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ORDINANCE NO.VI OF 2015

AN

ORDINANCE

*to amend the Cantonments Ordinance, 2002*

WHEREAS, it is expedient to amend the Cantonments Ordinance, 2002(CXXXVII of 2002), for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance:

1. **Short title and commencement.**— (1) This Ordinance may be called the Cantonments (Amendment) Ordinance, 2015.

(2) It shall come into force at once.

2. **Amendment of section 10, Ordinance CXXXVII of 2002.**—In the Cantonments Ordinance, 2002 (CXXXVII of 2002), hereinafter referred to as the said Ordinance, for section 10, the following shall be substituted, namely:—

“10. **Local Area.**— For the purposes of this Ordinance local area shall be the whole of cantonment.”.

3. **Substitution of section 11, Ordinance CXXXVII of 2002.**— In the said Ordinance, for section 11, the following shall be substituted, namely:

“11. **Delimitation of wards of a Cantonment.**—(1) The Election Commission shall delimit a cantonment into wards in such a way that the number of wards is equal to the number of members to be elected on general seats of a Cantonment Board specified under section 13A of the Cantonments Act, 1924 (II of 1924).

(2) For the purposes of delimitation of wards of a cantonments,—

(a) a ward shall consist of a village or revenue estate or census block or adjoining census blocks as determined for purposes of the last preceding census or delimited and notified as such by the Election Commission;

(b) the boundaries of a ward shall not cross the limits of the cantonment; and

(c) the population of wards within a cantonments shall, as far as possible, be uniform.

(3) The wards of a cantonment shall be delimited in accordance with this Ordinance and the rules made thereunder. As far as possible, principles of delimitation as laid down under the Delimitation of Constituencies Act, 1974 (XXXIV of 1974), the rules made thereunder or any other law for the time being in force shall be followed.”.

4. **Omission of section 17, Ordinance CXXXVII of 2002.**—In the said Ordinance, section 17 shall be omitted.

5. **Substitution of section 57, Ordinance CXXXVII of 2002.**—In the said Ordinance, for section 57, the following shall be substituted, namely:—

“57. **Franchise.**—(1) The election of members to be elected on general seats of a Board shall be held on the basis of single member constituency and adult franchise through secret ballot.

(2) Members to the seats reserved for women, peasants, youth, workers and non-Muslims shall be elected by members of the Board elected in accordance with sub-section (1) in the prescribed manner.”.

6. **Amendment of section 58, Ordinance CXXXVII of 2002.**—In the said Ordinance, in section 58,—

(a) in sub-section (1),—

(i) for the words “All elections to the Union Council and the Board shall be organized and conducted by the President according to”, the words “An election to a Board under this Ordinance shall be conducted by the Election Commission in accordance with the” shall be substituted; and

(ii) the proviso shall be omitted;

(b) after sub-section (1), amended as aforesaid, the following new sub-section shall be inserted and the existing sub-section (2) shall be re-numbered as sub-section (3), namely:—

“(2) The Election Commission shall, on receipt of a request in writing from the Federal Government, issue a programme for the conduct of elections in the cantonment Boards and shall fix the dates for filing of nomination papers, scrutiny, allotment of symbols and poll, etc.”;

(c) in sub-section (3), re-numbered as aforesaid, for the word “Government”, the words “Election Commission” shall be substituted; and

(d) after sub-section (3), re-numbered and amended as aforesaid, the following new sub-sections shall be added, namely:—



- “(4) The Election Commission shall appoint as many returning officers and assistant returning officers as it may deem necessary, from amongst its own officers, the Federal Government, the provincial Government or an entity controlled by such governments.
- (5) The Election Commission may issue any direction or instruction to carry out the effective implementation of the provisions of this Ordinance for the conduct of local government elections in the Cantonment Boards.”.

7. **Amendment of section 59, Ordinance CXXXVII of 2002.**—In the said Ordinance, for section 59, the following shall be substituted, namely:—

- “59. **Indirect elections.**—(1) Election to the seats reserved for women, peasants, youth, workers and non-Muslims shall immediately be held after the notification of the names of returned candidates on general seats.
- (2) The members against seats reserved for women, peasants, youth, workers and non-Muslims shall be elected through secret ballot by the directly elected members.
- (3) The elected members of a Board shall, amongst themselves, elect a vice-president of that Board through secret ballot”.

