

EXTRAORDINARY

GOVERNMENT



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GAZETTE

North-West Frontier Province

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

NOTIFICATION

23rd November, 2002.

No. LEGIS:1(18)/70-X/8157.—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 (TENTH AMENDMENT) ORDINANCE, 2002.

N.-W.F.P. ORDINANCE NO. LI 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 upto date, 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 the North-West Frontier Province Local Government (Tenth Amendment) Ordinance, 2002.

(2) It shall come into force at once.

2. **Amendment of section 2 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 2, for the existing clause (xxviiia), the following shall be substituted, namely:

“(xxviiia) ‘Provincial Allocable amount’ means monies declared as such for distribution among local governments in accordance with the provisions of this Ordinance.”

3. **Amendment of section 89 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 89, for sub-section (4), the following shall be substituted, namely:

“(4) All meetings of the Union Council shall be convened and presided over by the Union Naib Nazim and, in his absence, or where a motion for recall of the Union Naib Nazim has been moved, by a member elected by the Union Council from amongst its members present in the meeting.”

4. **Amendment of section 107 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 107, in sub-section (1), for the words “Tehsil Fund”, “Town Fund” and “Union Fund”, the words “Tehsil Local Fund”, “Town Local Fund” and “Union Local Fund” shall respectively be substituted.

5. **Amendment of section 108 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 108, for the word “officer”, the word “official” shall be substituted.

6. **Amendment of section 109 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 109,—

(a) in sub-section (1), the letter “a” shall be inserted before the words “Local Government”; and

(b) in sub-section (4), the colon shall be replaced by a full-stop and the proviso appearing thereafter shall be deleted.

7. **Amendment of section 110 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 110, in clause (b), between the word “Union” and the word “Fund”, the word “Local” shall be inserted.

8. **Amendment of section 111 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 111,—

(i) in sub-section (2), for the words “respective Governments”, the words “a Local Government” shall be substituted.

- (ii) sub-section (3) shall be deleted; and
- (iii) in sub-section (5), for the words "Local Government", the word "Nazim" shall be substituted.

9. **Amendment of section 112 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 112, in sub-section (10), for the words "Accounts Office", the words "Accounts Officials" shall be substituted.

10. **Amendment of section 113 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 113, the semi-colon, appearing after the words "Council concerned", shall be replaced by a full-stop and the proviso appearing thereafter shall be deleted.

11. **Amendment of section 114 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 114,—

- (a) the full-stop appearing at the end of sub-section (1) shall be replaced by a colon and thereafter the following proviso shall be inserted, namely:

"Provided that the accounts of receipt and expenditure of Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall, till such time that adequate capacity is developed to conform to the national accounting system prescribed by the Auditor General of Pakistan, be kept in such form and in accordance with such principles and methods as Government may prescribe.";

- (b) in sub-section (2),—
 - (i) for the words "procedure shall be followed unless changed by the Government through a notification", the words "arrangement for maintaining of accounts shall be followed" shall be substituted;
 - (ii) in clause (a), for the word "The", occurring in the beginning, the word "the" shall be substituted;
 - (iii) in clause (c), for the word "The", occurring in the beginning, the word "the" shall be substituted and the last sentence shall be deleted.
 - (iv) after sub-section (2), as so amended, the following new sub-section shall be inserted, namely:

"(2a) The accounts of the Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall be maintained in the prescribed manner,"; and

- (c) sub-section "(2)", "(3)" and "(4)", appearing below sub-section (2a), as so inserted, shall respectively be re-numbered as sub-sections "(3)", "(4)" and "(5)".

12. **Amendment of section 115 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, for section 115, the following shall be substituted, namely:

"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 accounts official of the local governments for each financial year, showing under the respective heads the annual receipt and disbursements for the purposes of each local government and shall submit the certified accounts with such notes, comments or recommendations as he may consider necessary to the respective Nazim:

Provided that the audit of the Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall be conducted by the Local Fund Audit Department in the prescribed manner till such time that adequate capacity is developed to conform to the national audit system notified by the Auditor General of Pakistan.

(2) The Nazim shall cause the audit report to be submitted to the respective Council and the Council shall refer to its Accounts Committee for examination.

(3) The Auditor General, in the case of District Government, and the Director Local Fund Audit, in the case of Tehsil Municipal Administration, Town Municipal Administration and Union Administration, as the case may be shall have the authority to audit and report on the accounts of stores and stock kept in any office of a local government.

(4) The Auditor General, in the case of District Government, and the Director Local Fund Audit, in the case of Tehsil Municipal Administration, Town Municipal Administration and Union Administration, as the case may be, shall—

- (a) audit all expenditure from the 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 and 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 a local government relating to a Public Accounts;

- (c) audit all trading and manufacturing profit and loss accounts of a local government; and
- (d) audit all receipts which are payable into a local government Fund and to satisfy himself that all such receipts which are payable into a local government Fund have been properly and correctly deposited and rules and procedures relating to such receipts having been fully observed.

