

THE BALOCHISTAN LOCAL GOVERNMENT ORDINANCE, 2001

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**AN
ORDINANCE**

to establish, reconstruct and regulate the local governments in the Province of Balochistan.

WHEREAS it is expedient to devolve political power and decentralize administrative and financial authority to accountable local governments for good governance, effective delivery of services and transparent decision making through institutionalized participation of the people at grass-roots level;

AND WHEREAS the Provincial Assembly of Balochistan is dissolved, and the Governor is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of Article 4 of the Provisional Constitution (Amendment) Order, 1999 (Chief Executive's Order No. 9 of 1999), and in exercise of all powers enabling him in that behalf, the Governor of Balochistan is pleased to make and promulgate the following Ordinance: -

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.-(1) This Ordinance may be called the Balochistan Local Government Ordinance, 2001.

(2) It extends to the whole of the Province of Balochistan other than the areas notified as cantonments under the Cantonments Act, 1924 (II of 1924), ¹[or the Cantonments Ordinance, 2002 (CXXXVIII of 2002)] in relation to the matters covered ²[thereunder] the said Act.

(3) It shall come into force on the fourteenth day of August, 2001, except the provisions as contained in section 39 (k), Chapter XVII and section 196 (1) (b) of Chapter XIX which shall come into force on such date or dates as the Government may, by notification in the official Gazette, appoint ³[.]

⁴[*** *** ***]

1 Inserted vide the Balochistan Local Government (Second Amendment) Act, 2005.

2 The words "under the said Act" substituted vide ibid.

3 The "colon" substituted vide ibid.

4 The proviso "Provided that the provisions as contained in Chapter XII shall applicable only for the financial year 2001-2002" omitted vide ibid.

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

- (i) 'body corporate' means a body having perpetual succession and a common seal, with power to acquire and hold movable and immovable property, and transfer any property held by it, and enter into any contract and may sue and be sued in its name;
- (ii) 'budget' means an official statement of income and expenditure 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 wall, well, veranda, platform, plinth, ramp 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 the bye-laws made under this Ordinance;
- (vi) 'Council' means a Zila Council, Tehsil Council, Town Council, Union Council, Village Council and Neighborhood Council;
- (vii) 'Decentralize' or 'decentralized' means conferment by the Government under this Ordinance of its administrative and financial authority for the ¹[operation, functioning and] management of specified offices of the Provincial Government to the local governments;
- (viii) 'Dependent' means wholly or partially dependent parents, spouse, guardians, children, step and adopted children;
- (ix) 'disaster' includes famine, flood, cyclone, fire, earthquake, drought, and ²[damage] caused by force majeure;
- (x) 'district' means a district notified under the Balochistan Land Revenue Act, 1967 (W.P. XVII of 1967), and includes a largely urban district or districts declared to be City District under this Ordinance;

1 Inserted vide the Balochistan Local Government (Amendment) Ordinance, 2002.

2 The word "damages" substituted vide ibid.

- (xi) 'drain' includes a sewer, a house drain or a drain of any other description, used for carrying sullage or rain water;
- (xii) ¹[*** **]
- (xiii) 'Government' means the Government of the Balochistan;
- (xiv) 'land' includes vacant land or on which any structure has been raised or is being raised or is covered with water or is under cultivation or is fallow or is barren and, in relation to a town improvement scheme, includes land as defined in clause (a) of section 3 of the Land Acquisition Act, 1894 (IV of 1894);
- (xv) 'local area' means an area specified in Chapter II;
- (xvi) 'local government' includes-
 - (a) a District Government or a City District Government and Zila Council;
 - (b) a Tehsil Municipal Administration and Tehsil Council;
 - (c) a Town Municipal Administration and Town Council; and
 - (d) a Union Administration and Union Council;
- ²[(xvii) 'mal-administration' means and includes –
 - (a) an act of omission or commission, a decision, process or recommendation which:
 - (i) is contrary to the law, rules or regulations or is a departure from established practice or procedure; or
 - (ii) arbitrary, biased, discriminatory, oppressive, perverse, unjust, or unreasonable; or
 - (iii) is based on irrelevant grounds; or

1 Clause (xii) 'elector' means a person whose name appears on the electoral rolls prepared under the Balochistan Local Government (Election) Ordinance, 2000 (VI of 2000); omitted vide the Balochistan Local Government (Second Amendment) Act, 2005.

2 Clause "(xvii) 'mal-administration' means: -

- (a) a decision, process, recommendation, act of omission or commission which is-
 - (i) contrary to the law, rules or regulations or is a departure from established practice or procedure; or
 - (ii) perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
 - (iii) based on irrelevant grounds,
- (b) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities or delivery of civic and municipal services under this Ordinance or any other law for the time being in force;" substituted vide the Balochistan Local Government (Amendment) Ordinance, 2002.

- (iv) involves the exercise of powers or the failures or refusal to do so, for corrupt or improper motives, such as administrative excess, bribery, favoritism, jobbery and nepotism;
- (b) delay, inaction, incompetence, inefficiency and ineptitude or neglect in the administration or discharge of duties and responsibilities; or
- (c) repeated notices, prolonged hearings or unnecessary attendance while deciding cases; or
- (d) 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.]]
- (xviii) 'market' means a place notified as market under this Ordinance or any other law for the time being in force;
- (xix) 'member' means an elected member of a Council;
- (xx) '*mauza*' means a revenue estate declared under the Balochistan Land Revenue Act, 1967 (W.P.Act XVII of 1967);
- ¹[(xx-a) 'misconduct' means transgression of prescribed Code of Conduct or dereliction from duty or deliberate unlawful behaviour or violation of law or rules or lawful directions or orders of Government and includes-
 - (a) gross negligence in performance of duties with manifest wrongful intent or evil design;
 - (b) an act that results in wrongful gain to any person by wrongful application of law; or
 - (c) making or managing appointment, promotion or transfer of an officer or official in violation of law or rules or for extraneous consideration;]]
 - (xxi) 'municipal offences' means the offences specified in the ²[Fourth Schedule] or any other law for the time being in force;

¹ Inserted vide the Balochistan Local Government (Second Amendment) Act, 2005.

² The words "Fifth Schedule" substituted vide *ibid*.

- (xxii) 'municipal services' include, but not limited to intra-city or intra or inter-town or tehsil network of water supply, sanitation, conservancy, removal and disposal of sullage, refuse, garbage, sewer or storm water, solid or liquid waste, drainage, public toilets, express ways bridges, flyovers, 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 or rural infrastructure, environment and construction, maintenance or development thereof and enforcement of any law or rule relating thereto;
- (xxiii) 'Naib Nazim' means Naib Zila Nazim, Naib Tehsil Nazim, Naib Town Nazim, or, as the case may be, Naib Union Nazim;
- (xxiv) 'Nazim' denotes Zila Nazim, Tehsil Nazim, Town Nazim or, as the case may be, Union Nazim;
- (xxv) 'Neighbourhood' means a *Mohallah*, a group of streets, lanes or roads, designated by Tehsil Municipal Administration, Town Municipal Administration to be the Neighbourhood;
- (xxvi) 'peasant' means a person who is a landless farm worker or, one who during the period of five years preceding the year in which election is held, has been the owner of not more than five acres of land and depends directly on it for subsistence living;
- (xxvii) 'prescribed' means prescribed by rules made under this Ordinance;
- ¹[(xxvii-a) 'Provincial Director General Audit' means an officer of the Auditor General of Pakistan nominated for the purpose.]
- ²[(xxvii-b) ³'Provincial Allocable Amount' means monies declared as such for distribution among local governments in accordance with the provisions of this Ordinance;]

1 Added vide the Balochistan Local Government (Amendment) Ordinance, 2001.

2 Inserted vide the Balochistan Local Government (Amendment) Ordinance, 2002.

3 Clause "(xxvii-b) Provincial Allocable Amount" means the expenditure charged upon the Provincial Consolidated Fund declared as such for distribution among Local Governments in accordance with the provisions of the Ordinance;" substituted vide the Balochistan Local Government (Second Amendment) Act, 2005.

