office as specified in Section 114 of this Ordinance and the Provincial Finance Department.

113. **Honoraria and Allowances.**—Each Local Government may make budgetary provisions for honoraria and allowances of the Nazim, Naib Nazims, and members of the Council concerned provided this expenditure shall be met from the resources generated locally and shall not be charged to Provincial Allocable Amounts transferred to Local Governments except for Nazim, Naib Nazims, and Lady Councillors of a District Council.

114. **Accounts.**—(1) The accounts of the receipt and expenditure of Local Government shall be kept in such form and in accordance with such principles and methods as the Auditor General of Pakistan may, with the approval of the President prescribe.

(2) The following procedure shall be followed unless changed by the Government through a notification:

- (a) The District Accounts Officer (or a Treasury Officer where a District Administration Officer does not exist) shall maintain the accounts of each District Government for each stream of revenue inflows to a District separately:

Provide in City Districts, the District Accounts Officer shall also maintain the accounts of each Town for each stream of revenue inflows to a Town separately;

- (b) the Tehsil Accounts Officer/Town Accounts Officer shall Union Accountant shall maintain the accounts of the Tehsil or Town Municipal Administration or the Union Administration as the case may be for each stream of revenue inflows separately;
- (c) The District Accounts Officer, Tehsil Accounts Officer and the Union Accountant shall perform pre-audit of all payments from the Funds of the District, Tehsil or Town and Union, as the case may be, before approving the disbursements of monies. The pre-audit shall be conducted in accordance with the pre-audit checks prescribed by Auditor General of Pakistan from time to time.

(2) The District Accounts Officer shall consolidate the district accounts separately for the Provincial Allocable Amount and Local resources with the compiled accounts of the Tehsil, Town Account Office and Union Account Office monthly and annually and send a copy to the Provincial Finance Department, Accountant General, and the respective Nazim.

(3) A statement of monthly and annual Accounts and such other necessary statements shall be place at a conspicuous place by the Local Government concerned for public inspection.

(4) The respective Accounts Committees of the Councils shall hold public hearings in which:

- (a) objections to statement of accounts referred to in sub-section (3) above may be heard and, if required, appropriate action may be taken;
- (b) internal and external Audit Reports will be discussed for appropriate action.

115. **Audit.**—(1) The Auditor General of Pakistan shall, on the basis of such audit as he may consider appropriate or necessary, certify the accounts, compiled and prepared by the respective District Accounts Officer for each financial year, showing under the respective heads the annual accounts with such notes, comments or recommendations as he may consider necessary to the respective Nazim and a copy of each to Governor of the Province. The audit relating to the Provincial Allocable Amount shall be placed before the Public Accounts Committee of the Province. The Nazim shall cause the audit report relating to the local resources to be submitted to the respective Council. The Council shall refer it for consideration to its Accounts Committee.

(2) The Auditor General shall have authority to audit and report on the accounts of stores and stock kept in any office of a local government.

(3) The Auditor General shall:

- (a) audit all expenditure from the respective local government Fund to ascertain whether the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which governs it;
- (b) audit all transactions of the local governments relating to Public Accounts;
- (c) audit all trading, manufacturing, profit and loss accounts of a local government;
- (d) to audit all receipts which are payable into the respective local government Fund and to satisfy himself that all such receipts which are payable into the respective local government Fund have been properly and correctly deposited and rules and procedures relating to such receipts have been fully observed; and
- (e) audit subject to the provisions of Auditor General's Ordinance, 2001, the accounts of any authority or body established by any local government and in each case to report on the expenditure, transactions or accounts so audited by him.

(4) The Auditor General shall have the authority:

- (a) to inspect any office of accounts, under the control of a local government including treasuries, and such offices responsible for the keeping of initial or subsidiary accounts;
- (b) to require that any accounts, books, papers and other documents which deal with, or form, the basis of or otherwise relevant to the transactions to which his duties in respect of audit extend, shall be sent to such place as he may direct for his inspection;
- (c) to enquire or make such observations as he may consider necessary, and to call for such information as he may require for the purpose of the audit; and
- (d) the officer Incharge of any office or department shall afford all facilities and provide record for audit inspection and comply with requests for information in as complete a form as possible and with all reasonable expedition.

(5) Upon request of a Nazim, the Auditor General shall cause a special audit of respectively local government's accounts to be undertaken and shall forward his report to the Nazim who shall cause the same to be submitted to the Local Government Commission for necessary action.

