

**THE AZAD JAMMU AND KASHMIR BASIC DEMOCRACIES
ACT, 1960**

(ACT X OF 1960)

An act to provide for the constitution of basic democratic institutions throughout the Azad Jammu and Kashmir Territory, and to Consolidate and amend certain laws relating to local Government.

WHEREAS it is expedient to provide for the constitution of basic democratic institutions throughout the Azad Jammu and Kashmir Territory, and to consolidate and amend certain laws relating to local Government ;

Now, THEREFORE, it is hereby enacted as follows :-

**PART I
INTRODUCTORY**

1. **Short title, extent and commencement:-** (1) This Act may be called the Azad Jammu and Kashmir Basic Democracies Act, 1960.

(2) It extends to the whole of the Azad Jammu and Kashmir Territory.

(3) It shall come into force at once.

2. **Power to except local areas from provisions unsuited thereto:-** (1) Should the circumstances of any local area in which this Act has been brought into force be such that, in the opinion of the Government, any of the provisions of the Act are unsuited thereto, the Government may, by notification in the official Gazette, except the local area or any part thereof, from the operation of those provisions, and thereupon the said provisions shall not apply to such area, or part thereof, until the notification is rescinded.

(2) While such exception as aforesaid remains in force, the Government may make rules for the regulation of the matters so excepted.

3. **Definitions:-** (1) In this Act, unless there is anything repugnant in the subject or context;-

- (1) "annual value" means the gross annual rent at which a building or land may be let from year to year ;
- (2) "Azad Jammu and Kashmir Territory" shall mean the districts of Muzaffarabad, Poonch and Mirpur and such other areas as may be specified by the Government from time to time;
- (3) "appointed member" means a member who is neither an elected member nor an official member ;
- (4) "building" includes any shop, house, hut, outhouse, shed or stable built of any material and used for any purpose, and also includes a wall and a well ;
- (5) "by-laws" means by laws made under this Act ;
- (6) "Cantonment Board" means a Cantonment Board constituted under the Cantonments Act, 1924 (II of 1924);
- (7) "Chairman" means the Chairman of the local Council concerned ;
- (8) "Collector" means the Chief officer in charge of the revenue administration of the District concerned, and includes a Deputy Commissioner, and any other officer specially appointed by the Government to perform all or any of the functions of a Collector under this Act;
- (9) "Commissioner" means the chief officer in charge of the revenue administration and includes any officer specially appointed by the Government to perform .all or any of the functions of a Commissioner under this Act ;
- (10) "Controlling Authority" means -
 - (i) Commissioner, in the case of a District Council ;
 - (ii) Collector, in the case of all other local councils.
- (11) "District" means a revenue district ;
- (12) "District Council" means a District Council constituted under this Act ;
- (13) "elected member" means a member who has been chosen by the electors under the provisions of this Act;

(14) "Election Commissioner" means the Election Commissioner appointed by the Government ;

(15) "elector" means a person who is entitled to vote at an election to a Union Council or a Town or Union Committee ;

(16) "function" includes powers to be exercised and duties to be discharged ;

(17) "Government", means the Azad Jammu and Kashmir Government ;

(18) "infectious disease" means cholera, plague, small pox and tuberculosis, and includes such other disease as the Government may, by notification in the official Gazette, declare to be an infectious disease for the purposes of this Act.

(19) "land revenue" includes tirmi or grazing dues levied for grazing on land ;

(20) "local area" means the area under the jurisdiction of a local council ;

(21) "local body" means a body constituted under any law, other than this Act, relating to local government ;

(22) "local council" means a council constituted under this Act, and includes a Town Committee and a Union Committee, but does not include any such Committee as is mentioned in Section 28 ;

(23) "Local Fund" means the fund of a local council, a municipal body or a Cantonment Board, or of any other local authority ;

(24) "member" means a member of a local council ;

(25) "Municipal body" means a municipal committee and includes any other body constituted under any law, other than this Act, for the time being in force relating to local government in urban areas, but does not include a Cantonment Board ;

(26) "Official" means a person who is in receipt of a salary from the revenues of the Government, or out of a Local Fund ;

(27) "Official member" means a member who is an official;

- (28) "Prescribed" means prescribed by rules ;
- (29) "Principal Officer" means a servant of a local council notified as such by the Government;
- (30) "public road" means a road maintained by the Government, or by a local council or other local authority ;
- (31) "public street" means a street maintained by the Government, or by a local council or other local authority ;
- (32) "public way" means a way maintained by the Government, or by a local council or other local authority ;
- (33) "rate" includes cess ;
- (34) "regulations" means regulations made under this Act ;
- (35) "representative member" means a member representing a local council ;
- (36) "road" includes a road which is not a thoroughfare ;
- (37) "rules" means rules made under this Act ;
- (38) "rural area" means any area which is not an urban area;
- (39) "street" includes a street which is not a thoroughfare ;
- (40) "Sub-Division" means the Sub-Division of a District ;
- (41) "Sub-Divisional Officer" means the officer in charge of a Sub-Division ;
- (42) "Tehsil" means a revenue Tehsil or Taluka in the Azad Jammu and Kashmir Territory and includes any area declared by the Government to be a Tehsil for the purposes of this Act ;
- (43) "Tehsil Council" means a Tehsil Council constituted under this Act ;
- (44) "Tehsil Officer" means the revenue officer in charge of a Tehsil, and includes any officer appointed by the Government to perform all or any of the functions of a Tehsil Officer under this

Act ;

(45) "Town" means an area declared to be a Town under Section 8 ;

(46) "Town Committee" means a Town Committee constituted under this Act ;

(47) "Union " means an area declared to be a Union under Section 8 ;

(48) "Union Committee" means a Union Committee constituted under this Act ;

(49) "Union Council" means a Union Council constituted under this Act ;

(50) "urban area" means an area within the jurisdiction of a municipal body or a Cantonment Board, and includes any other area which the Government may, by notification in the official Gazette, declare to be an urban area for the purposes of this Act ;

(51) "way" includes a footway, square, court, alley or passage accessible to the public whether 'a thoroughfare or not.

(2) In this Act, unless there is anything repugnant in the subject or context,-

(a) the following words and expressions shall have the same meaning as are respectively assigned to them in section 4 of the Code of Criminal Procedure, 1898 (Act V of 1898):

- (i) complaint ;
- (ii) cognizable offence ;
- (iii) officer in charge of a police-station ;
- (iv) police-station ; and

(b) the following words and expressions shall have the same meaning as are respectively assigned to them in section 2 of the Code of Civil Procedure, 1908 (Act V of 1908):-

- (i) decree ;
- (ii) movable property.

