



MANUAL OF EXCISE & TAXATION LAWS



2013

**EXCISE & TAXATION DEPARTMENT
GOVERNMENT OF KHYBER PAKHTUNKHWA, PESHAWAR**

FOREWORD

It is indeed heartening to note that, due to the encouraging feedback received from the stakeholders on the 1st Edition of the Manual, we feel confident enough to bring out its 2nd and improved Edition. The 1st Edition of the Manual of the Excise & Taxation laws/rules proved very useful in helping the Department in addressing problems of the general public specially, their grievance on the tax liabilities and also supported us in service delivery. It was recognized as an all inclusive academic text book for the new entrants of the Department for whom departmental examination is a necessary legal requirement. The Manual was distributed among all the departments of the Provincial Government where the efforts of the Department were appreciated well. Other departments of the Provincial Government also generally benefited from the availability of a single document in the form of the Manual.

The 2nd Edition is an updated version, containing the amendments made in The Khyber Pakhtunkhwa (Amendments) Act, 2011 (Khyber Pakhtunkhwa Act No.IV of 2011), The Khyber Pakhtunkhwa Finance Act, 2011 (Khyber Pakhtunkhwa Act No.XIII of 2011) and Notification of Government of Khyber Pakhtunkhwa, Excise & Taxation Department No.SO(TAX)E&T/6-2/2008 dated 12/07/2011.

We understand that the tax Laws and Rules included in this Manual would again be amended and revisited given their importance and keeping in view the changing tax culture. Excise laws, like any other legal documents, would, in future, adopt to this culture with a view to help increase revenue and improve service delivery. We hope the Second Edition of the Manual would be of a substantial value to all concerned. Since there is always room for improvement, suggestions and feedback in this regard would be highly appreciated.

The Manual's 2nd Edition has been updated by Mr. Abdul Hamid Khan, Additional Secretary, assisted by Mr. Hayat Khan, System Analyst and Mr. Shah Nawaz Khan, Taxation Analyst. The Manual is available on the web site of Excise & Taxation Department Khyber Pakhtunkhwa www.kpexcise.gov.pk for convenience of the general public.

(SAJID KHAN JADOON)
SECRETARY
EXCISE AND TAXATION DEPARTMENT

NOTE

North- West Frontier Province or North –West Frontier Province or North West Frontier Province or North West Frontier or North – West Frontier or N-W.F.P or N.-W.F.P or N.-W.F.P. or N.W.F.P or N.W.F.P. or NWFP or Sarhad or Frontier as the case may be, wherever occurring, the words “Khyber Pakhtunkhwa” shall be substituted vide Notification No.PA/Khyber Pakhtunkhwa/Bills/2011/18203 dated 02-04-2011.

CONTENTS

PART-A URBAN IMMOVABLE PROPERTY TAX ACT, 1958

1.	Short title and extent	1
2.	Definitions.....	1
3.	Levy of tax	2
4.	Exemptions.....	5
5.	Ascertainment of annual value.....	6
6.	Assessing authority	6
7.	Making and Operation of Valuation Lists.	7
8.	Draft Valuation List	7
9.	Amendment of Current Valuation List	8
10.	Appeal and Revision.	8
11.	Tax to be Levied Notwithstanding Appeal.....	9
12.	Tax When Payable.....	9
13.	Collection of Tax.....	9
14.	Recovery of Tax From Tenants.....	9
15.	Penalty for default in payment.....	9
16.	Recovery of unpaid dues.....	9
17.	Remuneration of local authority.....	10
18.	Power of assessing authority to require returns for valuation list.....	10
19.	Powers of assessing authority to require returns at any time.	10
20.	Valuation list not to be rendered invalid by certain failures or omissions..	11
21.	Assessing authorities, officers and servants to be deemed public servants.	11
22.	Exclusion of jurisdiction Civil Courts.	11
23.	Power to make rules.....	11
24.	Repeal and saving.....	12
	[SCHEDULE-I.....	14
	[SCHEDULE-II].....	17

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

1.	Short title and extent	18
2.	Definitions:.....	18
3.	Assessing Authority.....	18
5.	Duties of assessing authority.	19
6.	Preparation of draft valuation list.....	19
7.	Publication of draft valuation list.....	20
8.	Filing of objections.....	21
9.	Amendment of correct valuation list and the filing of objections thereto ...	21

10.	Hearing of objections.....	21
11.	Authentication and custody of final valuation list.....	21
12.	Duty of owner of property to report transfer.	22
13.	Appeal and Revision.	22
14.	Appointment of Valuers.	23
16.	Collection of penalty.	23
17.	Recovery of tax from tenants.	24
18.	Collection of tax through tax-collecting staff.....	24
19.	Collection of tax and penalty as arrears of land revenue.	24
20.	Custody and payment into Government Treasury of sums received by the collecting authority under these rules.....	24
21.	Refund and remission of tax.....	24
22.	Court-fee on miscellaneous applications.	24
23.	Inspection of registers, etc., and grant of copies.....	25
24.	Charitable institutions.	25
25.	Prescribed authority.	26
26.	Mode of service of notice, summons or order.	26
27.	Exemption.	27
28.	Rule 28	27
29.	Rule 29	27
30.	Rule 30	28
	FORM P.T.1	29
	FORM P.T.2	30
	FORM P.T.3	31
	FORM P.T.4	32
	FORM P.T.5	33
	FORM P.T.6	34
	FORM P.T.7	35
	FORM P.T.8	36
	FORM P.T. 9	37
	FORM P.T.10	38
	FORM P.T.10	39
	FORM P.T. 11	40
	FORM P.T.12.	41
	FORM P.T.13.	42
	FORM P.T.14.	43
	FORM P.T. 15	44
	FORM P.T. 16	46
	FORM P.T. 17.	47
	FORM P.T. 18	48
	FORM P.T. 19	49
	FORM P.T. 20	50

PART-B
THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965
(WEST PAKISTAN ORDINANCE XIX OF 1965)

1.	Short title and extent	51
2.	Definitions.....	51
23.	Motor vehicles not to be driven without registration	57
24.	Registration where to be made	57
25.	Registration How To Be Made	58
26.	Temporary registration	59
27.	Production of vehicle at the time of registration	60
28.	Refusal of Registration	60
29.	Effectiveness in West Pakistan of registration	60
30.	Assignment of fresh registration mark on removal to another Province ...	61
31.	Change of residence or place of business	61
32.	Transfer of ownership.....	61
33.	Alteration in motor vehicle	62
34.	Suspension of registration.....	62
35.	Cancellation of registration.....	63
36.	Appeals	64
37.	Special requirement for registration of transport vehicles	64
38.	Special particulars to be recorded on registration of transport vehicles ...	65
39.	Certificate of fitness of transport vehicles	65
40.	Registration of vehicles, the property of the Federal Government.....	66
42.	Application of Chapter III to trailers	66
43.	Power To Make Rules	66

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES RULES, 1969

1.	Short title, extend and commencement.....	69
2.	Definitions.....	69
28.	Registering Authority	72
29.	Appellate Authority	72
30.	Conduct and Hearings of Appeals	72
31.	Assignment Registered Weights	73
32.	Assignment and Exhibition of Registration Marks.....	73
33.	Registration Mark on a Trailer	74
34.	Particulars to be Printed on Transport Vehicles.....	74
35.	Issue and Renewal of Certificate of Fitness.....	76
36.	Temporary Registration of Newly Sold Vehicles	79
37.	Loss Or Destruction of Certificate of Registration of a Vehicle Other Than Transport Vehicle	81
38.	Loss or Destruction of Certificate of Registration and Certificate of Fitness	

of a Transport Vehicle	81
39. Defaced or Torn Certificate of Registration and Certificate of Fitness of Transport Vehicles	82
40. Procedure When a Last Certificate is Subsequently Founded.....	82
41. Temporary Receipt For a Certificate of Registration Or Certificate of Fitness Taken into Possession by Competent Authority	82
42. Registration Fees	82
43. Exemption from Payment of Registration Fees: No Fee Shall be Charged for the Registration of a Vehicle in the Following Cases	83
44. Maintenance of Record of Motor Vehicles by Registering Authority	83
45. Authority to Suspend Certificate of Registration	84
46. Hire-Purchase Agreements	84
47. Transfer of Ownership.....	85
48. New Registration Marks	85
49. Application for Change of Address and Alteration in Motor Vehicle	86
50. Vehicles Entering the Province from Outside.....	87
51. Hiring Agreement	87
52. Exemption of Vehicles in the Possession of Manufacturer or Dealer	87
53. Exemption of Road Rollers, Graders and Delivery Vans	90
SCHEDULE-I.....	91
SCHEDULE-II.....	92

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES TAXATION ACT, 1958

1. Short Title, Extent and Commencement	93
2. Definitions.....	93
3. Imposition of Tax	93
4. Obligation of persons keeping motor vehicles to make declaration and to pay tax.....	94
5. Obligation to Make Additional Declaration and to Pay Further Tax	95
6. Service of Special Notice to Make Declaration and to Pay Tax	95
7. Grant of License	95
8. Penalty for Omission to Comply with the Provisions of Section 4.....	95
9. Penalty for Keeping a Motor Vehicle without a License or Failure to Pay Tax	96
10. Recovery of a Tax or Additional Tax Imposed Under Section 8 or Section 9	96
11. Recovery of Arrear of Tax	96
12. Appeals	96
13. Exemptions and Deductions.....	97
14. Bar to Jurisdiction of Civil and Criminal Courts in Matters of Taxation	97
15. Power of Government to Make Rules	98
16. Punishment	98

17. Repeal	98
SCHEDULE-I.....	100

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES TAXATION RULES, 1959

1. Short Title and Commencement.....	102
2. Definitions.....	102
3. Form of the Declaration and The Manner in which Declarations are to Sent	102
4. Form of The Special Notice and The Manner in Which it is to be Sent ..	102
5. Forms Obtainable from Licensing Officers	103
6. Exemptions from Payment of Tax	103
7. Exemption when Permissible	103
8. Conditions of Exemption from Payment of Tax.....	104
9. Proportionate Exemption from Quarterly Tax:.....	104
11. Refund of Tax Paid.....	105
12. Entries Regarding Exemptions, Deductions and Refunds to be in the License	105
13. Issue of The Fresh License on Purchase of Transfer of Vehicle	105
15. Laden Weight of the Vehicle to be Stated in the Declaration.....	106
16. Assessment in Cases Where Tax Payable Depends on Seating Capacity	106
17. Production of Vehicle for Inspection to Determine Tax Payable.....	106
18. Licensing Officer to Inform the Applicant as to Tax Payable.....	106
19. Vehicle to Stop for Checking	106
20. Opportunity to Show Cause to be Given Before Imposition of Penalty... ..	107
21. Appeals	107
[22. Mode of Payment of Tax and Issue of Tax Tokens.....	107
23. Token to be displayed on the vehicle	108
24. Duplicate Token	109
25. Penalty	109
26. Rule 26	109
27. Repeal	109

KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS) ORDINANCE, 1983

1. Short Title and Commencement.....	110
2. Definition	110
3. Prohibition of Business Without Registration	111
4. Disqualification	111
5. Procedure for registration.....	112
6. Renewal of Registration	112

7.	Fixation of Commission	112
8.	Maintenance of Record and Accounts etc	112
9.	Cancellation and Suspension of Registration	113
10.	Section 10	113
11.	Section 11	113

**THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR
VEHICLES DEALERS (REGULATION OF BUSINESS) RULES, 1983**

1.	Short title and commencement.....	114
2.	Definitions.....	114
3.	Application for Registration, etc.....	115
4.	Section 4	115
6.	Proof of Particulars.....	115
7.	Certificate of Registration and its Renewal	116
8.	Register of Certificate.....	116
9.	Change of Place of Business	116
10.	Maintenance of Record and Accounts	117
11.	Inspection and Production of Record	117
12.	Return.....	118
13.	Rate of Commission or Remuneration	118
14.	Appeal	119
15.	Credit of Fees.....	120
	FORM-I.....	121
	FORM-II.....	123
	FORM-III.....	125
	FORM-IV	126
	FORM-V	127
	FORM-VI	129

**THE KHYBER PAKHTUNKHWA (SEIZURE AND DISPOSAL OF MOTOR
VEHICLES) RULES, 1999**

1.	Short Title and Commencement.....	131
2.	Definition	131
3.	Rule 3	131
4.	Rule 4	132
5.	Rule 5	132
6.	Rule 6	132
7.	Rule 7	132
8.	Rule 8	133
9.	Rule 9	133

PART-C
HOTEL TAX ACT

1.	Short title extent and commencement.....	134
2.	Amendment of Act II of 1899.....	134
3.	Amendment of section 7 of Khyber Pakhtunkhwa Act IV of 1990.....	134
4.	Tax on hotels.....	134

HOTEL TAX RULES

1.	Short Title Commencement.....	136
2.	Definitions.....	136
3.	Statement to be Furnished	137
4.	Maximum Charges for Lodging Units in a Hotel.....	137
5.	Powers of District Excise and Taxation Officer	137
6.	Maintenance of Register	138
7.	Mode of Recovery of Tax.	138
8.	Recovery of Tax as Arrears of Land Revenue.	138
9.	Maintenance of Record by an Owner.....	138
10.	Appeal.	138
11.	Propriety of Orders, etc.	139
12.	Review.....	139
13.	Refund and Adjustment of Tax.....	139
	FORM H.T.1	141
	FORM H.T.2	143
	FORM H.T.3	144
	FORM H.T.4	145
	FORM H.T.5.....	146

PROFESSIONAL TAX ACT

1.	Short Title, Extent and Commencement.	147
2.	Definition	147
7.	Tax on Professions, Trades and Callings.	147
	TABLE	148
8.	Application of Existing Laws.....	150
9.	Bar of Suit in Civil Court	151
10.	Power to Make Rules	151

PROFESSIONAL TAX RULES

	NOTIFICATION	152
--	--------------------	-----

PART-D
TOBACCO DEVELOPMENT CESS

1.	Short Title, Extent and Commencement.	158
11.	[Tobacco Development Cess:	158

THE KHYBER PAKHTUNKHWA (RECOVERY OF TOBACCO DEVELOPMENT
CESS) RULES, 2004

1.	Short Title and Commencement.....	160
2.	Definitions.....	160
3.	Recovery of Cess in Relation to Quota Fixed by P.T.B.	161
4.	Determination of Exact Figures of Quota:	161
5.	Recovery of Cess other than the Cess Recovered Under Rule 3.....	161
6.	Check-Post.....	161

TOBACCO DEVELOPMENT CESS UTILIZATION RULES, 2007

1.	Short Title and Commencement.....	163
2.	Definition	163
3.	Utilization of Cess.....	164

PART-E
THE WEST PAKISTAN ENTERTAINMENTS DUTY ACT, 1958

1.	Short Title and Extent.....	166
2.	Definition	166
3.	Duty on Payments for Admission to Entertainments.....	167
4.	Liability of Complimentary Tickets to Entertainments Duty	167
5.	Method of Levy	168
6.	Penalty for Non-Compliance with Sections 4 and 5	168
7.	Liability for Punishment	168
8.	Entertainments for Charitable or Educational Purposes Exempted	169
9.	Security for Observance of Conditions of Exemption.....	169
10.	Security for Default in Payment of Duty	169
11.	Power to Make Rules	169
12.	Power to Enter Place of Entertainment for Purposes of the Act	170
13.	Recoveries	170
14.	Delegation of Powers by the Government	170
15.	Revision.....	171
16.	Repeal	171

THE WEST PAKISTAN CINEMA TAX RULES, 1961

1.	Short Title and Commencement.....	172
2.	Definitions.....	172
3.	Rule 3.....	172
4.	Rule 4.....	173
5.	Rule 5.....	173
6.	Rule 6.....	173
7.	Rule 7.....	173
8.	Rule 8.....	173

PART-F

THE KHYBER PAKHTUNKHWA MANUFACTURE RULES, 1950

Grant of Licenses	175
Security	176
Period of Licenses.....	176
Management and Working of the Manufactory	178
The Commencement and Closure of Manufactory Work and Working Arrangement.....	178
Prescribed Outturn of Spirit and Stocks of Spirit and Manufactory Base.....	179
Accounts and Registers:	180
The Up Keep of Buildings and Plants	181
Stills and Other Plant.....	182
Pipes	182
Locks:	182
General Rules as to Receptacles For Wash, Bub, Rectified Spirit and Denatured Spirit.	183
Exceptions	183
Fermentation Vats	184
Receivers and Chargers.....	187
Store Vats.....	187
Manufacture, Storing and Passing Out Spirit.	190
Denaturation of Spirit.....	192
Wastage and Loss.....	193
Preparation for Issue	193
General Rules Regarding the Issue of Spirit.....	194

THE KHYBER PAKHTUNKHWA CHEMICAL WORKS RULES, 1935

SECTION A.– Definitions.	196
SECTION B.– Licenses and Licensed Premises.	198
SECTION C. – Manufacture.....	201

SECTION D. – Issue of Tinctures, Extracts and Other Preparations.....	206
SECTION E. – Accounts to be Maintained and Returns to be Submitted	207
SECTION F. – Stock Taking and Wastage	208

CONTROL OF NARCOTIC SUBSTANCES ACT (XXV OF 1997)

Chapter I.....	209
PRELIMINARY	209
1. Short Title, Extent and Commencement	209
2. Definitions.....	209
3. Calculation of Percentages in Liquid Preparation	212
Chapter II.....	212
PROHIBITION AND PUNISHMENT.....	212
4. Prohibition of Cultivation of Narcotic Plants	212
5. Punishment for Contravention of Section 4.....	212
6. Prohibition of Possession of Narcotic Drugs, etc.	212
7. Prohibition of Import or Export of Narcotic Drugs, etc.....	213
8. Prohibition on Trafficking or Financing the Trafficking of Narcotic Drugs, etc	213
9. Punishment for Contravention of Section 6, 7 and 8.....	213
10. Prohibition on Owning, Operating Premises or Machinery for Manufacture of Narcotic Drugs, etc.:.....	214
11. Punishment for Contravention of Section 10:.....	214
12. Prohibition of Acquisition and Possession of Assets Derived from Narcotic Offences	214
13. Punishment for contravention of Section 12	214
14. Prohibition on Aiding, Abetment or Association in Narcotic Offences.....	214
15. Punishment for Contravention of Section 14.....	215
16. Punishment for Offence for which No Punishment is Provided.....	215
17. Obstructions to officers.....	215
18. Limit of Fine, etc.	215
19. Forfeiture of Assets of an Offender	215
CHAPTER III	215
SEARCH AND INVESTIGATION	215
20. Power to Issue Warrants	215
21. Power of Entry, Search, Seizure and Arrest Without Warrant	216
22. Power to Seizure and Arrest in Public Places.....	216
23. Power to Stop and Search Conveyance	216
24. Undercover and Controlled Delivery Operations.....	217
25. Mode of Making Searches and Arrest.....	217
26. Punishment for Vexatious Entry, Search, Seizure or Arrest	218
27. Disposal of Persons Arrested and Articles Seized.....	218
28. Powers to Invest Officers of Law Enforcement Agencies with Powers of an	

Officer-in-Charge of a Police Station.....	218
29. Presumption from Possession of illicit Articles.....	218
30. Presumption as to Documents in Certain Cases:	218
31. Power to Call for Information:.....	219
32. Articles Connected with Narcotics:.....	219
33. Procedure for Making Confiscation:	219
34. Federal Narcotics Testing Laboratory, etc.:	220
35. Government Analyst:.....	220
36. Reports of Government Analysts:	220
CHAPTER IV.....	221
FREEZING AND FORFEITURE OF ASSETS	221
37. Freezing of Assets, etc.:.....	221
38. Tracing of Assets:.....	221
39. Order for Forfeiture of Assets:.....	221
40. Forfeiture of Assets of Person Convicted Abroad:	222
41. Prohibition of Alienation of Freezed Property:.....	222
42. Punishment for Acquiring Property in Relation to which Proceedings Have Been Taken Under This Act:	223
43. Power to Take Possession:.....	223
44. Management of Assets Frozen or Forfeited Under the Act:.....	223
CHAPTER V.....	224
SPECIAL COURTS.....	224
45. Jurisdiction to Try Offences:.....	224
46. Establishment of Special Courts:	224
47. Application of the Code of Criminal Procedure, 1898:	224
48. Appeal:	224
49. Transfer of Cases:.....	224
50. Special Prosecutor:	225
51. No Bail to be Granted in Respect of Certain Offences:.....	225
CHAPTER VI.....	226
TREATMENT AND REHABILITATION OF ADDICTS	226
52. Registration of addicts:.....	226
53. Powers of the Government to establish centres for treatment of addicts:	226
CHAPTER VII.....	227
NATIONAL FUND FOR CONTROL OF DRUG ABUSE	227
54. National fund for control of drug abuse:	227
55. Annual Report of the activities financed out of the fund:.....	227
CHAPTER VIII.....	228
INTERNATIONAL CO-OPERATION.....	228
56. Authority to make and act on mutual legal assistance requests:	228
57. Mutual legal assistance requests by Pakistan:	228
58. Foreign requests for assistance:	228