- (xxvii-c) 'Provincial Consolidated Fund' means the same as described in Article 118 of the Constitution of the Islamic Republic of Pakistan;
- (xxvii-d) 'Provincial Retained Amount' means the balance of the Provincial Consolidated Fund after subtraction of the Provincial Allocable Amount from it.]
- (xxviii) 'public place' means any building, premise or place to which the public have access;
- (xxix) 'rent' means whatever is lawfully payable in money or kind by a tenant or lessee on account of the occupation of any building or land ¹[or use of any machinery, equipment or vehicle];
- (xxx) 'street line' means a line dividing the land and forming part of a street from adjoining land;
- (xxxi) 'tax' includes any cess, fee, rate, toll or other impost leviable under this Ordinance;
- (xxxii) 'tehsil' means a tehsil notified under the Balochistan Land Revenue Act, 1967 (W.P. Act XVII of 1967);
- (xxxiii) 'Tehsil Municipal Administration' includes the Tehsil Nazim and the officials and employees of the Tehsil Municipal Administration specified in section 49;
- (xxxiv) 'town' means an area notified by the Government under section 9 to be a town in a City District;
- (xxxv) 'Town Municipal Administration' includes the Town Nazim and the officials and employees of the Town Municipal administration specified in section 50;
- (xxxvi) 'Union' means a local area notified under section 6 to be a union under this Ordinance;
- (xxxvii) 'Union Administration' includes the Union Nazim, Union Naib Nazim, the Union Secretaries, and other Union employees;
- (xxxviii) 'Village' means an integrated and contiguous human habitation commonly identified by a name and includes a *dhok, chak, killi, goth, gaown, basti* or any other comparable habitation;

¹ Inserted vide the Balochistan Local Government (Amendment) Ordinance, 2002.

- (xxxix) 'water reservoir' includes a spring, well, tube well, pond, tank, water course, culvert, and any channel used for supplying water other than canal, river, lake or stream;
- (xi) 'work' includes a survey, whether incidental to any other work or not; and
- (xli) 'worker' means a person directly engaged in work, or is dependent on personal labour, for subsistence living and includes a worker as defined in the ¹[Industrial Relations Ordinance, 2002 (XCI of 2002).]

3. Ordinance to over-ride other laws.- The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

4. Local Governments to work within Provincial framework.- (1) The local governments established under this Ordinance shall function within the Provincial framework and adhere to the Federal and Provincial laws.

(2) In performance of their functions, the local governments shall not impede or prejudice the exercise of the executive authority of the Government.

¹ The words, comma, figures, brackets and letters "Industrial Relations Ordinance, 1969 (XXIII of 1969)" substituted vide the Balochistan Local Government (Second Amendment) Act, 2005.

CHAPTER II LOCAL AREAS AND LOCAL GOVERNMENTS

5. Composition of local areas.- For the purpose of this Ordinance, the following shall be the local areas, namely:-

- (i) Union;
- (ii) Tehsil;
- (iii) Town; and
- (iv) District and City District.

6. Delimitation of Unions.- A Union shall be an area comprising one or more *muaziat* or, in the case of an area where revision of settlement under the law has not been taken, one or more census villages or, in the case of an area with urban characteristics, a whole number of population census blocks as delimited for the purpose of last preceding census or a combination of whole number of census blocks and a whole number of *muaziat*, notified as such by the Government:

Provided that, as far as may be,-

- (a) the area of a Union shall be a territorial unity;
- (b) the boundaries of a Union shall not cross the limits of a tehsil, or a town in a city district;
- (c) the area of a union in a tehsil shall comprise a whole number of *patwar* circles, or a *patwar* circle may contain a number of whole Unions;
- (d) the area of a Union in a City District, or a Union with urban characteristics shall comprise a whole number of census blocks as delimited for the purpose of the preceding population census or a whole number of *muaziat* or a combination of a whole number of census blocks and *muaziat*; and
- (e) the population of Unions within a district shall, more or less, be uniform:

Provided further that in a specific case, the Government may, for the reasons to be recorded, waive the aforesaid conditions.

7. Delimitation of tehsils and districts.- The Government shall, by notification in the official Gazette, declare tehsils and districts notified under the Balochistan Land Revenue Act, 1967 (W.P.Act XVII of 1967), to be tehsils or, as the case may be, districts under this Ordinance.

8. Creation of a City District.— ¹[(1)] In addition to the Provincial headquarters notified by the Government as City District of Quetta, the Government may, by notification in the official Gazette, declare a tehsil or tehsils within one or more adjoining districts as a City District if-

- (a) the population of urban settlement therein or of proximate settlement exceeds one million people;
- (b) the economy thereof is largely oriented to commercial, industrial, and services sectors, and, according to the last preceding census, the labour force employed in such sectors or in non-agricultural sectors is more than sixty six percent; and
- (c) the existing administrative and municipal infrastructure therein have become inadequate for efficient service delivery and require integrated development and management.

²[(2) For the purpose of creation of a city district, the Unions in the district affected by such creation may be delimited in accordance with section 6:

Provided that in all other districts section 11 of this Ordinance shall apply.]

9. Setting up of a town.— (1) The Government may, by notification in the official Gazette, declare a whole number of contiguous Unions to be a town in the City District under this Ordinance.

(2) On notification referred to in sub-section (1), the Government may, by notification in the official Gazette, declare every town referred to in that sub-section to be a tehsil or sub-division for the purpose of this Ordinance.

10. Local areas under previous law to continue.- Unless varied under this Ordinance, any local area declared or notified by the Government under the Balochistan Local Government Election Ordinance, 2000 (VI of 2000), as union, tehsil, town, district or City District shall continue to retain such status and shall be deemed to have been notified as such under this Ordinance.

11. Alteration of local areas.— (1) Any two or more adjoining Unions within a tehsil or adjoining tehsils within a district may, after having invited public objections through a resolution, during the third year of their being in office, passed by two-third majority of the total membership of each of the relevant Union Councils, or as the case may be, Tehsil Councils, make a proposal to the Government for a change in their respective boundaries subject to the conditions that no revenue estate shall be divided and the size of population in the Unions

1 Renumbered vide the Balochistan Local Government (Second Amendment) Act, 2005.

2 Added vide ibid.

shall, as far as possible, be close to the average population of Unions within a district.

(2) The Government may, subject to previous publication, notify the change in the boundaries of the Unions, Tehsils or Towns:

Provided that such change shall come into force on the announcement of next local governments elections

12. Local governments for local areas.- (1) For each local area, there shall be a local government comprising-

- (a) District Government and Zila Council in a district or a City District;
- (b) Tehsil Municipal Administration and Tehsil Council in a tehsil;
- (c) Town Municipal Administration and Town Council in a town; and
- (d) Union Administration and Union Council in a Union.

(2) In case of a district consisting of a single tehsil, the Government may dispense with setting up of Tehsil Council and holding of election of Tehsil Nazim and Naib Tehsil Nazim in such tehsil and in that case the Tehsil Municipal Administration shall function directly under Zila Nazim and the functions of Tehsil Council shall be performed by the Zila Council.

(3) In case of a tehsil consisting of a single Union, the Government may dispense with setting up of Tehsil Council and holding of election of Tehsil Nazim and Tehsil Naib Nazim in such tehsil and in that case the functions of the Tehsil Municipal Administration shall be performed by the Union Administration¹[and the functions of Tehsil Council shall be performed by the Union Council.]

¹ Added vide the Balochistan Local Government (Second Amendment) Act, 2005.

**CHAPTER III
DISTRICT GOVERNMENT**

13. Composition of District Government.- (1) The District Government shall consist of Zila Nazim and District Administration.

(2) The District Government shall be competent to acquire, hold or transfer any property, movable and immovable, to enter into contract and to sue or be sued in its name, through District Coordination Officer.

14. Decentralized offices and grouping of offices.- (1) On the commencement of this Ordinance, the administrative and financial authority for the management of the offices of the Government specified in Part-A of the First Schedule set up in a district shall stand decentralized to the District Government of that district:

Provided that where there is no office of the Government in a district specified in Part-A of the First Schedule and the Government sets up an office on a subsequent date, such office shall be decentralized to the District Government from that date:

(2) Where in a district, there is no office specified in Part-B of the First Schedule, the Government shall set up such offices and post officers and staff in such offices as and when required.

(3) The offices decentralized to the District Governments and offices set up by the Government shall be grouped in various groups specified in Part-C of the First Schedule:

Provided that the Government may, for the reason of non-existence of any office or offices specified in the First Schedule in a district, in consultation with the District Government of such district, vary or amalgamate the grouping of offices for efficiency and effectiveness by notification in the official Gazette:

Provided further that the number of groups of offices shall not exceed the number of groups specified in Part-C of the First Schedule.

¹[(4) The Zila Nazim shall nominate a Deputy District Officer at Tehsil level for the purpose of liaison between the offices of District Government, Provincial Government, Federal Government and other local governments for emergencies, natural calamities and extraordinary situations.]

15. Entrustment of certain decentralized offices to Tehsil Municipal Administration.- Subject to section 14 and section 52, on commencement of this Ordinance, the administrative and financial management of the offices of

¹ Added vide the Balochistan Local Government (Second Amendment) Act, 2005.

