

A REGULATION

*to establish and regulate municipal bodies in the
Federally Administered Tribal Areas.*

WHEREAS it is expedient to introduce, regulate and establish local municipal bodies in FATA and to provide for matters connected therewith and ancillary thereto;

NOW, THEREFORE, in exercise of powers conferred by clause (5) of Article 247 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make the following Regulation, namely:

1. Short title, extent and commencement-(1) This Regulation may be called the Federally Administered Tribal Areas Local Government Regulation, 2012.

(2) It extends to the whole of the Federally Administered Tribal Areas

(3) It shall come into force on such date as the Governor may, by notification in the official gazette determine, and different dates and areas may be notified for different provisions of this Regulation.

CHAPTER -I- Definitions

2. : In this Regulation, unless there is anything repugnant in the subject of context,-

- I. "annual rental value" means the gross annual rent at which a building or land may be let from year to year;
- II. "budget" means an official statement of the income and expenditure of a municipal body for a financial year;
- III. "building" includes any shop, house, hut, out-house, shed, stable or enclosure built of any material and used for any purpose, and also includes a wall, well, verandah, platform, plinth, ramp, stair-case and steps;
- IV. "building line" means a line beyond which the outer face or any part of an external wall of a building may not project in the direction of any street, existing or proposed;
- V. "bye-laws" means bye-laws made under this Regulation;
- VI. "cattle" include cows, buffaloes, bulls, oxen, bullocks, calves, camels, sheep and goats;

- VII. "Chairman and Vice-Chairman" mean the chairman and vice-chairman of a municipal body constituted under this Regulation;
- VIII. "conservancy" means the collection, treatment, removal and disposal of refuse and waste;
- IX. "dairy" includes any farm, cattle-shed, cow-house, milk store, milk shop or other place from where milk or milk products are supplied for sale;
- X. "drain" includes a sewer, a house drain, a drain of any other description, a tunnel, a culvert, a ditch, a channel or any other arrangement for carrying sullage or rain water;
- XI. "drug" means any substance used as medicine or in the composition or preparation of medicine, whether for internal or external use;
- XII. "erect or re-erect a building" means the construction of a new building and includes such material alterations of building as enlargement of any wall, verandah, fixed platform, plinth or a part of the building, structural conversion into one or more places for human habitation of a building not originally meant for the purpose, structural conversion of two or more places of human habitation into a greater number of such places, addition of any rooms, building substance or other structure to a building, re-construction of whole or any part of the external walls of a building or the renewal of the parts of a wooden building, construction in a wall adjoining any street or land not belonging to the owner of the wall, construction of a door opening to such street or land, such alteration of the internal arrangements of a building as affects its drainage, ventilation or other sanitary arrangements or its security or stability;
- XIII. "food" includes every eatable consumed for food or drink by human beings but does not include drugs or water;
- XIV. "functions" includes powers to be exercised and duties to be performed;
- XV. "The Governor" means the Governor, Khyber Pakhtunkhwa acting as Agent to the President of Pakistan;
- XVI. "infectious disease" includes cholera, plague and tuberculosis, and includes such other disease as the

Governor may, by notification, declare to be an infectious disease for the purpose of this Regulation;

XVII. "land" includes land which is being built up or is built up or is covered with water or is under cultivation or is fallow;

XVIII. "Local Fund" means the fund of a Local Council;

XIX. "maladministration" means and includes an act-

i. of omission or commission, a decision, process or recommendation, which-

i. is contrary to the law, rules, or acts, regulation 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

(b) that involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as administrative excess, bribery, favoritism, jobbery and nepotism;

(c) delay, in action, incompetence, in-efficiency, ineptitude or neglect in the administration or discharge of duties and responsibilities;

(d) repeated notices, prolonged hearings or unnecessary attendance while deciding cases; or

(e) 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;

XX. "town" means an urban area notified as such under this Regulation;

XXI. "market" means a place where persons assemble for the sale and purchase of meat, fish, fruit, vegetables or any other article of food or for the sale and purchase of livestock or animals and includes any place which may, from time to time, be notified as market;

XXII. "member" means a member of Local Council;

- XXIII. "misconduct" means transgression of prescribed code of conduct or dereliction of duty or deliberate unlawful act or violation of law or rules or lawful directions or orders of the Governor and includes-
- i. gross negligence in performance of duties with manifest wrongful intent or evil design; or
 - ii. an act that results in wrongful gain to any person by wrongful application of law; or
 - iii. making or managing appointment, promotion or transfer of an officer or official in violation of law or rules or for extraneous consideration; or
 - iv. bribery, corruption, extortion, favoritism, nepotism or wrongful diversion of the fund of the Local Council.
- XXIV. "Municipality" means an urban area declared to be a municipality under this regulation;
- XXV. "Municipal Committee" means a Municipal Committee constituted under this Regulation;
- XXVI. "offence" means an offence under this regulation;
- XXVII. "municipal services" include network of water supply, sanitation, conservancy, removal and disposal of sullage, refuse, garbage, sewer or storm water, solid or liquid waste, drainage, public toilets, public roads, streets, foot paths, traffic signals, pavements and lighting thereof, public parks, gardens, arboriculture, landscaping, bill boards, hoardings, fire fighting, land use control, zoning, master planning, classification declassification or reclassification of commercial or residential areas, markets, housing, urban infrastructure, environment and construction, maintenance or development thereof and enforcement of any law or rule relating thereto;
- XXVIII. "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;
- XXIX. "occupier" includes an owner in actual occupation of his own land or building and also any person for the time

being paying or liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which the word is used;

- XXX. "owner" includes the person for the time being receiving the rent of land and buildings or either of them, whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose or who would so receive the same if land or building were let to a tenant;
- XXXI. "prescribed" means prescribed by rules made under this regulation;
- XXXII. "prohibited zone" means any area or areas within a municipality declared as prohibited zone by a public notice by the concerned local body for the purposes of this Regulation;
- XXXIII. "public road" and a "public street" means a road or street maintained through public sources or by a Local Council;
- XXXIV. "public way" means a way maintained by public sources or by a Local council;
- XXXV. "public place" means any building, premises or place to which the public have access;
- XXXVI. "rate" includes cess;
- XXXVII. "refuse" includes rubbish, offal, night-soil, carcasses of animals, deposits of sewerage, waste and any other offensive matter;
- XXXVIII. "rent" means whatever is by law payable in money or kind by a tenant or lessee on account of the occupation of any building or land;
- XXXIX. "road" includes a road which is not a thoroughfare;
- XL. "rules" means rules made under this Regulation;
- XLI. "rural area" means any area which is not an urban area;
- XLII. "Schedule" means a schedule to this Regulation;
- XLIII. "specify" means specified by Standing Orders of the Governor;

- XLIV. "street" includes a street which is not a thoroughfare;
- XLV. (as) "streets line" means a line dividing the land comprised in, and forming part of a street from the adjoining land;
- XLVI. "sullage" includes sewerage, polluted water, rain water and any other offensive matter carried by a drain;
- XLVII. "tax" includes any cess, fee, rate, toll or other impost leviable under this Regulation;
- XLVIII. "urban area" means an area within the jurisdiction of a Municipal Committee and includes any other area which the Governor may, by notification, declare to be an urban area for the purposes of this Regulation;
- XLIX. "vehicle" means a wheeled conveyance capable of being used on a street;
- L. "voter" means a person, whose name for the time being appears on the electoral rolls prepared or adopted for the purposes of election under this Regulation; and
- LI. "ware-houseman" includes a person who stores any farm produce not belonging to himself and charges rent thereof in any form, from the person at whose instance the said produce is so stored.

CHAPTER -II

LOCAL AREAS AND CONSTITUTION AND COMPOSITION OF LOCAL COUNCILS

3. Local Areas.-(1) For the purposes of this Regulation, a Local Area shall be a town.

(2) The Governor may, by notification, extend, curtail or otherwise alter the limits of a Local Area and declare that any area shall cease to be a local area.

4. Delimitation of a ward.-(1)A ward shall be an area comprising one census block, or as may be prescribed.

(2) The Governor may, for purposes of election, divide a local area into such number of wards having a definite boundary as he may determine.

5. Constitution of Local Councils.-(1) The Local Councils to be constituted under this Regulation shall be municipal committees for each of the notified towns;

(2) As soon as may be, the Local Councils mentioned in sub-article (1) shall be constituted in accordance with the provisions of this Regulation.

