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# SINDH ORDINANCE NO. XIX OF 2002

# THE SINDH LOCAL GOVERNMENT (THIRD AMENDMENT) ORDINANCE, 2002.

**[19th June,2002]**

An Ordinance to further amend the Sindh Local Government Ordinance, 2001.

**Preamble.**

**WHEREAS** it is expedient to amend the Sind Local Government Ordinance, 2001, in the manner hereinafter appearing;

**AND WHEREAS** the Provincial Assembly stands dissolved in pursuance of the Proclamation of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999.

**AND WHEREAS** the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action.

**NOW, THEREFORE,** in pursuance of the aforesaid Proclamation and the Provisional Constitution Order read with Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of Sindh is pleased to make and promulgate the following Ordinance:-

**1.** **Short title and commencement.**

(1) This Ordinance may be called the Sindh Local Government (Third amendment) Ordinance, 2002.

(2) It shall come into force at once and shall be deemed to have taken effect on and from 1st June, 2002.

**2.** **Amendment in Proviso to section 1(3).**

The proviso shall be substituted with the following:

**"**Provided that the provisions as contained in Chapter XII and Chapter XII-A shall be applicable with immediate effect except sections 107, 108, 109, 114, 115 and 115-A, contained in Amendment 16 and Amendment 23 which shall come into force from first July, 2002".

**3.** **Amendment in Section 2.**

(1) In the definition of decentralize in sub-section(vii), immediately before the word "management", the following words shall be inserted:

"operation, functioning and".

(2) In the definition of "disaster" in sub-section(ix), the words "damages" shall be replaced with the word "damage".

(3) The definition of "mal-administration" in sub-section (xvii) shall be substituted with the following"

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

(b) delay, inaction, incompetence, inefficiency, ineptitude or neglect, in the administration or discharge of duties and responsibilities; or

(c) Repeated notices, prolonged hearings or u necessary 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.".

(4) After sub-section (xxvii-a), the following new sub-sections shall be inserted:

(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;

(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.".

(5) In the definition of "rent" in sub-section(xxix), before the semi-colon, the following words shall be inserted:

"or use of any machinery, equipment or vehicle".

**4.** Before the words "management and control", the words "operation," shall be inserted. **Amendment in section 16(1).**

**5.** Clause(b) shall be substituted with the following: **Amendment in section 39.**

"(b) approve taxes proposed by the District Government on the subjects specified in Part-I of the Second Schedule, or in case of a city District, on subjects specified in Part-II of the Second Schedule."

**6.** (1) Sub-clause(1): Sub-clause(1) shall be substituted with the following: **Amendments in Section 54(1).**

" propose taxes, cesses, user fees, rates, rents, tolls, charges, surcharges, levies, fines and penalties under Part-III of the Second Schedule for approval of the Taluka and notify the same after such approval;"

(2) Sub-clause(q): In sub-clause (q), the words "and Taluka Council" shall be deleted, and a semi-colon after the word "Administration" shall be inserted.

**7.** The following new Section 54-A shall be inserted to read as follow: **Insertion of New Section 54-A.**

"54-A Function and Powers of the Town Municipal Administration: The functions and powers of the Town Municipal Administration shall be to:

(a) Within the frame work of the spatial/master plans for the City District, prepare spatial plans for the Town in collaboration with Zila and union Councils including plans for land use, zoning and functions for which the Town Municipal Administration is responsible;

(b) Enforce, in addition to its own, all municipal laws for and on behalf of City District government, if required by such City District government at the cost and expense of the latter;

(c) Execute and manage development plans for the functions which are performed by the Town Municipal Administration;

(d) within the framework of the partial and Master plan for the City District, exercise control over land use, land sub-division, land development and zoning by public and private sectors for any purpose, including for agriculture, industry, commerce markets, shopping and other employment centres, residential, recreation, parks, entertainment, passenger and transport freight and transit stations;

(e) prevent and remove encroachments;

(f) procure and compile information provided by Union, Village Council and neighborhood councils of prioritized

projects in the towns;

(g) prepare budget and long term and annual town municipal development programmes in collaboration with the Union Councils, under the directions of Town Nazim;

(h) maintain, with the assistance of the City District Government, Union, Village and Neighborhood Councils, a comprehensive data base and information system for Town Municipal Administrational and provide public access to it on normal charges;

(i) propose taxes, cesses, user fees, rates, rents, tolls, charges, levies fines and penalties under Part-IV of the Second Schedule for approval of the Town Council and notify the same after such approval;

(j) collect taxes, cesses, user fees, rates, rents, tolls changes, fines and penalties;

(k) organize local sports, cultural and recreational events, fairs and shows;

(l) organise cattle fairs and cattle markets;

(m) regulate markets and service and issue licenses, permits, grant permissions and impose penalties for violations thereof as and when applicable;

(n) manage properties, assets and funds vested in the Town Municipal administration;

(o) develop and manage schemes, including site development in collaboration with City District Government and Union Administration;

(p) provide, manage, operate, maintain and improve the municipal infrastructure and services, including:

(i) water supply distribution other than integrated systems maintained by or on behalf of the City District;

(ii) sewerage system other than an integrated system maintained by or on behalf of City District excluding sewerage treatment and disposal;

(iii) solid waste collection and conveyance to transfer stations designated by the Town but excluding treatment and disposal of waste;

(iv) street lighting;

(v) firefighting; and

(vi) parks, playgrounds, open spaces and arboriculture, other than major facility maintained by the City District;

(vii) slaughter houses.

