



KHYBER PAKHTUNKHWA

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GOVERNMENT OF THE KHYBER PAKHTUNKHWA ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION AND WOMEN EMPOWERMENT DEPARTMENT.

NOTIFICATION

Peshawar, dated the 14.06.2017.

No.S0(E&A)/Working Group/1-111/Vol-II. In exercise of the powers conferred by section 25 of the Khyber Pakhtunkhwa Zakat and Ushr Act, 2011 (Khyber Pakhtunkhwa Act No. XVII of 2011), the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:-

THE KHYBER PAKHTUNKHWA ZAKAT AND USHER RULES, 2017

1. **Short title and commencement...**(1) These rules may be called the Khyber Pakhtunkhwa Zakat and Usher Rules, 2017.

(2) These shall come into force at once.

2. **Definitions...** (1) In these rules unless there is anything repugnant in the subject or context,--

- (a) **"Act"** means the Khyber Pakhtunkhwa Zakat and Ushr Act, 2011 (Khyber Pakhtunkhwa Act No. XVII of 2011);
- (b) **"Chairman"** means the Chairman of the Khyber Pakhtunkhwa Provincial Zakat and Usher Council or Chairmen District Zakat and Usher Committee or Chairmen Local Zakat and Usher Committee, as the case may be and also includes the person acting as such during the Chairman's absence;
- (c) **"Council"** means the Khyber Pakhtunkhwa Provincial Zakat and Usher Council established under section 12 of the Act;
- (d) **"member"** means a member of the Council or District Committee or Local Committee, as the case may be;
- (e) **"appointed place"** means the place or venue fixed by the District Committee for the election or selection of Chairman or members of a Local Committee, respectively or for processing of no confidence application;
- (f) **"appointed time"** means the date and time fixed by the District Committee for election or selection of Chairman or members of a Local Committee, respectively; and

(g) "team" means a team constituted under sub-section (4) of section 15 of the Act.

(2) Words or expressions used in these rules, but not defined, shall have the same meaning as assigned to them under the Act.

3. Proceedings of Council or District Committee or Local Committee ... (1) The proceedings of the Council or District Committee or Local Committee, as the case may be, shall be in Urdu and with the permission of the Chairman, in English.

(2) There shall be at least one meeting in case of the Council during each period of three months and in case of District Committee or Local Committee during a period of two months and one month respectively.

(3) The Chairman shall convene meeting of the Council or District Committee or Local Committee as the case may be. However, Chairman may call meeting on three (03) days prior notice at any time in case of emergency:

Provided that the service of the said notice be ensured by all means.

(4) The venue of the meeting shall ordinarily be at the seat of the Council or District Committee or Local Committee, as the case may be, unless otherwise decided by the Council or District Committee or Local Committee or the Chairman, shall in consultation with the Council or District Committee or Local Committee, as the case may be:

Provided that four members, including at least one non-official member shall constitute quorum for an emergent meeting of the Council and three members in case of District Committee or Local Committee, as the case may be.

(5) The decision of the Council or District Committee or Local Committee, as the case may be, shall be expressed in term of the opinion of the majority of the members present and voting at a meeting and, in case of equality of votes, the Chairman shall have a second vote.

(6) A member shall, if so required by the Chairman, give his views in writing.

(7) A meeting shall not be adjourned except for lack of quorum or for any other sufficient cause to be recorded by the Chairman in writing.

(8) A meeting may be postponed by the Chairman either on his own motion or at the request of the majority of the members or for any other reasons to be recorded.

(9) If the Chairman or a member is unable to attend a meeting, he shall duly inform the Council or District Committee or Local Committee, as the case may be, regarding his inability to attend.

4. Record of the minutes... (1) The minutes of the meetings shall be recorded and preserved in an appropriate manner copy of the minutes of a meeting shall be sent to all the members, whether present in the meeting or not, as soon as possible after the meeting.

(2) The minutes of a meeting approved by the Chairman shall be circulated to all concerned and thereafter shall be confirmed, subject to any change as may be proposed and accepted, and signed by the Chairman in the next meeting.

5. **Delimitation of localities.** The District Committee shall delimit clearly and unambiguously the localities of Local Committee in the district. Any person aggrieved by delimitation of locality shall have right of appeal to the Council within thirty (30) days and its decision shall be final.

6. **Appeal against the selection or the election proceedings for the constitution of a Local Committee...** (1) Any adult Muslim resident of a locality, who is aggrieved by the conduct or the result of the proceedings for the election or selection of the Chairman or members respectively of the Local Committee concerned, may within fifteen (15) days of the holding of the selection or the election proceedings, as the case may be, prefer an appeal to the District Committee.

(2) The District Committee shall after issuing notice to the parties concerned hear and decide the appeal within thirty (30) days.

(3) That the decision of the District Committee on such an appeal shall be final and shall not be called in question before any Court or other authority.