6. Municipal Committee.-

(1) A municipal committee shall, subject to other provisions of this regulation, consist of a number of general members equaling the number of wards in the Municipality.

(2) The general members of the Municipal Committee shall be elected through direct election based on adult franchise and joint electorate.

(3) The Governor may from time to time determine and notify the number of additional members representing traders, women or other special groups in respect of a municipal committee subject to the condition that total number of such members shall not exceed twenty five percent of the total membership of the respective council.

(4) The additional members provided for under sub article (3) shall be elected by the directly elected members of the municipal committee through secret ballot.

7. Chairman and Vice-Chairman.-For every Local Council there shall be a Chairman and a Vice-Chairman, elected in prescribed manner, by the respective local council.

**CHAPTER -III
LOCAL COUNCIL ELECTIONS**

8. Franchise and Wards.-

(1) Election of members of all Local Councils shall be held on the basis of adult franchise and joint electorate through secret ballot.

(2)The directly elected members shall be elected on the basis of one member from each ward.

(3)Every voter within the ward shall have only one vote.

(4)As far as is practicable, the wards shall be nearly uniform in terms of population.

9. Qualifications for candidates and elected members.-(1) A person shall qualify to be elected or to hold an elective

office or membership of a Local Council, if he-

- (a) is a citizen of Pakistan;
- (b) is not less than twenty-one years of age on the last day fixed for filing the nomination forms;
- (c) is enrolled as a voter in the electoral rolls of the relevant ward;
- (d) is of good character and is not commonly known as one who violates Islamic injunctions:

Provided that conditions of Islamic injunctions shall not apply to a non-Muslim, but such a person shall have a good reputation;

- (e) has not been declared by a competent court to be of unsound mind;
- (f) is not in the service of the Federal Government, a Provincial Government or a local Council or, any statutory body or a body which is controlled by any such government or council or, in which any of such government or council has a controlling share or interest, except the holders of elected public office and part-time officials remunerated either by salary or fee:

Provided that in case of a person who has resigned or retired from such service, a period of not less than six months has elapsed since his retirement;

- (g) is not under contract for work to be done or goods to be supplied to the Local Council concerned or has otherwise any pecuniary interest in its affairs;
- (h) has not been dismissed, removed or compulsorily retired from public service on the grounds of moral turpitude;
- (i) does not possess assets which are inconsistent with his declaration of assets or justifiable means, whether held in his own name or of the dependents or any other person or corporate body in whose name assets are held in trust or under any other formal or informal arrangement whereby the de-facto

control of such assets including their sale, transfer or pecuniary interest, is retained by him;

- (j) has not been adjudged a wilful defaulter of any tax or other financial dues owed to the Federal Government, a Provincial Government, or a Local Council or any financial institution, including utility bills outstanding for six months or more;
- (k) has not been convicted anywhere by a court of competent jurisdiction on a charge of corrupt practice involving moral turpitude or misuse of power or authority under any law for the time being in force;
- (l) has not been sentenced to imprisonment for more than three months for an offence under any law and, a period of not less than five years has elapsed since his release; and in case of a member or a holder of a public office, has not been sentenced to imprisonment;
- (m) has not failed to file the required return of election expenses or is not convicted for exceeding the prescribed limits of election expenses;
- (n) has not been declared an un-discharged insolvent by any court;
- (o) does not engage in any transaction involving pecuniary interest with the Local Council of which he is a member;
- (p) does not absent himself without reasonable cause from three consecutive meetings of the Local Council of which he is a member:

Provided that a member shall not be disqualified if the absence was necessitated by an emergency or force majeure;

- (q) has not been and is not involved, in activities prejudicial to the ideology, interest, security, unity, solidarity, peace and integrity of Pakistan and its people, and the good order and harmony of society.

(2) Whoever-

- (a) is found by the Election Commission to have

contravened the provisions of sub-article (1) shall stand disqualified from being a candidate for election to any office of the Local Council for a period of four years; or

(b) having been elected as a member of a Local Council or a holder of an elective office of the Local Council is found by the Election Commission to have contravened the provisions of sub-article (1) shall cease forthwith to be an elected member or to hold the office of such member and stand disqualified from being a candidate for election to a Local Council for a period of four years.

(3) No person shall contest election to more than one Local Council.

10. Conduct of elections.- Election to Local Councils shall be conducted in the prescribed manner.

11. Term of office, first meeting and election of Chairman or Vice-Chairman. (1) The term of office of a Local Council shall be four years commencing on the date on which it holds its first meeting:

Provided that on the expiry of the term of office of a Local Council, the Governor may appoint any person for the period of three months to perform such functions of the Local Council as may be specified:

Provided further that the Governor, when he is satisfied that continuation of remaining in office of office holders and members of a local council is no longer in the public interest, he may dissolve a Local Council before the expiry of the residual term of its respective offices on such a date as he deems fit.

(2) Save as otherwise provided, a Local council shall in its first meeting and to the exclusion of any other business, elect from its members a Chairman and a Vice-Chairman.

Provided that the first meeting shall be held not later than thirty days from the day on which the names of its members are notified.

12. Oath of office.-(1) A member, a Chairman, or Vice-Chairman, shall before taking his seat make and subscribe to an Oath in such form as may be specified.

(2) Every Chairman, Vice-Chairman, and member shall,

after taking oath of office, declare his assets in the manner prescribed.

13. Casual vacancy.-(1) If the office of a member or a Chairman, Vice-Chairman, for any reason, falls vacant during the term of office of a Local Council, a new member or a Chairman, Vice-Chairman, as the case may be, shall be elected in the prescribed manner within three months from the date such vacancy is notified and he shall hold office for the remaining period of such term.

(2) If the vacancy in the office of member occurs within four months of the expiry of the term of a Local Council, the vacancy shall not be filled.

14. Removal.-(1) The Governor may, after giving him an opportunity of being heard, remove a Chairman, Vice-Chairman, or a member from office in the prescribed manner if he-

- (a) has ceased to qualify in terms of article 9; or
- (b) absents himself without reasonable cause from three consecutive meetings of the Local Council; or
- (c) is guilty of abuse of power or misconduct or maladministration; or
- (d) refuses to take oath under article 12; or
- (e) has acted in contravention of the provision of sub-article (4) of article 64; or
- (f) generally acts in a manner prejudicial to public interest.

(2) A Chairman, Vice-Chairman or a member removed under sub-article (1) may, within thirty days of the order of removal, file a review petition to the Governor, whereupon the Governor may pass such orders as he may deem fit.

(3) A Chairman or Vice-Chairman removed from office shall cease to be a member.

15. Resignation.- A Chairman, Vice-Chairman, or a member may resign his office by tendering resignation in writing to the Local Council of which he is the Chairman, Vice-Chairman or a member.

16. Vote of no-confidence.- A Chairman or Vice-Chairman shall vacate office if a vote of no-confidence is passed against him in the prescribed manner by two-third majority of the total number of members of the Local Council electing him;

Provided that-

(a) a motion of no-confidence shall not be moved before the expiry of six months of his assumption of office as Chairman, Vice-Chairman; and

(b) where a motion of no-confidence against a Chairman or Vice-Chairman has been moved and has failed to secure the requisite majority of votes in its favour at the meeting, no similar motion shall be moved against him before the expiry of six months from the date such motion was moved.

17. Bar against re-election.-(1) When a Chairman, Vice-Chairman, or a member is removed from office under article 14, he shall not, during the unexpired period of the term of his office, be eligible for re-election to the said office of any Local Council.

(2) Where a Local Council is dissolved under sub-article-(4) of article 90, the Chairman, Vice-Chairman and members borne on the Local Council so dissolved shall not be eligible for re-election to any office of that Local Council, if the same is reconstituted within the meaning of clause (a) of sub-article (5) of article 90.

18. Remuneration.-(1) A chairman or vice-chairman, of a municipal committee shall be a part time functionary of the respective local council and may receive such remuneration as may be prescribed.

19. Notification of election, resignation and removal of Chairman, Vice-Chairman, members, etc.- Every election, resignation or removal of a Chairman, Vice-Chairman or a member, or the vacation of office by them shall be notified.

20. Election petition.-No election under this regulation shall be called in question, except by an election petition made by a candidate for the election.

21. Election Tribunal.-(1) For the hearing of an election petition the Election Authority shall, by notification in the official Gazette, appoint an officer to be an Election Tribunal for such areas as may be specified in the

Notification.