(q) Authorize an officer of officers to issue notice to a person committing any municipal offence and initiate legal proceedings for continuance of commission of such offence or for failure to comply with the directions contained in such notice;

(r) prosecute, sue and follow criminal, civil and recovery proceedings against violations of municipal laws;

(s) maintain town municipal records and archives; and

(t) prepare financial statements and present them for internal and external audit in the manner as may be prescribed.".

**8.** The following new section 58-A shall be inserted to as follows: **Insertion of New Section 58-A.**

"58-A. Town or Taluka Officer.- The function and powers of the Town or Taluka Officer (TO) Town or Taluka Municipal Administration shall be to:

(a) ensure that the business of the office under his administration control is carried out in accordance with law and the rules and the human and material resources placed at his disposal are optimally utilized to improve governance;

(b) co-ordinate and supervise the activities of the office and ensure efficient service delivery by the functionaries under his administrative control;

(c) supply information to the Monitoring Committees of the Town or Taluka Council and union Councils;

(d) take appropriate corrective actions based on the information received from Monitoring Committees;

(e) enforce relevant Federal, Provincial and municipal laws and rules;

(f) prepare development plans and propose budgetary allocations for their execution;

(g) implement approved plans and policies;

(h) authorize disbursement of performance bonuses to the employees;

(i) prepare proposals for expenditure necessary for the proper conduct of programmes, projects, services, and other activities;

(j) propose relevant bye laws on service delivery to the Town or Taluka Municipal Officers; and

(k) act as Departmental Accounting Officers for his respective office and be responsible to the Accounts Committee of the Town or Taluka Council".

**9.** In this sub-section, in line 2, replace the expression "Part-II" with the words "Part-III". **Amendment in Section 67(i).**

**10.** The following new Section 67-A shall be inserted to read as follows: **Insertion of New Section 67-A.**

"67-A. Functions and Powers of the Town Council:- the Town Council shall be to:

(a) approve taxes, cesses, rates rents, fees, user charges, tolls, levies, fines and penalties proposed by Town Municipal Administration specified in Part-IV of the Second Schedule;

(b) approve annual budget and appropriate for the Town Municipal Administration;

(c) approve long and short terms development plans;

(d) approve posts of personal staff for the office of Town Nazim and the terms and conditions of their service; provided that no post of advisor special assistant, press or political secretary to the Town Nazim shall be sanctioned or approved;

(e) elect monitoring committees of the Town Council to monitor the working of the Town Municipal Administration and the provision of municipal services;

(f) ensure that monitoring committees perform their functions in a non-intrusive manner without interfering in the day to day working of the relevant offices of the Town Municipal Administration and do not assume a command as control role;

(g) review the reports of the monitoring committees and make appropriate recommendations to the Town Nazim;

(h) elect Ethics Committee which shall be responsible for enforcing the code of conduct for regulating the conduct of the members of the Town Council;

(i) elect an Insaaf committee for interacting with the Insaaf committee of the Zila Council;

(j) elect Town Accounts Committee to review the audit reports of the accounts of Town Municipal Administration;

(k) review the performance of Town Municipal Administration presented by the Town Nazim;

(l) recommend by resolution to City District Government to undertake measures for improving delivery of municipal services to the Towns.

(m) To approve bye-laws for delivery of municipal services;

(n) To approve land use, zoning and master plan of the town development and maintenance programmes or projects proposed by the Town Municipal Administration;

(o) To require by resolution, the Town Municipal Administration to undertake measures for improvement in the delivery of municipal services; and

**11.** After the provision to sub section (3) the following new sub-section shall be inserted: **Amendment in Section 75.**

"(4) The Union Nazim may declare one of the Secretaries of the Union Administration to act as the Principal Accounting Officer of the Union Administration—

**12.** In this sub-section, the expression "Part-III) shall be substituted with "Part-V". **Amendment in section 88(b).**

**13.** This Section shall be substituted with the following: **Substitution of Section 98.**

"98.Composition of Citizen Community Board.-(1) In every local area, groups of non-elected citizens may, through voluntary, proactive and self-help initiatives, set up any number of Citizen Community Boards, Such Citizen Community Boards shall be set up for the purposes of, linter alia, energizing the community for development and improvement in service delivery; development and management of a new or existing public facility; identification of development and municipal needs; mobilization of stakeholders for community involvement in the improvement and maintenance of facilities; welfare of the handicapped, destitute, widows and families in extreme poverty; establishment of framing, marketing and consumers cooperatives, provided that grants will be available subject to

Section 119 of this Ordinance, and reinforcing the capacity of a special Monitoring Committee at the behest of the concerned Council.