59.	Foreign requests for an evidence-gathering Order or a search warrant:	229
61.	Foreign persons in Pakistan in response to a Pakistan request:	232
62.	Foreign requests for Pakistan restraining orders:	232
63.	Requests for enforcement of foreign confiscation or restraining orders:	233
64.	Requests to recover foreign fines:.....	234
65.	Sharing forfeited property with foreign States:	234
66.	Extradition:	234
	CHAPTER IX.....	235
	GENERAL	235
67.	Reporting of suspicious financial transaction:	235
68.	Presumption to the assets acquired through dealing in narcotics:.....	235
69.	Departments to render assistance to the Special Courts, etc.:	235
70.	Notice or order not to be invalid for error in description:	235
71.	Delegation:	235
72.	Application of the Customs Act, 1969:	235
73.	Saving of Provincial and special laws:	236
74.	Application of other laws:	236
75.	Indemnity:.....	236
76.	Ordinance to override other laws:	236
77.	Power to make rules:.....	236
78.	Repeal and saving:.....	236

THE KHYBER PAKHTUNKHWA PROHIBITION ACT, 1938

1.	Short title, extent and commencement.....	238
2.	Repeals	239
3.	Definitions.....	239
4.	Prohibition of manufacture of, traffic in, and consumption of, liquors and intoxicating drugs	241
5.	Punishment for rendering or attempting to render denatured spirits fit for human consumption	242
6.	[Prohibition of advertisement.....	242
7.	Punishment for conspiracy	242
8.	Punishment for vexation, search or arrest	243
9.	Punishment for vexatious delay	243
10.	Punishment for abetment or escape of person arrested, etc	243
11.	Punishment for offences not otherwise provided for	243
12.	Punishment for abetment of offences against Act in area to which Act not extended.....	244
13.	Things liable to confiscation	244
14.	Confiscation how ordered.....	244
15.	Offences under Act to be cognizable	244
16.	[Power to notify exemption	244

17.	[Exemption of foreigners and lawful consignments.....	245
18.	Licences for bona fide medicinal or other purposes.....	245
19.	[Permits and licences	245
21.	² [Counterpart agreement to be executed by licencees	246
22.	Power to cancel or suspend licensees and permits	246
23.	Penalty for breach of conditions of licenses and permits	246
24.	Appointment of officers and withdrawal of powers.....	247
25.	Prohibition Committees	247
26.	Power of Provincial Government to authorize officers to admit persons arrested to bail.....	247
27.	Issue of search warrants	248
28.	Power of entry and search without warrant.....	248
29.	Power to enter and inspect place of manufacture and sale	249
30.	Power to use force in case of resistance to entry	249
31.	Arrest of offenders and seizures of contraband liquor and articles without warrant	249
32.	Arrest of persons refusing to give name or giving false name	249
33.	Searches how to be made.....	250
34.	Duty of officials of all departments and local bodies to assist.....	250
35.	Offences to be reported, etc.....	250
36.	Landholders and others to give information	250
37.	Persons arrested how to be dealt with	250
38.	Persons arrested to be admitted to bail	251
39.	Bond of accused and sureties	251
40.	Procedure in case of default of persons admitted to bail to appear before a Police or Prohibition Officer.....	251
41.	Power of Police or Prohibition Officers to summon witness.....	251
42.	Terms of summons.....	252
43.	Examination of witnesses.....	252
44.	When attendance of witness to be dispensed with, and procedure in such cases	252
45.	Powers of Police or Prohibition Officer to summon suspected persons..	252
46.	Law relating to criminal courts as to summoning of witnesses to apply..	252
47.	Report of Police or Prohibition Officer to give jurisdiction to competent Magistrate.....	252
48.	Powers of Police or Prohibition Officers to cause attendance of witnesses before Magistrate	253
49.	Accused not to be detained in custody for a longer period than twenty four hours without special authority	253
50.	Police to take charge of articles seized.....	253
51.	Power of District Magistrate to transfer cases.....	253
52.	Operation of the Code of Criminal Procedure, 1898	253
53.	Power to make rules.....	253

54.	Publication of rules and notifications	255
55.	Actions against the Government, etc	255
56.	Court to take judicial notice of appointments	256

KHYBER PAKHTUNKHWA PROHIBITION RULES, 1949

1.	Short title and definitions	257
2.	General conditions applicable to liquor licensees.—Duty of licensees ...	257
3.	Transfer of licenses	257
4.	Specification of premises	257
5.	Sales	257
6.	Premises to be licensed shall ordinarily be premises owned or leased by the license	257
9.	Payment of licence fee	258
10.	Signboard	258
11.	Authorisation of agents.....	258
12.	Employees.....	258
13.	Closure of premises out of hours	258
14.	Hours.....	258
16.	Rights of customers.....	259
17.	Bribery	259
18.	Liquor to be sold.....	259
19.	Standard measures	259
20.	Entertainments	259
21.	Compensation	259
22.	Effect of enhanced duty.....	259
23.	Cancellation for disorder lines	260
24.	Return of licence on revocation.....	260
25.	Incapacity of licensee	260
26.	Surplus stock on expiry of licence	260
31.	Inspection Book.....	261
33.	The Khyber Pakhtunkhwa Excise Fiscal Orders	261
35.	Exemptions from fiscal and other provisions.....	263
37.	Classes of licences.....	265
38.	Fees and procedure for assessment, etc.....	266
39.	Foreign liquor wholesale and retail	266
40.	Sate to Trade.....	266
41.	Sale to public.....	266
42.	Fees for licences for sale of foreign liquor	266
46.	Form P. XVII.....	267
47.	Form PXVIII-Extensions	268
48.	Fairs and special occasions-No Form	268
49.	Form P. XIX.....	268

50.	Sale of licence fees	268
52.	Restrictions on the transport of country liquor.....	269
53.	Prohibition as to import, transport and possession of excisable articles.	270
54.	Possession of liquor	270
55.	Powers and appointment of officers Confiscation	270
56.	Disposal of confiscated articles	271
57.	Powers of Officers to stop conveyances	272
58.	Appeals and Revision—Appeal to the Collector	272
59.	Authorisation of officers to admit persons arrested to bail	273
63.	Authorities competent to issue and form of licences and per, mils	277

THE PROHIBITION (ENFORCEMENT OF HADD) ORDER, 1979

1.	Short title, extent and commencement.....	279
2.	Definitions.....	279
3.	Prohibition of manufacture, etc, of intoxicants	280
4.	Owning or possessing intoxicant.....	280
5.	Article 3 or Article 4 not to apply to certain acts	281
6.	Drinking	281
7.	Two Kinds of drinking.....	281
8.	Drinking liable to hadd.....	281
9.	Proof of drinking liable to hadd.....	281
10.	Cases in which hadd shall not be enforced.....	281
11.	Drinking liable to tazir	282
12.	Arrest on suspicion of violation of Article 8 or Article 11	282
13.	Punishment for vexatious delay	282
14.	Things liable to confiscation	282
15.	Confiscation how ordered.....	282
16.	Cognizance of certain offences.....	283
17.	Licences for bona fide medicinal or other purposes.....	284
18.	Forms and conditions of Licences.....	284
19.	Power to cancel or suspend Licences.....	284
20.	Penalty for the breach of condition of licence	284
21.	Appointment of officers.....	285
22.	Issue of search warrant	286
23.	Powers of Prohibition Officer.....	286
24.	Enhanced punishment for certain offences after previous conviction	286
25.	Punishment for attempt to commit offence punishable under this Order	286
26.	Application of certain provisions of Pakistan Penal Code	286
27.	Application of the code of criminal procedure, 1898	286
28.	Indemnity	287
29.	Order to override other laws.....	287
30.	Presiding officer of court to be a Muslim	287

31. Power to make rules.....	288
32. Saving:	288
33. Repeal	288
THE SCHEDULE.....	289

KHYBER PAKHTUNKHWA PROHIBITION (ENFORCEMENT OF HADD)
RULES, 1980

FORM PR-I.....	296
FORM PR-II.....	298
FORM PR-III.....	299
FORM PR-IV	300
FORM (L-I)	301
FORM (L-2)	303

APPENDIX-A

AMENDMENTS MADE IN UIP TAX ACT, 1958 VIDE KHYBER PAKHTUNKHWA FINANCE ACTS.....	307
“SCHEDULE –I.....	327
[SCHEDULE-II].....	328

APPENDIX-B

THE FOURTH SCHEDULE.....	329
FORM F.....	330
FORM G	332
FORM H	333
FORM I.....	334

APPENDIX-C

JOB DESCRIPTION.....	337
UNIFORM POLICY.....	353
POLICY FOR DISPOSAL AND ALLOTMENT OF CONFISCATED VEHICLES.....	359

PART-A
URBAN IMMOVABLE PROPERTY TAX
ACT, 1958

West Pakistan Act V of 1958

An Act to consolidate the law relating to the levy of a Tax on urban immovable property in the Province of Khyber Pakhtunkhwa

Preamble. Whereas it is expedient to consolidate the law relating to the levy of a tax on Urban Immovable Property in the Province of Khyber Pakhtunkhwa¹

It is hereby enacted as follows:—

1. Short title and extent. — (1) This Act may be called the Khyber Pakhtunkhwa¹ Urban Immovable Property Tax Act, 1958 (West Pakistan Act V of 1958).

(2) It extends to the whole of Khyber Pakhtunkhwa,¹ except the Tribal Areas.