(2) Where the person constituting an Election Tribunal is succeeded by another, the hearing of a petition shall continue before the person succeeding and any evidence already recorded shall remain upon the record and it shall not be necessary to re-examine the witnesses who have already been examined and discharged.

22. Procedure for hearing of election petition.—Subject to the provisions of this regulation, every election petition shall be made and dealt with in such manner as may be prescribed.

23. Powers of Election Tribunal.—The Election Tribunal shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908) and shall be deemed to be a Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

24. Decision of the Election Tribunal.—(1) The Election Tribunal may, upon the conclusion of trial of an election petition, make an order—

- (a) dismissing the petition;
- (b) declaring the election of the returned candidate to be void;
- (c) declaring the election of the returned candidate to be void and the petitioner or any other contesting candidate to have been duly elected; or
- (d) declaring the election as a whole to be void.

(2) The decision of the Election Tribunal on an election petition shall be final and shall not be called in question in any court or before any other authority.

(3) The decision of the Election Tribunal shall take effect from the date on which it is made and shall be communicated to the Election Commission of Pakistan.

25. Ground for declaring election of returned candidate void.—(1) The Election Tribunal shall declare the election of the returned candidate to be void if it is satisfied that—

- (a) the nomination of the returned candidate was invalid; or

- (b) the returned candidate was not, on the nomination day, qualified for or was disqualified from, being elected as a member; or
- (c) the election of the returned candidate has been procured or induced by any corrupt or illegal practice; or
- (d) a corrupt or illegal practice has been committed by the returned candidate or his election agent or by any other person with the connivance of the candidate or his election agent.

(2) The election of a returned candidate shall not be declared void, if the Election Tribunal is satisfied on the ground-

- (a) that any corrupt or illegal practice committed was without the consent or connivance of that candidate or his election agent and that the candidate and the election agent took all reasonable precautions to prevent its commission; or
- (b) that any of the other contesting candidates was, on the nomination day, not qualified for or was disqualified from, being elected as a member.

26. Ground for declaring a person other than a returned candidate elected.-The Election Tribunal shall declare the election of the returned candidate to be void and the petitioner or any other contesting candidate to have been duly elected, if it is so claimed by the petitioner or any of the respondents and the Election Tribunal is satisfied that the petitioner or such contesting candidate was entitled to be declared elected.

27. Ground for declaring elections as a whole void.---The Election Tribunal shall declare the election as a whole to be void if it is satisfied that the result of the election has been materially affected by reason of-

- (a) the failure of any person to comply with the provisions of this regulation or the rules; or
- (b) the prevalence of extensive corrupt or illegal practice at the election.

28. Decision in case of equality of votes.- (1) Where after the conclusion of the trial, it appears that there is an equality of votes between two or more contesting candidates and the addition of one vote for one such candidate would entitle him to be declared elected, the Election Tribunal

shall draw a lot in respect of such candidates and the candidate on whom the lot falls shall be deemed to have received the highest number of votes entitling him to be declared elected.

(2) Before proceeding to draw a lot under sub-article(1) the Election Tribunal shall give notice to the contesting candidates between whom there is an equality of votes and shall proceed to draw a lot on the day and at the time and place stated in the notice:

Provided that, if the contesting candidates are present when it appears that there is an equality of votes between them, the Election Tribunal may proceed forthwith to draw a lot without giving notice as aforesaid.

29. Corrupt practice.- A person guilty of bribery, personating, or undue influence shall be punishable for an offence of corrupt practice with imprisonment for a term which may extend to three years, or with fine which may extend to fifteen thousand rupees, or with both.

30. Bribery.- A person is guilty of bribery, if he, directly or indirectly, by himself or by any other person on his behalf-

- (a) receives, agrees or contracts for any gratification for voting or refraining from voting or for being or refraining from being a candidate at, or withdrawing or retiring from, an election;
- (b) gives, offers or promises any gratification to any person for the purpose of-
 - i. inducing a person to be or to refrain from being a candidate at an election; or
 - ii. inducing a voter to vote or refrain from voting at any election; or
 - iii. inducing a candidate to withdraw or retire from an election; or
 - iv. rewarding a person for having been or for having refrained from being a candidate at an election; or
 - v. rewarding a voter for having voted or refrained from voting at an election; or

- vi. rewarding a candidate for having withdrawn or retried from an election.

Explanation.- In this article, the expression "gratification" includes a gratification in money or estimable in money and all forms of entertainment or employment for reward.

31. Impersonation.- A person is guilty of impersonation, if he votes or applies for a ballot paper for voting as some other person, whether that other person is living or dead or fictitious.

32. Undue influence.- A person is guilty of undue influence, if he-

- (a) in order to compel any person to vote, refrain from voting, or to induce or compel any person to withdraw his candidature at an election, directly or indirectly, by himself or by any other person on his behalf-
 - i. makes or threatens to make use of any force, violence or restraint;
 - ii. inflicts or threatens to inflict any injury, damage, harm or loss; or
 - iii. uses any official influence or Governmental patronage; or
 - iv. on account of any person having voted or refrained from voting, or having withdrawn his candidature, does any of the acts specified in clause (i); or
- (h) by abduction, duress or any fraudulent device or contrivance-
 - i. impedes or prevents the free exercise of the franchise by a voter; or
 - ii. compels, induces or prevails upon any voter to refrain from voting or compels any voter to vote.

Explanation.- In this article, the expression "harm" includes social ostracism or ex-communication or expulsion from any caste or community.

33. Illegal Practice.- A person is guilty of illegal practice punishable with fine which may extend to two thousand rupees, if he-

- (a) obtains or procures, or attempts to obtain or procure, the assistance of any officer or official of the Federal Government, a Provincial Government or a Local Council or authority to further or hinder the election of a candidate;
- (b) votes or applies for a ballot paper for voting at an election knowing that he is not qualified for voting or is disqualified from voting.;
- (c) votes or applies for a ballot paper for voting more than once at any polling station;
- (d) removes a ballot paper or a ballot box from a polling station or destroys, damages or tampers with the ballot-box used at a polling station;
- (e) knowingly induces or procures any person to do any of the aforesaid acts; or,
- (f) fails to provide statement of election expenses as required under this Ordinance.
- (g) makes or publishes a false statement-
 - i. concerning the personal character of a candidate or his relation calculated to adversely affect the election of such candidate or, for the purpose of promoting or procuring the election of another candidate, unless he proves that he had reasonable ground for believing, and did believe, the statement to be true;
 - ii. relating to the symbol of a candidate whether or not such symbol has been allocated to such candidate; or
 - iii. regarding the withdrawal of a candidate;
 - iv. knowingly, in order to support or oppose a candidate, lets, lends, employs, hires, borrows or uses any vehicle or vessel for the purpose of conveying voters to or from the polling station, except when a person conveys himself or any member of the household to which he

belongs, to or from the polling station;

- v. causes or attempts to cause any person present and waiting to vote at the polling station to depart without voting.

34. Prohibition of canvassing.- A person is guilty of an offence punishable with fine which may extend to two thousand rupees, if he, on the polling day in connection with the election-

- (a) convenes, calls or organises within a ward any meeting; or
- (b) within a radius of two hundred metres of the polling station-
 - i. canvasses for votes;
 - ii. solicits vote of any voter;
- (c) persuades any voter not to vote at the election or for a particular candidate; or
- (d) exhibits, except with the permission of the returning officer and at a place reserved for the candidate or his polling agent beyond the radius of one hundred meters of the polling station, any notice, sign, banner or flag designed to encourage the voters to vote, or discourage the voters from voting, for any contesting candidate.

35. Disorderly conduct near polling station.- A person is guilty of an offence punishable with imprisonment for a term which may extend to three months, or with fine which may extend to three thousand rupees, or with both, if he-

- (a) uses, in such manner as to be audible within the polling station any gramophone, megaphone, loudspeaker or other apparatus for reproducing or amplifying sounds; or
- (b) persistently shouts in such manner as to be audible within the polling station; or
- (c) does any act which-
 - i. disturbs or causes annoyance to any voter visiting a polling station for the purpose of voting; or
 - ii. interferes with the performance of the duty of

a presiding officer, polling officer or any other person performing any duty at a polling station; or

(d) abets the doing of any of the aforesaid acts.