(2) Notwithstanding anything to the contrary contained in sub-section(1) above, no person shall be eligible to set up a Citizen Community Board or become its member or hold the office of the chairman or secretary of the citizen community Board, if such person:

(a) is a minor;
(b) is of unsound mind;
(c) has applied to be adjudicated as an insolvent and his application is pending;
(d) is an undercharged insolvent;
(e) is a defaulter under law and his name has been published as such.

(3) In carrying out kits purposes, a Citizen Community Board may interact with voluntary organization for community welfare.

(4) The Citizen Community Board shall be set up after approval of the District Government concerned and registration with the registration authority, and carry on is functions and activities in such manner and subject to such rules as may be prescribed.

(5) The Citizen Community Board shall have a general body of its members who shall elect a Chairman, Executive Committee and a Secretary of the Board for carrying out its functions.

(6) The term of office of the Chairman, members of the Executive Committee and Secretary of the Citizen Community Board shall be two years extendable through election for a similar term or terms by the general body.

(7) The liability of the Executive Committee of a Citizen Community Board, its officers and members shall be as prescribed."

**14.** Sub-section (6) shall be substituted with the following: **Amendment in Section 99-Sub-section(6).**

"The Secretary shall present the annual statement of accounts in the annual meeting of the Citizen Community Board and after its approval the statement shall be submitted to the registration authority or such other authority as may be prescribed within thirty days or such other time period specified in this behalf.".

**15.** The Section shall be substituted with the following: **Substitution of section 101.**

"101. Citizen Community Board to be a Non-Profit Organization: (1) A Citizen Community Board shall be a non-profit organization and its income and assets shall be used solely for the attainment of its objectives.

(2) The properties and income of a Citizen Community Board shall vest, and be held, in the name of its Executive Committee. It shall sue and be sued in the name of its Executive Committee. No portion of its income shall be paid by way of salary, dividend, profit or bonuses or otherwise distributed to any of its members or contributors, whether past or present.

(3) If a Citizen Community Board is not carrying on its functions and activities in accordance with this Ordinance, the registration authority may appoint an administrator, with such powers and functions as the registration authority deems appropriate, to run its affairs, take over its assets, its dissolution, holding fresh elections or for the disposal of any other matter.

(4) Where a local government has contributed towards creation of any assets or funds of a Citizen Community Board, in case of dissolution or de-registration, its assets shall pass on to such Local Government and the assets shall continue to be used for community welfare by the Local Government through any of its agencies or any other Citizen Community Board designated by Sindh Local Government in this behalf.

(5) The Accounts of the Citizen Community Board shall be subject to audit as may be prescribed."

**16.** Chapter XII shall be substituted with the following: **Substitution of Chapter XII.**

**"CHAPTEWR XII**
**LOCAL GOVERNMENT FINANCE**

**107. Establishment of Funds and Public Accounts**: (1) There shall be established a District Fund, a Taluka Fund, a Town Fund and a Union Fund as the case may be for each respective Local Government.

(2) All revenues received by a Local Government shall form part of the respective Local Government Fund including:

(a) monies transferred by another Local Government under this Ordinance;

(b) grants made to or monies received by a Local Government from the Government or other sources;

(c) the proceeds of taxes or charges levied by a Local Government under this Ordinance;

(d) rents and profits payable or accruing to a Local Government from immovable property vested in or controlled or managed by it;

(e) proceeds or any other profits howsoever known or called form bank accounts, investments or commercial enterprises of a Local Government;

(f) gifts, grants or contributions to a Local Government by individuals or institutions;

(g) income accruing from markets or fairs regulated by a Local Government;

(h) fines paid with respect to offences under this Ordinance or bylaws or under any other law for the time being in force in which provision is made for the fines to be credited to the Funds established under this Ordinance;

(i) proceeds from other sources of income which are placed at the disposal of a Local Government under directions of the Government; and

(j) all monies transferred to a Local Government by the Government.

(3) All other moneys including-

(a) receipt accruing from trusts administered or managed by a Local Government;
(b) refundable deposits received by a Local Government; and
(c) deferred liabilities;

shall be credited to the Public Account of the respective Local Government.

**108. Custody of Funds:** Monies credited to a Fund or a Public Account shall be kept in the State Bank, government treasury, a post

office or a bank in such manner as shall be specified by the Government from time to time and shall be operated through the Accounts Officer specified under Section 114 of the concerned Local Government.

**109. Application of Funds:** (1) The moneys credited to a Fund shall be expended by Local government in accordance with the annual budget and Supplementary Budget approved by is Council.

(2) A local government may transfer approved budgeted amounts to any local government, Village Council or Neighborhood Council or Citizen Community Board, with in its local area, for expenditure for carrying out a project service or activity transferred to, or managed by, the recipient local government, Village Council Neighborhood Council or Citizen Community Board.

