

**GOVERNMENT OF THE KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT, ELECTIONS AND
RURAL DEVELOPMENT DEPARTMENT**



NOTIFICATION

Peshawar, dated October the 13th, 2015

No. SO(LG-I)LGC/4-116/2015:- In exercise of the powers conferred under section 112 of the Khyber Pakhtunkhwa Local Government Act, 2013 (Khyber Pakhtunkhwa Act No. XXVIII of 2013), the Government of Khyber Pakhtunkhwa is pleased to make the following Rules, namely:

**THE KHYBER PAKHTUNKHWA
LOCAL GOVERNMENT COMMISSION
(CONDUCT OF BUSINESS) RULES, 2015**

CHAPTER-I
GENERAL

*SECTION 112
Local Government Commission (Conduct of Business) Rules, 2015
Development Department KPK*

1. Short title and commencement.---(1) These rules may be called the Khyber Pakhtunkhwa Local Government Commission (Conduct of Business) Rules, 2015.

(2) These rules shall come into force at once.

2. Definitions.---(1) In these rules, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say;

- (a) “Act” means the Khyber Pakhtunkhwa Local Government Act, 2013 (Act No. XXVIII of 2013);
- (b) “Administrative Department” means any Administrative Department of Government as provided in Schedule-I of the Khyber Pakhtunkhwa Government Rules of

Business, 1985;

- (c) “authorized officer” means an officer acting or assisting the Commission authorized by the Commission and includes the members of the Commission;
- (d) “Chairman” means the Chairman of the Commission;
- (e) “Chief Minister” means the Chief Minister of the Khyber Pakhtunkhwa;
- (f) “Commission” means the Local Government Commission appointed under section 54 of the Act;
- (g) “Conciliation Committee” means a committee constituted for conciliation or mediation under these rules in order to amicably resolve disputes;
- (h) “Director General” means the Director General, Local Government and Rural Development;
- (i) “dispute” means any dispute between or amongst local governments, as the case may be;
- (j) “district government” means a district government of the district concerned;
- (k) “division” means an administrative division, notified under the West Pakistan Land Revenue Act, 1967 (West Pakistan Act No. XVII of 1967);
- (l) “inspection” means physical verification of assets, official documents, records, inspection of projects already executed or under executions and schemes already completed or under completion;
- (m) “local governments” means local government constituted under section 5 of the Act;
- (n) “matter” means any issue concerning a local government;
- (o) “process” means any mode, method or manner adopted by the Commission for attendance of witnesses and parties, requisition of record or any communication made, taken or initiated by the Commission during inquiries, special audit, annual and special inspections and settlement of disputes under these rules;
- (p) “report” means written statement of the Commission based on the annual and special inspection, special audit, inquiry and includes recording of the facts and recommendations or suggestions of the Commission as a result of annual and special inquiries and special audit;
- (q) “Secretariat” means the office of the Director General;
- (r) “settlement” means a settlement arrived at during the course of conciliation proceedings by the Conciliation Committee; and

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(s) “sub-offices” means sub-offices of the Commission as mentioned in sub-rule (2) of rule 3.

(2) Any word or expression not defined in these rules shall have the same meaning as assigned to it in the Act.

3. Sitting of the Commission.---(1) The headquarter of the Commission shall be at Peshawar; provided that the Chairman of the Commission may summon meetings at any other place, as the Chairmen may direct.

(2) The Divisional Commissioners shall work as sub-offices of the Commission in their respective divisions of the province.

4. Correspondence.---The correspondence on behalf of the Commission shall be authenticated under the signature of the Director General or an officer authorized by him in this behalf.

5. Financial powers.---(1) Government shall provide budget to the Commission shall be placed at the disposal of the Director General, who shall be the Principal Accounting Officer in relation to the budget.

(2) The budget of the Commission, appropriated by Government, shall be utilized for the purposes of the Commission.

6. Functions and responsibilities of the Secretariat.---(1) The Secretariat shall render assistance for the proper functioning of the Commission. The Secretariat shall be responsible for-

- (a) implementation and monitoring of the decisions of the Commission;
- (b) preparation of annual reports about the performance of the local government at District, Tehsil, Town and Village or Neighborhood Local Councils levels;
- (c) preparation of drafts, reports or summaries and other assignments to be presented to the Chief Minister with the approval of the Commission;
- (d) supply of copies of the decisions, recommendations and minutes of the Commission, to the person or office with respect to whom such decision, minutes and recommendations pertain, duly authenticated by the Director General or an officer authorized by him in this behalf; and
- (e) any other assignment assigned to him by the Commission.