2. Definitions. In this Act unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:—

- (a) "Assessing Authority" means constituted under this Act;
- (b) "Collector" means an officer appointed by Government by name, or by virtue of his office, to discharge the functions and to perform the duties of a Collector under this Act in any specified area;
- (c) "Commissioner" means an officer appointed by Government by name, or by virtue of his office, to discharge the functions and to perform the duties of a Commissioner under this Act in any specified area;
- (d) "Government" means Government of Khyber Pakhtunkhwa¹;
 - ²[(dd) "member of the family of the owner" means his:
 - (i) wife or husband, as the case may be;
 - (ii) sons and daughters; and
 - (iii) father and mother];²
- ³[(e) "Owner" includes a mortgagee with possession, a lessee in perpetuity, a trustee having possession of a trust party and a person to whom an evacuee property has been transferred provisionally or permanently under the Displaced Persons (Compensation and Rehabilitation) Act, 1958);]³
- (i) "Prescribed" means prescribed by rules made under this Act;
- (ii) "Rating Area" means urban area where Tax is levied under the provisions of this Act;

¹ Substituted for West Pakistan by Khyber Pakhtunkhwa Ordinance, IV of 1975.

² Clause (dd) inst. by the W.P. Urban Immovable Property Tax Act (Amendment) Ordinance, XXVIII of 1963.

³ Clause (e) subs. by the W.P. Urban Immovable Property Tax Act (Amendment) Ordinance, XXVIII of 1963.

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

¹[(ga) "Schedule" means the Schedule to this Act;"]¹

- (iii) "Tax" means the tax leviable under the provisions of section 3; and
- (iv) "Urban area" means an area within the boundaries of a Municipal Corporation, Municipal Committee, Cantonment Board, Small Town Committee, or other authority (not being a District Board) legally entitled to or entrusted by Government with the control of management of a municipal or a local fund.

3. Levy of tax. (1) Government may by notification specify urban areas where tax shall be levied under this Act:

Provided that one urban area may be divided into two or more rating areas or several urban areas may be grouped as one rating area.

²[(2) Subject to the provisions of section 4, there shall be levied, charged and paid a tax, on the basis of annual rental value of buildings and lands in the rating areas (heretofore notified or as may hereafter be notified under this Act)

- (a) at the rate specified in Schedule I in respect of residential buildings; and
- ³[(b) at the rate specified in Schedule II in respect of commercial buildings:]²]³

⁴[Explanation-I. Residential buildings are the buildings which are used for the purpose of dwelling, whereas commercial buildings are the buildings along with any appurtenances and installations that may be attached therewith, which are used as office establishment or for carrying on any commerce or trade.

Explanation-II. In case when compartmentalization and partition is carried out in the buildings in such a way to collectively use the building for residential as well as commercial purposes or to house more than one dwellings, the tax in respect of such compartments and partitions shall be levied in a manner as if they are separate buildings."⁴

⁵[*****] ⁵

(2a) ⁶[A rebate at the rate of 10% of the tax assessed under sub-section(2) shall be admissible to those assessee who pay the tax in advance for the whole year by 31st day of August of the year to which it relates]⁶

Explanation. The annual value for the purposes of this section shall be the aggregate annual value of all buildings and lands owned by the same person in a rating area."

¹ Clause (ga) inst. vide Khyber Pakhtunkhwa Finance Act 1997, 7th July, 1997

² Substituted Vide Khyber Pakhtunkhwa Finance Act 2001.

³ Amended Vide Khyber Pakhtunkhwa Finance Act 2008.

⁴ Inserted vide Khyber Pakhtunkhwa Finance Act, 2011 (Khyber Pakhtunkhwa Act No.XIII of 2011)

⁵ Proviso deleted Vide Khyber Pakhtunkhwa Finance Act 2008.

⁶ Inserted vide Khyber Pakhtunkhwa Finance Act 1999.

COMMENTARY

Unit of property in Rating Area. Under the proviso to sub-section (1) of this section the Government has power to split up a specified area into two or more rating areas or to group together several rating areas into one. The explanation to sub-section (2) of this section adds that the annual value for the purposes of this section shall be the aggregate value of all the buildings and lands owned by the same person in a rating area. In other words, if a person owns (not necessarily possesses) separate buildings and lands in a rating area, the annual value of each of the buildings or the lands may be separately ascertained but the tax is to be paid on the aggregate annual value of all the buildings and lands lumped together or their annual value may be ascertained as a whole in one lump and assessed.

Tax Rates. The consolidated Acts levied a flat rate tax but this Act has levied it on slab rates. No tax is to be paid on the property the annual value of which is Rs. 90. On the next Rs. 90, 5%, i.e., Rs. 2.50 on the next Rs. 180 or any part of it, 7% i.e., Rs.13.50, on the next Rs.700 or any part of it, 15% i.e., 162 on the next Rs.1400 and any amount over and above it, 20% , i.e., Rs. 288. In other words, when the annual value of a building or land is less than Rs.180, no tax is due: when it is rate. 180 or more and less than Rs. 360, tax due is Rs. 2.50 plus Rs. 13.50, i.e., Rs. 16. When the annual value is Rs. 360 and more but less than Rs. 1,080 tax due is Rs. 16 plus Rs. 162, i.e., Rs 178, and when the annual value is Rs.1,080 or any amount over and above it; the tax due is Rs. 162 plus Rs. 288, i.e., Rs. 450 is the maximum tax leviable and payable under this Act.

Under proviso to sub-section (2) of this section, the Government can remit, by notification, for reasons to be recorded, in whole or in part, the payment of the tax by any class of persons in respect of any category of property. It is clear from the proviso that the tax on any category of property other than that exempted under the provisions of section 4 may also be remitted by the Government. Remission and exemption are distinct. The power of the Government to remit payment of the tax by any class of persons in respect of any category of property does not appear to include that the property itself is not to be taxed. Remission itself implies that the property is liable to tax or has been taxed. This power of the Government is not equivalent to the power to exempt. The power to remit implies the power to cancel the remission as well.

Under the West Pakistan Urban Immovable Property Tax Act, 1958, the following rating areas were specified: ----

Abbotabad Municipality	Bannu Municipality
Abbotabad Cantonment	Bannu Cantonment

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

Baffa Notified Area	Charsadda Municipality
Takhat Bahi Municipality	Mardan Cantonment
Amangarh Notified Area	Nowshera Notified Area
Akora Khattak Municipality	Nowshera Cantonment
Pabbi Municipality	Nowshera kalan Notified Area
Hangu Notified Area	Jhangira Municipality
Haripur Municipality	Peshawar Municipal Corporation
Hoti Mardan Municipality	Peshawar Cantonment
Kalachi Notified Area	Tank Notified Area
Kohat Municipality	Thal Notified Area
Kohat Cantonment	Risalpur Cantonment
Lakki Notified Area	Havilian Rating Area
Mansehra Notified Area	
Gallis(Galliat) Notified Area	Zaida Rating Area
Lakki Marwat Municipality	Shabqadar Rating Area
Utmanzai Rating Area	Dera Ismail Khan Municipality
Karak Municipality	Dera Ismail Khan Cantt.
Khalabat Municipality	Tangi Rating Area
Topi Municipality	Zaida Municipality

(3) The tax shall be due from the owner of buildings and lands.

¹**3-A.** Out of the Tax collected under the Act from within the limits of a Municipal Committee, a Town Committee or a Cantonment Board, the Government shall after retaining 5% thereof as collection charges pay 85% of the balance to such Municipal Committee, Town Committees or Cantonment Board, as the case may be]

²**3-B. Levy of Tax in Cantonment Area.**----Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, there shall be charged, levied and paid tax on annual value of buildings and lands in a Cantonment area at a rate not exceeding 20% and not less than 10% of such annual value as may be determined and notified by Government for such rating area or areas keeping in view the standard of development and availability of civil amenities, the general economic condition of the local population and income of the Cantonment Board concerned from other sources.]

¹ Added by the Punjab Govt. vide notification No 1673-11/467 Tax-III dated 8/7/1971

² Section 3-B added by Punjab Govt. UIP Tax (Amendment) Act, XV of 1976.

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

4. Exemptions. —

1. The tax shall not be leviable in respect of the following properties, namely:—

¹[(a) buildings and lands other than those leased in perpetuity, vesting in the Federal Government;]

²[(b) buildings and lands other than those leased in perpetuity ;]

(i) Vesting in Government of Khyber Pakhtunkhwa and not administered by a local authority;

(ii) Owned or administered by a local authority when used exclusively for public purposes and not used for purposes of profit;

³[(c) residential buildings, the area whereof does not exceed five Marlas and the building is occupied by the owner himself:

Provided that the owner does not own any other residential building at the same rating area for which the owner shall submit an affidavit to this effect:

Provided further that if the owner fraudulently avails the concession under this clause, he shall be liable to pay a penalty amounting to five times of the tax so evaded in addition to the tax payable.]

⁴[Provided further that the owner of such residential buildings shall not be liable to pay arrears of the tax if any for a period falling before the 1st day of July 2004.]

⁵[(cc) residential buildings owned and occupied by widows; provided that if a widow owns more than one residential building in the same rating area, she shall be exempted from payment of tax in respect of only one building which is self occupied by her.]

(d) public parks and playgrounds and libraries;

(e) buildings and lands or portions thereof used exclusively for public worship or public charity including mosques, churches, dharamsalas, gurdwaras, orphanages, alms houses, drinking water fountains, infirmaries for the treatment and care of animals and public burial or burning grounds or other places for the disposal of the dead;

¹ Clause (a) Subs by W.P UIP Tax Act (Amendment) Ordinance, X of 1959, S. 4

² Subs for "building and lands" by the W.P UIP Tax Act,(Amendment) Ordinance, X of 1959

³ Amendment vide KHYBER PAKHTUNKHWA Finance Act (VI) 2005 29.1.2005

⁴ Amendment of Section 4 vide Notification No. Legis(1(22)71/358) dated 16/09/2009.

⁵ Substituted vide KHYBER PAKHTUNKHWA Finance Act 2008

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

Provided that the following buildings and lands or portions thereof shall not be deemed to be used exclusively for public worship or for public charity within the meaning of this section, namely:-

- (i) buildings in or lands on which any trade or business is carried on unless the rent derived from such buildings or lands is applied exclusively to religious purposes or such charitable institutions as may be prescribed:
 - (ii) buildings or lands in respect of which rent is derived and such rent is not applied exclusively to religious purposes or to public charitable institutions: and
- (f) ¹[Buildings and lands belonging to minor orphans who are not assessed to income tax.]

²[2. Notwithstanding anything to the contrary contained in Section 3, there shall not be levied and charged any tax under this Act, in relation to buildings and lands occupied by industrial units in any area declared by Government as "Industrial Estates" for a period of three years with effect from the 1st day of July, 2010.]

