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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY SECRETARIAT

Islamabad, the 2nd June, 1997

**No. F. 22(56)/97-Legis.**—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 31st May, 1997, and is hereby published for general information :—

ACT NO. X OF 1997

*An Act further to amend the Zakat and Ushr Ordinance, 1980*

WHEREAS it is expedient further to amend the Zakat and Ushr Ordinance, 1980 (XVIII of 1980), for the purposes hereinafter appearing :

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the Zakat and Ushr (Amendment) Act, 1997.

(2) It shall come into force at once.

2. **Amendment of section 2, Ordinance XVIII of 1980.**—In the Zakat and Ushr Ordinance, 1980 (XVIII of 1980), hereinafter referred to as the said Ordinance, in section 2,—

(i) after clause (xviii), the following new clause shall be added, namely :—

“(xix) ‘Provincial Council’ means a Council constituted under section 14;” and

(1093)

(ii) after clause (xxviii), the following new clauses shall be added, namely :—

“(xxix) ‘Taluqa Committee’ or ‘Sub-divisional Committee’ means a committee constituted under section 17 ;

“(xxixa) ‘Tehsil Committee’ means a Tehsil committee constituted under section 17 or, in the case of the Islamabad Capital Territory, the Islamabad Zakat and Ushr Committee ;”

3. **Amendment of section 5, Ordinance XVIII of 1980.**—In the said Ordinance, in section 5, in sub-section (5), in the proviso, for the words “District Committee” the words “Provincial Council” shall be substituted.

4. **Amendment of section 7, Ordinance XVIII of 1980.**—In the said Ordinance, for section 7 the following shall be substituted, namely :—

“7. **Establishment of Zakat Funds.**—There shall be established the following Zakat Funds, namely,—

(a) a Central Zakat Fund to which shall be credited—

(i) the Zakat deducted at source;

(ii) the Zakat paid into it voluntarily including voluntary contribution made by Pakistani citizens and other persons residing abroad;

(iii) the transfers, if any, from the Provincial Zakat Funds; and

(iv) the grants, *atiyyat* and any other receipts including voluntary contributions made by Pakistani citizens and other persons residing abroad;

(b) a Provincial Zakat Fund for each Province to which shall be credited—

(i) the transfers to it from the Central Zakat Fund ;

(ii) the Zakat paid into it voluntarily ;

(iii) the transfers, if any, from the District Zakat Fund ;

(iv) the transfers, if any, from the Local Zakat Fund ; and

(v) the grants, *atiyyat* and any other receipts; and

(c) a District Zakat Fund for each District to which shall be credited.—

- (i) the transfers to it from the Provincial Fund ;
  - (ii) the proceeds of *Ushr* to be deposited in the personal ledger account of District Zakat Fund ;
  - (iii) the *Zakat* paid into it voluntarily ;
  - (iv) the transfers, if any, from the Local Zakat Funds ; and
  - (v) the grants, *atiyyat* and any other receipts ; and
- (d) a Local Zakat Fund for each Local Committee to which shall be credited—
- (i) the *Zakat* paid into it voluntarily ;
  - (ii) the transfers to it from the District Zakat Fund ;
  - (iii) the transfer to it from the Provincial Zakat Fund; and
  - (iv) the grants, *atiyyat* and any other receipts.”.

5. **Amendment of section 8, Ordinance XVIII of 1980.**—In the said Ordinance, for section 8 the following shall be substituted, namely :—

“8. *Utilization of Zakat Funds.*—The moneys in a Zakat Fund shall be utilized for the following purposes, namely,—

- (a) assistance to the needy, the indigent and the poor particularly orphans and widows, the handicapped and the disabled, eligible to receive *Zakat* under *Shariah* for their subsistence or rehabilitation, either directly or indirectly through *deeni madaris* or educational, vocational or social institutions, public hospitals, charitable institutions and other institution providing health care :

Provided that the lists of the individuals to be assisted directly and of the institutions through which assistance is to be given from a Zakat Fund shall be prepared and maintained in such form and manner as may be prescribed ;

- (b) assistance to the needy persons affected or rendered homeless due to natural calamities like floods and earthquakes and for their rehabilitation ;
- (c) expenditure on the collection, disbursement and administration of Zakat and *Ushr* :

Provided that—

- (i) the expenditure on the administrative Division and the Central Council shall be met by the Federal Government ;
- (ii) the expenditure on the administrative organization of a Chief Administrator, the Provincial Council, and a District Committee shall be met by the Provincial Government ; and
- (iii) the funds not exceeding ten per cent approved in the budget shall be retained in the Provincial Zakat Fund to meet such additional expenditure of a Local Committee as may be approved by the Central Zakat Council :

Provided also that the banking services and the services connected with the assessment, collection or disbursement of *Zakat* and *Ushr* realizable on compulsory basis under this Ordinance shall be rendered free of charge, except that the Administrator General, in regard to *Ushr*, may authorize payment of remuneration for any specified services ;

- (d) investment in any non-interest bearing instruments as is permitted under Shariah ; and
- (e) any other purpose permitted by Shariah.