8. **Amendment of section 60, Ordinance CXXXVII of 2002.**—In the said Ordinance, in section 60,—

- (a) in sub-section (1),—
- (i) after the word “elected”, the words “or to be chosen” shall be inserted;
- (ii) in clause (c), after the word “ward”, the words and commas “and in case, for reserved seats, in any electoral area of that Board” shall be inserted;
- (iii) for clause (d), the following shall be substituted, namely:—
- “(d) he is sagacious, righteous, non-profligate, honest and *ameen*, there being no declaration to the country by a court of law;”;
- (iv) clause (e) shall be omitted;

- (v) clause (k) shall be omitted;
  - (vi) in clause (l), for the words “three months”, the words “two years” shall be substituted;
  - (vii) in clause (o), for the words “local government”, the word “Board” shall be substituted;
  - (viii) in clause (p), for the words “local government”, the word “Board” shall be substituted; and
  - (ix) clause (q) shall be omitted;
- (b) in sub-section (2),—
- (i) in clause (a),—
    - (A) for the word “President”, the words “Election Commission” shall be substituted; and
    - (B) for the words “local government”, the words “Cantonment Board” shall be substituted; and
  - (ii) in clause (b),—
    - (A) for the words “local government”, occurring for the first time, the words “a Cantonment Board” shall be substituted;
    - (B) for the words “local government”, occurring for the second and third time, the words “Cantonment Board” shall be substituted; and
    - (C) for the word “President”, the words “Election Commission” shall be substituted.

9. **Omission of section 62, Ordinance CXXXVII of 2002.**—In the said Ordinance, section 62 shall be omitted.

10. **Substitution of section 64, Ordinance CXXXVII of 2002.**—In the said Ordinance, for section 64, the following shall be substituted, namely:—

“64. **Electoral rolls.**—(1) The Election Commission shall prepare electoral rolls in accordance with the provisions of the Electoral Rolls Act,



1974 (XXI of 1974) and rules made thereunder, for the purposes of elections in the Cantonment Boards on general seats.

- (2) The Election Commission may issue directions to adjust the electoral rolls or cause to prepare an electoral roll for any area forming part of a Cantonment Board.”.

11. **Substitution of section 67, Ordinance CXXXVII of 2002.**—In the said Ordinance, for section 67, the following shall be substituted, namely:—

- “67. **Term of office.**—(1) Subject to the provisions of this Ordinance, a member of a Board shall hold office for a period of four years from the date of oath:

Provided that notwithstanding the expiry of his term, a member shall continue to function as member until the election or, as the case may be, nomination of his successor is notified under sub-section (5) of section 13A of the Cantonments Act, 1924 (II of 1924).

- (2) The term of office of an *ex-officio* member of a Board shall continue so long as he holds the office by virtue of which he is such a member.
- (3) The term of office of a member elected through bye-elections held to fill a casual vacancy shall be the remaining period of that seat against which he has been elected.”.

12. **Amendment of section 68, Ordinance CXXXVII of 2002.**—In the said Ordinance, in section 68,—

- (a) the word “elected” shall be omitted; and
- (b) the commas and words “Nazims, Naib Nazims” shall be omitted.

13. **Amendment of section 69, Ordinance CXXXVII of 2002.**—In the said Ordinance, in section 69,—

- (a) in sub-section (1), the commas and words “,Nazims, Naib Nazims”, occurring twice, shall be omitted; and
- (b) in sub-section (3),—
  - (i) for the words and commas “may order the removal of a member, Nazim, Naib Nazim or, as the case may Vice-President”, the words “shall submit the enquiry report along with his comments

to the Election Commission for final decision through the Ministry of Defence” shall be substituted; and

(ii) in the proviso,—

(A) after the word “member”, the word “or” shall be inserted; and

(B) the commas and words “, Nazims, Naib Nazims or, as the case may be,” shall be omitted.

14. **Substitution of section 70, Ordinance CXXXVII of 2002.**—In the said Ordinance, for section 70, the following shall be substituted, namely:—

70 **Resignations of elected members.**—(1) An elected member of the Board may resign from his office by writing under his hand addressed to the President, whereupon the resignation shall be deemed to have been accepted and effective forthwith.

(2) Copies of all resignations under sub-section (1) shall be forwarded by the President to the Election Commission and the Federal Government.

(3) Notwithstanding the resignation of a member under sub-section (1), the proceedings for his removal, if any, under section 69 already initiated shall not abate.”