(6) The Auditor General or any officer appointed by him for conducting an audit of Local Government shall have access to all the books and documents pertaining the accounts and may also examine any public servant or premises of the Local Government concerned.

(7) The Auditor General shall perform functions and exercise power in relation to audit including supplementary audit of the accounts of the public companies or corporations owned or managed by a local government.

115-A **Internal Audit.**—(1) Nazim of each District Government and Tehsil Municipal Administration or Town Municipal Administration shall appoint an Internal Auditor.

(2) Internal audit shall be an independent, objective assurance and consulting activity designed to add value and improve a Local Government's operations and shall help the Local Government accomplish the objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.

(3) The Internal Auditor shall serve as a principal support person to respective Nazim of District Government or Tehsil or Town Municipal Administration by providing information to him and members of the respective Council on Local Government performance.

116. **Taxes to be Levied.**—(1) A Council may levy taxes, cesses, fees, rates, rents, tolls, charge, surcharges and levies specified in the Second Schedule and as prescribed by notification in the Official Gazette.

(2) No tax shall be levied without previous publication of the tax proposal and after inviting and hearing public objections.

(3) The Council may levy a tax, increase, reduce, suspend, abolish, vary or exempt a tax, in the same manner as specified under subsection (1) and (2).

117. **Rating Areas and Property Tax.**—(1) On commencement of this Ordinance, every Tehsil and Town shall be rating areas within the meaning of the North-West Frontier Province Urban Immovable Property Tax Act (W.P. Act V of 1958), 1958.

(2) The Tehsil Council or Town Council shall determine the rate of property tax in an area within the Tehsil or, as the case may be, Town and forward it to the Government for approval. The Government shall cause the approved rates to be communicated to the Excise and Taxation Department of the concerned District Government for collection:

Provided that in the areas within a Tehsil or Town where rate has not been determined, the rate shall remain as zero:

Provided further that the Provincial Government shall retain ten percent of the proceeds as collection charges.

(3) Unless varied under sub-section (2) above, the existing rates in the areas within a Tehsil and Town shall remain in force.

Explanation.—For the purpose of this section the “rate” shall mean the tax leviable under the North-West Frontier Province Urban Immovable Property Tax Act (W.P. Act V of 1958), 1958.

118. **Collection of Taxes.**—(1) All taxes, levied under this Ordinance shall be assessed, regulated and collected as prescribed.

(2) Failure to pay any tax and other money claimable under this Ordinance shall be an offence and the arrears shall be recovered as arrears of land revenue.

119. **Bottom up Planning and the Ownership Incentive System.**—(1) Before the beginning of the financial year the respective Local Government shall lay down and announce the classification of development schemes to be undertaken exclusively under the provisions of this section.

(2) A Local Government may grant to the Citizen Community Boards within its local areas, upto eighty percent of an approved development scheme in the manner prescribed:

Provided that a scheme shall be deemed to be an approved scheme if:

- (a) the prescribed departmental procedure for estimating the cost of the scheme has been followed;
- (b) the estimating officer certifies that the scheme meets the requirements laid down by law;
- (c) the Citizen Community Board has deposited its share of the cost of the development scheme with concerned local government; and
- (d) the complete departmental estimates and the proof of deposit of the Citizen Community Board's contribution are attached.

(3) The grant referred to in sub-section (2) above shall be spent from the reserved twenty five percent of the annual development budget as provided in section 109 (6) (a).

(4) A cut off date for submission of all schemes proposed by the Citizen Community Boards shall be announced by the Local Government concerned before the presentation of its budget.

(5) The respective Local Governments shall authorize an officer to draw up a statement specifying the schemes submitted pursuant to sub-section (4) above by classification including the total amount of contributions for a particular classification of schemes.

(6) A second statement shall determine contributions for a particular classification of schemes as a ratio of the total contributions for all schemes submitted with a particular Local Government for that year and the statement shall be used to determine amounts of allocations for a classification of schemes from the budget reserved for the purpose.

(7) A third statement shall be drawn up which shall identify the number of schemes submitted in a particular classification, beginning with the scheme containing the highest contribution by the Citizen Community Board in a classification until all the schemes in the classification are selected or the funds allocated for the year particular classification in the amount determined in sub-section (6) above are exhausted.

(8) The twenty five percent funds for Citizen Community Boards under section 109 (6) shall be communicated to the authorized officer under sub-section (5) above by the Executive District Officer (Finance and Planning) for a District Government and the Tehsil or Town Officer (Finance) for a Tehsil or Town Municipal Administration, as the case may be, and a Union Secretary (Incharge Finance) for a Union Administration.

