

➤ **Relevant Extracts of the Khyber Pakhtunkhwa Zakat and Ushr Act, 2011**

2. **Definitions.**---In this Act, unless there is anything repugnant in the subject or context,-

- (i) “annuity” means the sum payable periodically, according to the annuity policy conditions, to an annuitant during his life- time, or for a fixed number of years, as the case may be, and includes the scheme of postal annuities as notified by Government;
- (ii) “assets” means assets liable to Zakat as provided in this Act;
- (iii) “atiyyat” means voluntary donations to the ¹[Philanthropic Contributions Fund] otherwise than on account of Zakat or Ushr, and includes sadaqat-e-nafilah;
- (iv) “Chief Administrator” means a person appointed as such under section 13, and includes an officer authorized by him to exercise or perform any power or function of Chief Administrator under this Act;
- (v) “Chief Minister” means the Chief Minister of the Khyber Pakhtunkhwa;
- (vi) “company” means a company as defined in the Companies Ordinance, 1984 (XLVII of 1984);
- (vii) “deducting agency” means a bank, post office or other institution referred to in the fifth column of the First Schedule;
- (viii) “deducting date” means, in respect of the assets mentioned in the First Schedule, the date or dates on which Zakat is to be deducted at source and which is or are specified in the fourth column of that Schedule;
- ²[(viii-a) “**Department**” means the Zakat, Ushr, Social Welfare, Special Education and Women Empowerment Department of Government;]
- (ix) “District Committee” means a District Zakat and Ushr Committee constituted under section 14;
- (x) “Government” means the Government of the Khyber Pakhtunkhwa;
- (xi) “Government Security” means the Government Security as defined in the Securities Act, 1920 (Act No. X of 1920);
- (xii) “institution” means deeni madaris, educational, vocational and social welfare institutions, public hospitals, charitable institutions and other institutions providing health care;
- (xiii) “insurer” means the State Life Insurance Corporation of Pakistan or Postal Life Insurance;
- (xiv) “Local Committee” means a Local Zakat and Ushr Committee

constituted under section 15;

- (xv) "locality" means the area within the jurisdiction of Local Committee ;
- (xvi) "maturity value" means the sum payable, according to stipulated conditions, on survival of the life insured to the specified age or to the end of the term of the policy;
- (xvii) "nisab", in relation to assets liable to Zakat, except agricultural produce and animals fed free in pastures, means 612.32 grams of silver, or cash or gold, or goods for trade, or any assets liable to Zakat under Shariah, the aggregate value of which is equal to the value of 612.32 grams of silver, as notified by the Chief Administrator for each Zakat year or, in the case of a person whose assets liable to Zakat consist only of gold, 87.48 grams of gold;
- (xviii) "prescribed" means prescribed by rules and regulations;
- (xix) "produce" means gross agricultural, horticultural or forest produce;
- (xx) "Provident Fund" means the Provident Fund as defined in the Provident Funds Act, 1925 (Act No. XIX of 1925);
- (xxi) "Province" means the Province of the Khyber Pakhtunkhwa;
- (xxii) "recognized Provident Fund" means a Provident Fund recognized as such, by the competent authority, under the Income Tax Ordinance, 2001 (Act No. XLIX of 2001);
- (xxiii) "regulations" mean regulations made under this Act;
- (xxiv) "return" means income, howsoever described, accruing on an asset;
- (xxv) "rules" mean rules made under this Act;
- (xxvi) "sahib-e-nisab" means a person who owns or possesses assets not less than nisab, but does not include-
 - (a) the Federal Government, Government, any other Provincial Government or a local authority;
 - (b) a statutory corporation, a company or other enterprise, owned wholly, directly or indirectly, by the Federal Government, Government, a local authority or a corporation owned by the Federal Government or Government, either singly or jointly with one or more of the other three.,
 - (c) a subsidiary of a statutory corporation, a company or other enterprise referred to in sub-clause (b) and wholly owned by it;