36. Tampering with papers.- A person is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both, if he-

(a) fraudulently defaces or destroys any nomination paper or ballot paper;

(b) fraudulently takes out of the polling station any ballot paper or puts into any ballot box any ballot paper other than the ballot paper he is authorized under the rules to put in;

(c) without due authority-

- i. supplies any ballot paper to any person;
- ii. destroys, takes, opens or otherwise interferes with any ballot box or packet or ballot papers in use for the purpose of election; or
- iii. breaks any seal affixed in accordance with the provisions of the rules; or
- iv. causes any delay or interruption in the beginning, conduct or completion of the procedure required to be immediately carried out on the close of the poll; or
- v. fraudulently or without due authority attempts to do any of the aforesaid acts.

37. Interference with the secrecy of voting.- A person is guilty of an offence punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both, if he:

- i. interferes or attempts to interfere with a voter when he records his vote;
- ii. in any manner obtains or attempts to obtain, in a polling station, information as to the candidate for whom a voter in that station is about to vote or has voted, or
- iii. communicates at any time any information obtained in a polling station as to the candidate for whom a voter in that station is

about to vote or has voted.

38. Failure to maintain secrecy.---Any candidate or polling agent attending a polling station, or any person attending the counting of votes, is guilty of an offence punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both, if he-

- i. fails to maintain or aid in maintaining the secrecy of voting; or
- ii. communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

39. Conduct of officials.- A presiding officer, polling officer or any other officer or official performing a duty in connection with an election, or any member of a force, is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, if he, during the conduct or management of an election or maintenance of order at the polling station-

- (a) persuades any person to give his vote;
- (b) dissuades any person from giving his vote;
- (c) influences in any manner the voting of any person;
- (d) does any other act calculated to further or hinder the election of a candidate;
- (e) fails to maintain or aid in maintaining the secrecy of voting;
- (f) communicates, except for any purpose authorised by any law, to any person before the poll is closed any information as to the name or number on the electoral roll of any voter who has or has not applied for a ballot paper, or has or has not voted at a polling station; and
- (g) communicates any information obtained at the counting of votes as to the candidate for whom any vote is given by any particular ballot paper.

40. Breach of official.- A Presiding Officer, Assistant Presiding Officer, or any other person employed by any such officer in connection with his official duties imposed by or

under this Regulation is guilty of an offence punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, if he, wilfully and without reasonable cause, commits breach of any such official duty, by act or omission.

41. Assistance by government servants.- A person in the service of the Federal Government, a Provincial Government, a Local Council, or a body owned or controlled by the Federal or a Provincial Government or a Local Council is guilty of an offence punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both if he, in any manner, gives any assistance calculated to further or hinder the election of a candidate.

42. Summary trial.- All offences under this Chapter except the offences under article 29 shall be tried summarily under the Code of Criminal Procedure 1898 (Act V of 1898).

43. Cognizance.- No court shall take cognizance of the offences under articles 39 and 40 except on the complaint in writing of the Returning Officer concerned.

44. Certain offences to be cognizable.- An offence punishable under articles 33, 34, 35, 36, 37, 38, and 39 shall be cognizable offences.

45. Prosecution of offences under this Chapter.- Notwithstanding anything contained in this regulation, no Court shall take cognizance of an offence under articles 34, 35, 36, 37, 38, 39, 40, 41 and 42 except upon a complaint in writing made by order or, or under authority from, the Election Commission.

CHAPTER -IV EXECUTIVE POWERS AND CONDUCT OF BUSINESS

46. Executive authority and conduct of business.- (1) The executive authority of a Local Council shall extend to the doing of all acts necessary for the due discharge of its functions under this regulation.

(2) Save as otherwise provided, the executive authority of Local Council shall vest in and be exercised by its Chairman.

(3) The Vice-Chairman shall perform such functions as may be prescribed.

(4) All acts of a Local Council, whether executive or not, shall be expressed to be taken in the name of the Local Council and shall be authenticated in the manner prescribed.

47. Disposal of business.- (1) The business of a Local Council to the extent and in the manner prescribed shall be disposed of at its meetings, or at the meetings of its sub-committees, or by its Chairman or servants or other functionaries.

(2) A Local Council shall have the power to act notwithstanding any vacancy in its membership.

(3) No proceedings of a Local Council shall be invalid by reason only of the existence of any vacancy in, or any defect in the constitution of the Local Council, or by reason only that some person, who was not entitled to do so, sat or voted, or otherwise took part in its proceedings.

(4) A Local Council may appoint sub-committees consisting of such number of its members and other persons, if any; to perform such functions in such manner as may be prescribed.

48. Meeting.- (1) A Local Council shall within three months of the assumption of office frame bye-laws for the conduct of its meetings which may, besides other matters, provide for-

- (a) the types of meetings, that is to say, ordinary, special or emergency;
- (b) the types of business to be conducted in different types of meetings;
- (c) the place of meetings;
- (d) notices required for different meetings;
- (e) authority to call meetings;
- (f) notice of agenda for the meetings;
- (g) quorum for different meetings;
- (h) order of business to be conducted in meetings;
- (i) the manner of asking questions;

- (j) motions and amendments and their withdrawal or discussion on them;
- (k) speeches to be delivered;
- (l) training discourses or discussions to be arranged at the meeting;
- (m) preservation of order;
- (n) decision by votes;
- (o) language to be used;
- (p) adjournments or postponements;
- (q) co-opting of other members or official;
- (r) re-consideration of the matters once disposed of;
- (s) entertainment to be arranged at the time of meetings; and
- (t) suspension of meetings.

(2) All meetings of a Local Council shall be presided over by its Chairman and in his absence by the Vice-Chairman and in the absence of both, by a member of a panel of four members elected for that purpose, in the first meeting of the respective municipal committee, at the outset of its tenure by the members present during that meeting.

(3) A Municipal Committee shall hold at least one meeting during a month.

(4) All meetings of municipal committees shall be public except when it by majority of votes decides to consider any matter in a session attended exclusively by its members.

(5) Minutes of the names of members present and of the proceedings at each meeting shall be drawn up and recorded in a book to be kept for the purpose which shall be signed by the person presiding at the meeting and shall at all reasonable times and without charge be open to inspection by members; provided that no member shall be entitled to object to the minutes of any meeting in which he was not present.

(8) A member who directly or indirectly, by himself or by any partner, employer or employee has any share or interest in respect of any matter or has acted professionally, in relation to any matter on behalf of any person having therein

any such shares or interest as aforesaid, shall not vote or take any other part in any proceedings of a Local Council or any of its Committees.

49. Contracts.- (1) All contracts made by or on behalf of the Local Council shall be-

- (a) in writing and expressed to be made in the name of the local councils;
- (b) executed in such manner as may be prescribed; and
- (c) reported to the local council by the Chairman at the meeting next following the execution of the contract.

(2) No contract executed otherwise than in conformity with the provisions of this article shall be binding on the Local Council.

50. Works.-(1) The Governor may, by rules, provide for-

- (a) the preparation of plans and estimates for works to be executed by a Local Council;
- (b) the authority by whom and the conditions subject to which such plans and estimates shall be technically approved and estimates administratively sanctioned; and
- (c) the agency by which such plans and estimates shall be prepared and such works shall be executed.

51. Reporting and evaluation.-A Local Council shall-

- (a) maintain such record of its working as may be prescribed;
- (b) prepare and publish such periodical reports and returns as may be required by the Governor; and
- (c) adopt such other measures as may be necessary for the publication of information about the working of the Local Council.

CHAPTER -V
STRUCTURE AND ADMINISTRATION OF SERVICES

52. Composition of Local Council Service.- The Local Council Service shall comprise the FATA Unified Group of functionaries and Servants of Local Councils.

53. Unified Group of Functionaries.- (1) The Governor may constitute a unified group of functionaries of Local Councils comprising such pay scales and grades in such manner and subject to such conditions as may be prescribed:

Provided that the appointments to such pay scale and grades of the unified group of functionaries as the Governor may prescribe shall be made harmonious with the similar group in the Govt. of Khyber Pakhtunkhwa.

(2) The Governor may, from time to time, specify the posts in the Local Council which shall be filled by persons belonging to the Provincial unified group of functionaries of the province of Khyber Pakhtunkhwa.