(9) The authorized officer under sub-section (5), after identifying the schemes shall communicate them to the concerned budget officer of the respective local government for approval by the Council.

(10) The statement referred to in sub-section (7) above shall be approved by a simple majority of the members of the respective Council, in a budget session to be held by the respective Council.

(11) The schemes approved by the respective Councils shall be carried out as prescribed.

(12) Subject to sub-section (10) above, the respective Accounts Officer of the respective Local Government shall release funds as prescribed according to the schedule of expenditure as passed by the Council concerned under sub-section (10) above.

120. **Local Governments not to Incur Debt.**—(1) No Local Government shall incur any debt.

(2) No monies of the Local Government shall be invested in securities other than those floated or approved by the Federal Government or Provincial Government.

17. **Amendment of section 121 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 121, after sub-section (3), the following new sub-section (4) shall be added, namely:

“(4) The Government shall not, except with the prior consent of the local government concerned, reallocate or in any other manner divest title of properties vested in that local government under this Ordinance.”.

18. **Amendment of section 180 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance in section 180,—

- (a) in sub-section (1) for the brackets and figure “(3)”, the brackets and figure “(2)” shall be substituted; and
- (b) for sub-section (2), the following sub-section shall be substituted, namely;

“(2) The funds of Metropolitan Corporation, Municipal Committee, Town Committee and Union Council shall be transferred to Local Government as its successor under sub-section (1).”.

19. **Insertion of section 193A to N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, after section 193, the following new section 193A shall be inserted, namely:

“193A. **Delegation of powers.**—A Nazim may delegate any of his powers, including financial powers, under this Ordinance or the rules or bye-laws to any of its officer fully or partly and subject to such restrictions or conditions as he may deem fit, after approval by the Council.”.

20. **Amendment of section 195 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 195, in sub-section (1), for the words “ancillary and incidental”, the words “necessary and appropriate” shall be substituted.

21. **Amendment of section 196 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 196, for sub-section (2), the following shall be substituted, namely:

“(2) Save as otherwise specifically provided, nothing in the Ordinance, or any repeal effected thereby shall affect or be deemed to affect anything done, action taken investigation or proceedings commenced, order, rule, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee levied, resolution passed, direction given, proceedings taken or instrument executed or issued, under or in pursuance of any law repealed or amended by this Ordinance and any such thing, action, investigation, proceedings, order, rule, regulation, appointment, conveyance, mortgage, deed, document, agreement, fee, resolution, direction, proceedings or instrument shall, if in force at the commencement of this Ordinance and not inconsistent with any of the provisions of this Ordinance, continue to be in force, and have effect as if it were respectively done, taken, commenced, made, directed, passed, given, executed or issued under this Ordinance or the law, as amended by this Ordinance:

Provided that, until otherwise decided by the Government, the Local Government Boards established under the N.-W.F.P. Local Government Ordinance, 1979 (N.-W.F.P. Ord. No. VI of 1979), for the administration of officers and officials of the Local Council Service or Local Council Unified Grade Service shall continue to function.”.

22. **Submission of the Second Schedule to N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, for the Second Schedule, the following Schedule shall be substituted, namely:

“SECOND SCHEDULE

[See Sections 39(b), 54(1), 54-A, 67(i), 67A & 88(b)]

Part – I

1. Zilla Council

1. Education tax.
2. Health tax.
3. Any other tax authorized by the Government in consultation with Finance Department.
4. Local rate on lands assessable to land revenue.
5. Fees in respect of educational and health facilities established or maintained by the District Government.
6. Fee for licenses or permits and penalties or fines for violations.
7. Fees for specific services rendered by a District Government.
8. Collection charges for recovery of tax on behalf of the Government, Tehsil Municipal Administration and Union Administrations.
9. Toll on roads, bridges, ferries maintained by a District Government.
10. Rent for land, buildings, equipment, machinery and vehicles owned by the District Government.
11. Fee for major industrial exhibitions and other public events organized by the District Government.

Part-II

II. City District Council

1. Education Tax.
2. Health Tax.
3. Any other tax authorized by the Government.
4. Local rate on lands assessable to land revenue.
5. Fees in respect of educational and health facilities established or maintained by the City District Government.
6. Fee for licences or permits and penalties or fines for violations.
7. Fees for specific services rendered by City District Government.
8. Toll on roads, bridges, ferries maintained by a City District Government.
9. Rent for land, buildings, equipment, machinery and vehicles owned by the City District Government.
10. Fee for major industrial exhibitions and other public events organized by the City District Government.