- (d) the National Investment (Unit) Trust;
- (e) the Investment Corporation of Pakistan and its Mutual Fund;
- (f) a recognized Provident Fund;
- (g) any Unit Fund maintained by the Defense Services, including the Civil/Armed Forces;
- (h) Zakat Funds;
- (i) an institution, fund, trust, endowment or society:
 - (i) registered as a charitable organization under the Societies Registration Act, 1860 (XXI of 1860), or as a company under section 42 of the Companies Ordinance, 1984 (XLVII of 1984), or registered or approved as a charitable or social welfare organization under any other law for the time being in force; and
 - (ii) approved by the Federal Board of Revenue for the purposes of section 61 of the Income Tax Ordinance, 2001 (Ord. No. XLIX of 2001);
- (j) a deeni madrasah enlisted as such by the Zakat, Ushr, Social Welfare and Women Development Department and registered under relevant laws;
- (k) a mosque;
- (l) an orphanage registered as such under the law relating to orphanages;
- (m) a Worker Participation Fund established under the Companies Profits (Workers Participation) Act, 1968 (XII of 1968); or
- (n) amount of a party to suit or case kept with or under the orders of a court pending decision of the suit or case;
- (xxvii) "Schedule" means a Schedule appended to this Act;
- ¹[(xxvii-a) **"Search and Scrutiny Committee"** means the Search and Scrutiny Committee established under section 14B of this Act;]
- (xxviii) "security" means any stock, share, script, debenture, bond, pre-organization certificate, or instrument commonly known as security;
- (xxix) "share" means a share in the share-capital of a company, or in any body corporate established by or under the Federal Law or the

provincial law and includes stock;

- (xxx) "surrender value" means the sum payable by an insurer on cancellation of a life-insurance policy or annuity, according to stipulated terms and conditions, at any time before maturity benefits become available;
- (xxxi) "survival benefit" means the amount payable according to life-insurance policy conditions, during the currency of a policy, on survival of the life assured to the specified date as stipulated in the policy;
- (xxxii) "valuation date" means-
 - (a) in respect of assets liable to Zakat, the first day of the Zakat year; and
 - (b) in respect of produce liable to Ushr, such date or dates as may be prescribed or as may be notified by the Chief Administrator for the evaluation of assets or the produce for the purposes of this Act;
- (xxxiii) "Zakat Funds" mean Funds established under section 7;
- ¹[(xxxiii-a) "**Philanthropic Contributions Fund**" means the Fund established under section 7A of this Act;]
- (xxxiv) "Zakat and Ushr Council" means the Khyber Pakhtunkhwa Zakat and Ushr Council, established under section 12; and
- (xxxv) "Zakat year" means year according to the Hijra calendar for which Zakat is chargeable, commencing on the first day of Ramadhan-ul-Mubarak and ending with the last day of the following Sha'ban-ul-Moazzam

7. **Establishment of Zakat Funds.**---There shall be established the following Zakat Funds, namely:

- (a) a Provincial Zakat Fund to which shall be credited the-
 - (i) Zakat deducted at source;
 - (ii) Zakat paid into it voluntarily including voluntary contribution made by Pakistani citizens and other persons residing abroad;
 - (iii) transfers, if any, from the District Zakat Funds; and

²[(iv) * * * *]

- (v) transfer of fund, if any, from the Federal Government;
- (b) a District Zakat Fund for each district to which shall be credited the-
 - (i) transfers to it from the Provincial Zakat Fund ³[or the Philanthropic Contributions Fund, as the case may be,]
 - (ii) Zakat paid into it voluntarily;
 - (iii) proceeds of Ushr to be deposited ⁴[Deleted] in the PLA of District Zakat Fund;
 - (iv) transfers, if any, from the Local Zakat Funds; and
 - ¹[(v) * * * *]
- (c) a Local Zakat Fund for each Local Committee to which shall be credited the-
 - (i) Zakat paid- into it voluntarily;
 - (ii) transfers to it from the District Zakat Fund;
 - (iii) transfer to it from the Provincial Zakat Fund ²[or the Philanthropic Contributions Fund, as the case may be,] ³[.] and
 - ⁴[(iv) * * * *]

⁵[7A. **Establishment of Philanthropic Contributions Fund.**---There shall be a Philanthropic Contributions Fund to which shall be credited-

- (a) grants, atiyaat and any other receipts including voluntary contributions made by Pakistani citizens and other persons residing abroad;
- (b) such grants, atiyaat, contributions received by a District Committee and other receipts as specified by the Department; and
- (c) transfer of funds other than Zakat Funds, if any, from the Federal Government or Government or any non- government organization or private firm.]