7. **Vote of No-Confidence against the Chairman and members...** (1) The District Committee may initiate proceedings if the District Committee—

- (a) receives a petition signed by not less than one half of the total number of members of the Local Committee concerned saying that the members of the Local Committee no longer have confidence in their Chairman; or
- (b) receives a petition signed by not less than two hundred persons saying that the adult Muslims residents of the locality no longer have confidence in a member of the Local Committee selected by them; or
- (c) on information received from some other source, or in its own information is of the opinion that the members of a Local Committee or the adult Muslim residents of a locality do not have or may no longer be having confidence in its Chairman, or a selected member of the Local Committee, as the case may be.

(2) The District Committee may appoint a team to hold a detailed enquiry into the matter. The team shall submit its report to the District Committee within fifteen days.

(3) If the District Committee is of the opinion that there are reasonable grounds to believe that the members of the Local Committee no longer have confidence in their Chairman, or the adult Muslim residents of the locality no longer have confidence in a member selected by them, the District Committee shall convene a special meeting of the Local Committee or arrange for the gathering of the persons, as the case may be, at the appointed time and place:

Provided that when such a special meeting of the Local Committee is convened at a place other than the seat of the Local Committee or a gathering is arranged outside the local limits of the locality, the District Committee shall record reasons for doing so.

(4) The notice of the special meeting of the Local Committee shall be sent to the Chairman and members of the Local Committee at least seven days before the holding of the meeting. The notice for the gathering shall be so publicized in the locality that the persons get at least seven days notice and a copy thereof shall be sent to the Chairman or member of the Local Committee against whom the motion is to be moved.

(5) The District Committee shall nominate one of its member to preside over the special meeting of the Local Committee. The District Committee shall appoint a team to conduct the proceedings at the gathering.

(6) At the special meeting, the presiding officer shall call upon the members present to move motion of no-confidence against the Chairman of the Local Committee. The motion may be moved by a member and seconded by another member. If the motion is not seconded by any other member, it shall be declared by the presiding officer to have failed. If the motion is seconded by another member, it shall open to consideration by the members and any member may speak for or against the motion:

Provided that no member shall speak on the motion more than once and the presiding officer may limit the time for speaking of a member.

(7) The Chairman or the member of the Local Committee, as the case may be, against whom the motion is moved, shall have a right to offer personal explanation, if any; and if for any reason does not or is unable to attend the meeting, be entitled to send a written explanation which shall be read out at the meeting before the vote is taken on the motion.

(8) When in the opinion of the presiding officer, the motion of no-confidence has been sufficiently discussed, he shall call upon the members of the Local Committee present at the meeting to give their votes for or against the motion, by raising of the hands.

(9) If the number of votes supporting the motion for no-confidence is not less than two-third of the total number of members constituting the Local Committee, the presiding officer shall declare that the motion has been passed. If the motion is not supported by the above number of members, the presiding officer shall declare it to have failed. The declaration made by the presiding officer shall be final.

(10) The team shall call upon the persons present in the gathering, not less than two hundred (200) adult Muslims residents of the locality, to move a motion of no-confidence against the member concerned.

(11) The motion may be moved by any person and seconded by another person. If the motion is not seconded by any other person it shall be declared by the team to have failed.

(12) If the motion is seconded by another person, the team may allow an equal number of persons to speak for and against the motion but that number shall not exceed five from each side:

Provided that no person shall speak on the motion more than once and the team may limit the time for speaking of a person.

(13) If the team finds, by whatever means it finds feasible and appropriate, e.g. by raising of the hands, that not less than two-third of the persons present are in favor of the motion, it shall declare the motion to have been passed. If the team finds that the above members of persons are not in favor of the motion, the team shall declare the motion to have failed. The declaration made by the team shall be final.

(14) The Chairman or the member of the Local Committee, as the case may be, against whom a vote of no-confidence is declared to have been passed shall be deemed to have vacated his office forthwith.

(15) No proceedings in Special meeting or in the gathering shall be invalid because of the absence of the Chairman or member of the Local Committee, as the case may be.

(16) As soon, after the special meeting of the Local Committee or the proceedings in the gathering, as possible, the presiding officer or the team, as the case may be, shall send a report to the District Committee.

(17) In the report shall be given a brief account of the proceedings indicating the procedure adopted by the presiding officer or the team, the name of the member who proposed the motion and of the member or person who seconded it. The gist of the speeches made by various members or persons will also be given. In case the Chairman or the member of the Local Committee against whom the motion has been moved has sent his written explanation, it shall be attached with the report in original or its attested copies. The number of the votes of the members for and against the motion will also be mentioned. Approximate number of the persons present in the gathering, the number of the persons who voted for determine the number of the persons for the above purpose will also be indicated. The result of the proceedings will be clearly indicated.

(18) The report shall be signed by the presiding officer or all the members of the team as the case may be, and shall be delivered to the District Committee, at the earliest.