5. Ascertainment of annual value.— The annual value of any land or building shall be ascertained by estimating the gross annual rent at which such land or building together with its appurtenances and any furniture that may be let for use or enjoyment with such building might reasonably be expected to be let from year to year, less:—

- (a) any allowance not exceeding twenty per centum of the gross annual rent as the Assessing Authority in each particular case may consider reasonable rent for the furniture let with any such building;
- (b) an allowance of ten per centum for the cost of repairs and for all other expenses necessary to maintain such building in a state to command with gross annual rent. Such deduction shall be calculated on the balance of the gross annual rent after the deduction, if any, under clause (a); and
- (c) any land revenue actually paid in respect of such building or land;
- (d) Provided that in calculating the annual value of any building or land under this section the value of any machinery in such building or on such land shall be excluded.

6. Assessing authority. (1) There shall be an Assessing Authority for every rating area.

¹ Amended vide Khyber Pakhtunkhwa Finance Act 2001

² Substituted vide Khyber Pakhtunkhwa Finance Act, 2011 (Khyber Pakhtunkhwa Act No.XIII of 2011)

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

(2) The Assessing Authority shall exercise such powers and perform such duties as are conferred on it by this Act or the rule made there under.

7. Making and Operation of Valuation Lists. (1) A valuation list shall be made by the prescribed authority in accordance with the rules¹ framed under this Act for every rating area so as to come into force either on the first day of [July], or the first day of [January], and thereafter a new valuation list shall be made from time to time so that the interval between the dates on which one valuation list and the next succeeding valuation list respectively come into force shall be a period of ²[three years]

Provided that Government may by order:

- (a) reduce by a period not exceeding one year or extend by period not exceeding three years the interval which would otherwise elapse between the coming into force of any two successive valuation lists for any rating area, or where valuation list has been lost or destroyed by operation, circumstances beyond control, cancel the list, direct preparation of a new list and order recovery of pending tax to be made on the basis either of the last preceding valuation list or the new list prepared under this proviso; and
- (b) Divide any rating area into parts for the purposes of a new valuation list and determine the years in which the next following valuation list for each of such parts respectively shall be made and come into force.

(2) Subject to the provisions of any such order as aforesaid, every valuation list shall come into force on the first day of July or the first day of January as the case may be, next following the date on which it is finally approved by the assessing authority and shall, subject to the provisions of this Act and the rules made there under (including the provisions with respect to the alteration of and the making of addition to the valuation list) remain in force until it is superseded by a new valuation list.

(3) After every three years the tax shall be increased at the rate of fifteen percent of the tax last assessed and a new valuation list shall accordingly be prepared.”; and

8. Draft Valuation List. (1) Where the Assessing Authority for any area has issued notice requiring returns in connection with the making of a new valuation list, the said authority shall, as soon as may be after the expiration of the period allowed for the delivery of the returns, cause a draft valuation list to be prepared for the area and publish in such manner as may be prescribed.

(2) Any person aggrieved by any entry in the draft valuation list, or by the insertion therein or omission there from of any matter, or otherwise with respect to the list, may, in accordance with the rules made under this Act, lodge an objection with the Assessing Authority at any time before the expiration of thirty days from the date on which the draft valuation list is published:

¹ See infra rules 3 (1) of the Rules frames under S.23.

² Word “three years is substituted vide KHYBER PAKHTUNKHWA Finance Act 1997.

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

¹[Provided that in special circumstances the Commissioner may, by notification, extend the period to a maximum of sixty days.]

9. Amendment of Current Valuation List. Subject to such rules, if any, as the Government may think fit to make in this behalf, the assessing authority may at any time make such amendments in a valuation list as appear to it to be necessary in order to bring the list into accord with existing circumstances and in particular may:

- (a) correct any clerical or arithmetical error in the list;
- (b) correct any erroneous insertion or omission or any misdescription;
- (c) make such additions to or correction in the list as appears to the authority to be necessary by reasons of:
 - (i) a new building being erected after the completion of the valuation list;
 - (ii) a building included in the valuation list being destroyed substantially damaged or altered since its value was last previously determined; and
 - (iii) any change in the ownership or use of any building or land:

Provided that not less than fourteen days before making any such amendment in the valuation list for the time being in force, other than the correction of a clerical or arithmetical error, or the correction of an erroneous insertion, omission or misdescription, the Assessing Authority shall send notice of the proposed amendment to the owner of the building or land shall also consider any objection thereto which may be made by him.

10. Appeal and Revision.— (1) Any person aggrieved by order of the appropriate authority upon an objection made before that authority under sections 8, 9, ²[14] or 15 may appeal against such order, at any time before the expiration of thirty days from the date of such order, to the Collector of the District in which the building or land to which the objection related is situated, or to such other officer as the Government may, by notification, appoint in this behalf.

³[(1A) Any person aggrieved by any entry in the valuation list' prepared under section 7, or by the insertion therein or omission therefrom of any matter, or otherwise with respect to the list may, within sixty days of the date on which the list is to come into force prefer an appeal in respect of such entry or matter, to the Collector or to such other officer as the Government may, by notification, appoint in this behalf.]

(2) The Commissioner or such officer, as may be appointed by the Government by notification in this behalf, may on his own motion at any time, or on application made within a period of one year from the date of the taking of any proceedings or passing of any order by an authority subordinate to the Commissioner call for and examine the

¹ Added by W.P. Ord XXVII of 1963.

² Added by W.P. Ord XXVIII of 1963.

³ Added by W.P. Ord XXV of 1962.

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

record of the proceedings or the order for the purpose of satisfying himself as to the legality or propriety of the same and may pass such order in reference thereto as he may consider fit.

11. Tax to be Levied Notwithstanding Appeal.— The tax shall be levied in accordance with the valuation list in force for the time being and shall be collected and be recoverable notwithstanding any appeal which may be pending with respect to that list.

12. Tax When Payable.— The tax shall be payable half yearly by such dates as may be prescribed:

¹[Provided that Government may, by notification, direct in any rating area:—

- (i) the tax shall be paid yearly;
- (ii) the tax for any specified period shall be paid separately].

13. Collection of Tax.— The tax shall be paid to such person or authority and in such manner as the Government may prescribe.

14. Recovery of Tax From Tenants.— Where the tax due from any person on account of any building or land is in arrears, it shall be lawful for the prescribed authority to serve upon any person paying rent in respect of that building or land, or any part thereof, to the person from whom the arrears are due, a notice stating the amount of such arrears of tax and requiring all future payments of rent (whether the same have already accrued due or not) by the person paying the rent to be made direct to the prescribed authority until such arrears shall have been duly paid, and such notice shall operate to transfer to the prescribed authority the right to recover, receive and give a discharge for such rent. If the person paying rent willfully fails or neglects to comply with the notice aforementioned, the prescribed authority may, after giving him an opportunity of being heard, proceed against him as it would have proceeded under the provisions of this Act against the owner of the building or land in respect of which the tax is in arrears.

15. Penalty for default in payment.— (1) If any person on being served with such notice as may be prescribed fails to pay within the period specified in the notice any amount due from him on account of the tax, the prescribed authority may recover from him as penalty a sum not exceeding the amount of the tax so unpaid, in addition to the amount of the tax payable by him.

(2) No such penalty shall be imposed unless the prescribed authority is satisfied that the person liable to pay the tax has willfully failed to pay the same.

16. Recovery of unpaid dues.— (1) If any sum due on account of the tax levied under section 3 or a penalty imposed under this Act is not paid within the time allowed for its payment and the person from whom it is due does not show cause to the satisfaction of the Collector or any other person authorized by him why he should not

¹ Subs. by W.P. Ord. XXVIII of 1963.

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

pay the same, such sum (inclusive of all costs of recovery) may be recovered under a warrant in the prescribed form or in a form to the like effect to be signed by the Collector.

- (i) by distress or sale of the movable property belonging to such person; or
- (ii) by attachment and sale of the immovable property belonging to him.

The warrant may be addressed to an officer of the Excise and Taxation Department for execution, and in executing it he may obtain such assistance from other servants of the Department as he may consider necessary.

(2) Notwithstanding anything contained in sub-section (1) any sum on account of the tax levied or penalty imposed under this Act remaining unrecovered shall be recoverable as arrears of land revenue.

(3) Notwithstanding anything contained in any law and notwithstanding any rights arising out of any contract or otherwise whatsoever, any sum due on account of the tax levied under section 3 or as a penalty imposed under this Act in respect of any building or land, shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge upon such building or land and upon the movable property, if any, if found within or upon such building or land belonging to the person liable for such tax or penalty.

17. Remuneration of local authority— When the tax is collected by any local authority such local authority shall be entitled to such remuneration on account of the cost of collection as may be prescribed.

18. Power of assessing authority to require returns for valuation list.— (1) In every case where a new valuation list is intended to be made for any rating area, the assessing authority shall give public notice of such intention in such manner as may be prescribed, and may serve a notice on the owner, occupier or lessee of any building or land in the said area, or on any one of them, requiring him, or them, to make a return containing such particulars, as may be prescribed.

(2) Every person on whom a notice to make a return is served in pursuance of the provisions of this section shall, within thirty days of the date of the service of the notice, make a return in such form as is required by the notice, and deliver it in the manner so required to the assessing authority.

(3) If any person on whom such notice has been served fails within the required period to submit such return, the assessing authority may proceed to value such property in such manner as it deems fit.

19. Powers of assessing authority to require returns at any time.— If the assessing authority at any time desires any person, who is the owner, lessee or occupier of any building or land wholly or partly within the rating area, to make a return with respect to any of the matters regarding which return may be prescribed, it may serve a notice on that person requiring the return, and that person shall, within thirty days from the service of the notice send the required return to the assessing authority:

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

Provided that the assessing authority may, in its discretion, extend the period for the delivery of any such return.

COMMENTARY

"Land" includes agricultural and waste or vacant land. The word "land" in its ordinary meaning includes agricultural and waste or vacant land. The Act appears to include this sort of land in its ambit. A Rating Area may be carved out and be specified, including in it agricultural and waste land, other than a building site in an urban area, and taxed under the Act. Its annual value for the purpose of this Act may be ascertained and fixed under its provisions. Thus an agricultural land may be the subject of Income Tax and also under this Act unless exempted under this Act or the former Act. This Act does not appear to exclude it. The only decision under the repealed Punjab Urban Immovable Property Tax Act, 1940, in Letters Patent Appeal and appeal to Federal Court related to agricultural land but no question was raised that the Act was inapplicable to such land.