Local Government and Rural Development Department, Public Health Engineering Department and Housing and Physical Planning Department which were providing services at the regional, zonal, circle, divisional, district and tehsil levels shall stand entrusted to respective Tehsil Municipal Administration or Town Municipal Administration, as the case may be, alongwith the employees working in such offices:

Provided that the Government may direct for retention of certain components of Housing and Physical Planning Department with the District Government alongwith the officers and members of staff working therein.

16. Authority and responsibility of District Government.- (1) The authority of the District Government shall comprise the ¹[operation,] management and control of offices of the departments which are decentralized to it or may be set-up under this Ordinance, provided that the District Government shall exercise such authority within the district in accordance with the general policy of the Government.

(2) Every order in the District Government shall be expressed to be made in the name of the District Government and shall be executed by an officer or authority of the District Government duly authorized.

(3) The District Government shall be responsible to the people and the Government for improvement of governance and delivery of services within the ambit of the authority decentralized to it under this Ordinance.

17. The Zila Nazim.- (1) Zila Nazim shall head the District Government and perform such functions and exercise such powers as have been assigned to him under this Ordinance and be assisted by the District Coordination Officer.

(2) The Zila Nazim shall ensure that the business of the District Government is carried out in accordance with the provisions of this Ordinance and other laws for the time being in force.

18. Functions and powers of the Zila Nazim.- (1) The functions and powers of the Zila Nazim shall be to-

- (a) provide vision for the district-wise development, leadership and direction for efficient functioning of the District Government;
- (b) develop with the assistance of the District Administration strategies and timeframe for accomplishment of the relevant goals approved by the Zila Council;
- (c) perform functions relating to law and order in the district;
- (d) ensure implementation of the functions decentralized to the District Government;

¹ Inserted vide the Balochistan Local Government (Amendment) Ordinance, 2002.

- (e) oversee formulation and execution of the annual development plan, delivery of services and functioning of the District Government;
- (f) present proposal to the Zila Council for approval of budget for District Government, Zila Council and intra-district fiscal transfers;
- (g) maintain administrative and financial discipline in the District Government;
- (h) present tax proposals to the Zila Council;
- (i) present report on the performance of the District Government in person to the Zila Council at least twice a year;
- (j) preside over the meetings of the Zila Mushawarat Committee;
- (k) take charge, organize and prepare for relief activities in disasters or natural calamities;
- (l) authorize officers of the District Government to sign documents on its behalf;
- (m) initiate inspections of Tehsil Municipal Administration, Town Municipal Administration and Union Administration in the district pursuant to section 135;
- (n) establish and supervise the working of the Internal Audit Office;
- (o) issue executive orders to the District Coordination Officer and Executive District Officers for discharge of the functions decentralized to the District Government;
- (p) ¹[**] represent District Government on public and ceremonial occasions; and
- (q) perform any other function as may be assigned to him by the Government.

(2) The Zila Nazim shall not employ any advisor, special assistant or a political secretary other than support staff allocated to his office from amongst the officials available in the district:

19. Right of the Zila Nazim to take part in Council's meetings.- The Zila Nazim shall have the right to speak and otherwise take part in the proceedings of the Zila Council, but shall not be entitled to vote.

20. Personal responsibility of Zila Nazim.- (1) The Zila Nazim shall be personally responsible for any loss, financial or otherwise, flowing from the decisions made by him personally or under his directions in violation of any provisions of this Ordinance or any other law for the time being in force and for any expenditure incurred without lawful authority.

¹ The word "to" omitted vide the Balochistan Local Government (Second Amendment) Act, 2005.

21. Resignation of Zila Nazim.- The Zila Nazim may resign from his office by tendering resignation in writing addressed to the Chief Executive of the Province.

22. Vacancy in the Office of Zila Nazim.- (1) In case the office of Zila Nazim falls vacant for reason of his death, resignation, removal ¹[**] or, where in the opinion of the Zila Council, he has become incapable to perform his functions on account of mental or physical incapacity, the Naib Zila Nazim shall act as Zila Nazim till an officiating Nazim is elected under sub-section (6) of section 156 or a new Zila Nazim is elected under sub-section (5) of that section:

²[Provided that where the Naib Zila Nazim is absent or his office is vacant for any reason, the senior-most presiding officer in the panel elected under sub-section (5) of section 42 shall act as Zila Nazim and the next senior-most presiding officer in the panel shall act as Naib Zila Nazim till the election of officiating Zila Nazim under section 48 or Naib Zila Nazim resumes his functions or, as the case may be, a new Naib Zila Nazim is elected by the Zila Council under section 156:

Provided further that the officiating Zila Nazim shall not be a candidate in the election for Zila Nazim.]

(2) Where a Zila Nazim is unable to perform his functions for reason of his temporary absence, he may authorise Naib Zila Nazim, in writing, to act on his behalf till he resumes his duties.

³[23. *** **]

24. ⁴[Recall] of a Zila Nazim.- (1) If in the opinion of a member of the Zila Council, there is a reason to believe that the Zila Nazim is acting against the public policy or the interest of the people or is negligent or is responsible for loss of opportunity for improvement in governance and service delivery to the people

1 The words "or suspension" omitted vide the Balochistan Local Government (Second Amendment) Act, 2005.

2 The proviso "Provided that the officiating Zila Nazim shall not be a candidate in the election for Zila Nazim" substituted vide ibid.

3 Section "23. External recall of Zila Nazim.- (1) If in the opinion of the Chief Executive of the Province, the continuance in office of a Zila Nazim is against the public policy or interest of the people or he is guilty of misconduct, the Chief Executive of the province may move a motion in the Provincial Assembly stating the grounds for the recall of Zila Nazim.

(2) Where the motion referred to in sub-section (1) is approved through a resolution passed by a simple majority of total membership of the Provincial Assembly, the Zila Nazim shall cease to hold office immediately on passing of such resolution:

Provided that the Zila Nazim shall be provided an opportunity of being heard by the Provincial Assembly.

(3) The result of the approval of the resolution of the Provincial Assembly referred to in sub-section (1) shall be notified by the Government in the official Gazette.

(4) Nothing contained in sub-sections (1) and (2) shall affect the provisions of section 161 in respect of removal of Zila Nazim by the Chief Election Commissioner." omitted vide ibid.

4 The words "Internal Recall" substituted vide ibid.

within the ambit of his responsibilities, he may, seconded by another member of the Council, give notice to move a motion in the Zila Council through Naib Zila Nazim for recall of the Zila Nazim.

(2) On receipt of notice referred to in sub-section (1), the Naib Zila Nazim shall summon a session of Zila Council not earlier than three days but not later than seven days, if the Zila Council is not already in session.

(3) Where the Zila Council is already in session, the motion referred to in sub-section (1) shall be taken up for deliberations on the next day from its receipt by the Naib Zila Nazim;

¹[(4) Where the motion referred to in sub-section (1) is approved by two-third majority of the votes of the total membership of the Council, through a secret ballot to be conducted by the Returning Officer nominated by the Chief Election Commissioner, the Zila Nazim shall cease to hold office forthwith and the notification shall be issued in this behalf by the Chief Election Commissioner accordingly.]

²[(5) *** **** ****]

(6) Where the motion fails in the Zila Council, the proposer and seconder of such motion shall lose their seats both as ³[members of the Zila Council and Union Nazim, if any one of them is also a Union Nazim.]

(7) The Zila Nazim shall have the right to appear before the Zila Council and address it in his defence before approval or rejection of motion referred to in sub-section ⁴[(1).]

(8) No motion for recall of Zila Nazim shall be moved during the first six months of assumption of office of Zila Nazim nor shall such motion be repeated before the expiry of twelve months from the rejection of previous motion.

⁵[*** *** ***]

1 Sub-section "(4) If the motion referred to in sub-section (1) is approved by majority of the votes of its total membership through a secret ballot, the Election Authority shall cause a vote to be cast by the members of Union Councils in the district." substituted vide the Balochistan Local Government (Second Amendment) Act, 2005.

2 Sub-section "(5) Where the motion is approved by simple majority of the total number of members of the Union Councils in the district, the Zila Nazim shall cease to hold office from the date of notification issued in this behalf by the Election Authority." omitted vide ibid.

3 The words "Union Nazims and members of Zila Council" substituted vide ibid.

4 The brackets and figure "(5)" substituted vide ibid.

5 After sub-section (8) "**Explanation.** for the purpose of this section and other provisions of the Ordinance, the expression "Election Authority" shall mean the authority nominated by Government for causing voting of the members of Union Councils, Village Councils, Neighbourhood Councils, whenever so required for recall of Zila Nazim, Tehsil Nazim, Town Nazim or, as the case may be, Union Nazim." omitted vide ibid.