CHAPTER-II

CONDUCT OF BUSINESS OF THE COMMISSION

7. Meetings of the Commission.---(1) Besides special meetings and consultative planning meetings as and when so called by the Chairmen, the Commission shall meet at least once in two months in connection with the performance of its functions under the Act.

(2) The Commission shall hold at least three consultative meetings in a calendar year. The Director General shall make arrangement for the meetings and shall circulate schedules of the meetings for approval of the Chairman, the Director General circulate the agenda for the meeting at least fifteen (15) days before the meeting.

(3) The consultative planning meeting's schedules shall contain columns, for "name of district", "date of expected meeting", "names of participants", "expected date by which invitations to be sent", "expected date for issuance of the minutes of the meeting", "name (s) of member (s) responsible" and "status or comments".

(4) The meetings shall be presided-over by the Chairman or in his absence by a member chosen from amongst the members present in the respective meeting.

(5) In the absence of the Chairman, Director General, on written requisition of at least two members of the Commission, shall call for a meeting of the Commission.

(6) Intimation for the date, place and time of a meeting, other than a special meeting, shall be sent by the Director General to the members at least five days before the meeting and in case of a special meeting, at least two days before such meeting.

(7) The minutes of each meeting shall be recorded in a minutes book to be maintained by the Director General for the purpose.

(8) The quorum of a meeting shall be two third of the total members.

8. Decisions of the Commission.---(1) All decisions of the Commission shall be taken by majority of votes of the members present. Where there is a difference of opinion, the member or members, as the case may be, record their dissenting notes to be reproduced in the minutes. The decision, finding

and report of the Commission and all communication, action or process undertaken by the Commission shall be made in the name of the Commission.

(2) In case of equality of votes, the Chairman shall have the right of a second or casting vote.

9. Disposal of Business.---(1) All the correspondence, including resolutions, facilitation requests and complaints from the local governments shall be addressed to the Chairman for appropriate action by the Commission.

(2) All issues that require consideration of the Commission shall be included in the agenda of the meeting of the Commission.

(3) Minutes of the meetings shall be placed before the Commission for approval of the Chairman after obtaining comments on the draft minutes from the members. If any member does not offer his comments within three (3) days of the issue of minutes, it shall be presumed that he has no comments.

(4) Minutes of the previous meeting shall be confirmed by the Commission before opening of discussion on the agenda of the ensuing meeting.

10. Agenda of Meetings.---(1) The agenda of the meeting shall be issued by the Director General with the approval of the Chairman.

(2) The disposal of business shall be undertaken by the Commission in such order as given in the agenda.

(3) Any member desirous of bringing any matter before the Commission for consideration may submit his proposal subject to approval of the Chairman, shall be included in the agenda by giving a prior notice of at least three days; provided that the Chairman may add any issue to the agenda at any time he deems appropriate.

11. Distribution of business.---(1) The Chairman may distribute business of the Commission relating to inquiries, annual and special inspection, disputes, special audits, consultative planning meetings and for handling other delegated functions among the members or, as the case may be, sub-offices:

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Provided that the Chairman may entrust the business on the basis of territories and the Director General shall cause the business to be passed onto the concerned member or sub-office, as the case may be, for disposal.

12. Duties of the Director General.---(1) The Director General while acting in connection with the affairs of the Commission shall-

- (a) be responsible for the routine conduct of the business of the Commission;
- (b) ensure that the business of the Commission is carried out in accordance with the provisions of the Act and rules;
- (c) act as the Principle Accounting Officer for the Commission;
- (d) exercise supervision over the activities of the sub-offices of the Commission;
- (e) submit periodic reports regarding the performance of local governments along with the documentation to the Commission for onward submission to the Chief Minister;
- (f) bring the violations of laws and rules by a local government to the notice of the Commission, such violations specifying the case or classes of cases which may be brought against the perpetrator, by the Commission; and
- (g) be responsible for the careful observance of these rules by the local governments.

(2) While submitting a case for the orders of the Commission, it shall be duty of the Director General to suggest a definite line of action.

13. Powers of the Commission.---(1) In pursuance of the functions under section 55 of the Act, the Commission have the powers to-

- (a) require any person to furnish such information as may be useful for the disposal of the inquiry or annual and special inspection under clause (a) of sub-section (1) of section 55 of the Act;
- (b) enter into any premises for inspection;
- (c) inspect a place where any work is in progress by or under the supervision of a local government or where it has reason to believe that some material irregularities are being committed; or
- (d) obtain certain documents relevant to annual and special inspections, inquiry or resolving disputes and may take into custody or seal such article, things, books of

accounts, documents or take extracts thereof; or

- (e) issue interim order or directions as deemed necessary in any inquiry, annual and special inspection or dispute, pending before the Commission for its findings, decision or settlement, directing concerned local government or executive authorities or person to do or not to do certain act, or to suspend the operation of any order, decision, resolution of any local council till final decision, or may issue any order as he may deem appropriate; and
- (f) order for initiation of process in connection with any inquiry, annual and special inspection or dispute pending before the Commission.