11. Fee on advertisement.
12. Collection charges for recovery of any tax on behalf of the Government, Town Municipal Administration, Union Administration or any statutory authority as prescribed.
13. Fee for approval of building plans, erection and re-erection of buildings.
14. Charges for execution and maintenance of works of public utility lighting of Public places, drainage, conservancy and water supply operated and maintained by City District Government.

Part-III

III. Tehsil Council

1. Local tax on service.
2. Fee on sale of animals in cattle markets.
3. Market fees.
4. Tax on the transfer of immovable property.
5. Property tax rate as specified in section 117 of this Ordinance.
6. Fee on advertisement other than on radio, television and bill boards.
7. Fee for fairs, agricultural shows, cattle fairs, industrial exhibition, tournaments and other public events.
8. Fee for approval of building plans and erection and re-erection of buildings.
9. Fee for licenses or permits and penalties or fines for violations.
10. Charges for development, betterment, improvement and maintenance of works of public utility like lighting of public places, drainage, conservancy, and water supply by tehsil Municipal Administration.
11. Fee on cinemas, dramatical, theatrical shows and tickets thereof and other entertainment.
12. Collection charges for recovery of any tax on behalf of the Government, District Government, Union Administration or any statutory authority as prescribed.
13. Rent for land, buildings equipment, machinery and vehicles.
14. Fee for specific services rendered by a Tehsil Municipal Administration.
15. Tax on vehicles other than motor vehicles registered in the Tehsil.

Part - IV

IV. Town Council

1. Local tax on services.
2. Fee on sale of animals in cattle markets.
3. Market fees.
4. Tax on transfer of immovable property.
5. Fee for fairs, agriculture shows, cattle fairs, tournaments, industrial exhibitions and other public events organized by the Town Municipal Administration.
6. Fee for licences or permits and penalties or fines for violations.
7. Collection charges for recovery of any tax on behalf of the Government, City District Government, Union Administration or any statutory authority as prescribed.

8. Fee on cinemas, dramatical theatrical shows and tickets thereof, and other entertainments.
9. Rent for land, buildings, equipments, machinery and vehicles.
10. Fees for specific services rendered by a Town Municipal Administration.
11. Property tax rate as specified in section 117 of this Ordinance.
12. Fee for approval of building plans and erection and re-erection of buildings with the approval of the City District Government.
13. Tax on vehicles other than motor vehicles registered in the Town.

Part - V

V. Union Council.

1. Fee for licensing of professions and vocations as prescribed.
2. Fees for registration and certification of birth, marriages and deaths.
3. Charges for specific services rendered by the Union Council.
4. Rate for remuneration of Village and Neighbourhood guards.
5. Rate for the execution or maintenance of any work of public utility like lighting of public spaces, drainage, conservancy and water supply operated by Union Administration.
6. Rent for land, buildings, equipment, machinery and vehicles.
7. Collection charges for recovery of any tax on behalf of the Government, District Government, Tehsil Administration or any statutory authority as prescribed".

23. Amendment in Fifth Schedule to N.-W.F.P. Ord. XIV of 2001.—In the said Ordinance, in the Fifth Schedule, in Part-I (Rules), the existing item 18 shall be renumbered as item 21, and before item 21, as so renumbered, the following new items shall be inserted, namely:

- “18. Local Government (Citizen Community Board);
19. Local Government (Procurement);
20. Local Government (Fiscal Transfers); and”.

“SEVENTH SCHEDULE [See Chapter XIIA]

24. Insertion of Seventh Schedule to N.-W.F.P. Ord. XIV of 2001.—In the said Ordinance, after Sixth Schedule, the following new Schedule shall be added, namely:

Terms of Office of the Professional Members of the Finance Commission.

1. A member of the Finance Commission shall hold office for a term of three years from the date of his entering upon office, except as provided in this Schedule.

2. A member may resign his office under his hand addressed to the Governor.
3. A member shall be removed before the expiry of his term as provided in this Ordinance.
4. On declaration of a vacancy in the Finance Commission by the Chairman, the Governor shall appoint a member within sixty days.”.

Peshawar,
Dated the 24th July, 2002.

Lt. Gen. (Rtd.) IFTIKHAR HUSSAIN SHAH,
Governor of the North-West Frontier Province.

SALIM KHAN,
Secretary to Government of North-West Frontier Province,
Law Department.

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