54. Servants of Local Councils.- (1) A Local Council may, and if so required by the Governor shall, on the prescribed terms and conditions, employ such servants as are deemed necessary for the efficient performance of its functions under this regulation:

Provided that the Governor may classify certain posts in the prescribed manner as tenure posts and the term of such posts shall coincide with the term of the office of a Local Council.

(2) If in the opinion of the Governor, the number of servants employed by a Local Council under sub-article (1) or the remuneration fixed for any of them, is excessive, the Local Council shall on being required by the Governor to do so, reduce the number of its servants or the remuneration of any of them, as the case may be.

55. Provident Fund, pension and other facilities for members of Local Council Service.- (1) A Local Council may establish and maintain a Provident Fund and require any of its servants to contribute to such fund, and may itself contribute to it in such manner and in such proportion, as may be prescribed.

(2) A Local Council may, in the prescribed manner, and with the previous sanction of the Governor, provide for the payment of pension to its servants after retirement.

(3) A Local Council may, with the previous sanction of the Governor, grant a special pension or gratuity to the family of a servant who dies of disease or injury contracted or suffered in the discharge of his official duties.

(4) A Local Council may, in the prescribed manner, operate scheme of group insurance of its employees and require its employees to subscribe to it.

(5) The Governor may establish and maintain-

- (a) a fund for the maintenance of the FATA Unified Group of Functionaries ;
- (b) a Pension Fund out of which shall be paid any pension granted under sub-article (2); and
- (c) a Benevolent Fund out of which shall be paid any pension or gratuity granted under sub-article (3) or such relief as may be prescribed.

(6) The Local Council shall contribute to the funds established and maintained under sub-article (5) in such proportion and in such manner and from such dates as may be specified by the Governor.

56. Service Rules.- Subject to the provisions of this regulation, the Governor may by rules:

- (a) prescribe the conditions of service of the servants of the Local Council;
- (b) prescribe the scales or grades of pay for the servants of the Local Council;
- (c) prescribe a schedule of establishment for the staff that shall be employed by a Local Council;
- (d) prescribe the qualifications for various posts under Local Councils;
- (e) prescribe the principles and procedure to be followed in making appointments to various posts under the Local Councils;
- (f) prescribe the method for the holding of enquiries in cases where disciplinary action is proposed to be taken against servants of the Local Councils; and provide for penalties and appeals against orders imposing penalties; and
- (g) prescribe other matters necessary for efficient

discharge of duties by the servants of Local Councils.

57. Administration of Local council services.-(1)Until otherwise decided by the Governor, the administration of officers and officials of the existing servants of Local Councils in FATA shall vest in Administration and Coordination Department of FATA Secretariat.

(2) Subject to policy instructions, the Directorate of Local Government and Rural Development FATA shall work as the Secretariat for the service matters of Local Government & Rural Development Department, Unified Group of Functionaries and servants of local councils in FATA.

58. Model Structure of Local Council Offices.---The organization of offices and their business in Local Councils may be organized on the pattern of model given in Third Schedule to this Regulation.

CHAPTER -VI

COMPULSORY FUNCTIONS OF MUNICIPAL COMMITTEES

59. The compulsory functions of the municipal committees shall be as under:

(A) PUBLIC HEALTH:

- i) Responsibility for sanitation.
- ii) Insanitary buildings and lands.
- iii) Removal, collection and disposal of refuse.
- iv) Latrines and urinals.
- v) Birth and deaths.
- vi) Infectious diseases.

(B) WATER SUPPLY:

- vii) Water Supply.

(C) DRAINAGE:

- viii) Drainage.
- ix) Drainage and sewerage schemes for commercial and industrial area.

(D) ARTICLES OF FOOD AND DRINK:

- x) Private markets.
 - xi) Slaughter houses.
- (E) ANIMALS AND CATTLE:
- xii) Prohibition on picketing or tethering in streets.
 - xiii) Prohibition against keeping and maintaining cattle.
 - xiv) Dangerous animals.
 - xv) Disposal carcasses.
- (F) PUBLIC SAFETY:
- xvi) Fire Fighting.
 - xvii) Dangerous and offensive articles and trades.
- (G) MUNICIPAL PLANNING:
- xviii) Master Plan.
 - xix) Site Development Schemes.
 - xx) Execution of the Site Development Schemes.
- (H) BUILDING CONTROL:
- xxi) Erection and re-erection of buildings.
 - xxii) Completion of buildings, alteration of buildings, etc.
 - xxiii) Regulation of buildings.
- (I) STREETS:
- xxiv) Public Streets.
 - xxv) Streets.
 - xxvi) Street lighting.
 - xxvii) Street Watering.
- (J) TRAFFIC VEHICLES:
- xxviii) Traffic control.
 - xxix) Public vehicles.
- (K) ARBORICULTURE:

xxx) Arboriculture.

(L) SPORTS AND CULTURE

xxxii) Holding sports events and tournaments

xxxiii) Celebrating national days, and special events

xxxiiii) Arranging literary and culture events

OPTIONAL FUNCTIONS OF MUNICIPAL COMMITTEES

60. The optional functions of municipal committees shall be as under:

(A) PUBLIC HEALTH:

i) Promotion of public health.

ii) Health and maternity centre, etc.

iii) Hospitals and dispensaries.

iv) Medical aid, relief and medical education.

v) Environmental pollution.

(B) DHOBI GHATS, etc.:

vi) Bathing and washing places.

vii) Dhobi ghat.

viii) Public water courses.

(C) ARTICLES OF FOOD AND DRINK:

ix) Bye-laws for articles of food and drink.

x) Regulating quality of milk supply.

xi) Public Markets.

xii) Animal Husbandry and Animals homes and farms.

xiii) Registration of the sale of cattle.

xiv) Livestock improvement.

xv) Cattle shows, Zoo, etc.

(E) PUBLIC SAFETY:

- xvi) Famine.
- xvii) Burial and burning places.

(F) TREES, PARKS AND GARDENS:

- xviii) Gardens.
- xix) Open spaces.
- xx) Nuisances pertaining to trees and plantations.
- xxi) Tanks and low-lying areas.

(G) EDUCATION:

- xxii) As directed or authorized by the Governor.

(H) CULTURE:

- xxiii) Culture.
- xxiv) Libraries.
- xxv) Fairs and shows etc.

(I) SOCIAL WELFARE:

- xxvi) Social Welfare.

CHAPTER -X- LOCAL COUNCIL FINANCE

61. Establishment of Local Fund and Public Account.-(1) For every Municipal Committee, there shall be established a Local Fund and a Public Account.

(2) To the credit of respective Local Fund shall be placed all revenues received by a Local Council from the following sources:

- (a) grants made to or monies received by a Local Council from the Governor or other authorities in Pakistan;

- (c) the proceeds of taxes, tolls, fees, rates or charges levied by a Local Council under this regulation;
- (d) rents and profits payable or accruing to a Local Council from immovable property vested in or controlled or managed by it;
- (e) proceeds or any other profits howsoever known or called from bank accounts and investments of a Local Council.
- (f) gifts, grants or contributions to a Local Council by individual or institutions;
- (g) income accruing from markets or fairs regulated by a Local Council.
- (h) fines imposed under this Regulation;
- (i) proceeds from other sources of income which are placed at the disposal of a Local Council under directions of the Governor; and
- (j) all monies transferred to a Local Government by the Governor.

(3) To the credit of respective Public Account shall be placed all revenues received by a Local Council from the following sources-

- i. receipts accruing from trusts administered or managed by a Local Council;
- ii. refundable deposits received by a Local Council; and
- iii. deferred liabilities.

(4) A Local Council may and if required by the Governor shall establish and maintain a separate fund for any special purpose to which one or more sources of revenue mentioned in sub-article (2) or any part of these sources or any specified portion of the Local Fund may be assigned and which shall be administered and regulated in such manner as a Local Fund.

62. Custody and Operation of Local Fund and Public Account.-

(1) Monies credited to a Local Fund or a Public Account shall be kept in the State Bank, treasury, a post office or a bank in such manner as shall be specified by the Governor from time to time.

(2) The Local Fund shall be operated in manner provided in this regulation.

63. Charged expenditure.-(1) The following expenditure shall be compulsorily charged on the Local Fund, that is to say:

- (a) such sums as are required for repayment of loans;
- (b) any sum required to satisfy any judgment, decree or award against the Local Council by any Court or Tribunal;
- (c) such sums as the Local Council may be required by the Governor to contribute towards the maintenance of specified Group of Functionaries and the auditing of accounts; and
- (d) any expenditure declared by the Governor to be so charged.