8. **Utilization of ⁶[****] Funds.**---The moneys ⁷[(prevailing currency including gold and silver)] in a Zakat Funds including Ushr proceeds ⁸[and the Philanthropic Contributions Fund] shall be utilized for the following purposes, namely:

- (a) assistance to the needy, the indigent and the poor particularly orphans and widows, the handicapped and the disabled, eligible to receive Zakat

under Shariah for their subsistence or rehabilitation, either directly or indirectly through deeni madaris or educational, vocational or social institutions, public hospitals, charitable institutions and other institutions providing health care:

Provided that the lists of the individuals to be assisted directly and of the institutions through which assistance is to be given from a Zakat Funds shall be prepared and maintained in such form and manner as may be prescribed ¹[:]

²[Provided further that for the utilization of the moneys in the Philanthropic Contributions Fund, the Department shall decide modalities in such form and manner, as may be prescribed by rules;]

- (b) assistance to the needy persons affected or rendered homeless due to natural calamities like floods, earthquakes and terrorism and for their rehabilitation;
- (c) expenditure on the collection, disbursement and administration of Zakat and Ushr:

³[Provided that-

- (i) the expenditure on the administrative organization of the Chief Administrator, the Zakat and Ushr Council, and a District Committee shall be met by Government;
- (ii) the funds under the head administrative expenditure not exceeding fifteen percent approved in the Zakat Budget shall be retained in the Provincial Zakat Fund and Philanthropic Contributions Fund to meet expenditure of salaries of the Zakat paid staff, such additional expenditure of a Local Committee and expenditure on account of transaction charges with respect to payment to Mustahiqeen-e-Zakat, as may be approved by the Zakat and Ushr Council:

Provided that where expenditure on the administrative organization of a District Committee is not fully met by Government due to paucity of funds during a financial year, the Zakat and Ushr Council may provide supplementary funds not exceeding two percent from within the limit specified in clause (ii):

Provided further that the banking services and the services connected with the assessment, collection or disbursement of Zakat and Ushr realizable on compulsory basis under this Act shall be rendered free of charge, except that the Chief Administrator, in regard to Ushr, shall authorize payment or remuneration for any specified services:

Provided also that the Chairman and volunteer members of the Zakat and Ushr Council shall be entitled to receive

TA/DA from Government exchequer equal to BPS-20 and BPS- 19 respectively for attending the Zakat and Ushr Council meetings personally;]

- (d) investment in any non-interest bearing instruments as is permitted under Shariah; and
- (e) any other purpose permitted by Shariah ¹[in case of Zakat Fund and for any purpose permitted by the Department, in case of the Philanthropic Contributions Fund]

9. **Disbursements from ²[****] Funds.**---(1) The Zakat and Ushr Council shall prepare Zakat budget for each financial year and may, from the Provincial Zakat Fund, make disbursements and transfer funds to the District Zakat Fund on population basis and institutions in such form and manner as may be prescribed and as would help in ensuring satisfaction of the needs of the needy and the poor throughout the Province, as far as possible, on a uniform basis.

¹[(1-a) The Department shall prepare budget in respect of the Philanthropic Contributions Fund for each financial year and may disburse funds from the Philanthropic Contributions Fund for programs as may be prescribed by rules.]

²[(2) A District Committee may make disbursements and transfer funds through crossed cheques or bank advice, banks, post offices or any other financial institutions from District Zakat Fund to the eligible persons or to a Local Zakat Fund or to any other institution or incur other administrative expenditure subject to such conditions, as may be prescribed and may, whenever directed by the Zakat and Ushr Council or the Department, as the case may be, transfer any funds surplus to its needs, to the Provincial Zakat Fund and Philanthropic Contributions Fund respectively.]

(3) A Local Committee may disburse or incur expenditure from the Local Zakat Fund as may be prescribed through crossed cheques ³[or any mode prescribed and approved by the Zakat and Ushr Council]:

Provided that a Local Committee may, if so required by the Zakat and Ushr Council or the District Committee, transfer any funds surplus to its needs from the Local Zakat Fund to the Provincial Zakat Fund or, as the case may be, District Zakat Fund:

Provided further that the Zakat and Ushr Council or a District Committee shall disburse Zakat through a Bank or a Post Office or any other financial institution as may be determined by the Zakat and Ushr Council in such form and manner as may be prescribed.

²[12. **Khyber Pakhtunkhwa Zakat and Ushr Council.**---(1) Government shall, by notification in the official Gazette, establish the Khyber Pakhtunkhwa Zakat and Ushr Council to exercise general superintendence and control over matters relating to Zakat and Ushr, particularly the Zakat Funds in the Province and the maintenance of their accounts in the prescribed manner.

(2) The Zakat and Ushr Council may also consider the directives of Government if such directives are not inconsistent with the provisions of this Act and

the mandate of the Zakat and Ushr Council under this Act in relation to matters pertaining to Zakat and Ushr.

(3) The Zakat and Ushr Council shall consist of-

- (a) a Chairman;
- (b) six male persons, of whom, two shall be Islamic scholars and one representative of a well- established and recognized donor organization;
- (c) three women;
- (d) the Senior Member Board of Revenue, Revenue and Estate Department;
- (e) the Secretary to Government, Finance Department;
- (f) the Secretary to Government, Health Department;
and
- (g) the Chief Administrator, who shall also be the Secretary of the Zakat and Ushr Council.