(3) No local government shall transfer monies to a higher level of government except by way of repayment of debts contracted before the coming into force of this Ordinance.

(4) The application of a fund of Local Government shall as provided by a council be subject to budgetary constraints by ratio to be prescribed for development works and expenditure on establishment.

(5) Expenditure from Fund of a local government on new posts or filling of existing vacant posts or total establishment expenditures as the case may be in a financial year shall not increase more than ten percent in total from the actual establishment expenditure of the previous year.

Provided that this sub-section shall not apply to a general salary increase on the existing schedule of establishment prescribed by Government.

(6) 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 twenty five percent of the develop0ment 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 years budget in addition to the fresh allocation under the said clause for that year.

(7) Where a new Local Government is to take over during a financial year as a result lo fresh elections, the outgoing Local Government shall not spend funds or make commitments for any expenditure, under any Demand for Grant or Appropriation, in excess of eight percent per mensum of the budgeted funds for the reminder of its term in office in that financial year.

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

**110. Charged Expenditure:** The following expenditure shall be treated as charged expenditure:

(a) in relation to District Fund:

(i) the budget of the Zila Council,

(ii) any sum to satisfy any judgment, decree or award against a Local Government by any Court or Tribunal,

(iii) all sums to be paid in connection with the administration of the functions of the Zila Mohtasib; and

(iv) interest payments.

(b) In relation to Taluka or Town or Union Fund:

(i) the budget of the Taluka or Town Council or as the case maybe, the Union Council,

(ii) any sum to satisfy any judgment, decree or award against a Local Government by any Court or Tribunal, and

(iii) interest payments.

**111. Budget Preparation:** (1) The annual budget for each Local Government shall contain estimates of:

(a) grant-in-aid from the Government;

(b) amounts available in the respective Fund;

(c) receipts for the next year; and

(d) expenditures to be incurred for the next year.

(2) To enable the budget preparation by Local Government, the Government shall, sufficiently before the beginning of each financial year, notify the provisional shares, which may be credited to the Fund of respective Local Governments from the Provincial Allocable amount.

(3) The Auditor General shall prescribe the chart of classifications and accounts to be followed by Local Governments from time to time.

(4) Each District Government Taluka (Town) Municipal Administration and Union Administration shall reappropriate budgetary provisions in accordance with the re-appropriation powers delegated to them by the respective Council.

Provided that at the end of a financial year a full statement of all appropriations made shall be submitted to the Council.

(5) No demand for a grant shall be made except on the recommendations of the Local Government.

(6) Conditional grants from the provincial retained amount will be shown separately in the budget and will be governed by conditions agreed therein.

(7) Before the commencement of a financial year each Local Government shall, for its Fund, prepare in the prescribed manner, a budget for that year, in conformity with the provisions of Section 119.

**112. Approval of Budget:** (1) Following the presentation of the Provincial budget but, before the commencement of the next financial year, each Nazim shall, 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 respective Council a budget for the remaining part of the financial year for approval.

(3) The Budget of Local Government shall, on presentation before the Council, be referred to the Finance Committee of the Council for detailed scrutiny and recommendation to the Council.

(4) The budget of a Local Government shall be approved by simple majority of the total membership of the respective Council.

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

(6) 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 proceeding financial year for a period not exceeding thirty days. In case the budget is not passed within the extended period the budget shall be prepared, approved and authenticated by the Local Government Commission for the full year.

(7) At any time before the expiry of the financial year to which a budget relates, a revised budget for the year shall be prepared by a Local Government and approved by its Council.

(8) A budget shall not be approved if:

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

(b) the constraints specified in Section 119 have not been complied with.

(9) The Nazim shall authenticate by his signature a Schedule specifying the:

(a) grants made or deemed to have been made by the District, Taluka, Town or Union Council ;and

(b)the several sums required to meet the expenditure charged upon the District, Taluka, Town or Union Fund.

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

(11) The Schedule so authenticated shall be communicated to the respective Accounts Office as specified in Section 114 of this Ordinance.

**113. Honoraria and Allowances:** Each Local Government shall make budgetary provisions for honoraria and allowances of the Nazims, Naib Nazims, and members of the Council concerned.

**114. Accounts:** (1) The accounts of the receipts and expenditure of Local Government shall be kept in such form and in accordance with such principles and methods as the Auditor General of Pakistan may, with the approval of the President prescribe. The following procedure shall be followed unless changed by the Government through a notifications:

(a) the District Accounts Officer (or a Treasury Officer where a DAO does not exist) shall maintain the accounts of each District Government.
(b) The Taluka or Town Accounts Officer and Union Account shall maintain the accounts of the Taluka or Town Municipal Administration or the Union Administration as the case may be:
(c) The District Accounts Officer, shall perform pre-audit of all payments from the Funds of the District Fund, before approving the disbursements of monies. The pre-audit shall be conducted in accordance with the pre-audit checks prescribed by Auditor General of Pakistan from time to time.
(d) in the Taluka, Town, Union Council where the Local fund Audit is not performing pre-audit the Taluka / Town Accounts officer and the Union Accounts officer shall perform the pre-audit of all payments from the Taluka/town Local Fund and the union Local Fund, as the case may be before approving the disbursements of monies in the prescribed manner.