20. Valuation list not to be rendered invalid by certain failures or omissions.— Any failure on the part of the assessing authority to complete any proceedings with respect to the preparation of a valuation list within the time required by this Act or the rules made thereunder, or the omission from a valuation list of any matters required by the rules to be included therein shall not, of itself, render the list invalid.

21. Assessing authorities, officers and servants to be deemed public servants.— Every assessing authority and every officer working under the orders of such authority for the purposes of this Act, shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code.

22. Exclusion of jurisdiction Civil Courts.— No civil Court shall have jurisdiction in any matter which the Government or an assessing authority or any officer or servant is empowered by this Act or the rules made thereunder to dispose of, or take cognizance of the manner in which the Government, or any assessing authority, officer or servant exercise any powers vested in it or him by or under this Act or the rules made thereunder.

23. Power to make rules. — (1) The Government may make "Rules¹ for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provisions such rules may provide for any or all of the following matters, namely:—

- (a) the appointment, powers and duties of assessing authorities and other provisions with respect to such authorities;

¹ For Urban Immovable Property Tax Rules, 1958, see p.53. infra.

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

- (b) the placing of identification marks on, and entry into or upon, any building or land;
- (c) the preparation and publication of valuation lists, including publication and inspection of draft valuation lists, notices of objections and hearing of objections and other matters incidental thereto;
- (d) the practice and procedure to be followed or and in connection with appeals, including: —
 - (i) notice of appeals;
 - (ii) prescription of scales of costs;
 - (iii) prescription of fees to be charged in connection with appeals;
- (e) the prescription of the form of any notice, valuation list, statement, return, or other document, whatsoever which is required or authorized to be used under or for the purposes of this Act;
- (f) the mode of service of any notice, order or document required or authorized to be served;
- (g) the inspection and taking copies of and extracts from any draft, valuation list, valuation list, notice of objections, proposal for amendment to the valuation list, notice of appeal valuation made by valuer, and fees for such inspection or copies;
- (h) the appointment of valuers to advise or assist in connection with the valuation of buildings or lands and their powers and duties;
- (i) the time at and the manner in which the amount of tax shall be paid to the Government;
- (j) the portion of the tax to be refunded or remitted and the manner in which and the conditions subject to which such refund or remission may be granted;
- (k) the prescription of fees to be charged in connection with any application made under this Act or the rules made thereunder;
- (l) any matter which is required by this Act to be prescribed.

(3) In making any rules under sub-sections (1) and (2) (Government may direct that the prescribed authority may impose a penalty not exceeding two hundred rupees on a person who is guilty of a breach of the provisions thereof.

(4) Rules made under this section shall be laid before the provincial Assembly of ¹[Khyber Pakhtunkhwa] as soon as may be after they are made.

24. Repeal and saving.— (1) The Khyber Pakhtunkhwa Urban Immovable Property Tax Act, 1948, are hereby repealed.

¹ Substituted for West Pakistan by KHYBER PAKHTUNKHWA Ordinance, IV of 1975

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

(2) Notwithstanding the repeal of the Acts mentioned in subsection (1), everything done, action taken, obligation, liability, penalty or punishment incurred, inquiry or proceeding commenced, officer appointed or person authorized, jurisdiction or power conferred, rule made and order or notification issued under any of the provisions of the said Acts, shall, if not inconsistent with the provisions of this Act, be continued, and so far as may be, be deemed to have been respectively done, taken incurred commenced, appointed authorized, conferred, made or issued under this Act.

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

¹[SCHEDULE-I

[See section 3(2)]

PART 'A'

Sr. No	Category	Rate of tax for areas of Provincial headquarter as notified by the Government (per annum)			Rate of tax at Divisional headquarters (per annum)		Rate of tax in suburban areas of Divisional Headquarters (per annum)		Rate of tax at District Headquarters (per annum)		Rate of tax at District other than District Headquarters (per annum)	
		A	B	C	Townships	Other than Townships	Townships	Other than Townships	Townships	Other than Townships	Townships	Other than Townships
1	Up to 5 Marlas (other than self occupied)	Rs.1000/-	Rs.900/-	Rs.750/-	Rs.900/-	Rs.750/-	Rs.500/-	Rs.325/-	Rs.400/-	Rs.300/-	Rs.200/-	Rs.150/-
2	Exceeding 5 Marlas but not exceeding 10 Marlas	Rs.1700/-	Rs.1600/-	Rs.1500/-	Rs.1600/-	Rs.1500/-	Rs.900/-	Rs.750/-	Rs.800/-	Rs.750/-	Rs.600/-	Rs.500/-
3	Exceeding 10 Marlas but not exceeding 15 Marlas	Rs.2200/-	Rs.2100/-	Rs.2000/-	Rs.2100/-	Rs.2000/-	Rs.1100/-	Rs.1000/-	Rs.1100/-	Rs.1000/-	Rs.600/-	Rs.500/-
4	Exceeding 15 Marlas but not exceeding 18 Marlas	Rs.3300/-	Rs.3200/-	Rs.3000/-	Rs.3200/-	Rs.3000/-	Rs.1700/-	Rs.1500/-	Rs.1700/-	Rs.1500/-	Rs.900/-	Rs.750/-
5	Exceeding 18 Marlas but not exceeding 20 Marlas	Rs.10000/-	Rs.9000/-	Rs.8000/-	Rs.9000/-	Rs.8000/-	Rs.5000/-	Rs.3000/-	Rs.4000/-	Rs.2000/-	Rs.1500/-	Rs.1000/-
6	Exceeding 20 Marlas but not exceeding 30 Marlas	Rs.15000/-	Rs.14000/-	Rs.12000/-	Rs.14000/-	Rs.10000/-	Rs.8000/-	Rs.6000/-	Rs.5000/-	Rs.3000/-	Rs.3000/-	Rs.2000/-

¹ Substituted vide Khyber Pakhtunkhwa Finance Act 2014 (Khyber Pakhtunkhwa Act No.XXV of 2014)

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

7	Exceeding 30 Marlas but not exceeding 40 Marlas	Rs.20000/-	Rs.18000/-	Rs.16000/-	Rs.18000/-	Rs.16000/-	Rs.14000/-	Rs.12000/-	Rs.10000/-	Rs.8000/-	Rs.6000/-	Rs.4000/-
6	Exceeding 40 Marlas	Rs.30000/-	Rs.25000/-	Rs.20000/-	Rs.25000/-	Rs.20000/-	Rs.15000/-	Rs.12000/-	Rs.10000/-	Rs.8000/-	Rs.6000/-	Rs.4000/-

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

PART 'B'

Buildings acquired for the use by Government, Semi-Government, Non Governmental Organizations, Development Financial Institutions, private commercial organizations, guest houses, hostels or by Banks shall be assessed and taxed twenty percent of the actual annual rent. In case buildings other than those exempted under section 4 of the Act, which are owned and occupied by such organizations, tax shall be levied on the assessed annual rental value of such buildings on the rate prescribed hereinbefore.

PART 'C'

Tax on properties let out on rent, lease or other arrangement and not in use of their registered owners will be double of the above, except for the category-1 (upto 5 marlas).

Explanation: Categorization of area in Provincial Headquarter into Category "A", "B" or "C" shall be by way of notification by the Local Government & Rural Development Department, to be notified from time to time. In Divisional and District Head Quarters, Townships are approved Townships and include those areas, which are declared so by Local Government & Rural Development Department from time to time.]

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

¹[SCHEDULE-II]

[See section 3(2)]

1. The commercial areas shall be divided into five localities namely A1, A, B, C and D, depending on the area and the business being carried therein.
2. The “A1 and A” localities shall, for the time being, be defined in Provincial Capital.
3. The locality factors as worked out for computing the tax are-

(a) For A1 locality.	² Thirteen
(located within 100 yards of either sides of the Main road of Peshawar).	
(b) For A locality.	Ten
(c) for B locality.	Seven
(d) for D locality.	Four
(e) for D locality.	Three
4. The above factors are for the Provincial Headquarter, that is for Peshawar. There shall be a rebate of 30% on the total tax calculated on the basis of the above factor value in respect of former Divisional Headquarters and 50% rebate on the total tax so calculated in respect of all other rating areas.
5. The tax shall be calculated as under:
 - a. area in square yards;
 - b. covered area in square feet; provided that open sheds in the commercial units shall be counted as one half of its total measurements, while calculating the covered area; and
 - c. (a) + (b) multiplied by the locality factor.
6. For educational Institutions:
 - a. The tax shall be calculated on the basis of covered area only. The area of the plot as required per item 5(a) above shall not be taken for computing the tax. This is to encourage the institutions in providing sports and other recreational facilities to their students; and
 - b. The tax calculated on the basis of (a) above shall get a special thirty percent rebate, being provided to all the educational institutions.
7. ¹[Petrol pumps and CNG Stations with convenience store shall be charged at flat

¹ Substituted vide Khyber Pakhtunkhwa Finance Act 2011 (Khyber Pakhtunkhwa Act No. XIII of 2011)

² Amended vide Khyber Pakhtunkhwa Finance Act 2015 (Khyber Pakhtunkhwa Act No. XXIII of 2015)

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

rate of Rs.15,000/- and those without store at Rs. 7,500/- per annum.]