(4) The Chairman and members at clauses (b) and (c) of sub-section (3), shall be Muslim persons of not less than thirty-five years of age and shall be bonafide residents of the Province and who shall be a graduate or hold a BS or its equivalent qualification and possess experience in administration or legal matters or philanthropy etc., and shall be appointed by the Government, from amongst the panels of candidates recommended by the Search and Scrutiny Committee.

(5) The Chairman may co-opt any person to attend meetings of the Zakat and Ushr Council, however, such a member may participate in the discussions but shall have no right of vote.

(6) The Chairman and members at clauses (b) and (c) of sub- section (3) shall hold office for a term of five years and shall be eligible for re-appointment for another similar term only once.

(7) The Chairman or a member at clauses (b) and (c) of sub- section (3), may tender their resignation from their office to the Government.

(8) The Government may remove the Chairman and members at clause (b) and (c) of sub-section (3) on any or a combination of the following grounds, namely:

- (a) willful absence from three consecutive meetings of the Zakat and Ushr Council without cogent reasons;
- (b) abuse of powers or acting in a manner contrary to public interest;

- (c) indulgence in anti-social activities; or
- (d) convicted of an offence involving moral turpitude:

Provided that the Chairman or such member shall be accorded an opportunity of hearing by the Government.

(9) Subject to sub-section (7), the Chairman or a member at clauses (b) and (c) of sub-section (3), as the case may be, shall continue to hold office until his resignation is accepted by the Government.

(10) Any vacancy in the office of Chairman or member at clauses (b) and (c) of sub-section (3), shall be filled in accordance with sub-section (4), by nomination of a person qualified to hold the office.

(11) The Chairman or the member appointed under sub-section (10), shall hold office for the unexpired term of his predecessor.

(12) The quorum for meetings of the Zakat and Ushr Council shall be one half of its total membership.]

2[13. Chief Administrator.---For carrying out the purposes of this Act, the Secretary of the Department shall be the Chief Administrator:

Provided that the Chief Administrator may delegate his powers to the Administrator:

Provided further that the post of Administrator shall be filled from amongst the officers of Provincial Zakat Administration.]

14B. Search and Scrutiny Committee.---(1) In order to search and scrutinize persons suitable for appointment as the Chairman and members of the Zakat and Ushr Council and a District Committee, there shall be a Search and Scrutiny Committee, for recommendations, to the Government in case of Zakat and Ushr Council, and to the Zakat and Ushr Council in case of a District Committee, for such appointments.

(2) The composition of the Search and Scrutiny Committee for the Zakat and Ushr Council shall be as follows, namely:

- (a) Minister or, as the case may be, the Advisor or Special Assistant to Chief Minister for Zakat, Ushr, Social Welfare, Special Education and Women Empowerment who shall be the Chairperson of the Search and Scrutiny Committee;
- (b) a representative of the Establishment Department of Government not below the rank of an Additional Secretary;
- (c) a representative of the Finance Department of Government not below the rank of an Additional Secretary;

(d) a representative of the Health Department of Government not below the rank of an Additional Secretary; and

(e) Deputy Administrator (Ushr) of the Department, who shall be the Secretary of the Search and Scrutiny Committee.

(3) The composition of the Search and Scrutiny Committee for a District Committee shall be as follows, namely:

(a) the Deputy Commissioner of the concerned district who shall be the Chairperson;

(b) the District Social Welfare Officer of the concerned district; and

(c) the concerned District Zakat Officer, who shall be the Secretary of the Search and Scrutiny Committee.

(4) The Search and Scrutiny Committees, under sub-sections (2) and (3), shall submit a panel of three nominees to the respective appointing authorities.]

15. **Local Zakat and Ushr Committee.**--- ¹[(1) In each district, the number of Local Committees shall correspond to the total number of village and neighborhood councils constituted under the Khyber Pakhtunkhwa Local Governments Act, 2013 and for each village or neighborhood council, a Local Committee shall be constituted.]

(2) The Local Committee shall, subject to such guidelines as may be given by Zakat and Ushr Council and the District Committee, perform the following functions:

(a) determine istehqaq separately for-

(i) subsistence allowance ²[and marriage assistance]

(ii) rehabilitation, either directly or indirectly through deeni madaris, educational, vocational and social welfare institutions;

(iii) treatment through public hospitals, charitable institutions and other institutions providing health care; and

(iv) any other purpose as may be permitted by Shariah;

(b) collect voluntarily Zakat, Ushr and attiyyat and deposit the moneys in the District Zakat Fund;

(c) prepare and maintain accounts of the Local Zakat Fund in such form and manner as may be prescribed; and

(d) tender to the District Committee advice on any matter connected with collection, disbursement and utilization of Zakat, Ushr and attiyyat.