¹**[25. Setting aside the order of Zila Nazim by the Chief Executive of the Province.-** (1) Where, in the opinion of the Chief Executive of the Province, an order or decision of the Zila Nazim is not in conformity with law or is against the interest of the people, he may, for the reasons to be recorded and conveyed to the Nazim, suspend such order or, as the case may be, decision and refer the matter to the Provincial Local Government Commission for an enquiry to be completed not later than ninety days:

Provided that the Zila Nazim shall be given an opportunity of being heard by the Provincial Local Government Commission before making recommendation to the Chief Executive of the Province.

(2) On receipt of report of enquiry conducted by the Provincial Local Government Commission, the Chief Executive of the Province may take such action as deemed expedient in the light of such report, including quashment of the order or decision of the Zila Nazim:

Provided that, if no action is taken within ninety days of suspension of the order or decision of the Zila Nazim, such order or, as the case may be, decision shall stand restored.

(3) The quashment of an order or decision referred to in sub-section (2) shall be notified by the Government in the official Gazette.]

26. Structure of District Administration.- The District Administration shall comprise the district offices, including sub-offices of the Departments of the Government decentralized to the District Government and other offices set up by the ²[***] Government and grouped under the Executive District Officers and coordinated by the District Coordination Officer.

27. Heads of offices and groups.- (1) The District Coordination Group of Offices shall be headed by the District Coordination Officer.

(2) A group of offices, other than the District Coordination Group of Offices, shall be headed by an Executive District Officer.

(3) The District Officers shall be the head of the district offices.

1 Section "25. Setting aside an order of Zila Nazim by Chief Executive of the Province.- (1) The Local Government Commission may, on its own accord or on receipt of an information or on an application, take notice of an order or decision of general application passed by a Zila Nazim and recommend to the Chief Executive of the Province for its quashment, if in the opinion of the Commission such order or decision of the Zila Nazim is against the public policy or interest of the people:

Provided that the Zila Nazim may be given an opportunity of being heard before making recommendation to the Chief Executive of the Province.

(2) The quashment of the order or decision referred to in sub-section (1) shall be notified by the Local Government Commission in the official Gazette." substituted vide the Balochistan Local Government (Second Amendment) Act, 2005.

2 The word "District" omitted vide the Balochistan Local Government (Amendment) Ordinance, 2001.

(4) The Government shall setup sub-offices of the offices decentralized to district government in every Tehsil or Town in a city district depending upon the needs of such tehsil or, as the case may be, town for such sub-office:

Provided that where any sub-office exists or is set up in a tehsil or town in a City District the Deputy District Officer shall head such sub-office.

28. District Coordination Officer.- ¹[(1)] In every district, the Government shall appoint a District Coordination Officer who shall be a civil servant of the Federation or of the Province, as far as possible in Basic Scale 20:

Provided that in a City District, the District Coordination Officer may be a civil servant of the Federation or Province in Basic Scale 21.

(2) The District Coordination Officer shall be coordinating head of the District Administration and shall-

- (a) ensure that the business of the District Coordination Group of Offices is carried out in accordance with the laws for the time being in force;
- (b) co-ordinate the activities of the groups of offices for coherent planning, synergistic development, effective and efficient functioning of the District Administration;
- (c) exercise general supervision over programmes, projects, services, and activities of the District Administration;
- (d) coordinate flow of information required by the Zila Council for performance of its functions under this Ordinance;
- (e) act as Principal Accounting Officer of the District Government and be responsible to the Public Accounts Committee of the Provincial Assembly;
- (f) ²[call for information and reports from local governments in the district as required by the Provincial Government or District Government through the Tehsil Municipal Officer;]
- (g) assist the Zila Nazim in accomplishment of administrative and financial discipline and efficiency in the discharge of the functions assigned to District Administration;

¹ Inserted vide the Balochistan Local Government (Second Amendment) Act, 2005.

² Clause "(f) act and perform functions of Collector under sections 54, 68, 70(2), 71, 72, 92, 93, rule 18 of Order XXI, Order XL and for similar other provisions of the Code of Civil Procedure, 1908(Act V of 1908);" substituted vide ibid.

- (h) prepare a report on the implementation of development plans of the District Government for presentation to the Zila Council in its annual budget session; and
- (i) initiate the performance evaluation reports of the Executive District Officers and shall be countersigning officer of such reports of the District Officers initiated by the Executive District Officers.

Explanation.- For the purpose of this section, the expression 'coordinating head' means the authority to call for review and assess the performance of the groups of offices, individually or collectively, and give directions for taking actions or measures for improving efficiency, service delivery and achievement of goals assigned in the approved plans of the District Government.

(3) Where in the opinion of a District Coordination Officer an order of the Zila Nazim is motivated or unlawful, he may seek recourse in writing to the Local Government Commission with a copy thereof to the Zila Nazim, and the decision of the Commission in the matter shall be final and binding.

29. Functions and powers of Executive District Officer.- The functions and powers of the Executive District Officer shall be to-

- (a) ensure that the business of the group of offices under his administrative control is carried out in accordance with law and the rules and the human and material resources placed at his disposal are optimally utilised to improve governance;
- (b) co-ordinate and supervise the activities of the offices and ensure efficient service delivery by the functionaries under his administrative control;
- (c) supply information to the Monitoring Committees of the Zila Council and Union Councils;
- (d) take appropriate corrective actions based on the information received from Monitoring Committees;
- (e) enforce relevant Federal, Provincial laws and rules, including tax laws;
- (f) prepare development plans and propose budgetary allocations for their execution;
- (g) implement approved plans and policies;
- (h) authorise disbursement of performance bonuses to the employees;

- (i) prepare proposals for expenditures necessary for the proper conduct of programs, projects, services, and other activities;
- (j) propose relevant bye laws on service delivery to the District Coordination Officer; and
- (k) act as Departmental Accounting Officer for his respective group of offices and be responsible to the District Accounts Committee of the Zila Council.

30. District administration working.- (1) In matters of policy and important decisions, the District Coordination Officer shall obtain approval of Zila Nazim before communicating such matters and decisions to the Government.

(2) The Government shall appoint ¹[such] officers and officials to the district offices, groups of offices or other offices in the district specified in the First Schedule ²[as may be prescribed].

(3) The tenure of posting of an officer or official of the Government to a District Government shall, ordinarily, be three years.

(4) Where the performance of a District Co-ordination Officer is not satisfactory, the Zila Nazim may request the Government for his transfer in writing, with a copy to the District Coordination Officer, stating reasons thereof and the Government ³[may] accede to the request of the Zila Nazim. ⁴[****]

⁵ [(5) **** **** ****]

(6) Where the performance of an Executive District Officer is not satisfactory, the Zila Nazim may, in consultation with the District Coordination Officer, request the Government to transfer such officer from the district stating reasons thereof.

⁶**[30A. Disciplinary powers of Nazims and Naib Nazims.-** The Nazims and Naib Nazims shall be empowered to take disciplinary action against local government functionaries of their respective establishments and shall be responsible to the Government for effective implementation of all efficiency and disciplinary rules as prescribed not later than the 31st December, 2005.

1 The word "all" substituted vide the Balochistan Local Government (Second Amendment) Act, 2005.

2 Added vide ibid.

3 The word "shall" substituted vide ibid.

4 The words "within seven days and the Government may refer the matter to the Provincial Local Government Commission" omitted vide ibid.

5 Sub-section (5) "The Local Government Commission shall inquire into the matter referred to in sub-section (4) and place the findings and recommendations before the Chief Executive of the Province for such action as he may deem necessary." omitted vide ibid.

6 Inserted vide ibid.

CHAPTER XII

LOCAL GOVERNMENT FINANCE

107. Establishment of Local Funds and District Provincial Account, etc.- (1)

There shall be established-

- (a) a local fund for every District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration;
- (b) a District Provincial Account for every District Government;
- (c) a Tehsil Provincial Account for every Tehsil Municipal Administration; and
- (d) a Town Provincial Account for every Town Municipal Administration.

