

EXTRAORDINARY
GOVERNMENT



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KHYBER PAKHTUNKHWA

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GOVERNMENT OF THE KHYBER PAKHTUNKHWA LAW, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS DEPARTMENT

NOTIFICATION

Dated Peshawar, the 10th October, 2014.

No. LEGIS: 1(11)2014.—The following Ordinance by the Governor of the Khyber Pakhtunkhwa is hereby published for general information:

THE KHYBER PAKHTUNKHWA DELIMITATION OF LOCAL COUNCIL ORDINANCE, 2014.

(KHYBER PAKHTUNKHWA ORDINANCE NO. XI OF 2014)

AN ORDINANCE

*to provide for delimitation of local councils for elections
in the Province of the Khyber Pakhtunkhwa.*

WHEREAS it is expedient to provide for the delimitation of village councils, neighbourhood councils and territorial wards for general seats to tehsil councils, and district councils, for elections to local councils in the Province of the Khyber Pakhtunkhwa and for matters connected therewith and ancillary thereto;

AND WHEREAS the Provincial Assembly is not in session and the Governor of the Province of the Khyber Pakhtunkhwa is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of the Khyber Pakhtunkhwa is pleased to make and promulgate the following Ordinance:

1. **Short title, extent and commencement.**---(1) This Ordinance may be called the Khyber Pakhtunkhwa Delimitation of Local Councils Ordinance, 2014.

(2) It extends to the whole of the Province of the Khyber Pakhtunkhwa except the areas notified as Cantonment or other areas excluded by Government through notification in the official Gazette.

(3) It shall come into force at once.

2. **Definitions.**---(1) In this Ordinance, unless there is anything repugnant to the subject or context,-

- (a) "Commission" means the Election Commission of Pakistan constituted under Article 218 of the Constitution of the Islamic Republic of Pakistan;
- (b) "delimitation" means delimitation of village councils, neighbourhood councils, territorial wards of tehsil and district councils, as the case may be, for elections;
- (c) "District" means a revenue district notified under the West Pakistan Land Revenue Act, 1967 (W.P. Act No. XVII of 1967);
- (d) "elections" mean elections to local councils in the Province;
- (e) "Government" means the Government of the Khyber Pakhtunkhwa;
- (f) "Local Government Act" means the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013);
- (g) "Mauza" means a revenue estate declared under the West Pakistan Land Revenue Act, 1967 (W.P. Act XVII of 1967);
- (h) "population" means the population in accordance with the last preceding population census officially published;
- (i) "Province" means the Province of the Khyber Pakhtunkhwa;
- (j) "rules" mean rules made under this Act;
- (k) "tehsil" means a tehsil notified under the West Pakistan Land Revenue Act, 1967 (W.P. Act No. XVII of 1967); and
- (l) "youth" means a duly qualified candidate for elections, who is below thirty years of age on the last day fixed for filing of nomination papers.

(2) All words and expressions used but not defined in this Ordinance shall have the same meanings as assigned to them in the Local Government Act.

3. **Delimitation by the Commission.**---The Commission shall delimit village councils, neighbourhood councils and territorial wards for general seats to tehsil and, as the case may be, district councils in accordance with the provisions of the Local Government Act.

4. **Procedure of Commission.**--- (1) Subject to the provisions of this Ordinance, the Commission shall regulate its own procedure.

(2) If, upon any matter requiring decision of the Commission, there is difference of opinion amongst its members, the opinion of the majority shall prevail and the decision of the Commission shall be expressed in terms of the opinion of the majority.

(3) The Commission may exercise its powers and perform its functions notwithstanding that any one of its members is, for any reason, unable to attend its proceedings and the decision of at least three members shall have the effect of the decision of the Commission:

Provided that where the members attending the proceedings of the Commission are equally divided in their opinion, the opinion of the Chairman of the Commission shall prevail and the decision of the Commission shall be expressed in terms of that opinion.

5. **Delegation of powers, etc.**---(1) The Commission may authorize one or more of its members, acting singly or together, to exercise and perform all or any of its powers and functions under this Ordinance.

(2) Where two or more members are authorized under sub-section (1),

(a) their decision shall be expressed in terms of the opinion of the majority;
or

(b) if they are equally divided, the matter shall be placed before the Chairman of the Commission.

6. **Assistance to the Commission.**---(1) The Commission, its Chairman or any officer, authorized in this behalf, may require any person performing executive functions in connection with the affairs of the Province to perform such functions or render such assistance in connection with delimitation as it or he may direct.

(2) All executive authorities of Government shall assist the Commission in the performance of its functions and for this purpose the Commission may issue such directions as it may consider necessary.