(2) The District Accounts Officer shall consolidate the district accounts with the compiled accounts of the Taluka, Town Account Office and Union Accounts Office.

(3) A statement of monthly and annual Accounts and such other necessary statement shall be placed at a conspicuous place by the Local Government concerned for public inspection.

(4) The respective Accounts Committees of the Councils shall hold public hearings in which:

(a) objections to statement of accounts referred to in sub-section(3) above may be heard and, if required, appropriate

action may be taken;

(b) internal and external Audit Reports will be discussed for appropriate action.

**115. Audit:** (1) The Auditor General of Pakistan shall, on the basis of such audit as he may consider appropriate or necessary, certify the accounts, compiled and prepared by the respective Accounts Officer of the local governments for each financial year, showing under the respective heads the annual receipts and disbursements for the purposes of each district and shall submit the certified accounts with such notes, comments or recommendations as he may consider necessary to the respective Nazim. The Nazim shall cause the same to be submitted to the respective Council. The Council shall refer it for examination to its Accounts Committee.

(2) The Auditor General shall have authority to audit and report on the accounts of stores and stock in the office of the District Government.

(3) The Auditor General shall:

(a) audit all expenditure from the District Government to ascertain whether the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which governs it;

(b) audit all transactions of District Governments relating to Public Accounts;

(c) audit all trading, manufacturing, profit and loss accounts of District Government;

(d) to audit all receipts which are payable into the District Fund and to satisfy himself that all such receipts which are payable into the Fund have been properly and correctly deposited and rules and procedures relating to which receipts have been fully observed; and

(4) The Auditor General shall have the authority:

(a) to inspect any office of accounts, under the control of a District Government including treasuries, and such offices responsible for the keeping of initial or subsidiary accounts;

(c) to require that any accounts, books, papers and other documents which deals with, or form, the basis of or otherwise relevant to the transactions to which his duties in respect of audit extend, shall be sent to such place as he may direct for his inspection;

(d) to enquire or make such observations as he may consider necessary, and to call for such information as he may require for the purpose of the audit; and

(e) the officer Incharge of any office or department shall afford all facilities and provide record for audit inspection and comply with requests for information in as complete a form as possible and with all reasonable expedition.

(5) Upon request of a Nazim, the Auditor General shall cause a special audit of District Government's accounts to be undertaken and shall forward his report to the Nazim who shall cause the same to be submitted to Zila Council for necessary action.

(6) The Auditor General or any officer appointed by him, for conducting an audit of District Government shall have access to all the books and documents pertaining to the accounts and may also examine any public servant or premises of the District Government concerned.

**115-A. Audit of Taluka/Town Municipal Administration and Union Administration:** The audit of the Taluka/Town Municipal Administration and Union Administration shall be conducted by the Provincial Local Fund Audit Department in the prescribed manner.

**115-B. Internal Audit:** (1) Nazim of each District Government and Taluka or Town Municipal Administration may appoint an Internal Auditor.

(2) Internal audit shall be an independent, objective assurance and consulting activity designed to add value and improve a Local government operations and shall help the Local Government accomplish the objectives by bringing a systematic and disciplined approach to evaluate and improve the effectiveness or risk management, control, and governance process.

(3) The Internal Auditor shall serve as a principal support person to respective Nazim of District Government or Taluka or Town Municipal Administration by providing information to him and members of the respective Council on Local Government performance.

**116. Taxes to be Levied:** (1) A Council may levy taxes, cesses, fees, rates, rents, tolls, charge, surcharges and levis specified in the Second Schedule and as prescribed by notification in the Official Gazette.

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

(3) The Council may levy a tax, increase, reduce, suspend, abolish, vary or exempt the same.

**117. Rating Areas and Property Tax:** (1) On commencement of this Ordinance, every Taluka and Town shall be rating areas within the meaning of the Sindh Urban Immovable Property Tax Act (W.P. Act V of 1958),1958.

(2) The Taluka Council or Town Council shall determine the rate of property tax in an area within the Taluka or, as the case may be, Town and communicate such rates to the respective Executive District Officer (Revenue) for collection by the Excise and Taxation Department:

Provided that in the areas within a Taluka or Town where rate has not been determined the rate shall remain as zero.

Provided further that the District Government shall retain ten percent of the proceeds as collection charges.

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

Explanation: For the purpose of this Section the "rate" shall mean the tax leviable under the Sindh Urban Immovable Property Tax Act (W.P. Act V of 1958), 1958.

**118. Collection of Taxes:** (1) All taxes, levied under this Ordinance shall be assessed regulated and collected as prescribed.