(2) The Commission may hold day to day hearing, in any matter in which any interim order has been issued, and shall decide the matter within thirty (30) days.

(3) Any person found guilty for violation of an order issued under clause (d) of sub-rule (2), shall be personally responsible for any loss caused as consequence of such violation beside any other penalty which the Commission may determine, that person shall be liable for making good the losses caused to the local government in addition to disciplinary action.

(4) Process issued by the Commission shall be executed through Police Department and the Police Department shall also provide aid, assistance support as and when required by the Commission.

(5) All executive authorities in the province shall assist and work in aid of the Commission in the performance of its functions as and when required by the Commission.

(6) The Commission may review its decisions either on its own motion or on information, as the case may be, if it appears that an error on record is apparent which needs correction or the decision is *prima facie* in violation of any provision of the Act and rules. The Commission shall re-examine the whole matter and may pass appropriate orders.

CHAPTER-III INSPECTIONS

14. Inspection by the Commission.---(1) Whenever the Commission plans to conduct an annual or special inspection of a local government, the Director General or person authorized by him shall cause a notice to the District Nazim, Town Nazim and Village or Neighborhood Nazim, Deputy

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Commissioner, as the case may be, intimating the date or dates of the proposed inspection and nature of inspection. On receipt of such notice all the concerned officials of the local government shall work in aid of the Commission and provide all the required assistance for efficient and effective discharge of the responsibilities by the Commission.

15. Special inspection.---The Commission, for the purpose of conducting a special inspection of a local government, either on its own motion or on direction by the Chief Minister, may adopt any procedure as it may deem fit.

16. Manner of inspection.---(1) The Commission shall draw and approve monthly schedules for conduct of annual or special inspection and shall notify it to all the concerned local governments and sub-offices.

(2) The annual or special inspection schedule may specify the name of local government, expected dates of visit, member responsible, and expected duration of inspection, as the case may be, or as the Commission may deem appropriate.

(3) On receipt of the notice for annual or special inspection, each local government shall ask the concerned officials to prepare and produce all relevant records for conduct of the inspection.

(4) The notice received under sub-rule (3) shall also be affixed on conspicuous places by the concerned Nazim, Deputy Commissioner, Tehsil Municipal Officer and District Officer concerned, as the case may be, for the information of general public to help them register their complaint, if any, to the Commission or its authorized officers for their considerations during inspection.

17. Inspection report.---(1) The inspection report prepared by the member or sub-office shall be placed before the Commission for its consideration. The Commission shall communicate the report to the Nazim of the concerned local government and the Nazim shall submit his comments within fifteen (15) days of the receipt of the report. The report along with the comments of the Nazim shall be placed before the Commission for its consideration. The Commission may hear the Nazim in person and the Nazim shall affix his signature on the report as a token of discussion, before submitting its recommendations to the Chief Minister.

(2) If the concerned Nazim fails to submit his comments on the

inspection report as required under sub-rule (1) or does not give his dissenting remarks on the report within the specified period, it shall be deemed that the concerned Nazim has accepted the report as correct.

(3) The Commission after examining the report along with the dissenting note or comments, if any, shall record its recommendation on the said report, and shall submit the report to the Chief Minister.

(4) A copy of the inspection report along with recommendations and order, if any approved by the Chief Minister, shall be sent to the concerned local government for compliance and report.

18. Action on inspection report.---(1) The concerned Nazim shall be required to submit a compliance report to the Commission within thirty (30) days of receipt of the inspection report.

(2) Non-compliance of sub-rule (1) shall be deemed willful default in compliance and shall be considered misconduct on the part of the defaulting Nazim and the Commission may take appropriate action.

(3) Any matter concerning any Administrative Department shall be sent to the Secretary of the Administrative Department concerned for compliance.

CHAPTER-IV

VIOLATION OF LAW AND RULES

*SECTION OF COMMISSION
Local Government (STATES)
Development Department & Revenue*

19. Commission to take cognizance of violations.---(1) A violation of any law, rule, instruction, directions if any, issued by Government from time to time, if observed, shall be noted by the Secretariat and shall be placed before the Commission for appropriate action.