4. **Repeals and Savings:-** (1) On the coming into force of this Act in any area, the enactments mentioned in the First Schedule shall, if and in so far as applicable to that area, stand repealed.
- (2) Where an enactment stands repealed under sub-section (1), any appointment, rule, regulation or by-law made, notification, order or notice issued, tax imposed or assessed, contract entered into, suit instituted or action taken under such enactment shall, so far as it is not inconsistent with the provisions of this Act and the rules, be deemed to have been respectively made, issued, imposed or assessed, entered into, instituted or taken under this Act.
5. **Succession:-** A local council established under this Act shall be the successor of such local body or bodies established under any of the repealed enactments as the Controlling Authority may, by notification in the Official Gazette, specify, and the extent to which, or the purpose or purposes for which a Council shall be such successor may also be specified in such notification.
6. **Act to override other laws, and their amendment:-** The provisions of this Act shall take effect notwithstanding anything inconsistent therewith contained in any other law relating to local government, and where any provision of such law is in conflict with any of the provisions of this Act, such law shall, until suitably amended be deemed to have been so amended as to be in conformity with this Act.
7. **Certain matters to be prescribed:-** Where this Act makes any provision for anything to be done but no provision or no sufficient provision has been made as respects the authority by whom, or the manner in which, it shall be done, then, it shall be done by such authority and in such manner as may be prescribed.

PART II LOCAL AREAS & LOCAL COUNCILS

Chapter I - Local Areas

8. **Local Areas:-** (1) The local areas for the purposes of this Act shall be the Districts, and Tehsils, and the Towns and Unions declared to be Towns or Unions under sub-section (2).
- (2) The Election Commissioner may, in the prescribed manner, divide the urban and rural areas of a Tehsil, as the case may be,

within his jurisdiction, separately in to a number of areas, and declare, by notification in the official Gazette, each such area to be a Town or Union :

Provided that no area which is not included in such urban areas shall be declared to be a Town.

CHAPTER II CONSTITUTION OF LOCAL COUNCILS

9. **Local councils to be constituted:-** (1) The local councils to be constituted under this Act shall be the following, that is to say:-
- (i) a Union Council for a Union in rural areas ; and a Town Committee for a Town or a Union Committee for a Union in urban areas ; and
 - (ii) a Tehsil Council for a Tehsil ;
 - (iii) a District Council for a District.
- (2) A Union Council or a Union Committee shall be known by such local name as the Controlling Authority may assign, and the other councils shall be known by the name of the Town, Tehsil, District or Division concerned.
10. **Constitution of local councils:-** (1) As soon as may be, the local councils mentioned in Section 9 shall be constituted in accordance with the provisions of this Act.
- (2) Every local council shall be a body corporate, having perpetual succession and a common seal, with power, subject to the provisions of this Act and the rules, to acquire and hold property, both movable and immovable, and shall by its name sue and be sued.

CHAPTER III COMPOSITION OF LOCAL COUNCILS

11. **Union Councils:-** (1) A Union Council shall, subject to the other provisions of this Section, consist of such number of elected and appointed members as may be fixed by the Election Commissioner and the Commissioner, respectively.
- (2) The principles to be followed in determining the number of

elected members shall be prescribed.

(3) The total number of appointed members of Union Council shall not be more than one-half of the total number of its elected members.

(4) No official shall be member of a Union Council.

(5) A Union Council shall, in the prescribed manner, elect one of its members to be its Chairman, and the Chairman so elected shall ex-officio be a member of the Tehsil Council within whose jurisdiction the Union lies.

(6) There shall be paid to the Chairman of a Union Council such honorarium as may be prescribed.

12. **Town and Union Committees:-** (1) A Town Committee or a Union Committee shall, subject to the other provisions of this Section, consist of such number of elected and appointed-members as may be fixed by the Election Commissioner and such appointed members, if any as may be appointed in accordance with the provisions of Section 19.

(2) The principles to be followed in determining the number of elected members shall be prescribed.

(3) The total number of appointed members of a Committee under this Section shall not be more than one-half of the total number of its elected members.

(4) No official shall be a member of any such Committee.

(5) A Town Committee, or a Union Committee shall in the prescribed manner, elect one of the members of the Committee or, as the case may be, of a Committee within such group, to be the Chairman and the Chairman so elected shall ex-officio be a member :

(a) In the case of a Town Committee, of the Tehsil Council ; and
(b) In the case of a Union Committee of the municipal body or the Cantonment Board; within whose jurisdiction the Town or the Union lie.

(6) There shall be paid to every Chairman elected under this

Section such honorarium as may be prescribed.

13. **Tehsil Councils:-** A Tehsil council shall, subject to other provisions of the Section, consist of representative members, and such number of official and appointed members as may be fixed by the Commissioner.
- (2) The Chairmen of the Union Councils and Town Committees in a Tehsil shall ex-Officio be the representative members of the Tehsil Council.
- (3) The total number of official and appointed members of a Tehsil Council shall not be more than the total number of representative members.
- (4) The Sub-Divisional Officer, if any, having his headquarters in the Tehsil, shall ex-Officio be an official member of the Tehsil Council and its Chairman.
- (5) The Tehsil Officer shall ex-Officio be an official member of the Tehsil Council, and if a Sub-Divisional Officer is not its Chairman, or in his absence, the Tehsil Officer shall be or shall perform the functions of the Chairman.
14. **District Councils:-** (1) A District Council, shall, subject to the other provisions of this Section, consist of such number of official and appointed members as may be fixed by the Commissioner.
- (2) The Chairmen of the Tehsil Councils, and of the Municipal Bodies, and the Vice-Presidents of the Cantonment Boards, in the District, and such representatives of departments as may be specified by the Government and appointed by the Commissioner, shall ex-Officio be the official members of the District Council.
- (3) The total number of appointed members of a District Council shall not be less than the total number of its official members, and at least one half of the appointed members shall be chosen from amongst the Chairmen of the Union Councils, and of the Town and Union Committees, in the District.
- (4) the Collector shall ex-Officio be an official member of the District Council and its Chairman".

**CHAPTER IV
ELECTIONS AND APPOINTMENTS
TO LOCAL, COUNCILS**

A - ELECTIONS

15. **Wards:-** For the purposes of election to a Union Council or to a Town or Union Committee, the Union or Town shall be divided into as many wards as are necessary under the provisions of this Act and the rules.
16. **Electoral Rolls:-** (1) For each ward there shall be maintained, in the prescribed manner, a register in which shall be entered the names of persons who possess the qualifications and are not subject to any of the disqualifications specified in Part 1 of the Second Schedule.

(2) The register maintained under sub-section (1) shall be the electoral roll for the ward :

Provided that the electoral roll prepared under the Azad Kashmir District Board Act, 1955, after such adjustment and rearrangement as may be necessary to bring it into accord with the requirements of this Act, shall, for a period of two years from the date of the promulgation of this Act, be the electoral roll for the ward, in the case of rural areas and in the case of urban areas the provisional lists prepared by the Government shall be the preliminary electoral rolls and shall be finalised after inviting and hearing claims and objections in the manner prescribed under sub-section (2-a).

(2-a) For the purposes of preparation, revision of finalization of rolls after inviting and hearing claims and objections referred to in sub-section (2), the Electoral Rolls Act, 1957, as in force in Pakistan, is adapted alongwith the Electoral Rolls Preparation Rules, 1957, made thereunder, so far as they may be applicable : Provided that references in the said Act or Rules to a constituency for the election of a member to the National Assembly or a Provincial Assembly, shall be construed as references to a ward for election to a basic democracy.