(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) Before the beginning of the financial year the respective Local government shall lay down and announce the classification of development schemes to be undertaken exclusively under the provisions of this Section.

(2) A Local Government may grant to the Citizen Community Boards within the local areas, up to eighty percent of an approve development scheme in the manner prescribed:

Provided that a scheme shall be deemed to be an approved scheme if;

(a) the prescribe departmental procedure for estimating the cost of the scheme has been followed;
(b) the estimating officer certifies that the scheme meets the requirements laid down by law;
(c) The Citizen Community Board has deposited its share of the cost of the development scheme with concerned local government; and
(d) The complete departmental estimates and the proof of deposit of the Citizen Community Board's contribution are attached.

(3) The grant referred to in sub-section (2) above shall be spent from the reserved twenty-five percent of the annual development budget as provided in Section 10(6)(a). Any amount, which remains unspent, shall be credited under the same head in following year's budget in addition to the fresh allocation for that year.

(4) A cut off date for submission of all schemes proposed by the Citizen Community Boards shall be announced by the Local Government concerned before the presentation of its budget.

(5) The respective Local Government shall authorize an officer to draw up a statement specifying the schemes submitted pursuant to sub-section (4) above by classification including the total amount of contributions for a particular classification of schemes.

(7) A third statement shall be drawn up which shall identify the number of schemes submitted in a particular classification, beginning with the scheme containing the highest contribution by the Citizen Community Board in a classification until all the schemes in the classification are selected or the funds allocated for the particular classification in the amount determined in subsection (6) above are exhausted.

(8) The twenty five percent funds for Citizen Community Boards under Section 109(6) shall be communicated to the authorized officer under sub-section (5) above by the Executive District Officer (Finance and planning) for a District Government and the Taluka or Town Officer (Finance) for a Taluka or Town Municipal Administration, as the case may be, and a Union Secretary (in charge finance) for a Union Administration.

(9) The authorized officer under sub-section (5), after identifying the schemes shall communicate them to the concerned budget officer of the respective local government for approval by the Council.

(10) The statement referred to in sub-section (7) above shall be approved by a simple majority of the members of the respective Council, in a budget session to be held by the respective Council.

(11) The schemes approved by the respective Councils shall be carried out as prescribed.

(12) Subject to sub-section(10) above, the respective Accounts Officer of the respective Local Government shall release funds as prescribed according to the schedule of expenditure as passed by the Council concerned under sub-section (10) above.

**120. Local Governments not to Incur Debt:** (1) No Local Government shall incur any debt.

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

**17.** Immediately after Chapter XII, a new Chapter XII-A shall be inserted to read as follows: **Insertion of Chapter XII-A.**

## 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 forthwith shall constitute a Provincial Finance Commission for Sindh hereinafter referred to as the Finance Commission.

**120-B. Membership:** (1) The Finance Commission shall consist of nine members, including the Chairman; provided, however, that the majority of the members of the Finance commission shall always be of private sector persons.

Explanation: For the purpose of this Chapter "private sector person" mean a person who is not in the Service of Pakistan or any statutory body or any other body, which is owned or controlled by the Federal Government or the Provincial Government or a Local Government. However research scholars, academicians may be drawn from public universities or research institutions.

(2) Of the members:

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

(i) Minister for Finance of the Province, who shall be the Chairman of the Finance Commission;
(ii) Additional Chief Secretary Development;
(iii) Secretary to the Government, Local Government Department;
(iv) Secretary to the Government, Finance Department.

(b) Five professional members shall be appointed in the manner stated hereinafter who shall be private sector persons as explained at section 120-B.

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

(4) The Professional members of the Finance Commission shall be appointed by the Governor from amongst experts in economics, finance and public administration, each possessing a postgraduate degree, preferably a doctorate in a related subject, and having at least ten years of practical experience in a related field.

(5) The Finance Commission may hire the services of any professional individual or a firm for assistance on various issues related to its functions with the approval of the Government.

(6) No proceedings or act of the Finance Commission shall be invalid merely on the ground of existence of a vacancy other than that of a professional member in or defect in the composition of the Finance Commission.

(7) A private member may tender his resignation addressed to the Governor and the resignation would become effective immediately or the Governor may move any private member.

(8) The members of the Finance Commission shall not be entitled to any remuneration. The administrative expenses including the TA/DA payable to the private members shall be borne by the provincial government.

**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 Local Governments out of the proceeds of the Provincial Consolidated Fund into a Provincial Retained Amount and a Provincial Allocable Amount respectively:

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, Taluka and Town Municipal Administrations and the Union Administrations as shares;

(b) any other matter relating to finance for and of the Local Government referred to the Finance commission by the Government, or by a Local Government.

(2) The recommendations shall be based on the principles of fiscal need, fiscal capacity, fiscal efforts and performance, etc as far as possible.

(3) Before finalization of the recommendations under sub-section (1), the Finance Commission shall 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 and this process may carry on during the currency of an Order made by the Governor under sub-section (5) of this Section.