(2) The Commission may take suo moto cognizance of any violation under sub-rule (1) as observed during inspections, inquiry, special audit or review of various documents and the reports, and shall take appropriate action for such violation as the Commission may deem appropriate.

(3) Copies of resolutions of local councils, received by the Commission, shall be examined in the Secretariat. The record of the same shall be maintained at district, tehsil, town and village and neighborhood level. In case, any resolution of any council is found against the law, rules,

procedures, public interest or policy, the Commission may summon the convener concerned and after hearing him, decide the matter as the Commission may deem appropriate.

(4) In case, direction is received from the Chief Minister regarding any resolution being against law, rules or public policy, the Commission shall give its findings and send the recommendations to the Chief Minister for his appropriate orders.

CHAPTER-V **DISPUTE RESOLUTION MECHANISM**

20. Manner of settling the dispute.---(1) When a dispute arises between local governments and the concerned local government are unable to settle the dispute amicably, the aggrieved party shall refer the dispute to the Commission for settlement:

Provided that a tehsil, village or neighborhood council, while liaising with the Commission, for resolution of disputes relating to the respective local governments, would refer the matter through its district government with a copy sent to the Commission.

(2) A formal request in writing shall be made to the Commission for the settlement of dispute in the shape of a memorandum containing the detail of the dispute along with the supporting documents.

(3) The Commission, on receipt of the request, shall constitute a Conciliation Committee consisting of two members of the Commission for settlement and refer the dispute to such Committee. The Commission shall make efforts to bring the parties to an amicable settlement, within thirty days of the appointment of the Conciliation Committee.

(4) The Conciliation Committee shall, within fifteen days of its constitution start its proceedings through meetings on day to day basis unless prevented by reasons beyond its control.

(5) The Conciliation Committee during its proceedings may suggest various possible measures for resolution of the dispute in order to bring the parties to a compromise.

(6) The parties to the dispute may be represented by the relevant Law Officer of the district or through an official duly authorized by the

parties.

(7) The settlement arrived at as a result of efforts made by the Conciliation Committee shall be reduced in writing and signed by the parties or their duly authorized representatives, as well as the concerned members. The settlement report shall then be sent to the Commission for its information and further appropriate action.

(8) In case the Conciliation Committee considers that a resolution of the dispute cannot be achieved between the parties, it shall communicate the fact to the Commission with details of efforts made along with relevant record for consideration of the Commission and further action.

(9) The Commission, on receipt of a report under sub-rule (8), shall constitute four members Conciliation Committee, headed by the Chairman and refer the dispute to such Committee. The Committee after hearing the parties, examining the relevant record, shall resolve the dispute as considered appropriate.

(10) Any party aggrieved by the decision may within thirty (30) days of decision file an appeal to the Chief Minister, whose decision shall be final.

CHAPTER-VI

INQUIRIES

SECTION 17
Local Government (Control and
Development) Department
Kerala

21. Inquiries.---The Commission shall conduct inquiry, on its own initiative or whenever so directed by the Chief Minister, by itself or through the sub-offices or district government into any matter concerning a local government or into any violation of the Act, rules, guidelines and instructions of Government or when the matter has been referred to it by the district government.

22. Procedure and manner of inquiry.---(1) The Commission shall require the concerned local government or officer or authority complained against to furnish reply to the complaint along with record within a time specified by the Commission or respective sub-office. In case the local government or officer or authority, as the case may be, fails to submit the reply within the stipulated period the defaulting local government, officer or authority, as the case may be, shall be proceeded-against ex-parte.

(2) The person who makes a complaint shall be duty-bound to pursue his case and in case of his failure to appear before the Commission as and when required, the complaint may be dismissed in default.

(3) The Commission shall look into the material available to it for the purpose of initiating inquiry proceedings into the affairs of a local government and shall decide whether the inquiry is to be conducted by the Commission itself or through the district government or sub-office or any local government.

(4) In either case, the Commission may frame the issues containing points to be determined, based on the material placed before the Commission. In case any subsequent material is produced before the Commission, the Commission after examining such subsequent material, may frame additional issues as are necessary for determination of the points in controversy.

(5) In case the Commission decides to refer the matter to the sub-office or to the district government for inquiry, the issues framed under sub-rule (4), along with material, shall be sent to the Secretary to Government in-charge of the Administrative Department or the head of local government, as the case may be, for initiating inquiry proceedings calling him to send the report within sixty (60) days.

(6) Where the Commission decides to hold the inquiry by itself it may proceed accordingly.

(7) The Commission while considering any matter shall adopt summary procedure as deems appropriate by the Commission.