(3) The electoral roll shall from time to time be amended and revised in the prescribed manner.

(4) The inclusion of a disqualified person in, or the omission of

a qualified person from, the electoral roll, or any other defect in its preparation or maintenance, shall not, by itself, vitiate any election to, or any act or proceedings of, any local council constituted on the basis of such electoral roll.

17. **Electors:-** Every person whose name is entered in the electoral roll, and no person whose name is not so entered, shall be entitled to cast a vote at an election to the Union Council or the Town or Union Committee concerned.
18. **Elected Members:-** (1) For each ward there shall be chosen, in the prescribed manner, by the electors whose names appear for the time being on the electoral roll for that ward, such number of members as is fixed under sub-section (2), from amongst such electors in the Union or Town in which the ward lies as possess the qualifications and are not subject to any of the disqualifications specified in Part II of the second Schedule.
- (2) The number of members to be elected from any ward shall be fixed by the Election Commissioner.

B - APPOINTMENTS

19. **Appointment of Members:-** (1) The appointed members:
- (a) of a Union Council or a Town Committee, shall be appointed by the Collector ;
 - (b) of a Tehsil Council shall, with the previous approval in writing of the Commissioner, be appointed by the Collector :
and
 - (c) of a District Council shall be appointed by the Commissioner after consultation with the Collector.
- (2) In the matter of appointment of members, regard shall be had to the ability of persons to render service to the people, and due consideration shall be given to the representation of minorities and women, of organizations concerned with the agricultural, industrial or community development, and of other special interests of importance to the local area.

CHAPTER V
TERM OF OFFICE OF LOCAL COUNCILS AND GENERAL
PROVISIONS RELATING TO THEIR MEMBERSHIP

20. **Term of office:-** (1) The term of office of a local council shall be a period of five years commencing on the day on which it assumes office.
- (2) A local council shall assume office on such date, not later than thirty days from the day on which the names of its members are notified in the prescribed manner, as may be appointed by the Controlling Authority.
21. **Oath of office:-** Every person elected or appointed to be a member of a local council shall, before taking his seat, make and subscribe, in the prescribed manner, an oath in the prescribed form.
22. **Casual vacancy:-** If the seat of an elected or appointed member becomes vacant during the term of office of a local council, a new member shall be elected or appointed, as the case may be, and such member shall hold office for the residue of such term.
23. **Resignation and removal of members:-** (1) Any member of a local council may resign his office by tendering his resignation to the Chairman, and if he is the Chairman, to the Controlling Authority, and the seat of the member of the office of Chairman, as the case may be, shall become vacant when the resignation is accepted by the Controlling Authority.
- (2) A person shall, on the acceptance of his resignation from membership :
- (a) of a District Council, if he be the Vice-Chairman of a Municipal body or the Vice-President of a Cantonment Board, cease to be such Vice-Chairman, or Vice-President;
- (b) of the Tehsil Council if he be the Chairman of a Union Council or a Town Committee, cease to be such Chairman.
- (3) If any chairman of a Union Committee who, under the provisions of this Act is a member of a municipal body or a Cantonment Board resigns from such membership, then on his resignation being duly accepted, he shall cease to be the chairman of the Union Committee.

- (4) A member of a local council shall render himself liable to removal from membership :
- (a) if he incurs any of the disqualifications specified in Part II of the Second Schedule ;
 - (b) if he, without reasonable excuse, absents himself from three consecutive meetings of any local council ; or
 - (c) if he is guilty of an abuse of power or of any misconduct in the discharge of his duties as a member, or has been responsible for any loss or misapplication of any money or property of any local council, or any local body or other local authority.
- (5) The Controlling Authority may, after such inquiry, if any, as may be considered necessary, remove any appointed member of a local council, who is liable to removal under this Section, from such membership.

Provided that no appointed member shall be removed without consultation with, or without the previous approval in writing of, the authority in consultation with whom or with whose approval he was appointed under Section 21.

- (6) An elected member of a local council shall not be removed from such membership unless, at a special meeting to be convened for the purpose in accordance with rules made by competent authority, a resolution to the effect that he is liable to be removed under this Section is passed :
- (a) in the case of a member of a Union Council or a Town Committee, by a majority of the representative members of the Tehsil Council concerned ;
 - (b) in the case of a member of a Union Committee by a majority of the representative members of the municipal body or the Cantonment Board concerned ; and
 - (c) in the case of a member who is the Chairman of a Union Council or a Town Committee, or of a Union Committee, and is ex-officio a member of a Tehsil Council or of a municipal body or Cantonment Board, by a majority of such members of the District Council, concerned as are the Chairman of the Union Councils, of the Town and Union

Committees, and of the municipal bodies, in the District and the Vice-Presidents of the Cantonment Boards therein ;

and on the passing of such resolution, the member shall stand removed.

(7) A person removed under this Section shall cease to be a member of every local council, municipal body or other local authority of which he may be a member, and shall not be eligible for election or appointment to any local council for such period, not exceeding five years, as the Controlling Authority of the local council, from which he is removed, may fix in each case;

(8) Nothing in this Section shall apply to any official member.

(9) No court shall have jurisdiction to enquire into or question the validity of any thing done or any order made or resolution passed under this Section.

24. **Notification of election, nomination, resignation and removal of members:-** Every election, nomination, resignation or removal of a member shall be notified by the Controlling Authority in the prescribed manner.

CHAPTER VI FUNCTIONS OF LOCAL COUNCILS

25. **Civic functions of Union Councils:-** Subject to rules, and such directions as the Government may from time to time give, and within the limits of funds at its disposal, a Union Council may undertake all or any of the functions enumerated in Part I of the Third Schedule, and such other functions :
- (a) as are declared by the Government to be appropriate matters for administration by Union Councils generally or by any particular Union Council ; or
 - (b) as are delegated by the District Council, with the previous approval in writing of the Commissioner, to Union Councils generally or to any particular Union Council in the District ; or
 - (c) as are entrusted to Union Councils under any other law for the time being in force.

- 26 **Police and defence functions of Union Councils:-** (1) The Government may establish a village police force in such rural areas as may be notified from time to time, and may by rules regulate the appointment, the training and discipline, and the terms and conditions of service of the members of such police force.
- (2) The village police shall exercise such powers and discharge such duties as are specified in Part II of the Third Schedule.
- (3) Where the Collector is of the opinion that in any Union or a part thereof, special measures are required to secure village defence or public security, he may, by order, require that all or any of the able-bodied adult male inhabitants of the Union or such part thereof shall be liable to patrol duly for such period and in such manner as may be specified in the order.
- (4) Where an order is made under sub-section (3), the Union Council shall exercise such powers and discharge such duties as may be prescribed.
27. **Revenue and general administrative functions:-** (1) It shall be the duty of the Chairman of every Union Council:
- (a) to assist the village revenue officials in the Union, by whatever name called or however designated, in the proper performance of their duties with regard to the collection of rent or land revenue, and the general administration ;-
- (b) to render such assistance in the preparation of records and assessments, and in the work of survey or crop inspection, and of other branches of revenue administration in the Union as the Collector may require ;
- (c) to report to the police the commission of any offence to bring to the notice of the police the presence in the Union of persons of notorious character, and to assist in the investigation and prevention of crime, and in arresting criminals ;
- (d) to report to competent authority all cases of damage to or encroachments upon any public road, street or way or any public place, building or property ;
- (e) to publicize in the Union all matters the publicity of which is

required by the Government or other competent authority ;

(f) to assist officials in the execution of their official duties and to furnish such information as may be required by them for official purposes.