(2) On the commencement of this Ordinance, the following sums shall be placed at the credit of the Local Fund of a local government-

- (a) the funds of a Metropolitan Corporation, Municipal Corporation, District Council, Municipal Committee, Town Committee and Union Council transferred to a local government as its successor under section 180;
- (b) monies transferred by another local government under this Ordinance;
- (c) grants made or monies received by a local government from Government or other authorities;
- (d) the proceeds of taxes or charges levied by a local government under this Ordinance;
- (e) rents and profits payable or accruing to a local government from immovable property vested in or managed by it;
- (f) receipts accruing from trusts administered or managed by a local government;
- (g) interest or profits from bank accounts, investments or commercial enterprises of a local government;
- (h) gifts, grants or contributions to a local government by individuals or institutions;
- (i) income accruing from markets regulated by a local government;

- (j) fines paid with respect to offences under this Ordinance or by-laws or under any other law for the time being in force in which provision is made for the fines to be credited to the Local Funds established under this Ordinance, committed in the local area of a local government;
 - (k) refundable deposits received by a local government in respect of a local fund;
 - (l) proceeds from other sources of income which are placed at the disposal of a local government under directions of the Government; and
 - (m) any other sum received by or on behalf of a local government under this Ordinance or any other law for the time being in force.
- (3) There shall be placed-
- (a) to the credit of the District Provincial Account of a District Government, by monthly instalments, all monies budgeted for offices and functions decentralised to District Governments from the Provincial Consolidated Fund, other than the sums for the payment of the establishment costs of the employees of the Government offices decentralised to District Governments, but includes all Octroi and Zila grants from the Government; and
 - (b) to the credit of the Tehsil Provincial Account or the Town Provincial Account, monies transferred to the concerned Tehsil Municipal Administration or, as the case may be, Town Municipal Administration by the District Government from the District Provincial Account, except Octroi grants.

108. Custody of Local Funds and Provincial Accounts.- (1) Monies credited to a Local Fund shall be kept in the government treasury, a post office or a bank in such manner as shall be specified by the Government from time to time.

(2) Monies credited to a District Provincial Account shall be kept in the State Bank of Pakistan or treasury and shall be operated through the concerned District Accounts Office.

(3) Monies credited to a Tehsil Provincial Account or Town Provincial Account, shall be kept in the State Bank of Pakistan or treasury and shall be operated in the prescribed manner through the concerned District Accounts Office as notified by the Government.

109. Application of Local Funds and Provincial Accounts: (1) The funds credited to a Local Fund or a Provincial Account shall be expended by a local government in accordance with the budget approved by the concerned Council.

(2) A District Government shall transfer from its District Provincial Account, by monthly instalments, to the Local Fund of Tehsil Municipal Administrations or Town Municipal Administrations, as the case may be, monies equivalent to the total of the annual Octroi grants made to the Urban Local Councils within the local area of

the Tehsil Municipal Administrations or Town Municipal Administrations as existed, immediately before the commencement of this Ordinance.

(3) A District Government may transfer to a Tehsil Municipal Administration or Town Municipal Administration monies additional to those referred to in subsection (2) as given in the approved budget of the District Government:

Provided that-

- (a) such monies transferred from its District Provincial Account shall be transferred to the Tehsil Provincial Account or the Town Provincial Account, as the case may be;
- (b) such monies transferred from the Local Fund of the District Government shall be transferred to the Local Fund of the Tehsil Municipal Administration or Town Municipal Administration.

(4) The District Government shall transfer, by monthly installments, from its District Provincial Account to the Local Fund of each Union Administration in its local area, an equivalent amount of the total Zila Tax grant for that district to each Union Local Fund.

(5) A local government may subject to sub-section (3) and sub-section (12), transfer approved budgeted amounts to any local government, Village Council or Neighbourhood Council or Citizen Community Board, within its local area, for expenditure for carrying out a project, service or activity transferred to, or managed by, the recipient local government, Village Council, Neighbourhood Council or Citizen Community Board.

(6) No local government shall transfer monies to a higher level of local government except by way of repayment of debts.

(7) Monies credited to a District Provincial Account or a Tehsil Provincial Account or a Town Provincial Account shall not be used for payment of salaries.

(8) The monies transferred under sub-section (2) and (4) shall be charged on the District Provincial Account.

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

(10) The application of a Local Fund shall as provided in the budget approved by a Council, shall be subject to budgetary constraints by ratio to be prescribed for development works and expenditure on establishment.

(11) Where expenditure from a Local Fund on development is less than fifty percent of the Local Fund, the development component shall increase, in equal successive increments over three years, from its current level so as to ensure a fifty percent development expenditure by the end of the said three years.

(12) The development budget shall be prioritized in accordance with the bottom-up planning system as laid down in section 119:

Provided that-

- (a) not less than fifty percent of the development budget shall be set apart for utilization in accordance with the provisions of section 119; and
- (b) the amount referred to in clause (a) which remains unspent shall be credited under the same head in the following year's budget in addition to the fresh allocation under the said clause for that year.

(13) In every budget a provision shall be made for payment of performance incentive bonuses.

110. Budget of Zila Council.- The Zila Council budget will be charged on the District Local Fund.

111. Budget preparation.- (1) The budget for each District Government, Tehsil Municipal Administration or Town Municipal Administration shall contain-

- (a) amounts credited to the District Provincial Account, Tehsil Provincial Account or Town Provincial Account, as the case may be; and
- (b) amounts available in the respective Local Funds.

(2) To facilitate the budget preparation by the District Government, Tehsil Municipal Administration and Town Municipal Administration, the Government shall, before the beginning of each financial year, notify the provisional amounts which may be credited to the District Provincial Accounts or Tehsil and Town Provincial Accounts other than salaries specified in sub-section (3) of section 107.

(3) The Government shall provide details of the amounts in the prescribed chart of classifications to be credited to the District Provincial Account, Tehsil Provincial Account and Town Provincial Account.

(4) Subject to sub-section (6), the District Government and Tehsil Municipal Administration or Town Municipal Administration may re-appropriate expenditures relating to the Provincial Account referred to in sub-section (3) of the section 107 inter and intra departmentally.

(5) Upon notification of the budget estimates for the year by the Government for the District Provincial Accounts, the District Government shall notify the estimates to be transferred to-

- (a) the Tehsil Municipal Administration or Town Municipal Administration for the Tehsil Local Fund or, as the case may be, Town Local Fund; and
- (b) the Union Administration for the Union Local Fund.

(6) Before the beginning of the financial year, every Zila Nazim, Tehsil Nazim or Town Nazim shall present a statement of re-appropriations of the respective Provincial Accounts to the respective Councils, for approval of the expenditure:

Provided that such statement shall be prepared in accordance with the budget format showing the existing and re-appropriated amounts:

Provided further that any re-appropriation during the year shall be approved by the respective Council.

(7) Before the commencement of each financial year, the District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall, for respective Local Funds, prepare in the prescribed manner, a budget for that year, in conformity with the provisions of section 119.

112. Approval of budgets.- (1) Before the commencement of the next financial year, every Nazim shall, after the laying of the budget by the Provincial Government, within the prescribed period, present the budget for approval by the respective Council before the beginning of such financial year.

Provided that the charged expenditure may be discussed but shall not be voted upon by the Councils.

(2) When a local government assumes office for the first time, it may within ten weeks present to the concerned Council, a revised budget for remaining part of the financial year for approval.

(3) The budget of a District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall be approved by simple majority of the total membership of the respective Councils.

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

(5) In case a budget is not approved by a Council before the commencement of the financial year to which it relates, the concerned local government shall spend money under various heads on pro rata basis in accordance with the budgetary provisions of the preceding financial year for a period not exceeding fourteen days.

(6) At any time before the expiry of the financial year to which a budget relates, a revised budget for the year may, if necessary, be prepared by the District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration and approved by the respective Council.

(7) A budget shall not be approved if-

(a) the sums required to meet expenditures exceed the estimated receipts; and

- (b) the constraints specified in sub-sections (10) and (11) of section 109, and section 119 have not been complied with.

113. Honoraria and allowances.- The District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall make budgetary provisions for honoraria and allowances of the Nazims, and Naib Nazims and allowances for members of the concerned Council.

114. Accounts.- (1) The accounts of the receipts and expenditure of District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration shall be kept in such manner and on such forms and registers as may be prescribed:

Provided that until a new procedure for keeping the accounts is provided-

- (a) the District Accounts Office shall maintain the accounts of each District Provincial Account;
- (b) the Accounts Officer notified for maintaining the Tehsil Provincial Accounts or Town Provincial Account shall keep the accounts of the Tehsil Provincial Accounts or, as the case may be, Town Provincial Accounts; and
- (c) the accounts of Local Funds shall be maintained as may be prescribed.

(2) The District Accounts Office shall provide information, necessary to compile the Provincial Consolidated Accounts.

(3) A statement of the accounts shall include such statement for the respective District Provincial Account, Tehsil Provincial Account and Town Provincial Account, and such statement from the respective Local Fund accounts for each Local Fund and a copy thereof and other statements as may be prescribed, shall be placed at a conspicuous place for public information.

(4) The statement referred to in sub-section (3) shall be affixed at a conspicuous place for information of the public.

(5) The respective Accounts Committees of the Councils shall hold public hearings in which objections for review of statement of accounts referred to in sub-section (3).