6. **Amendment of section 9, Ordinance XVIII of 1980.**—In the said Ordinance, for section 9 the following shall be substituted, namely :—

- “9. *Disbursements from Zakat Funds.*—(1) The Central Zakat Council shall prepare budget for each financial year and may, from the Central Zakat Fund, make disbursements and transfer funds to Provincial Zakat Fund in such form and manner as may be prescribed and as would help in ensuring satisfaction of the needs of the needy and the poor throughout the country as far as possible, on a uniform basis.
- (2) A Provincial Council may from the Provincial Zakat Fund make disbursements and transfer funds to District Zakat Fund on the basis of population in such form and manner as may be prescribed and as would help in ensuring satisfaction of the needs of the needy and the poor throughout its jurisdiction, as far as possible, on a uniform basis :

Provided that a Provincial Council may, in exceptional circumstances, transfer funds from the Provincial Zakat Fund to the Central Zakat Fund.

- (3) A District Committee may make disbursements and transfer funds from District Zakat Fund to a Local Zakat Fund or to an institution or incur other administrative expenditure subject to such conditions as may be prescribed and may, whenever directed by the Central Council, transfer any funds surplus to its needs to the Provincial Zakat Fund.
- (4) A Local Committee may disburse or incur expenditure from the Local Zakat Fund as may be prescribed :

Provided that a Local Committee may, if so required by the Provincial Council or the District Committee, transfer any funds surplus to its needs from the Local Zakat Fund to the Provincial Zakat Fund or, as the case may be, District Zakat Fund surplus to its needs :

Provided further that the Central Council or Provincial Council or a District Committee shall disburse *Zakat* through a Bank or a Post Office or any other financial institution as may be determined by the Central Zakat Council in such form and manner as may be prescribed."

7. **Amendment of section 10, Ordinance XVIII of 1980.**—In the said Ordinance, in section 10, for sub-section (1) the following shall be substituted, namely :—

"(1) The accounts of the Central Zakat Fund, a Provincial Zakat Fund, a District Zakat Fund, and a Local Zakat Fund shall be maintained and operated, respectively, by the Administrator-General, the Chief Administrator, the District Committee and the Local Committee, in such form and manner as may be prescribed."

8. **Amendment of section 11, Ordinance XVIII of 1980.**—In the said Ordinance, for section 11 the following shall be substituted, namely :—

"11. *Audit.*—(1) To carry out audit of the Central Zakat Fund annually or at shorter intervals, the Central Council, and to carry out audit of a Provincial Zakat Fund annually or at shorter intervals, the Provincial Council, shall request the Auditor-General of Pakistan and Local fund audit to conduct the audit.

(2) To carry out audit of a District Zakat Fund within a Province annually or at shorter intervals, the Provincial Council shall request the Auditor-General of Pakistan to conduct the audit.

(3) To carry out audit of the Local Zakat Funds within a district annually or at shorter intervals, the District Committee shall request the Auditor-General of Pakistan to conduct audit of the local fund.

(4) The audit performed by Auditor-General under sub-sections (1), (2) and (3) shall include propriety audit.

- (5) The annual report of the Auditor-General on the Central Zakat Fund shall be laid before the Majlis-e-Shoora (Parliament), that on a Provincial Zakat Fund before the Provincial Assembly concerned, and that on a District Zakat Fund or a Local Zakat Fund before the District Council concerned established under the law relating to local government.
- (6) Nothing in this section shall be deemed to prevent—
- (a) the Central Council from getting audited any of the Provincial, District or Local Zakat Funds;
  - (b) the Provincial Council from getting audited any of the District or Local Zakat Funds within its jurisdiction; or
  - (c) a Local Committee from getting its own Local Zakat Fund audited.
- (7) Notwithstanding anything contained in the preceding sub-sections, the Auditor General shall conduct annual audit of the Central Zakat Fund, the Provincial Zakat Fund, District Zakat Funds and Local Zakat Funds including the accounts of a Deducting Agency or an institution receiving *Zakat*.

9. **Amendment of section 12, Ordinance XVIII of 1980.**—In the said Ordinance, in section 12, for the sub-sections (2), (3) and (4) the following shall be substituted, namely :—

“(2). The Central Council shall consist of.—

- (a) a Chairman;
- (b) four persons to be nominated by the President, of whom three shall be *Ulema* nominated in consultation with the Council of Islamic Ideology;
- (c) one person from each Province, to be nominated by the President;
- (d) two women, who shall not be less than forty five years of age, to be nominated by the President;
- (e) the Chief Administrators;
- (f) the Secretary to the Government of Pakistan in the Ministry of Finance;
- (g) the Secretary to the Government of Pakistan in the Ministry of Religious Affairs, Zakat, Ushr and Minorities Affairs;