(2) Nothing in sub-section (1) shall be construed as authorizing the Chairman to interfere in the performance by any official of his official duties.

28. **Functions relating to agricultural development, etc:-** (1) A Union Council shall be responsible for agricultural, industrial and community development in the Union, and may, for that purpose, perform such functions as may be prescribed.

(2) In the performance of its functions under sub-section (1), a Union Council may act in consultation with an advisory committee to be set up in the prescribed manner by the Collector, and called the Union Development Advisory Committee.

(3) In the matter of appointment of members to a Union Development Advisory Committee, preference shall be given, as far as possible and subject to rules, to the Chairman of other elected bodies, if any, performing in the Union functions connected with agricultural, industrial or community development.

(4) A Union Council may, for the purposes of national reconstruction, adopt such measures and perform such functions as may be prescribed.

29. **Functions of Town and Union Committees:-** (1) A Town Committee or a Union Committee shall perform such functions as may be prescribed, and may, for the purposes of national reconstruction, social uplift and family planning, and the creation of civil consciousness, adopt, with the previous sanction of the Government, such measures as may be necessary.

(2) Notwithstanding the provisions of sub-section (1), the Government may, by notification in the official Gazette, direct that any provisions of this Act or the rules relating to the functions of Union Councils, or of any other law relating to the functions of any municipal body or Cantonment Board, shall, to such extent, and subject to such exceptions or modifications as may be specified in the notification, apply to all or any of the

Town or Union Committees.

(3) Nothing in this Section shall be construed as preventing the municipal body or the Cantonment Board of which the Chairmen of the Union Committees are members ex-officio to delegate any of its functions to the Committee or Committees concerned.

30. **Functions of Tehsil Councils:-** (1) Subject to rules, a Tehsil Council may, and if required by the District Council shall, undertake all such functions in the Tehsil as the District Council is competent to undertake in the District.
- (2) A Tehsil Council shall co-ordinate the activities of all Union Councils and Town Committees in the Tehsil, as the case may be and shall in this behalf perform such functions as are likely to promote the purposes of this Act.
- (3) The Government may, either generally or in respect of any particular Tehsil Council, direct from time to time that any functions entrusted to the District Council, or to any Union Council or Town Committee in the Tehsil shall, subject to such terms and conditions as may be specified in the direction, be undertaken by Tehsil Council concerned.
- (4) In the performance of their functions, the Tehsil Councils shall be responsible to the District Council concerned, and shall act in accordance with such directions as the District Council may from time to time give.
31. **Compulsory and optional functions of District Councils:-** (1) Subject to rules, a District Council shall, within the limits of the funds at its disposal, make adequate arrangements for carrying out the requirements of the District in respect of matters enumerated in Part I of the Fourth Schedule.
- (2) A District Council may, and if required by the Government, shall, subject to such terms and conditions as may be specified, undertake all or any of the functions enumerated in Part II of the Fourth Schedule.
32. **Co-ordinative functions of District Councils:-** A District Council shall co-ordinate the activities of all local councils and municipal bodies and Cantonment Boards within the District, and may, among other things:

- (a) formulate and recommend to the authorities, development schemes of importance to the District ;
 - (b) review generally the progress in various branches of administration in the District ; and
 - (c) consider local problems of importance to the District in all branches of administration, and make suggestions for development, improvement and general advancement.
33. **Commercial Schemes:-** A local council may, in the prescribed manner, and with the previous sanction of the Government, promote, administer, execute and implement schemes for undertaking any commercial or business enterprise.
34. **Transfer of functions from local councils to Government and vice versa:-** Notwithstanding anything in this Act or in any other law for the time being in force, the Government may from time to time direct that, subject to such terms and conditions as may be specified in the direction:-
- (a) any institution or service maintained by a local council shall be transferred to the management and control of the Government ; and
 - (b) any institution or service maintained by the Government shall be transferred to the management and control of a local council.

CHAPTER VII

EXECUTIVE POWERS AND CONDUCT OF BUSINESS

35. **Executive powers:-** (1) The executive powers of a local council shall extend to the doing of all acts necessary for the due discharge of its functions under this Act.
- (2) Save as otherwise provided in this Act and the rules, the executive powers of a local council shall vest in and be exercised by its Chairman, either directly or through other persons authorised by him in accordance with the rules.
- (3) All acts of a local council, whether executive or not, shall be expressed to be taken in the name of the local council, and shall be authenticated in the manner prescribed.

36. **Disposal of business:-** (1) All business of a local council shall, to the extent and in the manner prescribed, be disposed of at its meetings, or the meetings of its committees, or by its Chairman or its servants.
- (2) All meetings of a local council shall be presided over by its Chairman, and, unless otherwise provided by this Act, in his absence by a member chosen for that purpose by the members present.
- (3) A local council shall have power to act notwithstanding any vacancy in its membership.
- (4) No proceedings shall be invalid by reason only that some person who was not entitled to do so, sat or voted, or otherwise took part in the proceedings.
- (5) Minutes of the meetings of a local council shall be drawn up and recorded in a book to be kept for the purpose.
- (6) All decisions taken by a local council shall be reported to the Controlling Authority within the prescribed period.
37. **Committees and sub-committees of local councils:-** A local council may appoint such committees or sub-committees consisting of such number of its members and co-opted members, if any, and to perform such functions as may be prescribed by regulations.
38. **Contracts:-** (1) All contracts made by or on behalf of a local council shall be :
- (a) in writing and expressed to be made in the name of the local council;
- (b) executed in such manner as may be prescribed ; and
- (c) reported to the local council by the Chairman at the meeting next following the execution of the contract.
- (2) A local council may, by resolution, lay down the procedure that shall regulate the making of various contracts and, in the execution of contracts, the Chairman shall act in accordance with such resolution.

(3) No contract executed otherwise than in conformity with the provisions of this Section shall be binding on the local council.

39. **Works:-** The Government may by rules provide for:-
- (a) the preparation of plans and estimates for works to be executed by a local council ;
 - (b) the authority by whom and the conditions subject to which such plans and estimates shall be technically approved and administratively sanctioned ; and
 - (c) the agency by which such plans and estimates shall be prepared and such works shall be executed.
40. **Records, reports and returns:-** A local council shall:
- (a) maintain such record of its working as may be prescribed ;
 - (b) prepare and publish such periodical reports and returns as may be prescribed ; and
 - (c) adopt such other measures as may be necessary, or may be specified by the Government from time to time, for the publication of information about the working of the local council.