7. **Composition and delimitation of district councils.**---(1) Each district council shall consist of general seats, seats reserved for women, peasants and workers, youth and non-muslims as provided in Part-A of SECOND SCHEDULE to the Local Government Act.

(2) For the purposes of election to the general seats of district council, the Commission shall divide each district into as many separate territorial wards as the number of general seats allocated to that district under sub-section (1).

8. **Composition and delimitation of tehsil councils.**---(1) Each tehsil council shall consist of general seats, seats reserved for women, peasants and workers, youth and non-muslims as provided in Part-B of SECOND SCHEDULE to the Local Government Act.

(2) For the purposes of election to the general seats of tehsil council, the Commission shall divide each tehsil into as many separate territorial wards as the number of general seats allocated to that tehsil under sub-section (1).

9. **Composition of village council and neighbourhood councils.**--- Every village council and neighbourhood council, shall be a multimember ward for election of ten to fifteen following members:

- (a) five to ten members, determined on the basis of population, elected to general seats;
- (b) two members elected to seats reserved for women;
- (c) one member elected to seat reserved for peasants and workers;
- (d) one member elected to seat reserved for youth; and
- (e) one member elected to seat reserved for non-muslims.

10. **Delimitation of village council and neighbourhood council and allocation of seats.**---(1) A village council 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.

(2) In the case of an area with urban characteristics, a neighbourhood council shall be an area comprising 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:

Provided that, as far as may be,-

- (a) the area of a village and neighbourhood council shall be a territorial unity;
- (b) the boundaries of a village and neighbourhood council shall not cross the limits of a tehsil;

- (c) the area of a village council shall comprise a whole number of patwar circles, or a patwar circle may contain a number of whole village councils;
- (d) the area of a neighbourhood council shall comprise a whole number of census blocks as delimited for the purpose of the preceding population census or a whole number of muazlaat or a combination of a whole number of census blocks and muazlaat; and
- (e) the population of village and neighbourhood council within a district shall range between two thousand (2,000) to ten thousand (10,000), calculated on the basis of last preceding population census officially published:

Provided further that in a specific case, Commission may in consultation with Government, waive the aforesaid conditions.

11. Principles of delimitation.---(1) The delimitation shall be carried out in accordance with the following principles:

- (a) a village council shall be delimited without distorting the boundaries of traditional village;
- (b) a neighbourhood council shall be delimited without affecting the unity of census blocks or the combination of census blocks and muazlaat included therein;
- (c) general seats in village councils and neighbourhood councils shall be determined by population of the areas included in these councils; and
- (d) wards for general seats in tehsil councils and district councils as far as practicable, be delimited by grouping together geographically contiguous village councils or, as the case may be, neighbourhood councils, having regard to existing boundaries of administrative units, facilities of communications, public convenience and other cognate factors to ensure homogeneity in the creation of wards.

(2) As far as may be possible, wards for election to the same local council shall be equal among themselves in population.

12. Reports of Commission and list of councils and wards etc.---(1) For the purpose of delimiting village councils, neighbourhood councils and territorial wards of tehsil and district councils, the Commission may receive and consider representations, hold inquiries, summon witnesses and record evidence, and shall prepare and publish in the official Gazette a preliminary report and list of councils and wards specifying the areas proposed to be included in each village council, neighbourhood council, territorial wards of tehsil councils and territorial wards of district councils for information of the public and inviting objections, if any.

(2) Any person entitled to vote at elections in the district may, within ten days of the publication of the report under sub-section (1), make a representation to the Commission in respect of delimitation of a village council, neighbourhood council, ward of tehsil council and district council.

(3) The Commission shall, after hearing and considering the representations, if any, received by it, make such amendments, alterations or modifications in the preliminary list published under sub-section (1), as it thinks fit or necessary, and shall publish in the official Gazette the final report and list showing the areas included in each village council, neighbourhood council, ward of tehsil council and district council in the district.

13. Power of the Commission to make amendment, alteration or modification in the final list.---Notwithstanding anything contained in this Ordinance, the Commission may, at any time, of its own motion, make such amendments, alterations or modifications in the final list of village councils, neighbourhood councils, wards of tehsil councils and district councils in the Province, as it thinks necessary.

14. Removal of difficulties.---If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Commission may make such provision for the removal of the difficulty as it may deem fit.

15. Bar of jurisdiction.---The validity of delimitation, or of any proceedings taken or anything done by the Commission or any officer appointed and obligated by it under this Ordinance or rules, shall not be called in question in any Court.

16. Power to make rules.---Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

Peshawar,
Dated 10th October, 2014.

SARDAR MAHTAB AHMAD KHAN
Governor of the Khyber Pakhtunkhwa

MUHAMMAD ARIFEEN
Secretary to Government of the Khyber Pakhtunkhwa
Law, Parliamentary Affairs and Human
Rights Department.