- (h) the Secretary to the Government of Pakistan in the Ministry of Health;
  - (i) the Secretary to the Government of Pakistan in the Ministry of Education; and
  - (j) the Administrator-General, who shall also be the Secretary General of the Council.
- (3) The Chairman of the Central Council shall be a person who is, or has been, a judge of the Supreme Court of Pakistan, to be nominated by the President in consultation with the Chief Justice of Pakistan.
- (4) The Chairman and members of the Central Council, other than *ex-officio* members, shall hold office during the pleasure of the President for a term of three years, and shall be eligible for reappointment for another term.
10. **Amendment of section 13, Ordinance XVIII of 1980.**—In the said Ordinance, for section 13 the following shall be substituted, namely :—
- “13. *Administrator-General.*—(1) For carrying out the purpose of this Ordinance, the Secretary, Religious Affairs, Zakat, Ushr and Minorities Affairs Division, Government of Pakistan, shall perform the functions of the Administrator-General under this Ordinance.
- (2) the Administrator-General shall be the Chief Executive in respect of matters relating to *Zakat* and *Ushr* and shall act under the general superintendence and control of, and in accordance with the policy guidelines given by, the Central Council.”
11. **Amendment of section 14, Ordinance XVIII of 1980.**—In the said Ordinance, for section 14 following shall be substituted, namely :—
- “14. *Provincial Zakat Council.*— (1) In each Province, the Provincial Government shall, by notification in the official Gazette, establish a Provincial Zakat Council, to exercise general superintendence and control over matters relating to *Zakat* and *Ushr*, particularly the Zakat Funds in the Province and the maintenance of their accounts, in accordance with the policy guidelines given by the Central Council.
- (2) The Provincial Council shall consist of —
- (a) a Chairman ;
  - (b) five persons, of whom three shall be *ulema*, to be nominated by the Governor ;
  - (c) two women, who shall not be less than forty-five years of age, to be nominated by the Federal Government ;

- (d) the Secretary to the Provincial Government in the Finance Department ;
  - (e) the Secretary to the Provincial Government in the Local Government Department ;
  - (f) the Secretary to the Provincial Government in the Social Welfare Department ; and
  - (g) the Chief Administrator, who shall also be the Secretary of the Council.
- (3) The Chairman of the Provincial Council shall be a person who is, or has been, a Judge of a High Court, to be nominated by the Governor in consultation with the Chief Justice of the High Court.
- (4) The Chairman and members of the Provincial Council, not being an *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment.
- (5) The Chairman or a member, not being an *ex-officio* member, may, by writing under his hand addressed to the Governor resign his office.
- (6) Subject to sub-section (5) the Chairman or, as the case may be, a member shall continue to hold office until his resignation is accepted by the Governor.
- (7) Any vacancy in the office of Chairman or member, other than an *ex-officio* member, shall be filled by the nomination, in accordance with sub-section (2) or sub-section (3) as the case may be, of a person qualified to hold the office.
- (8) The Chairman or the member nominated under sub-section (7) shall hold office for the unexpired term of his predecessor.
- (9) In the Islamabad Capital Territory, the functions of the Provincial Council shall be performed by the Central Council.

12. **Amendment of section 15, Ordinance XVIII of 1980.**— In the said Ordinance, for section 15 the following shall be substituted, namely :—

“15. *Chief Administrator.*—(1) In each Province, for carrying out the purposes of this Ordinance, there shall be appointed by the Governor, in consultation with the Federal Government, a Chief Administrator.



- (2) The Chief Administrator shall have the status and grade of, be *ex-officio*, Member, Board of Revenue and his tenure and other terms and conditions of service shall be such as may be determined by the Provincial Government.
- (3) The Chief Administrator shall act under the general superintendence and control of the Provincial Council and perform, as the Chief Executive of the Council, such functions as are assigned to him by or under this Ordinance."

13. **Amendment of section 16, Ordinance XVIII of 1980.**— In the said Ordinance, for section 16 the following shall be substituted, namely :—

- "16. *District Zakat and Ushr Committee.*— (1) In each district, a District Zakat and Ushr Committee, and in the Islamabad Capital Territory, and Islamabad Zakat and Ushr Committee, shall be constituted by the Provincial Council concerned.
- (2) The District Committee shall, subject to such guidelines as may be given by the Central Council or the Provincial Council,—
- (a) Oversee, generally, the functioning of administrative organization of Zakat and, more particularly, the assessment of *Ushr* and *atiyyat* and the disbursement and utilization of the moneys in the District Zakat Fund and the Local Zakat Fund;
  - (b) for the purposes mentioned in clause (a), make plans for the district, in such form and manner as may be prescribed;
  - (c) prepare and maintain accounts of the District Zakat Fund in such form and manner as may be prescribed;
  - (d) compile accounts of the Local Zakat Funds, for the district, in such form and manner as may be prescribed;
  - (e) arrange, in the prescribed manner, audit of the Local Zakat Funds in the district; and
  - (f) tender to the Provincial Council advice on any matter specified by it.

*Explanation.*— In this sub-section and in the succeeding provisions of this Ordinance, reference to "District Committee" shall be deemed to include a reference to the Islamabad Zakat and Ushr Committee.