CHAPTER VIII SERVANTS OF LOCAL COUNCILS

41. **Local Councils Service:-** (1) There shall be constituted a Local Councils Service in such manner and subject to such conditions as may be prescribed.
- (2) The Government may from time to time specify the posts in the local councils which shall be filled by persons belonging to the Local Councils Service.
42. **Servants of Local councils:-** (1) The Controlling Authority may, on the prescribed terms and conditions, appoint a Secretary and one or more Principal Officers to be the servants of a local Council who shall perform such functions as are assigned to them in relation to such local council by or under this Act.
- (2) A local council may, and if so required by the Controlling

Authority shall, on the prescribed terms and conditions, employ such other servants as are deemed necessary for the efficient performance of its functions under this Act.

(3) If in the opinion of the Controlling Authority, the number of servants employed by a local council under sub-section (2), or the remuneration fixed for any of them is excessive, the local council shall, on being required by the Controlling Authority to do so, reduce the number of its servants or the remuneration of any of them as the case may be.

(4) Subject to the provisions of this Act and the rules:-

(a) the Controlling Authority may suspend, remove, dismiss, or otherwise punish any person appointed under sub-section (1); and

(b) the local council may suspend, remove, dismiss or otherwise punish any person appointed under sub-section (2).

(5) The Controlling Authority may transfer any of the persons appointed under sub-section (1) from one local council to another local council within its jurisdiction.

43. **Provident Fund, pension and other facilities for servants of local Councils:-** (1) A local council may establish and maintain a Provident Fund and require any of its servants to contribute to such Fund, and may itself contribute to it in such manner and proportion as may be prescribed.
- (2) A local council may, in the prescribed manner, and with the previous sanction of the Government, provide for the payment of pension to its servants after retirement.
- (3) A local council may, with the previous sanction of the Government, grant a special pension or gratuity to the family of any servant who dies of disease or injury contracted or suffered in the discharge of official duties.
- (4) A local council may, in the prescribed manner, operate a scheme of social insurance for its employees, and require its employees to subscribe to it.

44. **Service Rules:-** The Government may by rules:-
- (a) prescribe the conditions of service of the servants of local councils ;
 - (b) prescribe the grades of pay for the servants of local councils;
 - (c) prescribe a schedule of establishment setting forth the staff that shall be employed by a local council ;
 - (d) prescribe the qualifications for various posts under local councils ;
 - (e) prescribe the principles to be followed in making appointments to various posts under local councils ;
 - (f) prescribe the method for the holding of enquiries in cases where disciplinary action is proposed to be taken against servants of local councils, and provide for penalties and appeals against orders imposing penalties ;
 - (g) provide for other matters necessary for the efficient discharge of their duties by the servants of local councils.

PART III FINANCIAL MATTERS

CHAPTER I LOCAL FUNDS AND PROPERTY

45. **Constitution of Local Funds:-** (1) For every local council there shall be formed Local Fund which shall be known as:-
- (a) the Union Fund, in the case of a Union Council or a Union Committee ;
 - (b) the Town Fund, in the case of a Town Committee ; .
 - (c) the Tehsil Fund, in the case of a Tehsil Council ;
 - (d) the District Fund, in the case of a District Council ;
- (2) To the credit of the Local Fund formed under sub-section (1) shall be placed:-

- (a) the balance of such fund as on the coming into force of this Act is at the disposal of the local body, if any, of which the local council concerned is the successor ;
- (b) the proceeds of all taxes, rates, tolls, fees, and other charges levied by the local council under this Act ;
- (c) all rents and profits payable or accruing to the local council from the property vested in or managed by the council ;
- (d) all sums received by the local council in the performance of its functions-under this Act or under any law for the time being in force ;
- (e) all sums contributed by individuals or institutions, or other local councils, or by local bodies or other local authorities ;
- (f) all receipts accruing from the trust placed under the management of the local council ;
- (g) all grants made by the Government and other authorities ;
- (h) all loans raised, and all profits accruing from investments and
- (i) such proceeds from such sources of income as the Government may direct to, be placed at the disposal of the local council ;

46. **Custody or investment of Local Funds and establishment of special funds:-** (1) The moneys credited to a local Fund shall be kept in a Government treasury, or in a bank transacting the business of a Government treasury, or in such other manner as may be specified by the Government from time to time.
- (2) A local council may invest any portion of the Local Fund in such manner as may be prescribed.
- (3) A local council may, and if required by the Government shall, establish and maintain a separate fund for any special purpose, which shall be administered and regulated in such manner as may be prescribed.

47. **Application of the Local Fund:-** The moneys from time to time credited to the Local Fund shall be applied in the following order

of preference :-

firstly, in the payment of salaries and allowances to the servants of the local council;
 secondly, in the repayment of loans ;
 thirdly, in meeting the expenditure charged, on the Local Fund- under this Act;
 fourthly, in the fulfilment of any obligation and in the discharge of any duty imposed on the local council under this Act or under any other law for the time being in force ;
 fifthly, in meeting the expenditure declared by the local council, with the previous sanction of Controlling Authority, to be an appropriate charge on the Local Fund ; and
 sixthly, in meeting the expenditure declared by the Government to be an appropriate charge on the Local Fund.

48. **Charged Expenditure:-** The following expenditure shall be charged on the Local Fund, that is to say :-
- (a) all sums to be paid to, or in connection with the employment of any Government servant who is or has been in the service of the local council ;
 - (b) such sums as the local council may be required by the Government to contribute towards the conduct of elections, the maintenance of the Local Councils service, the auditing of accounts, and such other matters as may, from time to time, be specified by the Government ;
 - (c) any sums required to satisfy and judgment, decree or award against the local council by any court or tribunal ; and
 - (d) any expenditure declared by the Government to be so charged,
- (2) If any expenditure charged on the Local Fund is not paid, the Controlling Authority may, by order, direct the person or persons having the custody of the Local Fund to pay such amount, or so much thereof as may, from time to time, be possible, from the balance of the Local Fund.
49. **Budgets:-** (1) Every local council shall, in the prescribed manner, prepare and sanction, before the commencement of each financial year, a statement of its estimated receipts and expenditure for that year, hereinafter referred to as the budget, and forward a copy thereof to the Controlling Authority.

(2) If the budget is not prepared or sanctioned by a local council before the commencement of any financial year, the Controlling Authority may have the necessary statement prepared and certify it, and such certified statement shall be deemed to be the sanctioned budget of the local council.

(3) Within thirty days of the receipt of the copy of a budget under sub-section (1), the Controlling Authority may, by order, modify it, and the budget so modified shall be deemed to be the sanctioned budget of the local council.

(4) At any time before the expiry of the financial year to which a budget relates a revised budget for the year may, if necessary, be prepared and sanctioned, and such revised budget shall, so far as may, be subject to the provisions of this Section applicable to a budget.

(5) Where any local council assumes office under this Act for the first time, its budget for the financial year during which it assumes office shall relate to the remaining period of that year, and the other provisions of this Section shall mutatis mutandis apply accordingly.