- 7(A) ²[Service Station of vehicles, irrespective of operating in addition to other services such as filling station or otherwise shall be charged at flat rate of ³[Rs.15,000] per annum.]
8. Industrial buildings within the limits of rating areas shall be assessed for the purpose of this tax at a flat rate of Rs. 2.50 per square foot of the building. The provision of item 5(b) above shall be applicable to all the industrial areas as well.
9. ⁴[Buildings acquired for the use as offices by government, semi-government, non-governmental organizations, Development Financial Institutions, private commercial organizations, guest houses, hostels, banks shall be assessed for the purpose of tax on the basis of twenty percent of the actual annual rent.]
10. ⁵[Buildings and Lands used for erection of Mobile Phone Towers shall be assessed and taxed at the rates:
- (i) Provincial Headquarter Rs.40,000 per annum;
 - (ii) Divisional Headquarter and Rs.30,000 per annum and; respective sub-urban areas
 - (iii) District Headquarter and Rs.20,000 per annum and; respective sub-urban areas]

¹ Amended vide Khyber Pakhtunkhwa Finance Act 2015 (Khyber Pakhtunkhwa Act No. XXIII of 2015)

² Introduced vide Khyber Pakhtunkhwa Finance Act 2014 (Khyber Pakhtunkhwa Act No. XXV of 2014)

³ Amended vide Khyber Pakhtunkhwa Finance Act 2015 (Khyber Pakhtunkhwa Act No. XXIII of 2015)

⁴ Amended vide Khyber Pakhtunkhwa Finance Act 2014 (Khyber Pakhtunkhwa Act No. XXV of 2014)

⁵ Introduced vide Khyber Pakhtunkhwa Finance Act 2014 (Khyber Pakhtunkhwa Act No. XXV of 2014)

THE URBAN IMMOVABLE PROPERTY TAX ACT, 1958

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

**THE WEST PAKISTAN URBAN
IMMOVABLE PROPERTY TAX RULES,
1958**

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX
RULES, 1958¹

(Gazette of West Pakistan, Extraordinary, 13th January, 1959)

Notification No. Tax III/2/1-58, dated 29th December, 1958. ---- In exercise of the powers conferred by section 23 of the West Pakistan Urban Immovable Property Tax, Act, 1958, the Government of West Pakistan is pleased to make the following rules:-

1. Short title and extent (1) These rules may be called the West Pakistan Urban Immovable Property Tax Rules, 1958.

²[(1-A) They shall extend to the whole of the Province of West Pakistan where the West Pakistan Urban Immovable Property Tax Act, 1958 is in force].

(2) They shall come into force at once.

2. Definitions: In these rules, unless the context otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say: —

- (i) "Act" means the West Pakistan Urban Immovable Property Tax Act, 1958;
- (ii) "District Excise and Taxation Officer" includes "Assistant Excise and Taxation Officer" of the district;
- (iii) "Form" means a form appended to these rules;
- (iv) "Property" means buildings and lands situated within a rating area; and
- (v) "Treasury" means a treasury or sub-treasury of Government or a bank authorized to accept money on behalf of Government.

3. Assessing Authority.— (1) A District Excise and Taxation Officer shall be the assessing authority in respect of all rating area within his jurisdiction:—

(2) An assessing authority for a rating area shall have powers:—

- (a) to affix or cause to be affixed to any property in the rating area any mark for purposes of identification and to enter into or upon any premises for this purpose between sunrise and sunset if and to the extent, absolutely necessary;
- (b) to enter into or upon any property within the rating area, between sunrise and sunset, after giving twenty four hours' notice to the occupier, or if there be no occupier, to the owner of such property in order to:-

¹ These Rules would continue to remain in force in KHYBER PAKHTUNKHWA. *vide Art. 19(2)*, Province of West Pakistan (Dissolution) Order, 1970

² Rule (1-A) added by Notification No.2663-65/146-Tax-III, dated 3rd September, 1965

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

- (i) decide whether the return made in respect thereof is correct;
- (ii) assess its annual value;
- (iii) ascertain if it is assessable to tax;

¹[(bb) to require any revenue authority responsible for keeping the land record, and the sub-registrar responsible for maintaining records of registration of sale deeds of lands and building, to intimate the particulars about the ownership and measurements of the area of a land or building and to ask any local authority or urban development authority to intimate the covered area of the building or a portion thereof according to the authentic site plan approved by the said authority;]

- (c) to examine any document, of whatever nature or kind and by whomsoever executed, relevant in the enquiry contemplated by clause (b) of this sub-rule;
- (d) to exercise the powers of a civil Court under the Code of Civil Procedure, in the matter of the summoning and examination of persons likely to be in possession of facts or of documents relevant to an enquiry under clause (b) and (c) of this sub-rule and in the matter of recording or receiving statements of the persons claiming exemption from tax.

4. Powers of subordinate officials. — An assessing authority may by an order in writing authorise generally or in any particular case, any person subordinate to and working under its authority to exercise the powers under sub-rule (2) of rule 3, or to prepare and sign receipts, notices, challans and other documents or registers required to be drawn up maintained or issued under the Act or these rules.

5. Duties of assessing authority. — An assessing authority shall:—

- (a) Prepare a property register in Form P.T.I, for the rating area and enter therein the necessary particulars, separately for each unit of property;
- (b) be responsible for the proper maintenance and safe custody of all the prescribed registers and records;
- (c) take necessary steps for the recovery of the tax which has fallen due;
- (d) maintain a proper account of the tax collected and of the fees recovered under the Act or these rules, and credit the same in the manner hereinafter provided; and
- (e) carry out such general or special orders as may be issued by Government from time to time.

6. Preparation of draft valuation list.—(1) In order to prepare a valuation list, the assessing authority shall:—

- (a) divide the rating area, if necessary, into sub-divisions or mohallas;
- (b) number each unit of property situated within the rating area, with reference to the sub-division or mohallas and streets, if any in which it is situated, and

¹ Amendment in UIP Tax Rules 1997/98 vide No 6835

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

mark the number allotted to each unit or property on some conspicuous part of the property;

- (c) ascertain the name of the owner and the occupier, if any, of the property and note the same in a register in Form P.T. 2;

Explanation: — If the property be owned by more persons than one in defined or determinable shares, the names of all of them shall be entered as owners with the share owned by each.

- (d) give public notice under sub-section (1) of section 18 of the Act in Form P.T. 2, and, if necessary, issue notice under the said sub-section to any owner, occupier, or lessee of any property in a rating area, or to any one of them in Form P.T. 3, requiring him or them to make a return in Form P.T. 4;
- (e) make an enquiry about the gross annual rent earned or which could reasonably be earned in respect of the property during the financial year immediately preceding the current financial year;
- ¹[(f) determine, from such other date as may be available, the gross annual rent at which any property in the rating area may reasonably be expected to be let from year to year, if in its opinion the average gross annual rent of such property ascertained under clause (e) be not fair or reasonable when compared with such rent of any other property in that locality;]
- ²[(g) determine the total area of residential building and the covered area of a commercial building from the records of the authorities mentioned in clause (bb) of sub-rule (2) of rule 3.]

(2) The draft valuation list shall be prepared in Form P.T. 5 in accordance with the information collected under sub-section (1).

7. Publication of draft valuation list. — (1) when a draft valuation list has been prepared, the assessing authority shall give public notice of the place where such list may be inspected and of the date or dates on and the place at which objections thereto will be heard.

- (2) Public notices shall be given in all or any of the manners enumerated below:-
- (a) By placards posted up:-
- (i) in some conspicuous place or places in the sub-division, mohallas or street;
- (ii) in the office of the assessing authority;
- (iii) at the discretion of the assessing authority, in some conspicuous portion of one or more buildings used as a Court, Post Office, Bank, Co-operative Society, Educational Institution, Office of the Local Body or public gathering place in the rating area;

¹ Amendment in UIP Tax Rules 1997/98 vide No 6835

² Amendment in UIP Tax Rules 1997/98 vide No 6835

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

- (b) by the beat of drum; and
- (c) by publication in at least one English and Urdu daily newspaper.

(3) The date of the publication of the draft valuation list shall be noted on the list in a register in Form P.T. 6 to be maintained for the purpose.

(4) The draft valuation list shall be open to inspection by an owner or occupier of any property included in the said list, or his duly authorised agent at the office of the assessing authority during office hours and he shall be permitted to make extracts from it.

- (5) No fee shall be charged for any such inspection.

8. Filing of objections.— (1) An objection under sub-section (2) of section 8 of the Act shall be preferred by means of a written memorandum on plain judicial paper bearing a Court-fee stamp of the value of ¹[twelve paisa] stating briefly the grounds of objection.

(2) All such objections shall be entered in a register in Form P.T. 7 to be maintained for the purpose.

9. Amendment of correct valuation list and the filing of objections thereto.— The notice under the proviso to section 9 of the Act shall be in Form P.T. 13 and the provisions of sub-rule (1) of rule 8 and rule 10 shall apply, so far as may be, to objections filed in pursuance of such notice.

10. Hearing of objections.— (1) On the date or dates fixed for the hearing of objections to the draft valuation list or on succeeding days to which the proceedings may be adjourned, the assessing authority or such other officer as may be appointed² by Government in this behalf, shall proceed to dispose of the objections as expeditiously as possible.

(2) The assessing authority, or other officer appointed in this behalf, as the case may be, hearing an objection shall allow to the objector and any other person who in the opinion of such authority, or officer, is likely to be directly interested in the result of the objection, an opportunity of being heard in person or by an authorised agent.

(3) The assessing authority or other officer appointed in this behalf hearing an objection may, at his discretion, hear and record such oral or documentary evidence as may be relevant to the enquiry.

(4) When an objection has been disposed of, the order passed thereon shall be recorded together with the date of such order in the register in Form P.T. 7.

11. Authentication and custody of final valuation list.— (1) A final valuation list shall be prepared in Form P.T. 1 and authenticated by the assessing authority

¹ Subs. for "two annas" vide Noti. No.Tax-III/2-1/60, dated 29th October, 1960.

² See Notification No. 2X.V70.'236/-Tax III. published in (Gazette of West Pakistan, March 13, 1970, p. 494.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

before the first day of ¹[July] or the 1st day of ³[January], as the case may be, and the assessing authority shall certify that the list has been duly amended so far as it was necessary to do so in the light of the orders passed on all such objections as may have been filed and finally disposed of.

(2) After authentication the valuation list shall subject to such alterations as may be made therein under the provisions of section 9 or 14 of the Act and notwithstanding any unavoidable irregularity in the preparation, publication or correction thereof, be accepted as conclusive evidence of the facts stated therein for the purposes of the Act and these rules.

(3) The valuation list so authenticated shall be deposited in the office of the assessing authority and shall be open to inspection.

(4) The assessing authority shall, in the manner prescribed for the publication of the draft valuation list, give public notice that the authenticated list is open to inspection.

12. Duty of owner of property to report transfer.— (1) The owner of every property shall, within a period of one month from the date of occurrence of any transfer, demolition, destruction, or addition; report to the assessing authority the rating area:—

- (a) all transfers thereof by sale, gift, exchange or perpetual lease;
- (b) any increase in rent subsequent to the date on which the value of such property was last assessed;
- (c) the demolition or destruction of the property or any portion thereof; and
- (d) any substantial addition to the property whether or not such addition has occasioned increase in rent.

(2) If a building occupied by an owner for his residence and exempted from tax under clause (c) of section 4 of the Act, ceases to be so occupied the owner shall, within thirty days, report the fact to the assessing authority.