(4) The Finance Commission shall forward its recommendations to the Governor.

(5) After approval the Governor shall promulgate an Order giving effect to the recommendations of the Finance Commission, which shall constitute the Award of the Finance Commission.

(6) The Order shall remain in force for a period of three years, however the first Award for Financial year 2002-03 may be interim Award subject to review and confirmation by the end of first quarter financial year 2002-03.

(7) 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 for approval along with the annual budget of the Province.

**120-D. Certain Institutional Process of the Finance Commission:** (1) In every financial year, at least one month before the finalization of the Provincial Budget, the Finance Department shall submit a statement of the Provincial Allocable Amount and its distribution prepared in the light of the Order under Section 120-D (6) to the Finance Commission and subsequently a statement would be provided after the budget.

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

(3) The Finance Commission shall take all decisions by a majority of members present and voting.

**120-E. Monies to Form Part of Composite Cash Balance of the Province:**

All Local Government funds in a Province, except the Union Funds, shall form part of the Composite Balance of the Province only for the purpose of calculating the overdraft of the province from time to time.

**120-F. Formula and its application and revision:** (1) The Provincial Allocable Amount and shares of the Local Governments specified by the Order under Section 120-D shall be transferred on the basis of actual monthly receipts of the Government.

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

(3) The Finance Commission may take into consideration any study or report carried out by any professional firm, individual or agency to evaluate the impact of fiscal transfers provided it is objective and based on reliable data.

(4) In case the recommendation is not finalized before the expiry of the Order under Section 120-D, 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-G. Obtaining of Data:** (1) Finance Commission shall obtain the date required for the formulation of the formula from the Provincial or Local Governments, and or from any authority, corporation, body, or organization established by or under law or which is owned or controlled by any Government.

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

**120-H. Ensuring flow of funds of Local Governments:** The Government shall place reports of the funds flow on the official website on quarterly basis.

**120-I. Reference by Provincial Government or Local Government to the Finance Commission:** The Government or a Local Government may seek redress of grievance 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 alongwith 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-D or the shares of the Local Government.

**120-J. Rules of Business of the Finance Commission.** Notwithstanding anything to the contrary contained in Section 191 of the Ordinance, the Government shall make Rules of Business of the Finance Commission on the latter's recommendation.

**120-K. 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.

**18.** A new sub-section (4) shall be inserted in this Section to read as under: **Amendment in section 121.**

"(4) The Government shall not, except with the prior consent of the Local Government concerned, reallocate or in any other manner divest title of properties vested in that Local

Government under this Ordinance."

**19.** The existing section will be numbered as subsection (1). A new sub-section(2) will be inserted to read as follows: **Amendment in Section 180.**

"(2) the funds of a Metropolitan Corporation, Municipal Corporation, Zila Council, Municipal Committee, Town Committee and Union Council shall be transferred to a Local Government as its successor under sub-section(1) above."

**20.** A new Section 193-A be inserted to read as follow: **Insertion of Section 193-A.**

"193-A. **Delegation of Powers.** A Nazim may delegate any of his powers (including financial powers)under this Ordinance or rules or bye laws to any of its officer fully or partly land subject to such restrictions or conditions as he may deem fit after approval by the Council."

**21.** The words "ancillary and incidental" shall be substituted with the words "necessary and appropriate". **Amendment in Section 195.**

**22.** Sub-section (2) of Section 196 shall be substituted with the following: **Substitution of Section 196(2).**

"(2) Save as otherwise specifically provided, nothing in the Ordinance, or any repeal effected thereby, shall affect or be deemed to affect anything done, action taken, investigation or proceedings commenced, order, rules, regulation, appointment, conveyance, mortgage, deed, document or agreement made, fee levied, resolution passed, direction given, proceedings taken or instrument executed or issued, under or in pursuance of any law repealed or amended by this Ordinance and any such thing, action, investigation, proceedings, order, rule, regulation, appointment, conveyance, mortgaged, deed, documents, agreement, fees, resolution, direction, proceedings or instrument shall, if in force at the commencement of this Ordinance and not inconsistent with any of the provisions of this Ordinance and not inconsistent with any of the provisions of this Ordinance, continue to be in force, and have effect as if it were respectively done, taken, commenced, made, directed, passed, given, executed or issued under this Ordinance or the law, as amended by this Ordinance.

Provided that until otherwise decided by the Government, the Local Government Boards established under the Sindh Local

Government Ordinance, 1979(VI of 1979), for the administration of officers and official s of the Local Council Service shall continue to function."

**23.** The Second Schedule shall be substituted with the following: **Substitution of the Second Schedule.**

"**SECOND SCHEDULE**

**[See Sections 39(b), 54(1), 54-A, 67(i), 67-A & 88(b)]**

**Part-I**

**Zila Council.**

1. Educate tax.
2. Health tax.
3. Any other tax authorized by the Government.
4. Local rate on lands assessable to land revenue.
5. Fees in respect of educational and health facilities established or maintained by the District Government.
6. Fee for licenses or permits and penalties or fines for violations.
7. Fees for specific services rendered by a District Government.
8. Collection charges for recovery of tax on behalf of the Government, Tehsil Municipal Administration and Union Administrations.
9. Toll on roads, bridges, ferries within the limits of a District, other than national and provincial highways and roads.
10. Rent for land, buildings, equipment, machinery and vehicles.
11. Fee for major industrial exhibitions and other public events organized by the District Government.