50. **Accounts:-** (1) Accounts of the receipts and expenditure of a local council shall be kept in the prescribed manner and form.
- (2) An annual statement of the accounts shall be prepared after the close of every financial year, and shall be transmitted to the Controlling Authority by such date as may be prescribed.
- (3) A copy of the annual statement of accounts, and such other statements as may be prescribed, shall be placed at a conspicuous place in the office of the local council concerned for public inspection, and all objections or suggestions concerning such accounts received from the public shall be considered by the local council and brought to the notice of the audit authority referred to in Section 51.
51. **Audit:-** (1) The accounts of every local council shall be audited in such, manner, after such intervals and by such authority as may be prescribed.
- (2) The audit authority shall have access to all the books and other documents pertaining to accounts, and may also examine

the Chairman or any member or servant of the local council concerned.

(3) On the completion of audit, the authority shall, in the prescribed manner, submit to the Controlling Authority an audit report which shall, among other things, mention:-

- (a) cases of embezzlement ,
- (b) cases of loss, waste or misapplication of the Local Fund, and
- (c) cases of other irregularities in the maintenance of accounts.

52. **Loans:-** (1) Subject to the provisions of this Act and the rules, the Local Authorities Loans Act, 1914 (IX of 1914), and any other law for the time being in force, a local council may, with the previous sanction of the Government, raise loans in the prescribed manner, and make suitable arrangements, to the satisfaction of the Government, for the repayment of the loans in such installments as may be fixed.

(2) A local council may, and if required by the Government shall, establish and maintain such separate funds as may be necessary for the repayment of loans, and the Government may, among other things, require that any specified items of income of the local council shall wholly or in part be earmarked for and applied in the repayment of loans.

53. **Property of local councils:-** (1) The Government may by rules:

- (a) determine the property which shall vest in local councils ;
- (b) provide for the management, maintenance, improvement and development of the property belonging to or vesting in local councils ;
- (c) regulate the alienation of such property ; and
- (d) provide for the compulsory acquisition of such immovable property as may be required by a local council for the purposes of this Act.

(2) A local council may:

- (a) manage, maintain, inspect, develop or improve any property which is owned by or vests in it or which is placed under its charge ;

- (b) apply such property for the purpose of this Act or the rules ;
and
- (c) acquire or transfer by grant, gift, sale, mortgage, lease, exchange or otherwise any property with the previous sanction of such authority as may be prescribed.

54. **Development plan:-** (1) A local council may, and if required by the Government shall, prepare and implement development plans for such periods and in such manner as may be specified.

(2) Such plans shall be subject to the sanction of the prescribed authority, and shall, provide for:

- (a) the promotion, improvement and development of such function or functions of the local council as may be specified;
- (b) the manner in which the plan shall be financed, executed, implemented and supervised ;
- (c) the agency through which the plan shall be executed and implemented ; and
- (d) such other matters as may be necessary .

(3) The Government may direct that any specified items of income of a local council shall wholly or in part be earmarked for and applied in the implementation of a development plan.

(4) The development plans of local councils in a District or in the State, may be consolidated in such manner as may be prescribed.

55. **Surcharge:-** Every member of a local council, every official or servant of a local council, and every person charged with the administration of the affairs of a local council, or acting on behalf of a local council, shall be liable for the loss, waste or misapplication of any money or property belonging to a local council, which is a direct consequence of his negligence or misconduct, and the liability of such member, official, servant or person shall be determined by the Controlling Authority in the prescribed manner, and the amount for which he is held liable shall be recoverable as a public demand or as arrears of land revenue.

**CHAPTER II
LOCAL TAXATION**

56. **Local Rate:-** (1) All land in a District assessable to land revenue shall be subject to the payment of a rate to be known as local rate.
- (2) The local rate in each District shall bear such proportion to the land revenue in the District as the Government may, by notification in the official Gazette, from time to time fix :
- Provided that the local rate shall not exceed fifty per centum of the land revenue as the case may be.
- (3) The local rate shall be collected in the prescribed manner along with land revenue by the village revenue officials responsible for its collection, and the proceeds thereof shall be credited to the Local Funds of the District Council and the Union Council in the District in such proportion, as may be fixed by the Government from time to time.
57. **Taxes to be levied:-** (1) A District Council, with the previous sanction of the Government and a Union Council with the previous sanction of the Commissioner, may levy, in the prescribed manner, all or any of the taxes, rates, tolls and fees mentioned in the Fifth Schedule.
- (2) The Government may, by notification in the official Gazette, specify separately the taxes, rates, tolls and fees mentioned in the aforesaid Schedule which may be levied respectively by a District Council and by a Union Council and where such notification has been issued, no District Council shall be competent to levy any tax, rate, toll or fee leviable by a Union Council, and no Union Council shall be competent to levy any tax, rate, toll or fee leviable by a District Council.
- (3) No Tehsil Council shall have the power to levy any tax, rate, toll or fee, and such Councils shall be financed by the Government.
58. **Notification and enforcement of taxes:-** (1) All taxes, rates, tolls and fees levied by a District or Union Council shall be notified in the prescribed manner and shall unless otherwise directed by the Government, be subject to previous publication.

(2) Where a proposal for the levy of a tax, rate, toll or fee, or for a modification of a tax, rate, toll or fee which is in force, is sanctioned, the sanctioning authority shall specify the date for the enforcement thereof, and such tax, rate, toll or fee or the modification shall come into force on such date.

59. **Model tax schedules:-** The Government may frame model tax schedules, and where such schedules have been framed, District and Union Councils shall be guided by them in levying, a tax, rate, toll or fee.
60. **Directions with regard to levy of tax, etc:-** (1) The Government may direct any District or Union Council and the Commissioner may direct any Union Council:-
- (a) to levy any tax, rate, toll or fee which the Council is competent to levy under Section 57;
 - (b) to increase or reduce any such tax, rate, toll or fee, or the assessment thereof, to such extent as may be specified ; or
 - (c) to suspend or abolish the levy of any such tax, rate, toll or fee.
- (2) If a direction issued under sub-section (1) is not complied with, within the specified time if any, the Government or the Commissioner, as the case may be, may make an order giving effect to the direction.
61. **Liability on account of taxes:-** (1) A local council may, by notice, call upon any person to furnish such information, produce such record or accounts, or to present such goods or animals liable to any tax, rate, toll or fee, as may be necessary for the purpose of determining the liability of such person, goods or animals to a tax, rate, toll or fee, or the assessment thereof.
- (2) Any official of a local council authorized in this behalf may, after due notice, enter upon any building or premises for the purposes of assessing the liability of such building or premises to any tax, or inspecting any goods or animal therein liable to any tax.
- (3) Any official of a local council authorized in this behalf may, in the prescribed manner seize and dispose of any goods on which any octroi, terminal tax or toll is due and is not paid.