8. Budget and account of the District Council and Local Committee... (1) The accounts of the Provincial Zakat Fund will be maintained in the State Bank of Pakistan Peshawar under the head of the Khyber Pakhtunkhwa Provincial Account No. 3-Provincial Zakat Fund in case of Council and in State Bank of Pakistan or National Bank of Pakistan or any other Branch of the Bank or post office in case of District Committee and Local Committee.

(2) All financial transactions represented by receipt and payments shall be accounted for immediately whenever these occur. A receipt and payment accounts of the Provincial Zakat Fund shall be prepared on monthly and annual basis by the State Bank of Pakistan.

(3) The account of the Provincial Zakat Fund will also be maintained by the Provincial Zakat Administration for the purposes of day to day reference and as a cross cheque on the account maintained by the State Bank of Pakistan.

(4) All payments authorized by the Provincial Zakat Administration, shall be debited to the Khyber Pakhtunkhwa Provincial Account No.3-Provincial Zakat Fund. The Account shall not be debited without the written authorization of the Provincial Zakat Administration.

(5) The drawing on the Provincial Zakat Fund Account shall be restricted to the extent of the credit balance available in the Account irrespective of the fact whether Government overall balance with the State Bank of Pakistan is in plus or minus.

(6) The Account shall be operated through cheques drawn on the State Bank of Pakistan to be signed jointly by any two of the following officers of the Provincial Zakat Administration:

- (i) Chief Administrator Zakat;
- (ii) Administrator Zakat or Deputy Secretary Zakat;
- (iii) any Section Officers;
- (iv) the Chairman District Committee and District Zakat Officer Jointly in case of District Committee; and
- (v) the Chairman or Vice Chairman Jointly in case of Local Committee.

(7) No drawing on the Account will be made by the officers designated and authorized to operate the Account unless the Council has approved the transfer or payment of such amounts or District Committee or District Officer had approved the transfer or payments, as the case may be.

(8) If a cheque is issued but not encashed within three months of the date of issue, its cancellation at the expiry of that period shall be deemed to be automatic and a new cheque issued in lieu thereof, if still required.

(9) A simple cash book shall be maintained for receipt payment and disbursement of Zakat Fund at Provincial, District and Local level and by all recipients of Zakat Fund. Each receipt or payment shown in the cash book shall be entered according to their date of happening, supported by documents and showing the head of payment or receipt. The following books and registers shall also be maintained at each level:-

(a) Local Zakat Committee.

- (i) Register of Mustahiqeen;
- (ii) Register for Payment to Mustahiqeen; and
- (iii) Minutes Book.

(b) District Zakat Committee.

- (i) Zakat Disbursement Register;
- (ii) Minutes Book; and
- (iii) Ushr Receipt Register.

(a) Such other registers and books as may from time to time the Government, may deem necessary.

(10) Amounts if require deposits, shall be deposited in the State Bank of Pakistan or National Bank of Pakistan or Post office or any other branch of the Bank through vouchers which are in practice at the time and are kept in the record.

(11) Each receipt recorded in the cash book will be supported by vouchers etc.

(12) Transfers of funds from Local Zakat Fund or District Zakat Fund to Provincial Zakat Fund shall be made through crossed cheques or through authority of the operators of the accounts at Local Zakat Fund or District Zakat Fund.

(13) There shall be the following six major heads of disbursement from the Provincial Zakat Fund:

- (i) district Zakat Fund (Transfers to Districts Fund for the purposes mentioned therein);
- (ii) transfers of Local Zakat Funds; (Transfers to Local Fund for the purposes mentioned therein);
- (iii) assistance through Deeni Madaris;
- (iv) assistance through vocational educational institutions;
- (v) assistance through health institutions; and
- (vi) others payments.

(14) At the end of each month, the entries recorded in the register maintained in the Provincial Zakat Administration Local Zakat Fund or District Zakat Fund or any Zakat recipient institution will be compared with the figures reported by the State Bank of Pakistan, NBP through monthly statement. The accounts of the Provincial Zakat Fund shall be reconciled on monthly basis. In case of discrepancy, the details supplied, will be checked and reconciled with those available in the record of the Provincial Zakat Administration. If any discrepancy persists, it shall be settled by referring the matter to the concerned institution.

9. Repeal... The Khyber Pakhtunkhwa Local and Tehsil Zakat and Ushr Committees (Constitution) Rules, 1979, The Khyber Pakhtunkhwa District, Tehsil/sub-divisional and Local Committees Zakat and Ushr Committees (Procedure) Rules, 1980 and the Khyber Pakhtunkhwa Zakat and Local Ushr Committees Chairman and Members (Vote of No Confidence) Rules, 1981, are hereby repealed.

**SECRETARY TO
GOVERNMENT OF THE KHYBER PAKHTUNKHWA,
ZAKAT, USHR, SOCIAL WELFARE, SPECIAL EDUCATION
AND WOMEN EMPOWERMENT DEPARTMENT.**