(2) If any expenditure is a compulsory charge on the Local Fund and is not paid, the Governor may, by order, direct the person having the custody of the Local Fund to pay such amount, or so much thereof as may be possible from time to time, from the balance of the Local Fund.

64. Application of Funds.-(1) The money credited to a Local Fund shall be expended in accordance with the Budget approved by the Council.

(2) No Local Council shall transfer monies to another local council or to any higher level except by way of repayment of debts or for carrying out deposit works or as prescribed under this regulation.

(3) The application of Local Fund shall as provided by a council be subjected to budgetary constraints by ratio to be prescribed for development works and expenditure on prescribed establishment.

(4) Where a new Local Council is to take over during a financial year as a result of fresh elections, the outgoing Local Council shall not spend funds or make commitments for any expenditure, under any demand for grant or appropriation, in excess of eight percent per mensem of the budgeted funds for remainder of its term in office in that financial year.

65. Budget preparation.-(1) The annual budget for each Local Council shall contain estimates of:

- (a) grants-in-aid from the Governor;
- (b) amounts available in the respective Local Fund;
- (c) receipts for the next financial year; and
- (d) expenditure to be incurred during the next year.

(2) To facilitate budget preparation by Local Councils, the Governor may, before the beginning of each financial year, notify the probable grants, which may be credited to the Local Fund of a Local Council.

(3) No demand for a grant shall be made except on the recommendation of the Chairman.

(4) Conditional grants from public exchequer or other Local Council will be shown separately in the budget and will be governed by conditions provided therein.

(5) Before the commencement of a financial year each Local Council shall, for its Fund, prepare in the prescribed manner, a budget for that year.

66. Approval of Budget.-(1) Before the commencement of the next financial year, each Chairman shall, present the budget for consideration and approval of the Local Council.

(2) The budget of a Local Council shall be approved by simple majority of its total membership.

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

(4) In case budget is not approved by a Local Council before the commencement of the financial year to which it relates, the Governor shall cause its preparation and approve and authenticate budget for the Local Council.

(5) A Local Council shall not be empowered to approve a budget if the sums required to meet estimated expenditures exceed the estimated receipts.

(6) The Chairman shall authenticate by his signature a Schedule specifying the:

- (a) grants made or deemed to have been made by the Local Council; and

(b) the several sums required to meet the expenditure charged upon the Local Fund.

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

(8) The Schedule so authenticated shall be communicated to the respective Accounts Officials and the Governor.

(9) At any time before the expiry of the financial year to which budget relates, a revised budget for the year may, if necessary, be prepared and placed before the council, and such revised budget shall, so far as may be, be subject to the provisions of this article

67. Accounts.-(1) The following arrangement for maintaining of accounts in Local Councils shall be followed, namely:-

(a) The accounts of all receipts and expenditure of a Local Council shall be kept in the manner and form prescribed by the Governor.

(b) an annual statement of the accounts shall be prepared after the close of every financial year and shall be submitted to the Governor by fifteenth day of July; and

(c) a copy of the annual statement of accounts shall be displayed at a conspicuous place in the office of the Local Council concerned for public inspection, and all objections or suggestions concerning such accounts received from the public shall be considered by the Local Council and brought to the notice of the Authority to be specified for annual or special audit.

68. Audit.-(1) The Governor shall by notification assign pre-audit function to an agency, as he may deem fit.

(2) The Governor may direct the Director Local Local Govt and Rural development to conduct special audit of any municipal committee and submit the report before him.

69. Local Council not to Incur debt.-(1) No Local Council shall incur any debt.

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

Government or a Provincial Government.

CHAPTER -VII- LOCAL COUNCIL PROPERTY

70. Ownership of property.-(1) Subject to any conditions imposed by the Governor, the property specified hereunder shall vest in the respective Local Council if it is-

- (a) vested in a Local Council through succession;
- (b) transferred to the Local Council by the Governor or any other authority, organisation or an individual; and
- (c) constructed or acquired by a Local Council with its title.

(2) The public properties in possession of the existing local governments shall pass on to their successors as provided in this Regulation unless otherwise directed by the Governor.

71. Transfer of property by the Governor.- The Governor may, on his own accord or on a request by a Local Council, transfer the management of any other public property to it for administration as a trustee.

72. Stock taking by the Chairman- (1) Every Chairman shall, on assumption of his office and thereafter, once in every year on a date fixed by him, take the physical stock of movable and immovable properties of the Local Council and submit a report to the Local Council.

(2) The report referred to in sub-article (1) shall contain-

- (a) particulars of the properties held during the preceding year;
- (b) total value of the property and annual return therefrom;
- (c) particulars of unserviceable articles and losses if any; and
- (d) plans for utilization, development and improvement during the following year.

73. Use and disposal of properties of Local Council.---(1) Properties of Local Council shall be used only for public purposes.

(2) Immovable properties of Local Council shall not be sold or permanently alienated:

Provided that such properties may be given on lease through competitive bidding in public auction for a period not exceeding five years at a time.

Provided further that no such property under or near a fly-over bridge shall be leased or otherwise given to any person for private, commercial or non-commercial use, and any order, licence, permission, tehbazari ticket, handcart passes or certificate issued by any authority at any time in this respect shall stand withdrawn and shall be deemed cancelled.

(3) The movable property of a Local Council which is required to be disposed of and all articles declared unserviceable shall be sold through competitive bidding in public auction.

74. Personal Responsibility with regard to loss and waste.-

(1) Every official or servant of a Local Council, every member of a Local Council, and every person charged with the administration and management of the property of a Local Council shall be personally responsible for any loss or waste, financial or otherwise, of any property belonging to a Local Council which is a direct consequence of decisions made by him personally or under his directions in violation of any provisions of this regulation or any other law for the time being in force or which accrues as a result of his negligence or misconduct, and shall be liable to pay such surcharge as may be determined by the Local Council.

(2) Any person aggrieved by the imposition of liability under sub-article (1) may prefer appeal to the Governor whose decision shall be final:

Provided that no order shall be passed in appeal, except after giving the aggrieved person an opportunity of being heard.

CHAPTER -VII- LOCAL COUNCIL TAXATION

75. Rating Areas and Property Tax.-(1) On commencement of this Regulation, every town shall be a rating area.

(2) The Municipal Committee shall determine the rate of property tax in its area:

Provided that in the areas within a City 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-article (2), the existing rates in the areas within a City shall remain in force.

76. Imposition, notification and enforcement of taxes.-(1) A Local Council subject to the provisions of any other law may, and if directed by the Governor shall, levy all or any of the taxes, cesses, fees, rates, rents, tolls, charge, surcharges and levies specified in the Second Schedule.

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

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

(4) Where a tax is levied or modified, the Local Council shall specify the date for the enforcement thereof, and such tax or the modification shall come into force on such date.

(5) The Governor shall have power to direct a local council to:

(a) levy any tax;

(b) increase or reduce any such tax or the assessment thereof; and

(c) suspend or abolish the levy of any tax.

77. Model Tax Schedule.- The Governor may cause Model Tax Schedules to be framed and when such Schedules have been framed a Local Council shall be guided by them in levying a tax, rate, toll or fee.

78. Collection and recovery of taxes, etc.-(1) Failure to pay any tax and other money claimable under this Regulation shall be an offence.

(2) The Governor may empower any Local Council to recover arrears of taxes or any other moneys claimable by the Local Council under this Regulation by distress and sale of the movable property belonging to the person concerned or by attachment and sale of the immovable property belonging to him.

(3) The Governor may, by rules, specify the officials or

classes of officials by whom the power under sub-article (2) shall be exercised and prescribe the manner in which it shall be exercised.

79. Liability on account of taxes.-(1) A Local Council may by notification, call upon any person to furnish such information, produce such record or accounts or to present such goods or animals liable to any tax as may be necessary for the purpose of determining the liability of such person, goods or animals to a tax.

(2) Any official of a Local Council authorized in this behalf, may after due notice, enter upon any building or premises for the purposes of assessing the liability of such building or premises to any tax, or inspecting any goods or animals therein liable to any tax.

(3) Any official of a Local Council authorized in this behalf may, in the prescribed manner, seize and dispose of any goods or animals on which any tax is due and is not paid.