62. **Collection and recovery of taxes etc:-** (1) Unless otherwise provided, all taxes, rates, tolls and fees levied under his Act shall be collected in the prescribed manner by the village revenue officials responsible for the collection of land revenue.
- (2) All arrears of taxes, rates, tolls and fees and other moneys claimable by a local council under this Act shall be recoverable as a public demand or as arrears of land revenue.
- (3) Notwithstanding the provisions of sub-section (2), the Government may empower any local council to recover arrears of taxes, rates tolls, fees and other moneys claimable by the council under this Act by distress and sale of the movable property belonging to the person concerned, or by attachment and sale of the immovable property belonging to him.
- (4) The Government may by rules specify the officials or classes of officials by whom the power under sub-section (3) shall be exercised, and prescribe the manner in which it shall be exercised.
63. **Deduction of taxes from salaries:-** If a local council levies a tax on professions, trades or callings, it may require the employer of the person liable to such tax to deduct the tax from the salary or wages payable to such person, and on such requisition the amount of the tax due shall be deducted from the salary or wages of the person concerned and credited to the Local Fund of the council.
64. **Petitions against valuation, assessment, etc.:-** No assessment of a tax, rate, toll or fee under this Act or valuation therefore, or the liability of a person to be so taxed, shall be called in question except by a petition presented to such authority, in such manner and within such period as may be prescribed.
65. **Taxation Rules:-** (1) All taxes, rates, tolls, fees and other charges levied by a local council shall be imposed, assessed, leased, compounded, administered, and regulated in such manner as may be provided by rules.
- (2) Rules framed under this Section may, among other matters, provide for the obligations of the tax-payer and the duties and powers of the officials and other agencies responsible for the assessment and collection of taxes.

**PART IV
PROVINCIAL DEVELOPMENT ADVISORY COUNCILS**

66. Omitted.
67. Omitted.
68. Omitted.

**PART V
GENERAL**

**CHAPTER I
CONDUCT OF ELECTIONS**

69. **Conduct of elections:-** (1) Subject to such directions as may from time to time be issued by the Election Commissioner by all elections to Union Councils and Town and Union Committee under this Act shall be organized and conducted in accordance with the rules, and such rules may provide for all matters connected therewith or incidental thereto, including by elections; corrupt or illegal practices and other election offences, and penalties therefore, and submission, trial and disposal of election petitions.
- (2) Notwithstanding the provisions of sub-section (1), the Government may, by notification in the official Gazette, direct that any provisions of the Representation of the People Act, 1957 (XXXI of 1957), or the rules made thereunder, shall, to such extent and subject to such exceptions or modifications as may be specified in the notification, apply to the elections to all or any of the Union Councils or Town or Union Committees and for this purpose the Representation of People Act, 1957, alongwith the rules made thereunder, as in force in Pakistan, shall be deemed to be adapted by the Government.

**CHAPTER II
ADMINISTRATION OF LOCAL COUNCILS**

70. **Supervision over local councils:-** The Government shall exercise general supervision and control over the local councils in order to ensure that their activities conform to the purposes of this Act.
71. **Control over the activities of local councils:-** (1) If, in the opinion of the Controlling Authority, any thing done or intended to be done by or on behalf of a local council is not in conformity

with law, or is in any, way against public interest, the Controlling Authority may, by order:-

- (a) quash the proceedings ;
- (b) suspend the execution of any resolution passed or order made by the local council ;
- (c) prohibit the doing of anything proposed to be done ; and
- (d) require the local council to .take such action as may be specified.

(2) Where an order under sub-section (1) is made by any Controlling Authority other than the Government, the local council concerned may within thirty days of the receipt of the order, represent against it:

- (a) to the Government, if the order was made by the Commissioner ;
- (b) to the Commissioner, if the order was made by the Collector ; and
- (c) to the Collector, if the order was made by the Sub-Divisional Officer ;

and the authority to whom the matter is so represented shall, within thirty days of the receipt of the representation, either confirm or modify or set aside the order.

(3) If for any reason the order is not confirmed or modified within the aforesaid period, it shall be deemed to have been set aside.

72. **Power of the Controlling Authority to give directions to local councils:-** (1) The Controlling Authority may direct any local council, or any person or authority responsible thereto, to take, within such period as may be specified, such action as may be necessary for carrying out the purposes of this Act.

(2) Where after due enquiry the Controlling Authority is satisfied that a local council or person or authority has failed to comply with any direction made under sub-section (1), the Controlling Authority may appoint a person or persons to give effect to such

direction, and may further direct that the expenses incurred in connection therewith shall be borne by the local council.

(3) Should the expenses be not so paid, the Controlling Authority may make an order directing the person having the custody of the balance of the Local Fund of the council to pay the expenses, or so much thereof as may from time to time be possible.

73. **Inquiry into the affairs of local councils:-** (1) The Government may, either suo mota or on an application made to it by any persons, cause an enquiry to be made by such officer as may be authorized by it in this behalf, into the affairs of a local council generally, or into any particular matter concerning a local council.

(2) Such officer shall, for the purposes of the enquiry, have the powers of a court under the Code of Civil Procedure, 1908 (Act V of 1908), to take evidence and to compel the attendance of witnesses and the production of documents.

(3) The Government may make an order as respects the costs of the enquiry and the parties by whom it shall be paid.

(4) Any amount payable under sub-section (3) by any person, not being a local council, shall be recoverable as a public demand or arrears of land revenue.

74. **Suspension of particular departments or institutions:-** (1) If, after such enquiry as may be necessary, the Government is of the opinion that a local council is not able to run a particular department or institution, efficiently, it may, by notification in the official Gazette, suspend the authority of the local council over such department or institution for such period as may be specified in the order.

(2) Where the authority of a local council over any department or institution is so suspended, the Government may itself take over the management of such department or institution or make such other arrangements as it thinks fit, and may require the local council, or in case the local council fails to comply, the treasury, bank or person holding the funds of the local council, to place such amount as may be necessary for the management of such department or institution at the disposal of the Government.

75. **Supersession of local councils:-** (1) If, after such inquiry as may be necessary, the Government in the case of District Council, and the Commissioner in the case of any other local council, is of the opinion that a local council:
- (a) is unable to discharge or persistently fails in discharging its duties, or
 - (b) is unable to administer its affairs or meet its financial obligations, or
 - (c) generally acts in a manner contrary to public interest, or
 - (d) otherwise exceeds or abuses its powers, the Government or the Commissioner, as the case may be, may, by notification in the official Gazette, declare the local council to be superseded for such period, not exceeding the residue of the term of such local council, as may be specified.
- (2) On the publication of a notification under sub-section (1) :-
- (a) persons holding office as Chairman and members of the local council shall cease to hold office ;
 - (b) all functions of the local council shall, during the period of supersession, be performed by such person or authority as the Government or the Commissioner, as the case may be, may appoint in this behalf ;
 - (c) all funds and property belonging to the local council shall during the period of supersession, vest in the Government.
- (3) On the expiry of the period of supersession, the local council shall be reconstituted in accordance with the provisions of this Act and the rules.
76. **Training institutions:-** (1) The Government may set up schools, colleges or other institutions for the training of the members and staff of local councils, and for the promotion of research in local government and allied subjects, and may, by rules, provide:
- (a) for the administration of such schools, colleges and other institutions ;
 - (b) for the compulsory training of members and staff ;

- (c) for the courses to be studied, and
- (d) for the holding of examinations and the award of diploma and certificates to successful candidates.

(2) Every local council shall pay towards the cost of the institutions set up under sub-section (1) in such proportion as the Government may from time to time determine.