**Part-II**

**II. City District Council.**

1. Education tax.
2. Health tax.
3. Any other tax authorized by the government.
4. Local rate on lands assessable to land revenue.
5. Fees in respect of education and health facilities established or maintained by the City District Government.
6. Fee for licenses or permits and penalties or fines for violations.
7. Fees for specific services rendered by City District Government.
8. Toll on roads, bridges, ferries within the limits of a city District, other than national and provincial highways and

roads.

9. Rent for land, buildings, equipment, machinery and vehicles.
10. Fee for major industrial exhibitions and other public events organized by the city District Government.
11. Fee on advertisement.
12. Collection charges for recovery of any tax on behalf of the Government, Town Municipal Administration, Union Administration or any statutory authority as prescribed.
13. Fee for approval of building plans, erection and re-erection of buildings.
14. Charges for execution and maintenance of works of public utility like lighting of Public Places, drainage, conservancy and water supply operated and maintained by City District Government.

**Part-III**

**III. Taluka Council.**

1. Local tax on services.
2. Fee on sale of animals in cattle markets.
3. Market fees.
4. Tax on the transfer of immovable property.
5. Property tax rate as specified in Section 117 of this ordinance.
6. Fee on advertisement other than on radio, television and bill boards.
7. Fee for fairs, agricultural shows, cattle fairs, industrial exhibition, tournaments and other public events.
8. Fee for approval of building plans and erection and re-erection of buildings.
9. Fee for licenses or permits and penalties or fines for violations.
10. Charges for development, betterment, improvement and maintenance of works of public utility like lighting of public places, drainage, conservancy, and water supply by Taluka Municipal Administration.
11. Fee on cinemas, dramatical, theatrical shows and tickets thereof and other entertainment.
12. Collection charges for recovery of any tax on behalf of the Government, District Government, Union Administration or any statutory authority as prescribed.
13. Rent for land, buildings, equipment, machinery and vehicles.
14. Fee for specific services rendered by a Taluka Municipal Administration.

15. Tax on vehicles other than motor vehicles registered in the Taluka.

**Part-IV**

**IV. Town Council.**

1. Local tax on services.
2. Fee on sale of animals in cattle markets.
3. Market fees.
4. Tax on transfer of immovable property.
5. Fee for fairs, agricultural shows, cattle fairs tournaments, industrial exhibition and other public events organized by the Town Municipal Administration.
6. Fee for licenses or permits and penalties or fines for violations.
7. Collection charges for recovery of any tax on behalf of the Government, City District Government, Union Administration or any statutory authority as prescribed.
8. Fee on cinemas, dramas, theatrical shows and tickets thereof, and other entertainments.
9. Rent for land, buildings, equipment, machinery and vehicles.
10. Fee for specific services rendered by a Town Municipal Administration.
11. Property tax rate as specified in Section 117 of this Ordinance.
12. Fee for approval of building plans and erection and re-erection of buildings with the approval of the City District Government.
13. Tax on vehicles other than motor vehicles registered in the Town

**Part-V**
**Union Council.**

1. Fee for licensing of professions and vocations.
2. Fees for registration and certification of birth, marriages and deaths.
3. Charges for specific services rendered by the Union Council.
4. Rate for remuneration of Village and Neighborhood guards.
5. Rate for the execution or maintenance of any work of public utilized like lighting of public spaces, drainage, conservancy and water supply operated by Union Administration.

6. Rent for land, buildings, equipment, machinery and vehicles.
7. Collection charges for recovery of any tax on behalf of the Government, District Government, Taluka Administration or any statutory authority as prescribed."

**FIFTH SCHEDULE**

24. The following amendments shall be made in the Fifth Schedule (1) Part-I: In Part-1: **Amendments in the Fifth Schedule.**

(i) Item 18 shall be re-numbered as "21".

(ii) The following new items shall be inserted after item 17:

(a) "18. Local Government (Citizen Community Board)".
(b) "19. Local Government (Procurement)."
(c) "20. Local Government (Fiscal Transfers)."

(2) Part-II: In Part-II, item 9, shall be deleted and the remaining items shall stand re-lettered accordingly.

25. A new Seventh Schedule shall be inserted to read as follows: **Insertion of New Seventh Schedule**.

**"Seventh Schedule**
**[See Section 120-B]**

**Terms of Office of the Professional Members of the Finance Commission.**

A member of the Finance commission shall hold office for a term of three years from the date of his entering upon office, except as provided in this Schedule.

2. A member may resign his office under his hand addressed to the Governor.