(6) The respective Council may, on presentation of statement of accounts, discuss such statement and forward the same to the Director of Local Fund Audit and Director-General Audit of the Province alongwith its observations and recommendations.

115. Audit.- (1) The Director Local Fund Audit shall conduct regular annual audit of the Local Funds and the Director-General Audit of the Province shall undertake audit of the District, Tehsil and Town Provincial Accounts during a financial year.

(2) Upon request of a Nazim, the Provincial Director, Local Fund Audit, shall cause to be conducted an audit of the respective Local Fund.

(3) Upon request of a Zila Nazim, Tehsil Nazim or Town Nazim the Director-General Audit of the Province shall cause special audit of District Provincial Account, Tehsil Provincial Account or, as the case may be, Town Provincial Account and shall forward his report to the concerned Nazim and Council.

(4) The report of the Local Fund Audit shall be placed before the concerned Nazims and the Accounts Committee of the respective Councils for necessary action.

(5) The Provincial Director-General Audit shall conduct the external audit of each District Government, Tehsil Municipal Administration, Town Municipal Administration and Union Administration, in the prescribed manner, once in a financial year and place the report before the Public Accounts Committee of the Provincial Assembly and the Accounts Committee of the respective Council.

(6) The Local Government Commission of a Province may cause for a special audit of the accounts of a local government as provided for in section 132.

(7) The Provincial Director-General Audit or an officer appointed by him, or Director, Local Fund Audit for conducting an audit of a local government and shall have access to all the books and documents pertaining to the accounts and may also examine any member, servant or premises of the local government concerned.

116. Taxes to be levied.- (1) A Zila Council, Tehsil Council, Town Council or Union Council may levy taxes, cess, fees, rates, rents, tolls, charges, surcharges and levies specified in the Second Schedule by notification in the official Gazette.

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

(3) The Council may, levying a tax, increase, reduce, suspend, abolish or exempt the levy of any tax for such period as may be specified.

117. Rating areas and property tax.- (1) On commencement of this Ordinance, every tehsil and town to be rating areas within the meaning of the SBNP Urban Immovable Property Tax Act 1958 (W.P. Act V of 1958).

(2) The Tehsil Council and Town Council shall, subject to the approval of the Zila Council, determine the rate of property tax in an area within the tehsil or, as the case may be, town:

Provided that in the areas within a tehsil or town where rate has not been determined, the rate shall remain as zero.

(3) Unless varied under sub-section (2), the existing rates in the areas within a tehsil and town shall remain in force.

Explanation: For the purpose of this section the 'rate' shall mean the tax leviable under the SBNP Urban Immovable Property Tax Act 1958 (W.P. Act V of 1958).

118. Collection of taxes.- (1) All taxes, levied under this Ordinance shall be assessed, regulated and collected in the prescribed manner.

(2) Failure to pay any tax and other money claimable under this Ordinance shall be an offence and the arrears shall be recovered as arrears of land revenue.

119. Bottom up planning and the ownership incentive system.- (1) The respective local government shall prescribe the classification of schemes to be undertaken exclusively under the provisions of this section.

(2) The Citizen Community Boards may receive from a local government matching grants up to eighty percent of the budgeted amounts of an approved development scheme in the manner prescribed:

Provided that a scheme shall be considered an approved scheme if-

- (i) the prescribed departmental procedure for estimating the cost of the scheme has been followed;
- (ii) the Citizen Community Board has deposited its share of the cost of the development scheme in the account prescribed for the purpose; and
- (iii) the complete departmental estimates and the proof of deposit of the Citizen Community Board's contribution are attached.

(3) The matching grants referred to in sub-section (2) shall be spent from the reserved fifty percent of the development budget as provided in section 109.

(4) A cut off date before the presentation of the budget, shall be announced by each local government for registration of all schemes proposed by the Citizen Community Boards.

(5) The authorized officer of the respective level of local government shall draw up a statement specifying the schemes in sub section (4) by classification including the total amount of contribution for a particular classification of schemes.

(6) A second statement shall determine contribution amounts for a particular classification of schemes as a ratio of the total contributions for all schemes registered with a particular local government for that year and the statement shall be used to determine amounts of allocations for a classification of schemes from the budget reserved for the purpose.

(7) A third statement shall be drawn up which shall identify the number of schemes registered in a particular classification, beginning with the scheme containing the highest contribution by the Citizens Community Board in a classification until all the schemes in the classification are selected or the funds

allocated for that particular classification in the amount determined in sub-section (6) are exhausted.

(8) The statement referred to sub section (7) shall be approved by a simple majority of the Zila Council, Tehsil Council, Town Council, or Union Council as case may be, in special session to be held by the respective council.

(9) The schemes approved by the respective councils shall be carried out as prescribed by the Government.

(10) The District Accounts Officer of the concerned district shall release funds from the district and tehsil or Town Provincial Accounts according to the schedule of expenditure as passed by the respective council under sub section (8), subject to the provision of section 109 sub section (12).

120. Local Governments not to incur debts.- (1) No local government shall incur any debt except in the manner provided in this Ordinance.

(2) No moneys of the local government shall be invested in securities other than those floated by the Federal Government or Provincial Government.

CHAPTER XII-A

PROVINCIAL FINANCE COMMISSION AND FISCAL TRANSFERS

120-A, Establishment of Provincial Finance Commission. On coming into force of this Chapter, the Governor of Balochistan forthwith shall constitute a Provincial Finance Commission for the Balochistan Province hereinafter referred to as the Finance Commission.

120-B, Membership: (1) The Finance Commission shall consist of five members including Chairman:

Provided that there shall be one expert in the field of the Public Administration, to be nominated by the Governor:

(2) Four members shall be ex-officio, namely:

- (i) the Minister for Finance of the Province, shall be the Chairman of the Finance Commission, and in his absence for whatsoever reasons, the members may elect one of the members present to be chairman in the manner prescribed for the duration of his absence,
- (ii) the Additional Chief Secretary Development Government of Balochistan.
- (iii) the Secretary to Government of Balochistan, Local Government Department.
- (iv) the Secretary to the Government of Balochistan , Finance department who shall also be Secretary of the Provincial Finance Commission.

(3) The Finance Department shall provide secretarial support to the Commission.

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

120-C Functions, Duties and Powers of the Finance Commission: (1) The functions, duties and powers of the Finance Commission shall be to make recommendations to the Governor for:

- (a) a formula for distribution of resources including:
 - (i) distribution between the Government and the District Government out of the proceeds of the Provincial

consolidated Fund into a Provincial Retained Amount and a Provincial Allocable Amount respectively:

Provided that in no case the Provincial Allocable Amount shall be so determined that it is less than the funds transferred to District governments in the financial year 2001-2002 and the establishment charges budgeted for the functions of Local Governments in the same year, excluding transfers in lieu of Octroi and Zila Taxes:

Provided further that all the monies received by the Government in lieu of Octroi and Zila Taxes shall be added to the Provincial Allocable Amount, separately.

- (ii) distribution of the Provincial Allocable Amount amongst the District Governments Tehsil and Tehsil Municipal Administrations and the Union Administrations as their shares;

(2) The recommendations shall be based on the principles of fiscal needs, fiscal capacity, fiscal efforts and performance.

(3) Before finalization of the recommendations under sub-section (1), the Finance Commission may hold consultations with the relevant Departments of the Government, Local Governments and, in the discretion of the Finance Commission, with any other body or persons.

(4) As soon as may be after receiving the recommendations of the Finance Commission, the Governor shall by Order specify in accordance with the recommendations of the Finance Commission under clause (a) of sub-section(1), the Provincial Retained Amount and the Provincial Allocable Amount, and in turn the shares inter se of the Local Governments and that share shall be paid to the Local Government concerned promptly in accordance with the laid down procedure.

(5) The Provincial Allocable Amount and shares of the Local Governments calculated each year in accordance with the Order made under sub-section (6) shall be laid before the Provincial Assembly.

(6) The Governor may, by Order, also make grants in aid of the revenues of the Local Government in need of assistance.

120-D. Certain Institutional Process of the Finance Commission:(1)In every financial year, at least three months before the finalization of the Provincial Budget, the Finance Commission shall require the Finance Department to submit a statement of estimated revenues and expenditures of the Government for the following financial year and shall also required a statement of the Provincial Allocable Amount and its distribution prepared in the light of the Order under subsection (4) of Section 120-C.

(2) The Finance Department may provide the Finance Commission with a statement of the Provincial Allocable Amount and its distribution, prepared in

accordance with the Order under subsection (4) of Section 120-C, on approval of the Provincial Budget.

(3) The Finance Commission may cause any information required for making assessments and decisions of fiscal transfers to be placed before it from any organization or office of the Government, or Local Government.