CHAPTER III INTER - COUNCIL MATTERS

77. **Joint Committees:-** Any local council may join any other local council or councils, or any other local authority or authorities, in appointing a Joint Committee for any purpose in which such councils or authorities may be jointly interested and may delegate to such Joint Committee any power which may be exercised by it, including the power to make regulations for the conduct of business.
78. **Disputes between councils:-** If any dispute arises between two or more local councils, the matter shall be referred :
- (a) to the Collector, if the parties concerned are in the same District ;
 - (b) to the Commissioner, if the parties concerned are in different Districts ;
 - (c) to the Government, if one of the parties is a Cantonment Board and the decision of the authority to which the dispute is so referred shall be final.

CHAPTER IV OFFENCES AND PENALTIES

79. **Offences:-** Every act or omission specified in the Eighth Schedule shall be an offence under this Act.
80. **Punishment:-** An offence under this Act shall be punished with fine which may extend to two hundred rupees, and if the offence is a continuing one, with a further fine which may extend to twenty rupees for every day of the date of the first commission during which period the offender has persisted in the offence.

81. **Compounding of offences:-** The Chairman or any person generally or specially authorized by the local council in this behalf may compound any offence under this Act.
82. **Cognizance of offences:-** No court shall take cognizance of any offence under this Act except on a complaint in writing received from the Chairman or a person generally or specially authorized by the local council in this behalf.

CHAPTER V MISCELLANEOUS

83. **Appeals:-** (1) Any person aggrieved by an order passed by a local council or its Chairman in pursuance of this Act or the rules or by-laws, may appeal to such authority, in such manner and within such period as may be prescribed.
- (2) Any order passed in appeal shall be final and shall not be called in question in any court.
84. **Duties of Police:-** It shall be the duty of all police officers to give immediately information to the Chairman or an official of the local council concerned of the commission of any offence under this Act and to assist the officials and servants of local councils in the exercise of their lawful authority.
85. **Standing Orders:-** The Government may, by Standing Orders issued from time to time:-
- (a) define and regulate the relations of local councils interse, and with local bodies and other local authorities ;
 - (b) provide for co-ordinating the activities of local councils and Government departments ;
 - (c) provide for giving financial assistance to local councils, including the making of grants for specified purposes on specified terms and conditions ;
 - (d) provide for the making of financial contributions by one local council to another local council or to any other local authority ;
 - (e) provide for the general guidance of local councils in carrying

out the purposes of this Act.

86. **Power to make rules:-** (1) The Government may make rules to carry out the purposes of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters enumerated in the Sixth Schedule, and all matters incidental, consequential and supplemental thereto.
87. **By-laws:-** (1) A local council may, and if required by the Government shall, make by-laws, not inconsistent with rules, to carry out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such by-laws, may provide for all or any of the matters enumerated in Part I of the Seventh Schedule, and all matters incidents, consequential and supplemental thereto.
88. **Regulations:-** A local council may make regulations to regulate the procedure in respect of all or any of the matters enumerated in Part II of the Seventh Schedule, and all matters incidental, consequential and supplemental thereto.
89. **General Provisions relating to rules, etc:-** (1) All by-laws shall be made subject to the condition of previous publication.
- (2) All by-laws and regulations made by a Local Council or shall be subject to the sanction of the Commissioner, and the Commissioner, may sanction any by-laws or regulations subject lo modifications.
- (3) The Government may frame model by-laws and regulations, and inframing their by-laws and regulations the local councils shall be guided by such model by-laws and regulations.
- (4) All rules shall be notified in the official Gazette, and all by-laws and regulations shall be published in such manner as in the opinion of the authority making them be best adapted for informing the residents of the local area concerned.
- (5) Copies of rules, and of by-laws and regulations pertaining to a local council shall be kept available at the office of the local council concerned for inspection and sale.

(6) All rules and by-laws, when duly made, shall be deemed to form part of this Act and shall have effect accordingly.

90. **Delegation of powers:-** (1) The Government may, by notification in the official Gazette, delegate any of its powers under this Act or the rules or by-laws, to a Commissioner, Collector, or any other officer subordinate to it.
- (2) A Commissioner or Collector may, with the previous sanction of the Government, delegate any of his powers under this Act or the rules or by-laws, not being powers delegated to him under sub-section (1), to any officer subordinate to him.
91. **Institution of suits against local councils, etc.:-** No suit shall be instituted against a local council or against any member, official or servant of a local council in respect of any act done or purporting to be done in official capacity, until the expiration of one month next after notice in writing has been, in the case of a local council, delivered or left at its office, and in the case of a member, official, or servant, delivered to him or left at his office or place of abode, stating the cause of action and the name and place of abode of the intending plaintiff and the plaint shall contain a statement that such notice has been so delivered or left.
92. **Notice and service thereof:-** (1) Where anything is required to be done or not to be done by any person under this Act or the rules or by-laws, a notice shall be served on the person concerned specifying the time within which requirement shall be complied with.
- (2) No notice shall be invalid for defect of form.
- (3) Every notice shall, unless otherwise provided, be served or presented by giving or tendering the notice or sending it by post to the person for whom it is intended or by affixing it on some conspicuous part of his place of abode or business.
- (4) A notice intended for the public in general shall be deemed to have been sufficiently served if a copy thereof is affixed in such public place as may be determined by the local council concerned.
93. **Records to be public documents:-** All records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Evidence Act, 1872 (I of

1872), and shall be presumed to be genuine until the contrary is proved.

94. **Members and servants of local councils to be public servants:-** Every member and every servant of a local council, and every other person duly empowered to act on behalf of a local council, shall be deemed to be a public servant within the meaning of Section 21 of the Penal Code (Act XLV of 1860).
95. **Protection of action taken in good faith, etc.:-** No suit, prosecution or other legal proceedings shall lie against the Government or any local council, or against any person authorized by either, for anything done or in good faith intended to be done under this Act, or for any damage caused or likely to be caused by any such thing.

PART VI TRANSITIONAL PROVISIONS

96. **Interim authorities, rules, by-law, taxes etc:-** (1) In any area within the jurisdiction of a local body or bodies in which the provisions of this Act are brought into force but a local council is not constituted, the Government, notwithstanding anything in this Act, may, by order, empower any person or persons to perform all or any of the functions of such body or bodies as had jurisdiction therein immediately before such enforcement, or such functions of a local council or councils under this Act as may be specified in the order, until a properly constituted local council for the local area assumes office in accordance with the provisions of this Act.
- (2) Where a local council is constituted under this Act in any area, not being an area within the jurisdiction of any local body, the Government may enforce such, rules and, without observing the procedure for previous publication, such by-Laws, and such taxes, rates, tolls or fees in that area for such period, not exceeding six months, as may be considered necessary for enabling the local council so constituted to prepare for carrying out the purposes of this Act.
97. **Interim arrangement for the maintenance of institutions to be transferred to local council:-** Where on the enforcement of this Act in any local area any service undertaken or institution maintained by the Government is required under any of the provisions of this Act to be compulsorily undertaken or

maintained by a local council, such service or institution shall notwithstanding anything contained in this Act continue to be undertaken or maintained by the Government until the management thereof is duly transferred to the local council.