15. **Amendment of section 71, Ordinance CXXXVII of 2002.**—In the said Ordinance, in section 71 —

(a) the words and commas “a Nazim, a Naib Nazim or a” shall be omitted;

(b) after the word “removed” a comma shall be inserted;

(c) after the word “recalled”, the words “or disqualified” shall be inserted; and

(d) for the word “local government” the word “Board” shall be substituted.

16. **Amendment of section 72, Ordinance CXXXVII of 2002.**— In the said Ordinance, in section 72,—

(a) for the word “Government”, the word “Election Commission” shall be substituted; and



- (b) for the commas and words “,Nazim, Naib Nazim,” the word “or” shall be substituted.

17. **Amendment of section 87, Ordinance CXXXVII of 2002.**—In the said Ordinance, for section 87, the following shall be substituted, namely:—

“**87. Jurisdiction of courts barred.**— No court shall question the legality of any action taken in good faith by or under the authority of the Election Commission, the Commissioner, a returning officer, presiding officer or an assistant presiding officer or any decision given by any of them or any other officer or authority appointed under this Ordinance or the rules made thereunder.”.

18. **Insertion of new sections.**— In the said Ordinance, after section 88, the following new sections shall be inserted, namely:—

“**88A. Removal of difficulties.**— (1) If any difficulty arises in giving effect to any of the provisions of this Ordinance as in force, the Election Commission may make such orders, directives or instructions for the removal of difficulty as it may deem fit.

(2) The provision of this section shall come into force at once, notwithstanding sub-section (3) of section 1.

**88B. Overriding effect.**— (1) The provisions of this Ordinance as amended by the Cantonments (Amendment) Ordinance, 2015 shall have effect, notwithstanding anything contained in the Cantonments Act, 1924 (II of 1924) or any other law for the time being in force.

(2) The provision of this section shall come into force at once, notwithstanding sub-section (3) of section 1.”.

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## STATEMENT OF OBJECTS AND REASONS

Subject:- THE CANTONMENTS (AMENDMENT) BILL, 2015.

Elections in the Cantonments were last held in November, 1998 and members from various wards were elected for a term of 4 years. After suspension of Senate, National and Provincial Assemblies in October 1999, the Federal Government approved the recommendations of varying the constitution of 29 Cantonment Boards elected in 1998 under Section 14(1)(b) of the Cantonment Act 1924. Similarly, the constitution of Lahore and Walton Cantonment Boards was also varied by the Federal Government while bifurcating the Lahore Cantonment into two i.e. Lahore and Walton Cantonments with effect from 10<sup>th</sup> May, 1998. Constitution of 31 Cantonment Boards was extended by the Chief Executive/Prime Minister from time to time.

2. Out of remaining 12 Cantonment Boards 11 Cantonments Boards have Administrators under Section 3(3) of the Cantonment Act 1924 (II of 1924). Whereas in Pano Aqil, the Federal Government has constituted a Board comprising President Cantonment Board and three nominated members, under Section 3(3) of the Cantonment Act, 1924 (II of 1924).

3. Cantonment Boards are Body corporate and they perform their assigned functions, duties under the provision of Cantonment Act 1924. The Cantonment Boards at present are running the affairs with varied Board i.e. with nominated members. Elections in Cantonment areas to elect members of Cantt Boards are to be held by the Election Commission of Pakistan as provided under Clause 2 of Article 140A of the Constitution of the Islamic Republic of Pakistan 1973 (inserted vide Section 48 of the Constitution, 18<sup>th</sup> Amendment).

4. Supreme Court of Pakistan in Civil Appeal No. 297/2014 titled Election Commission of Pakistan Vs province of Punjab & others vide Order dated 19<sup>th</sup> March, 2014 had directed the Federal Government to undertake necessary enactment to empower the Election Commission of Pakistan to carry out delimitation of constituencies of the Local Government.

6. Under Article 140A of the Constitution the power to hold election of the local government in Cantt Areas stands vested in the Election Commission of Pakistan. In

order to bring the local government election within the preview of the Election Commission of Pakistan, necessary amendment is being made in the Cantonment Ordinance, 2002 (CXXXVII of 2002). The bill is designed to achieve the aforesaid object.

KHAWAJA MUHAMMAD ASIF  
Minister for Defence  
*Minister-in-Charge*