(5) The Auditor General, in the case of District Government, and the Director Local Audit Fund, in the case of Tehsil Municipal Administration, Town Municipal Administration and Union Administration, as the case may be, shall have the authority—

- (a) to inspect any office of accounts under the control of a local government, including treasuries and such other offices which are responsible for keeping of initial and subsidiary accounts;
- (b) to require that any accounts, books papers and other documents which deal with, or for the basis of, or otherwise relevant to the transaction to which his duties in respect of audit extend, shall be sent to such place as he may direct for its inspection;
- (c) to inquire or make such observations as he may consider necessary, and to call for such information as he may require for the purpose of audit,

and the officials shall afford all facilities and provide record for audit and inspection and comply with requests for information in as complete a form as possible and with all reasonable expedition.

(6) Upon request of a Nazim, the Auditor General, in the case of District Government, and the Director Local Fund Audit, in the case of Tehsil Municipal Administration, Town Municipal Administration and Union Administration, as the case may be, shall cause a special audit of that 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 respective Council for necessary action.

(7) The Auditor General, in the case of District Government, and the Director Local Fund Audit, in the case of Tehsil Municipal Administration, Town Municipal Administration and Union Administration, as the case may be, shall have access to all the books and documents pertaining to the accounts and may also examine any public servant or premises of the local government concerned.

(8) The Auditor General, in the case of District Government, and the Director Local Fund Audit, in the case of Tehsil Municipal Administration, Town Municipal Administration and Union Administration, as the case may be, shall perform functions and exercise powers in relation to audit of the accounts of the companies, authorities, bodies or corporations owned or managed by a local government.”.

13. *Substitution of section 116 of N.-W.F.P. Ord. No. XIV of 2001.*—In the said Ordinance, for section 116, the following shall be substituted, namely:

“116. *Taxes to be levied.*— (1) A Council may, with the prior approval of Government, levy taxes, cesses, fees, rates, rents, tolls, charges, surcharges and levies specified in the Second Schedule:

Provided that if Government fails to convey a decision for or against a taxation proposal under this section within thirty days of the receipt of the proposal, it shall be presumed that Government has approved the proposal.

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

(3) A Council may reduce, suspend or abolish a tax.”.

14. *Substitution of section 117 of N.-W.F.P. Ord. No. XIV of 2001.*—In the said Ordinance, for section 117, the following shall be substituted, namely:

“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, 1958 (W.P. Act V of 1958).

(2) The Tehsil Council or Town Council, as the case may be, shall subject to the provisions of section 116, determine the rate of property tax in an areas within the Tehsil or Town:

Provided that in the areas within a Tehsil or Town where rate has not been determined, the areas shall be deemed to be exempted from property tax till determination of the rate.

(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, 1958 (W.P. Act V of 1958).

15. **Substitution of section 118 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, for section 118, the following shall be substituted, namely:

“118. Collection of taxes.—All taxes levied under this Ordinance shall be collected in the prescribed manner:

Provided that the property tax shall be collected by the District Government:

Provided further that the District Government shall retain ten per cent of the total proceeds of the property tax collected as collection charges and transfer promptly the balance ninety per cent to the respective Tehsil or Town on collection basis.

(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.

16. **Amendment of section 119 of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 119,—

(a) in sub-section (10), for the words “in a budget session to be held by”, the words “in the budget session of” shall be substituted; and

(b) for sub-section (12), the following shall be substituted, namely:

“(12) Subject to sub-section (10), the Accounts official of the respective local government shall release funds in the prescribed manner in accordance with the Schedule of Expenditure.”.

17. **Amendment of section 120D of N.-W.F.P. Ord. No. XIV of 2001.**—In the said Ordinance, in section 120D,—

(a) after sub-section (2), the following new sub-sections shall be inserted, namely:

“(2A) The recommendations shall be based upon the principles of fiscal needs, fiscal capacities, fiscal efforts and performances.

(2B) Before finalization of the recommendations under sub-section (2), the Finance Commission shall hold consultations with the relevant Departments of Government, local governments and, in the discretion of the Finance Commission, with any other body or persons, and this process may carry on during the currency of an order made by the Governor under sub-section (4).

(2C) The Finance Commission shall forward the provisional recommendations prepared under this section to the Cabinet, which shall provide its views within two weeks failing which the Finance Commission shall make its recommendations to the Governor.

(2D) The Finance Commission may review the recommendations on receiving the views of the Cabinet, if any, and on finalization of its recommendations, shall forward them to the Governor.”;

- (b) sub-section (5), (6) and (7) shall be deleted; and
- (c) after sub-section (7), as so deleted, the following new sub-section shall be added, namely:

“(8) The Governor may, by order, also make grants in aid of the revenues of a local government in need of assistance and such grants shall be an additional allocation out of the Provincial Consolidated Fund after deduction of Provincial Allocable Amount.”.

18. *Deletion of section 120G of N.-W.F.P. Ord. No. XIV of 2001.*—In the said Ordinance, section 120G shall be deleted.

19. *Insertion of section 120-LL to N.-W.F.P. Ord. No. XIV of 2001.*—In the said Ordinance, after section 120-L, the following new section 120-LL shall be inserted, namely:

“120-LL. *Procedural powers of the Finance Commission.*—Nothing containing in this Chapter shall be construed to impose limits on the powers of the Finance Commission under any law for the time being in force as regards calling for any information relating to fiscal transfer formula and transfer of funds and the Finance Commission shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (V of 1908).”.

Peshawar,
Dated the 21st Nov., 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.