(8) Where, in the opinion of the Commission, suspension of the Nazim is necessary for conducting a fair inquiry or preventing the Nazim from continuing with any unlawful activity during the pendency of inquiry, it may recommend at any stage of the inquiry to the Chief Minister, under sub-section (1) of section 59 of the Act, for making appropriate orders for suspension of such Nazim for a maximum period of thirty (30) working days.

(9) Inquiry, conducted on the direction of the Chief Minister, in which a Nazim has been suspended under sub-section (1) of section 59 of the Act, shall be completed within thirty (30) days of the suspension of the Nazim:

Provided that in case an inquiry, other than the inquiry sent by the Chief Minister, is not completed within the prescribed period, the Commission may extend the period, as deems appropriate.

(10) The Commission may, for ends of justice, provide reasonable opportunity of hearing to the parties as the Commission may deem appropriate and may record its findings on the basis of the material made available before the Commission.

(11) A register shall be maintained in the Secretariat to record all inquiries undertaken by the Commission.

(12) Such a register shall contain, inter-alia, columns under the headings of “Serial Numbers”, “Complaint Received From”, “Date of Receipt of complaint”, “Brief Description of the complaint”, “Brief findings of the inquiry by the Commission” and the decision of the Commission.

23. Action on inquiry.---(1) On completion of the inquiry proceedings, the Commission shall prepare its findings for onward transmission to the concerned quarter on whose direction the inquiry was conducted, for appropriate action.

(2) In case, the inquiry is initiated by the Commission itself, or on public complaint, the Commission shall decide such matter itself and the Commission shall communicate its decision to the concerned local government for implementation.

(3) The findings, recommendations, decision of the Commission relating to the inquiries or other matters concerning a local government shall be sent to the concerned local government for implementation and the local government concerned shall implement the decision within thirty (30) days under intimation to the Commission.

(4) The findings, recommendations, decision of the Commission relating to the inquiries or other matters concerning Government or its servants shall be sent to the Administrative Secretary of the Administrative Department concerned for implementation under intimation to the Commission.

(5) All the decisions, findings, directions and orders of the Commission arising as a result of the inquires shall be binding on the

concerned local government and the concerned local government shall immediately implement the directions and orders of the Commission. The decision of the Commission shall not be called in question.

(6) The Commission shall monitor the implementation of its decision, orders, in case any local government or executive authority in the province fails to implement the decision of the Commission, the Commission shall immediately report the matter with specific recommendation against the local government or any executive authority who fails to implement, or hinders in the implementation, of the decision or directives or order of the Commission to the Chief Minister, for his appropriate orders.

24. Facilitation to local governments.---Facilitation requests by local governments relating to policy analysis, oversight, checks and balances, capacity building and coordination, shall be reviewed by the Commission in its meeting to suggest appropriate action.

CHAPTER-VII

MISCELLANEOUS

25. Qualification of technocrat as a member of the Commission.---The technocrat, as a member of the Commission mentioned at clause (c) of sub-section (1) of section 54 of the Act, have a Degree, requiring conclusion of at least sixteen years of education from recognized University with at least five (5) years of experience in the Local Government System.

26. Resignation.---(1) The members mentioned at clauses (b) and (c) of sub-section (1) of section 54 of the Act, may resign from his office by tendering resignation to the Chief Minister through the Chairman.

(2) Government shall appoint new member, for the remaining tenure of the Commission, adopting the same procedure for appointment.

27. Fixation of liabilities in financial matters.---(1) Notwithstanding any other action prescribed, if any financial loss which, as a result of annual and special inspection, inquiry, special audit, is reported to have been caused by an act of negligence, violation of law, rules or prescribed procedures or willful omission or commission of any person, the Commission shall fix liabilities for making good the loss by the person responsible for causing the loss.

(2) The Commission shall fix a date for making good the loss and

if the amount is not paid or tendered for payment by the person concerned, the Commission shall refer the case to the District Collector of the district and the same shall be recoverable as arrears of land revenue. (3) The financial liabilities fixed by the Commission shall also be communicated to Auditor General and Local Fund Audit for action at their end.

28. Repeal and savings.---(1) The Khyber Pakhtunkhwa Local Government Commission (Conduct of Business) Rules, 2007 are hereby repealed.

(2) Notwithstanding the repeal of the rules at sub section (1) above, any instructions issued and orders made under the repealed rules shall continue to remain in force until altered, amended or withdrawn by the competent authority.

Secretary to
Government of the Khyber Pakhtunkhwa
Local Government, Election & Rural Development,
Department.

SECTION 28
Local Government, Election & Rural Development Department KPK