80. Deduction of taxes from salaries.-If a Local Council levies a tax on professions, trades or callings, it may require the employer of the person liable to such tax to deduct the tax from the salary or wages payable to such person, and on such requisition the amount of the tax due shall be deducted from the salary or wages of the persons concerned and credited to the Local Fund of the Council.

81. Petitions against valuation, assessment, etc.-No assessment of a tax under this regulation or valuation therefore, or the liability of a person to be so taxed, shall be called in question except by a petition presented to such authority, in such manner and within such period as may be prescribed.

82. Taxation rules. - (1) All taxes and other charges levied by a Local Council shall be imposed, assessed, leased, compounded, administered and regulated in such manner as may be provided by rules.

(2) Rules framed under this article may, among other matters, provide for the obligation of the tax payer and the duties and powers of the officials and other agencies responsible for the assessment and collection of taxes.

**CHAPTER -IX- LOCAL COUNCILS FINANCE COMMITTEE
FOR FISCAL TRANSFERS AND
SUPERVISION OF LOCAL COUNCILS**

83. Constitution of Local Councils Finance Committee.-

(1) The Governor may constitute a committee to examine demand and apportion, on rational basis, share of each municipal committee from public funds, as well as from other sources.

(2) The committee shall submit its recommendations to the Governor for his approval.

84. Supervision of Local Councils.-(1) The Governor shall exercise general supervision, and control over the Local Councils in order to ensure that their activities conform to the provisions of this Regulation.

(2) In performance of their functions, the Local Councils shall not impede or prejudice the exercise of the executive authority of the Governor.

85. Inspections of Local Council.-(1) The working of the Local Councils shall be inspected at least once in each financial year by the inspecting officer or officers to be notified by the Governor.

(2) The Inspecting Officer shall have the power-

- (a) to enter upon, inspect and survey any immovable property occupied by a Local Council or any institution maintained by or any work in progress under the directions of Local Council;
- (b) to call for or inspect files, registers, books or documents in the possession or under the control of a Local Council;
- (c) to require the production of such statements, accounts, reports, documents and copies of documents relating to the proceedings of a Local Council as he may think fit;
- (d) to observe meetings of Local Council; and
- (e) to inquire generally into the affairs of a Local Council.

86. Inspection reports and action thereon.-(1) The inspection reports shall be prepared in such form as may be specified by the Governor and the inspection reports so prepared shall be forwarded to the Local Council concerned within thirty days of

the completion of inspection.

(2) As soon as may be, the inspection reports prepared under sub-article (1) shall be placed before a meeting of the Local Council for information and compliance.

(3) The Chairman shall take such action on the inspection report as may be required.

(4) Within thirty days of the receipt of an inspection report, Local Council shall annotate the inspection report and forward it to the Inspection Officer who may issue such further directions and advice to the Local Council as may be necessary.

(5) If there is any dispute or difference of opinion between the Inspecting Officer and the Local Council, such dispute or matter shall be decided by the Governor.

87. Suspension of orders and resolutions.-Where in the opinion of the Governor anything done or intended to be done by or on behalf of a Local Council is not in conformity with law, the Governor for reasons to be recorded, may-

- (a) quash the proceedings;
- (b) suspend the execution of any resolution passed or order made by the Local Council;
- (c) prohibit the doing of anything proposed to be done; and
- (d) require the Local Council to take such action as may be specified.

88. Power to give directions.-(1) The Governor may direct any Local Council or any person or authority responsible thereto to take within such period as may be specified such action as may be necessary for carrying out the purposes of this Regulation.

(2) Whereafter due enquiry, The Governor is satisfied that a Local Council or person or authority has failed to comply with any direction made under sub-article (1), he may appoint a person or persons to give effect to such directions and may further direct that the expenses incurred in connection therewith shall be borne by the Local Council.

(3) Should the expenses be not so paid, the Governor may make an order directing the person having the custody of the

balance of the Local Fund of the Local Council to pay the expenses or so much thereof as may, from time to time, be possible.

89. Inquiries.-(1) The Governor may, for reasons to be recorded and communicated to the concerned Chairman cause an inquiry to be made by such person as may be authorized by him in this behalf, into the affairs of a Local Council, generally or into any particular matter concerning a Local Council and take such remedial measures as may be warranted by the findings of such inquiry.

(2) Such person shall, for the purposes of the inquiry, have the powers of a court under the Code of Civil Procedure, 1908 (Act V of 1908), to take evidence and to compel the attendance of witnesses and the production of documents.

90. Suspension and dissolution.-(1) If, the Governor has reasons to believe that a Local Council-

- (a) is unable to discharge or, is persistently failing to discharge its duties; or
- (b) is unable to administer its affairs or meet its financial obligations; or
- (c) Generally acts in a manner contrary to public interest; or
- (d) Otherwise exceeds or abuses its powers,

he may refer the matter to a committee comprising three MNAs and Senators from Federally Administered Tribal Areas and two officers working under him to examine the issue in detail. The committee shall, at its earliest, report to the Governor whether a prima facie case for suspension is made out or not. Upon consideration of the report of the committee, the Governor may through a notification, suspend a Local Council.

(2) On the publication of a notification under sub-article (1),-

- (a) persons holding offices as Chairman and members of a Local Council shall cease to hold offices;
- (b) all functions of the Local Council shall, during the period of suspension, be performed by such person or authority as the Governor may appoint in this behalf; and

(3) The Governor shall hold or cause to be held an inquiry into charges on which a Local Council is suspended and if, within a period of two months, from the date of the suspension of the Local Council, the inquiry is not completed, the Local Council shall stand revived.

(4) If, as a result of the inquiry, the charges against the Local Council are proved, the Governor may dissolve the Local Council.

(5) When a Local Council is dissolved-

(a) The Governor shall order fresh elections, for the remaining term of the dissolved local council, if the remaining term of the Local Council is not less than six months; and

(b) If the remaining term of its office is less than six months, the person or authority referred to in sub-article (2) shall continue to perform the functions of the Local Council and its funds shall continue to vest in the Governor till the reconstituted Local Council assumes office.

CHAPTER -X- OFFENCES AND PENALTIES AND ENFORCEMENT

91. Offences.- The Governor shall notify rules providing for offences, prosecution and punishment for municipal offences and shall specify, in respect of each municipal committee, officers working under him to try and punish offenders.

92. Enforcement: A council may whenever the occasion calls for ask the respective political administration for assistance for enforcement of its lawful orders and the political administration shall be bound to aid and assist accordingly.

CHAPTER -XI- MISCELLANEOUS

93. Appeals.-(1) Any person aggrieved by any order passed by a Local Council or its Chairman under this Regulation or the rules or bye-laws, may appeal to such authority, in such manner and within such period as may be prescribed.

(2) Any order passed in appeal shall be final:

Provided that no order shall be passed in appeal, except after giving the aggrieved person an opportunity of being heard.

94. Power to make rules.-(1) The Governor may make rules for carrying out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters specifically required to be provided under this Regulation, and all matters incidental, consequential and supplemental thereto.

95. Bye-laws.-(1) A Local Council may, and if required by the Governor shall, make bye-laws not inconsistent with this regulation and the rules made there-under to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such bye-laws may provide for all or any of the matters specifically required to be provided by bye-laws under this regulation, and the matters incidental, consequential and supplemental thereto.

96. General provisions relating to bye-laws, etc.-(1) All bye-laws shall be made subject to the condition of previous publication.

(2) All bye-laws made by any Local Council shall be subject to the sanction of the Governor and the Governor may sanction such bye-laws subject to modifications.

(3) The Governor may cause model bye-laws to be framed and in framing their bye-laws the Local Councils shall be guided by such approved models.

(4) All rules shall be notified in the Official Gazette, and all bye-laws shall be published in such manner as in the opinion of the authority making them be best adopted for information of the residents of the Local Area concerned.

(5) Copies of rules and of bye-laws pertaining to a Local Council shall be kept available at the office of the Local Council for inspection and sale.

(6) All rules and bye-laws when duly made shall be deemed to form part of this Regulation and shall have effect accordingly.

97. Delegation of powers.-(1) The Governor may, by notification, delegate any of his powers under this regulation or the rules to any officer subordinate to it.

(2) A Chairman may, with the previous sanction of the Local Council concerned, delegate all or any of his powers under this regulation or the rules or bye-laws, not being powers delegated to him under sub-article (2), to any member of the Local Council, or any of its officers.