(3) The Local Committee shall consist of nine members, ³[who shall not be less than thirty-five years of age, of whom three shall be Muslim women] of whom two shall be

Muslim women ⁴[* * * *] selected by the residents of the locality in the manner specified in sub-section (4).

(4) The District Committee shall constitute a team of three or more persons including at least one gazetted officer, one aalim-e-deen and one member of the District Committee to organize a public gathering of the adult Muslims, teachers and ulema residents of a locality and call upon them to select, in the prescribed manner, 1[six] adult Muslims residing in that locality who possess Secondary School Certificate and are known to be pious, and have sound moral and financial integrity and are not indulged in any anti-social activities:

²[Provided that priority may be given to a lawyer or retired teacher or retired government servant while electing or selecting the Chairman and members of the Local Committee:

Provided further that members of a team constituted for the selection of members of a Local Committee shall not be eligible to be a member of such Local Committee or a person who is a salaried employee of Government or any type of setup owned or controlled by Government. However, a Pesh Imam of a local mosque or a teacher of a local private school shall be eligible to be a member of a Local Committee;]

Provided further that, where in a district the number of local Committees is so large that the members of the District Committee cannot be put on all the teams constituted for the selection of members of Local Committees in the district, the District Committee, may, at its discretion, nominate any other non-official person of the district to represent it on the said teams:

Provided also that the team constituted by the District Committee shall organize a separate gathering of the adult Muslim female residents of the locality and call upon them to select, in the prescribed manner, ³[three] Muslim women residing in that locality who are known to be pious and who enjoy their trust to be members of the Local Committee.

⁴[(4A) The quorum for meetings of the Local Committee shall be one half of its total membership.]

⁵[(5) The members shall separately elect two of their members being persons who possess Secondary School Certificate to be the Chairman and Vice Chairman of the Local Committee, and if two or more persons secure an equal number of votes, the results of the elections shall then be determined by drawing of lots.]

(6) The Local Committee so constituted shall be duly notified by the District Zakat Officer concerned:

Provided that where election or selection for the constitution of Local Committees cannot be held for certain reasons, the District Committee at its discretion may appoint any ¹[* * * *] persons as "Administrators" to perform functions of the Local Committees.

(7) Any adult Muslim resident of a locality who is aggrieved by the conduct or the result of the proceedings for the selection of the members, or the election of the Chairman, of the Local Committee concerned may prefer an appeal to District Committee:

Provided that the District Committee which shall not grant any injunction or make any interim order, including a stay order, during the period an appeal is pending.

(8) The District Committee to which an appeal under sub-section (7) is preferred shall decide the appeal within such time as may be prescribed and the decision of the District Zakat Officer shall be final and shall not be called in question before any court or other authority.

(9) The Chairman and members shall hold office for a term of ²[five] years and shall be eligible for re-election or re-selection as the case may be:

Provided that the District Committee may, ³[* * * *] remove a Chairman or a member from his office and nominate another person as Chairman or, as the case may be, a member for the unexpired term of his predecessor:

Provided further that the Chairman shall not be eligible to hold office for more than two consecutive terms of three years each:

Provided also that the District Committee may, in the event of delay in the constitution of the new Local Committee, ask a Local Committee to continue to function for a period not exceeding six months after the expiry of term of its office.

⁴[(10) The Chairman or a member may, in writing, tender their resignation to the District Committee.]

(11) Subject to sub-section (10) the Chairman or, as the case may be, a member of the Local Committee shall continue to hold office until his resignation is accepted by the District Committee.

(12) Any vacancy in the office of Chairman or member shall be filled by election or selection of a person qualified to hold the office, in accordance with the provisions of sub-section (4) or, as the case may be, sub-section (7).

(13) The Chairman, or the member elected or selected, under sub-section (12) shall hold office for the unexpired term of his predecessor.

25. Power to make rules and regulations.---(1) Government may by notification in an official Gazette, make rules for carrying out the purposes of this Act.

¹[(2) Subject to the provisions of this Act and the rules made thereunder, the Zakat and Ushr Council, in case of Zakat Fund, and the Department, in case of the Philanthropic Contributions Fund shall, by notification in official Gazette, make regulations for carrying out the purposes of this Act.]