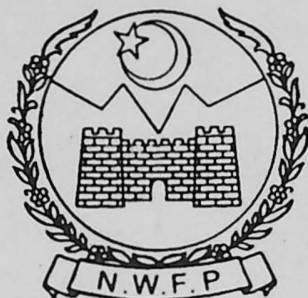


EXTRAORDINARY

GOVERNMENT



REGISTERED NO. P. 111

G A Z E T T E

North-West Frontier Province

Published by Authority

PESHAWAR, TUESDAY, 18TH JUNE, 2002.

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

NOTIFICATION

18th June, 2002.

No. Legis:1(18)/70-IX/4753/4844.—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
(SECOND AMENDMENT) ORDINANCE, 2002.**

N.-W.F.P. ORDINANCE NO. XXII 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), in the manner 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 (Second Amendment) Ordinance, 2002.

(2) It shall come into force at once.

2. **Insertion of Chapter XII-A to N.-W.F.P. Ord. XIV of 2001.**— In the North-West Frontier Province Local Government Ordinance, 2001 (N.-W.F.P. Ord. No. XIV of 2001), after Chapter XII, the following new Chapter XII-A shall be inserted, namely:

**"CHAPTER XII-A
PROVINCIAL FINANCE COMMISSION AND FISCAL TRANSFERS**

120-A. **Establishment of Provincial Finance Commission.**— The Governor shall forthwith constitute a Provincial Finance Commission for the North-West Frontier Province hereinafter referred to as the Finance Commission.

120-B. **Membership.**— (1) The Finance Commission shall consist of seven members, including the Chairman, as detailed below:

- (a) three members shall be ex-officio, namely:
 - (i) the Minister for Finance of the Province, who shall be the Chairman of the Finance Commission;
 - (ii) the Minister for Local Government of the Province;
 - (iii) the Secretary to the Government, Finance Department;
- (b) two professional members from private sector persons, to be nominated by the Governor in a manner prescribed hereinafter; and
- (c) two Nazimeen, one each of the District Government and of Tehsil Municipal Administration, to be nominated by the Governor for each term of Commission on rotation basis.

Explanation.— For the purpose of this Chapter "private sector person" means a person who is not in the service of Pakistan or any statutory body or any other body which is owned or controlled by the Federal Government or the Provincial Government or a Local Government.

(2) The Finance Department shall provide the Secretariat support, headed by a Senior officer, to the Finance Commission.

(3) The Professional members of the Finance Commission shall be appointed by the Governor from amongst experts in economics, finance and public administration, each possessing a post graduate degree, preferably a doctorate degree in a related subject, and having at least ten years of practical experience out of which three years experience shall be in a related field.

(4) The Finance Commission may hire the services of any professional individual or a firm for assistance on various issues related to its functions with the approval of the Government and on such terms and conditions as may be determined by it.

(5) No proceedings or act of the Finance Commission shall be invalid merely on the ground of existence of a vacancy or defect in the composition of the Finance Commission.

(6) A private member may resign his office by writing under his hand addressed to the Governor and the resignation will become effective immediately, or he may be removed in such manner as may be prescribed.

(7) The Governor may prescribe the terms and conditions of appointment of the professional members of the Finance Commission.

120-C. Eligibility for further appointment.— A professional member shall be eligible to be re-appointed but shall not, in any case, be eligible for appointment in the Service of Pakistan or any Local Government for a period of two years, commencing from the date of relinquishment of his office.

120-D. Tenure, functions, duties and powers of the Finance Commission.— (1) The normal tenure of the Finance Commission shall be three years, unless reconstituted earlier in un-avoidable circumstances.

(2) The functions, duties and powers of the Finance Commission shall be to make recommendations to the Governor for:

(a) a formula for distribution:

(i) between the Government and the Local Governments out of the proceeds of the Provincial Government in a financial year into Provincial Retained Amount and Provincial Allocable Amount respectively;

(ii) of the Provincial Allocable Amount amongst the District Governments, Tehsil and Town Municipal Administrations and the Union Administration as shares;

(b) the Provincial Allocable Amount shall be so determined that it is not less than thirty five per cent of the estimated Provincial proceeds excluding foreign assistance or exceptional resources:

Provided that the Government may add the whole or part of the additional money received by it as Support Grant to the Provincial Allocable Amount separately; and

(c) any other matter relating to finance for and the Local Government referred to the Finance Commission by the Government.

(3) Notwithstanding any other provision of this Ordinance to the contrary, the Provincial Allocable Amount recommended for a financial year shall in no case be less than the amount of proceeds of the Government distributed

120-H. **Formula, their application and revision.**— (1) Subject to other provisions of this Chapter, the Provincial Allocable Amount and shares of the Local Governments shall be determined by the Governor and shall be transferred on the basis of actual monthly receipts of the Government.

(2) The decision of the Governor under sub-section (1) shall remain in force for a period of three years, and no revision shall be made before the expiry of said period.

(3) At least six months before the expiry of the time period of the formula, as given in sub-section (2), the revision of the formula shall be recommended by the Finance Commission on the basis of evaluation of impact of fiscal transfers on the Local Governments and other relevant matters; provided that the Finance Commission may also consider such factors at the instance of the Government in the formulation of its recommendations.

(4) Any evaluation similar to the objectives of sub-section (3) carried out by an agency other than the Finance Commission may also be taken into consideration by the Finance Commission.

(5) Until the finalization of the aforesaid formula for the next period in accordance with sub-section (2) of section 120-D, whether within or without the stipulated period, the formula for the time being in force shall continue to serve.

Explanation.— For the purposes of this section, 'revision' may include formulation of new formulae to replace the existing formulae in force under section 120-D.

120-I. **Procuring of data.**— (1) The data required for the formulation and application of the formulae shall be procured by the Finance Commission from the Federal, Provincial or a Local Government, or from any authority, corporation, body, or organization established by or under law or which is owned or controlled by any Government or in which any of the Governments has a controlling share or interest or any other source.

(2) The Finance Commission may, where it deems appropriate, institute data collection or recommend such data collection to any agency and may also recommend to the Government to bear the cost of collection.

120-J. **Ensuring flow of funds to Local Governments.**— (1) The Government and the Local Governments shall provide reports to the Finance Commission relating to flow of fund as may be prescribed.

120-K. **Reference by Provincial Government or Local Government to the Finance Commission.**— The Government or a Local Government may seek redress of grievance relating to any matter connected with fiscal transfer by the Government concerning itself, or another Local Government by making a reference to the

Finance Commission along with the grounds of such grievance where upon the Finance Commission may make recommendations to the Government for the purpose to redress the grievance; provided that the recommendations so made shall not change the decision in force under section 120-D or the share of the Local Governments thereunder.

120-L. **Rules of Business of the Finance Commission.**— Notwithstanding anything to the contrary contained in section 191 of this Ordinance, the Government shall make Rules of Business of the Finance Commission on the latter's recommendation.

120-M. **Interim formula to continue.**— Unless modified by Finance Commission, the interim formula recommended by the Provincial Finance Committee, and, the award, if any, notified under the order of the Governor, shall continue and be deemed to have been made under this Ordinance."

Peshawar,
Dated the 17th June, 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.

*Printed by the Controller,
Printing & Stationery Deptt. Govt. of NWFP*