(4) Notwithstanding anything to the contrary contained in this Regulation, or any delegation made under this article, whenever the Chairman of a Local Council, for any reason, is out of station, or is on leave for a period of more than ten days, or when a vote of no-confidence has been passed against a Chairman and the office is vacant, then the Vice-Chairman shall exercise all the executive powers and perform all the functions of the Chairman during the period of his absence, or as the case may be during the period till a new Chairman is elected.

98. Transfer of function.- Notwithstanding anything contained in this Regulation or in any other law, the Governor may, from time to time, direct that subject to such terms and conditions, as may be specified in the direction.

- (a) any institution or service maintained by a Local Council shall be transferred to the management and control of the Governor; or
- (b) any institution or service maintained by any agency, office, or department shall be transferred to the management and control of a Local Council:

Provided that no direction regarding the transfer of any institution or service from a Local Council to the Governor or vice versa shall be given without the consent of the Local Council.

99. Licenses and sanctions.-(1) Wherever it is provided in this regulation or the rules or bye-laws that the permission or sanction of a Local Council shall be necessary to the doing of any act, such permission or sanction shall be in writing.

(2) Every license sanctioned or permission granted by or under the authority of a Local Council shall be signed by the Chairman, or by such Officer of the Local Council, as may be authorized in this behalf by rules or bye-laws.

100. Notice and service thereof.-(1) Where anything is required to be done by any person under this Regulation or the rules or bye-laws, a notice shall be served on the person concerned specifying the time within which the requirement shall be complied with.

(2) No notice shall be invalid for defect of form.

(3) Every notice shall, unless otherwise provided, be served or presented by giving or tendering the notice or sending it by post to the person for whom it is intended or by affixing it on some conspicuous part of his abode or place of business.

(4) A notice intended for the public in general shall be deemed to have been sufficiently served if a copy thereof is affixed in such public place as may be determined by the Local Council.

101. Records to be public documents.- All records prepared or registers maintained under this regulation shall be deemed to be public documents within the meaning of the Qanun-e-Shahadat Order, 1984.

102. Members and servants of Local Councils to be public servants.- Every member and every servant of a Local Council, and every other person duly empowered to act on behalf of a Local Council, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (XLV of 1860).

103. Bar against employment.- A Chairman or a member of a Local Council shall not be employed under such Local Council for a period of one year from the date on which he ceases to be a Chairman or member, as the case may be.

104. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against the Governor or any Local Council or against any person authorized by either, for anything done in good faith or intended to be

done under this regulation or for any damage caused or likely to be caused by any such thing.

105. Certain matters to be prescribed.- Where this Regulation makes any provision for anything to be done but no provision or not sufficient provision has been made as respects the authority by whom, or the manner in which it shall be done, then it shall be done by such authority and in such manner as may be prescribed.

CHAPTER -XII TRANSITIONAL PROVISIONS

106. Interim authorities.- In any area within the jurisdiction of a Local Government, in which the provisions of this regulation are brought into force but a Local Council is not constituted or a Local Council constituted under this regulation has been dissolved, then notwithstanding anything contained in this Regulation, the Governor may, by order empower a person or persons to perform all or any of the functions of such Local Council as had jurisdiction therein immediately before such enforcement or dissolution, as the case may be, or such functions of a Local Council under this regulation as may be specified in the order, until a Local Council for the area assumes office in accordance with the provisions of this regulation.

107. Interim maintenance of institutions.- Where on the enforcement of this Regulation in any area, any service undertaken or institution maintained by a department, office, or agency is required under any of the provisions of this regulation to be compulsorily undertaken or maintained by a Local Council, such service or institution shall, notwithstanding anything contained in this regulation, continue to be undertaken or maintained by such department, office or agency until the management thereof is duly transferred to the Local Council.

108. Interim budget.- Where a Local Council assumes office under this Regulation for the first time, its budget for the financial year during which it assumes office shall relate to the remaining period of that year and the provisions regarding budget under this regulation shall mutatis mutandis apply to such a budget.

109. Continuation of functions of certain authorities and officers.- Notwithstanding anything contained in this regulation, all authorities and all officers who immediately

before the enforcement of this Regulation were performing municipal functions shall continue to exercise their respective functions till the Local Councils are constituted under this regulation .

110. Removal of difficulty.- The Governor may, by order, provide for the removal of any difficulty which may arise in giving effect to the provisions of this Regulation.

THE FIRST SCHEDULE
DANGEROUS AND OFFENSIVE ARTICLES AND TRADES
(See Article 59(F) XVII)

1. The business of storing or selling timber, firewood, coal, charcoal and coke, hay, straw, grass and bamboo, jute, shrub, hemp, munj and their products, matches, explosives, petrol, oil and lubricants, paper, ghee and other dangerously inflammable materials.
2. Sugar refining and sugar refineries.
3. preparation of aerated water.
4. Operating or running bake houses.
5. Electroplating.
6. Welding.
7. Storing, packing, pressing, cleaning, preparing or manufacturing by any process whatever blasting powder, ammunition, fireworks, gun powder, sulphar, mercury, gases, gun cotton, saltpeter, nitrocompounds, nitromixtures, phosphercus or dynamite.
8. Cleaning, dying, preparing or manufacturing by any process whatever clothes or yarn in indigo and other colours.
- 9 Storing, processing, cleanings, crushing, melting, preparing or manufacturing by any process whatever or dealing in bones, tallow, offal, fat blood, soap, raw hides and skins candles, manure, catgut and oil cloth.
10. Manufacturing oils.
11. Washing or drying wool or hair.

12. Making or manufacturing bricks, 'Surkhi', tiles, or earthenware potsclay pipes or other earthenware by any process of baking or burning.
13. Burning or grinding of limestone or metal stone or storing of lime for sale.
14. Cleaning or grinding of grain or chilies by any kind or class or machinery.
15. Keeping animals likely to create nuisance.
16. Fell mongering.
17. Casting of heavy metals such as iron, lead, copper and brass.
18. Dealing in chemicals, liquid or otherwise.
19. Whole-sale storing cleaning, pounding and selling of tobacco except the storing of tobacco required for the preparation of biddhis, cigars or cigarettes.
20. Operating or running tin factories.
21. Manufacture of safes, trunks and boxes.
22. Marble cutting and polishing.
23. Glass leveling and polishing.
24. Manufacture of cement and pipes.
25. Storing, packing, pressing, cleaning, preparing or manufacturing by any process whatever, rags, pitch, tar, turpentine, demmar, coconut, fibre, flax, hemp, rosin or spirit.
26. Tanning, pressing or packing hides or skins whether raw or dry.
27. Working of power-looms, rice husking plants, steam whistle, steam trumpet or electric or hand operated sirens beyond hours fixed for their operation by a Local Council.

28. Discharging fire-arms and letting off fire-works. fire-balloons or detonators, or any game dangerous to life, dwelling and other property.
29. Any other article or trade declared by the Governor to be dangerous to life, health or property or likely to cause nuisance either from its nature or any reason of the manner in which or the conditions under which, the same may be processed or carried on.

THE Schedule
Taxes leviable by Local Councils

Municipal Committees
(Article 76)

- (1) Tax on the annual rental value of buildings and land;
- (2) Tax on cinemas and cinema tickets;
- (3) Entertainment tax on dramatical and theatrical shows;
- (4) Tax on the transfer of improvable property;
- (5) Water rate;
- (6) Drainage rate;
- (7) Conservancy rate;
- (8) Tax on all kinds of vehicles;
- (9) Lighting rate;
- (10) Fee for the erection and re-erection of buildings;
- (11) Marriage tax;
- (12) Fee for the licenses, sanctions and permits granted by a Municipal Committee;
- (13) Fees on the slaughter of animals;
- (14) Tax on professions, trade, callings and employment;
- (15) Market fees;
- (16) Fee on advertisement and billboards, other than on radio, print media and television;

- (17) Tax on feasts when more than twenty persons, not belonging to the household of the persons arranging the feast are entertained with food stuffs;
- (18) Tax on animals and sale of animals;
- (19) Toll tax on roads and bridges maintained by a Municipal Committee;
- (20) Fees at fairs, agricultural shows, industrial exhibitions, tournaments and other public gathering;
- (21) Fees for specific services rendered by a Municipal Committee;
- (22) Tax for the construction or maintenance of any work of public utility;
- (23) Parking fees; and
- (24) Any other tax authorized by the Governor.
- (25) Fees for birth registration.