(4) The Finance Commission shall take all decision by a majority of members present and voting

(5) The Finance Commission shall present to the Government and local governments an annual report on fiscal transfers and local government resources.

120-E. Formula and its application and revision: (1)The releases of Provincial Allocable Amount and shares of the Local Governments shall be made on the basis of actual monthly receipts of the Government.

(2)The Order shall remain in force for a period of three years.

(3) At least six months before the expiry of the aforesaid period, the Finance Commission shall recommended the formula for the next period, in accordance with sub-section (1) of Section 120-C, on the basis of evaluation of impact of the fiscal transfers of the Local Governments and other relevant matters.

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

(5)In case the recommendation is not finalized before the expiry of the Order under Section 120-C, the Order in force shall continue to serve as the determinant of the Provincial Allocable Amount and the shares of the Local Governments, as the case may be till such time that a new Order is made.

120-F. Obtaining of Data: (1) The data required for the formulation and application of the formula shall be obtained by the Finance Commission from the Federal, Provincial or Local Governments, and to from any authority, corporation, body, or organization established by or under law or which is owned or controlled by any Government or in which any of the Governments has a controlling share or interest or any other source.

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

120-G. Certification Requirements for Fiscal transfers:(1) The Finance Commission in consultation with the Government shall determine the requirements for certification of fiscal transfers.

(2) Certifications under sub-section (1) shall, inter alia, include the following:

- (a) Provincial Allocable Amount and its calculation;
- (b) transfer of funds in accordance with determined shares to the District Governments, Tehsil Municipal Administrations, Town Municipal Administrations and the Union Administrations in the Province;
- (c) revenues and expenditures of the Government and Local Governments.

(3) In case where the institutional process of the Government or the Local Governments generate data required for administration of fiscal transfers, the Finance Commission may recommend further requirements for certification.

(4) The certification required by the Finance Commission shall be furnished to the Finance Commission by the Government, Local Governments, any relevant agency connected with the Government or the Federal Government.

120-H. Reference by Provincial Government or Local Government to the Finance Commission: The Government or a Local Government may seek redress of grievances relating to any matter connected with fiscal transfers by the Government concerning itself or another Local Government by making a reference to the Finance Commission along with the grounds of such grievance whereupon the Finance Commission may take a decision for the purpose of redress of grievance provided that the decision so made shall not change the Order in force under sub-section (5) of Section 120-C or the shares of the Local Government.

120-I Procedural powers of the Finance Commission: Nothing contained in this Chapter shall be construed to impose limits on the powers of the Finance Commission under any law for the time being in force as regards calling for any information relating to the fiscal transfer formula and transfer of funds and shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Act No. V of 1908).

CHAPTER XVI
PENALTIES AND LEGAL PROCEEDINGS

141. Offences.- An act or omission specified in the Fourth Schedule shall be an offence liable to punishment by way of imprisonment or penalty under this Ordinance.

142. Notices and authorisation:- Each Nazim shall authorize an officer or officers under his administrative control:-

- (a) to issue legal notices on behalf of the respective Administration for violation or commission of any offence under this Ordinance, rules or bye-laws;
- (b) to take such measures and actions for compliance of directions contained in the notices issued restraining violations or commission of any offence under this Ordinance, rules or bye-laws; and
- (c) to initiate legal proceedings, defend any legal proceedings initiated against the local government, attend court proceedings and represent the concerned local government.

143. Cognizance of offences.- (1) No court shall take cognizance of any offence under this Ordinance except on a complaint in writing received from the Nazim, or an officer or a person generally or specially authorized by the local government or on a complaint filed by an affected citizen if no action is taken on the complaint made by him under sub-section (2).

(2) The Nazim or an officer or any other person generally or specially authorized by him may, on his own motion, or on the complaint of any affected citizen institute any suit or initiate prosecution or any other legal action against a person committing an offence under this Ordinance.

144. Summary disposal of cases.- Except the offences specified in Part-I of the Fourth Schedule, a court taking cognizance of the offences punishable under this Ordinance shall try such offences in a summary manner in accordance with the provisions of the Code of Criminal Procedure 1898 (Act V of 1898).

145. Punishments and Penalties.- (1) Whoever commits any of the offences specified in Part-I of the Fourth Schedule shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to fifteen thousand rupees, or with both and, if the offence is continued, with a further fine which may extend to one thousand rupees for every day after the date of the first commission during which period the offender has persisted in the offence.

(2) Whoever commits any of the offences specified in Part-II of the Fourth Schedule shall be punishable with imprisonment which may extend to six months and with fine which may extend to five thousand rupees and, if the offence is continued, with a further fine which may extend to two hundred rupees for every day

after the date of first commission during which period the offender has persisted in the offence.

(3) Whoever commits any of the offence specified in Part-III of the Fourth Schedule shall be punishable with imprisonment which may extend to one month, or with fine which may extend to five thousand rupees, or with both and, if the offence is continued, with a further fine which may extend to one hundred rupees for every day after the date of first commission during which period the offender has persisted in the offence.

146. Compounding of offences.- Subject to provision of section 345 of the Code of Criminal Procedure 1898 (Act V of 1898), except as otherwise provided, the Nazim or an officer or any other person generally or specially authorised by the local government in this behalf, may, at any time or after the commission of the offence but before the conclusion of proceedings in the court, compound any offence under this Ordinance.

147. Rights of Citizen not affected:- Nothing contained in section 143 shall restrict or limit the rights of the citizens or residents of a local area to bring any suit or other legal proceedings against any local government, its officers or other functionaries violating his rights available to him under any law for the time being in force.

SECOND SCHEDULE

[See Sections 39(b), 54(l), 67(i) & 88(b)]

Part-I**Zila Council**

1. Education tax.
2. Health tax.
3. Tax on vehicles other than motor vehicles.
4. Any other tax authorised by the Government.
5. Local rate on lands assessable to land revenue.
6. Fees in respect of schools, colleges, and health facilities established or maintained by the district government.
7. Fees for licences granted by the district government.
8. Fees for specific services rendered by a district government.
9. Collection charges for recovery of tax on behalf of the government as prescribed.
10. Toll on new roads, bridges, within the limits of a district, other than national and provincial highways and roads.

Part-II**Tehsil and Town Councils**

1. Local tax on services.
2. Tax on the transfer of immovable property.
3. Property tax on annual rental value of buildings and lands.
4. Fee on advertisement, other than on radio and television, and billboards.
5. Fee for fairs, agricultural shows, cattle fairs, industrial exhibitions, tournaments and other public events.
6. Fee for approval of building plans and erection and re-erection of buildings.
7. Fee for licenses or permits and penalties or fines for violation of the licensing rules.
8. Charges for execution and maintenance of works of public utility like lighting of public places, drainage, conservancy, and water supply.
9. Fee on cinemas, dramatical, theatrical shows and tickets thereof, and other entertainment.
10. Collection charges for recovery of any tax on behalf of the Government, District Government, Union Administration or any statutory authority as prescribed.

Part-III

Union Councils

1. Fees for licensing of professions and vocations.
2. Fee on sale of animals in cattle markets.
3. Market fees.
4. Fees for certification of births, marriages and deaths.
5. Charges for specific services rendered by the union council.
6. Rate for the remuneration of Village and Neighbourhood guards.
7. Rate for the execution or maintenance of any work of public utility like lighting of public places, drainage, conservancy and water supply.

FOURTH SCHEDULE
[See sections 141, 144 and 145]

Part – I

1. Immovable encroachment in or on or under any property or any open space or land vested in or managed, maintained or controlled by a local government.
2. Without license from relevant authority manufacturing, storing, trading or carrying fire crackers, fire balloons or detonators or any dangerous chemical, inflammable, hazardous or offensive article or material.
3. Discharging any dangerous chemical, inflammable, hazardous or offensive article in any drain, or public water course or public land in such manner as causes or is likely to cause danger to persons passing by or living or working in neighbourhood, or risk or injury to property.
4. Overcharging or illegally charging any tax, fee, fine, charge or rate by an employee of a local government or a contractor or his staff without the authority of a local government.
5. Preparing or using counterfeit or prescribed forms of the local government for recovery of taxes.
6. Erection or re-erection of building over set back area or parking area or building line area required to be left open under the rules for using such space for any purpose which is not approved.
7. Changing or converting into any other use any portion of a commercial building or area specified or earmarked for public parking.
8. Failure to demolish or otherwise secure a building declared by the local government to be dangerous building.
9. Failure of industrial or commercial concerns to provide adequate and safe disposal of affluent or prevention of their mixing up with the water supply or sewerage system.
10. Establishing any parking stand on any property or on any open space and public park or land vested in or managed, maintained or controlled by a local government on or under a street, road, graveyard or a drain without the sanction of the relevant local government.
11. Supplying or marketing drinking water for human consumption in any form, from any source which is contaminated or suspected to be dangerous to public health, or its use has been prohibited by a local government on the ground of being unsafe for human consumption, or whose quality and suitability for human consumption has not been ascertained and certified by a laboratory authorized by the Government.

12. Cultivation of agriculture produce or crop, for supply or sale to public using such manure, or irrigating it with sewer water or any such liquid as may be injurious to public health or offensive to the neighbourhood.
13. Quarrying, blasting, cutting timber or carrying building operations in such manner as causes or is likely to cause danger to persons passing by or living or working in the neighbourhood.
14. Erection or re-erection of a building without the sanction required under this Ordinance or using a building for a purpose which may endanger the security of people.
15. Dyeing or tanning skins within such distance of any commercial or residential area as may be specified by the local government.
16. Violation of the prohibitions provided in the Master Plan, the sanctioned Site Development Schemes under this Ordinance, Cities Acts, or any other law for the time being in force including the plans and schemes sanctioned under the repealed enactments.
17. Adulteration of any eatable or drinkable or consumable item sold or supplied to the public.
18. Neglect in safe storage of eatable, drinkable and other consumable items sold or supplied to the public.
19. Manufacturing, trading, storing or supplying any eatable or drinkable item and other items unsafe for human consumption or public health.
20. Contravention of the prohibition or attempt or abetment of any of the offences in this part.

Part – II

21. Wilfully obstructing any officer or servant of a local government or any person authorized the exercise of power conferred under this Ordinance.
22. Establishing any cattle market or *bakar mandi* without permission of the local government.
23. Failure to deliver back possession of property to the local government on cancellation and expiration of lease.
24. Establishing any bus, wagon, taxi or other commercial motorized or non-motorized vehicle stand for the purpose of plying them on different routes on any road, street, footpath, public place or any other property vested or managed or controlled or maintained by a local government without its permission.
25. Establishing or running any restaurant or vending stalls for eatables on any road, street, footpath, public place, over a drain, or any other property vesting in or managed or controlled or maintained by a local government without its permission.

26. Fixing of wooden *khokhas*, plying of handcarts for the sale of goods and temporary shops or extension thereof on footpaths or beyond the street line.
27. Establishing a brick kiln and lime kiln within such distance of a residential area as may be specified by the local government.
28. Failure by the owner or occupier of any land to clear away and remove any vegetation declared by a local government to be injurious to health or offensive to neighbourhood.
29. Slaughtering of animals for the sale of meat at a place other than the place set apart for the purpose.
30. Cutting down of any tree, or cutting of a branch of any tree, or erection or demolition of any building or part of a building where such action is declared under this Ordinance to be a cause of danger or annoyance to the public.
31. Stocking or collecting timber, wood, dry grass, straw or other inflammable material or fuels, adjacent to commercial buildings or residential houses.
32. Without the permission of the local governments causing or knowingly or negligently allowing the contents of any sink, sewer or cesspool or any other offensive matter to flow, or drain or to be put upon any street, or public place, or into irrigation channel or any sewer or drain not set apart for the purpose.
33. Doing an act without licence or permission when the doing of such act requires a licence or permission under any of the provisions of the Ordinance or the rules or byelaws.
34. Manufacturing, keeping, storing or selling wire thread or any other material meant for kite flying or in the manner causing danger to the human life or the electric installations or disruption in electric supply.
35. Keeping or maintaining any cattle in any part of the prohibited zone or failure to remove the cattle from the prohibited zone within the specified time when an order to this effect has been made.
36. Keeping ferocious dogs or other animals in residential areas or taking such animals to public places without leash.
37. Obstructing or tampering with any road, street, drain or pavement.
38. Obstructing or tampering with any main pipe, meter or any apparatus or appliance for the supply of water or sewerage system.
39. Evasion of payment of tax or other impost lawfully levied by a local council.

40. Preparation and sale of article or articles of food or drink by a person apparently suffering from any infectious or contagious disease that may endanger the health of people.
41. Attempts and abetments of any of the offences as aforesaid.
42. Contravention of the prohibition or attempt or abetment of any of the offences in this part.

PART –III

43. Laying out a drain or altering any drain in a street or road without the sanction required under this Ordinance.
44. Connecting any house drain with a drain in a public street without the permission required under this Ordinance.
45. Excavation of earth, stone or any other material within such distance of the residential area as specified by the local government.
46. Burying or burning a dead body at a place which is not a public or registered burial or burning place, except with the sanction of the local government.
47. Failure to furnish, on requisition, information in respect of any matter which a local government is authorized to call for under any of the provisions of this Ordinance, rules or bye-laws or furnishing wrong information.
48. Obstructing lawful seizure of animals liable to be impounded on the ground of violations of rules or byelaws governing the picketing, tethering, keeping, mulching or slaughter of animals or their trespass of private or public property.
49. Picketing, parking animals or collecting carts or vehicles on any street, using any street as a halting place for vehicle or animals or as a place encampment without the permission of the local council concerned.
50. Causing or permitting animals to stray or keeping, tethering, stalling, feeding or grazing any cattle on any road, street or thoroughfare or in any public place or damaging or causing or permitting to be damaged any road, street or thoroughfare by allowing cattle to move thereon.
51. Disposal of carcasses of animals within prohibited distance.
52. Failure to dispose of offal, fat or any organ or part of a dead animal in a place set apart for the purpose by the local government.
53. Throwing or placing any refuse, litter or garbage on any street, or in any place, not provided or appointed for the purpose by a local government.

54. Failure to provide for disposal of litter or garbage inside or outside a shop by its owner.
55. Failure to maintain clean premises of the area in front of a shop, office or factory up to the public street or road serving this facility.
56. Watering cattle or animals, or bathing or washing at or near a well or other source of drinking water for the public.
57. Steeping hemp, jute or any other plant in or near a pond or any other excavation within such distance of the residential area as may be specified by a local government.
58. Drawing off, diverting or taking any water except with the permission required under this Ordinance.
59. Failure to provide, close, remove, alter, repair, clean, disinfect or put in proper order any latrine, urinal drain, cesspool or other receptacle for filth, sullage, water or refuse by an owner of a house, shop, office, industry or premises.
60. Failure to clean the premises, houses, shops and cultivated lands of the plastic bags and other nonperishable materials.
61. Damaging or polluting physical environment, inside or outside private or public premises, in a manner to endanger public health.
62. Failure by the owner or occupier of any land to cut or trim the hedges growing thereon which overhang any well, tank or other source from which water is derived for public use.
63. Failure by the owner or occupier of any land or building to clean, repair, cover, fill up or drain of any private well, tank or other source of water supply, which is declared under this Ordinance to be injurious to health or offensive to the neighbourhood.
64. Failure to stop leakages of water pipes, faucets and sanitary fittings resulting in dirty water pools affecting physical environments and breeding of mosquitoes.
65. Failure of an owner or occupier of any building or land to put up and keep in good condition troughs and pipes for receiving or carrying water or sullage water.
66. Feeding or allowing to be fed an animal meant for dairy or meat purposes, on deleterious substance, filth or refuse of any kind which is dangerous to health of consumers.
67. Defacing or disturbing any direction-post, lamp post or lamp extinguishing or any light arranged by a local government without due authority.

68. Fixing any bill, notice, placard, poster or other paper or means of advertisement against or upon any private or public building or place other than the places fixed for the purpose by a local government.
69. Exhibiting any obscene advertisement.
70. Loud playing of music or radio, beating of drum or tom-tom, blowing a horn or beating or sounding any brass or other instruments or utensils in contravention of any general or special prohibition issued by a local government or a hospital or an educational institution.
71. Loud shouting in abusive language causing distress to the inhabitants of a neighbourhood or village or any other public place.
72. Using or allowing the use for human habitation of a building declared by a local government to be unfit for human habitation.
73. Failure to lime-wash or repair a building if so required by a local government.
74. Begging importunately for alms by exposing any deformity or disease or any offensive sore or wound to solicit charity.
75. Failure of the head of family to report the birth or death to a local government or a person appointed in this behalf within a reasonable time.
76. Causing or permitting to be caused by any owner or keeper of an animal, through neglect or otherwise, damage of any land or crop or produce of land, or any public road, by allowing such animal to trespass thereon.
77. Selling cattle and animals in contravention of any law, rule or byelaws of a local government.
78. Kite flying in contravention of any general or specific prohibition issued by a local government.
79. Keeping pigeons or other birds in a manner causing danger to air traffic.
80. Contravention of the prohibition or attempt or abetment of any of the offences in this part.