13. Appeal and Revision.— (1) An appeal under sub-section (1) section 10 of the Act shall be preferred by means of a memorandum, which shall be stamped as laid down in Article 11 (a) of Schedule II of the Court-Fees Act, be accompanied by a certified copy of the order appealed against and be presented by the appellant in person, or through a duly authorised agent, or be sent by registered post.

(2) The appeal shall be decided after due notice to the assessing authority and consideration of any representation that may be made by it and after an opportunity has been given to the appellant and such other person as in the opinion of the appellate authority may directly be interested in the result of the appeal of being heard in person or by a duly authorised agent:

Provided that the appellate authority may before deciding the appeal itself hold or direct such further enquiry to be held by the authority against whose decision the appeal has been preferred, as may appear necessary to the said appellate authority.

¹ Subs. for October and April vide Noti. No.Tax-III/1-3/60, dated 12th June, 1960

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

(3) The result of the appeal shall forthwith be communicated to the assessing authority who shall attach the papers to the record of the case and make necessary entries in the register to be kept in Form P.T. 8.

(4) An application for revision under sub-section (2) of section 10 shall be written on standard water-marked plain judicial paper, be stamped with a Court-fee of the value of one rupee, be accompanied by a certified copy of the order sought to be revised and be presented by the applicant in person or through a duly authorised agent, or to be sent by registered post.

14. Appointment of Valuers.— (1) Government may, if it thinks fit, employ any person to determine the annual value of any property situated in any rating area in accordance with the provisions of section 5 of the Act.

(2) Any person so employed shall have power at all reasonable times and after giving due notice and on production, if so required, or authorization in that behalf from the assessing authority, to enter on survey and value any land or building in the rating area which the assessing authority may direct him to survey and value.

(3) Each valuer shall work under the orders of the assessing authority of the rating area in which the property to be valued is situated.

15. (1) The assessing authority shall maintain, for each rating area, a tax demand and receipt register in Form P.T. 8.

(2) The demand notice contemplated by sub-section (1) of section 15 of the Act shall be in Form P.T. 9.

(3) The tax shall be paid on or before the last day of the month next following the month in which the demand notice is served on an assessee.

(4) Each demand notice shall be accompanied by a challan in Form P.T. 10:

Provided that when arrangements exist for door to door collection or for payment at the office of the assessing authority, it shall not be necessary to send a challan with the demand notice unless specially demanded by the assessee.

(5) An assessee may at his own expense remit the amount of tax to the Treasury by means of money order, forwarding at the same time the challan in Form P.T. 10 sent to him along with the notice.

16. Collection of penalty.— (1) Before imposing a penalty under sub-section (1) of section 15 of the Act, the assessing authority shall issue a notice to the assessee in Form P.T. 11 and shall give him an opportunity of showing cause against such imposition.

(2) The provisions of these rules for the recovery, custody and deposit of tax shall apply, so far as may be, to the recovery, custody and deposit of a penalty imposed under the Act.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

(3) After a penalty has been imposed under rule 15 a demand notice in Form P.T. 12 shall be served on the assessee. The penalty shall be payable in lump-sum and the provision of sub-rule (3) of rule 15 shall apply, so far as may be, to such notices.

17. Recovery of tax from tenants. The notice provided by section 14 of the Act shall be in Form P.T. 14.

18. Collection of tax through tax-collecting staff.— (1) The Director, Excise and Taxation, may by an order in writing authorise the payment of the tax in any rating area at the office of the assessing authority concerned or may appoint a tax-collecting staff for any rating area on such terms as to furnishing of security and emoluments as he may deem fit.

(2) The staff so appointed shall work under the orders and control of the assessing authority, and shall be competent to visit an assessee at his residence or place of business with a view to collecting the tax and penalty, if any, imposed on him.

(3) A member of such tax-collecting staff shall be furnished with such credentials to establish his authority as may be prescribed by the Director, Excise and Taxation.

(4) For every payment, except a payment made at a Treasury, made under these rules a receipt in Form P.T. 15 shall forthwith be given to the person making the payment and the counter-foil retained.

19. Collection of tax and penalty as arrears of land revenue. — The certificate for recovery, as arrears of land revenue, of any sum due on account of tax or penalty which remains unpaid after the due date shall be in Form P.T. 16.

20. Custody and payment into Government Treasury of sums received by the collecting authority under these rules. — (1) In accordance with any instructions that may be issued by Government, the assessing authority shall be responsible for making necessary arrangements for the safe custody of all moneys received under the Act or under these rules until such time as the same can be paid into the Treasury.

(2) All sums, other than those paid directly into a Treasury, received as tax or copying or inspection fees shall be deposited in the Treasury within 24 hours of the receipt thereof.

21. Refund and remission of tax. — If on application made in this behalf or otherwise an assessing authority is satisfied, after such enquiry as it may consider necessary, that through a clerical or arithmetical mistake a tax has been assessed or a penalty has been imposed in excess of the due amount or on a person not liable therefor, the said authority shall order remission of the wrongly assessed amount, and if such tax or penalty has been recovered, it shall order its refund.

22. Court-fee on miscellaneous applications.— An application, not otherwise provided for under these rules, to be made to an assessing authority shall be stamped with a Court-fee stamp of the value of one rupee.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

23. Inspection of registers, etc., and grant of copies.— (1) Any person may inspect any document, record or register other than a return or statement, made or prepared by or under the authority of a public servant under the Act or these rules, and any objection preferred there under, in the custody of an assessing authority on making a separate written application on standard water-marked plain judicial paper for every record to be inspected and on payment, in connection with every such application, by means of Court-fee stamps, of a fee of one rupee for the first hour and [fifty paise] for every succeeding hour.

(2) If the inspection is not concluded on the date of the application, it shall be continued from day to day till it is concluded.

(3) If the record to be inspected relates to a year other than the current year a search fee, in the form of Court-fee stamp of [fifty paise] per application shall be charged.

(4) A copy of an objection, a document, record or register not being a return or statement made or prepared under the Act or these rules, in the custody of an assessing authority shall be granted to any person on an application written on standard water-marked plain judicial paper and bearing a Court-fee stamp of the value of:

(a) [fifty paise], for every entry in a register, draft valuation list or final valuation list:

(b) one rupee for every notice or summons issued by an assessing authority; and

(c) two rupees for every order on an objection, or assessment of annual value of tax and for every document not otherwise provided for.

(5) Any person making a return or statement under the Act or these rules or any successor-in-interest of such person may inspect or get a copy of the same in accordance with the last preceding rule, the copying fee payable being as under clause (c) of sub-rule (4).

24. Charitable institutions.-- (1) The Deputy Director, Excise and Taxation, may, on an application of the manager of any of the following institutions

- (a) an orphanage;
- (b) a hospital or dispensary;
- (c) an alms-house;
- (d) a drinking water fountain for public use in a public place;
- (e) an infirmary for the treatment of animals;
- (f) A burial place;
- (g) a cremation ground;
- (h) a place for the disposal of the dead otherwise than by burial or cremation; and
- (i) an educational institution approved by Government;

Certify that the institution is a prescribed public charitable institution for the purposes of proviso (i) to clause (f) of sub-section (1) of section 4 of the Act.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

(2) Where an institution has been certified under the last preceding sub-rule regular accounts of income and expenditure shall be maintained and such accounts shall be open to inspection by the District Excise and Taxation Officer or by such other officer as he may appoint in this behalf to satisfy himself that the income of the property sought to be exempted, is being spent exclusively for a purpose for which the exemption was allowed.

(3) A certificate under sub-rule (1) shall be in Form P.T. 17 and shall, unless cancelled, continue in force until the next assessment, but shall be renewable by the Deputy Director, Excise and Taxation.

(4) If at any time the Deputy Director, Excise and Taxation, on the basis of information received by him or on the report of the District Excise and Taxation Officer is, for reasons to be recorded in writing, satisfied that he had wrongly issued any certificate under sub-rule (3), or that the institution concerned has ceased to be charitable institution, he may cancel the certificate and inform the assessing authority accordingly.

(5) On the cancellation of a certificate the exemption allowed under it shall cease to be operative, and the property exempted in consequence thereof shall be liable to assessment of tax as no certificate had been issued.

(6) Every Excise and Taxation Officer holding charge of a district independently shall maintain a register of certificates in Form P.T. 18 and in case any certificate is lost duplicate shall be issued on payment of a fee of one rupee in Court-fee stamp.

25. Prescribed authority.— (1) The assessing authority of a rating area shall, for the purposes of sections 14 and 15 of the Act, be the prescribed authority.

(2) For the purposes of sub-section (3) of the section 23 of the Act the Deputy Director, Excise and Taxation, having jurisdiction in the area concerned, shall be prescribed authority.

26. Mode of service of notice, summons or order.— (1) Any notice, summons, order or other document required or authorized to be sent or served either:—

- (a) by delivering it to the person to or on whom it is to be sent or served; or
- (b) by leaving it at the ordinary or last known place of abode of the person or in the case of a company at its registered office; or
- (c) by forwarding it by post addressed to that person at his ordinary or last known place of abode, or in the case of company at its office; or
- (d) by delivering it to some person on the premises to which it relates or (except in the case of a document being a summons), if there is no person on the premises to whom it can be delivered, by affixing it on some conspicuous part of the premises; or
- (e) without prejudice to the foregoing provision of this sub-rule, where the property to which the document relates is a place of business of the person to

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

or on whom it is to be sent or served by leaving it or forwarding it by post addressed to that person at the said place of business.

(2) It shall normally be sufficient to address any notice, summons, order or other of document required or authorized by or under the Act or these rules to be served on the owner or "occupier" of any premises by the description of the owner or occupier the premises (naming them), without description.

27. Exemption.—The exemption provided for by clause (c) of section 4 of the Act in respect of a building occupied by an owner for his residence shall be subject to the following conditions:—

- (a) ¹[residential buildings, the area whereof does not exceed five Marlas and the building is occupied by the owner himself:]¹
- (b) the exemption shall not be available for a building or a portion thereof used for the purposes of carrying on any business or trade;
- (c) no owner shall be entitled to claim exemption for more than one building in a rating area;
- (d) the owner shall furnish a true and correct declaration in Form P.T. 19 or make an application containing the same particulars on plain paper to the Assessing Authority;]
- (e) the owner shall not be entitled to the exemption if he does not submit the declaration or application referred to in condition (e) before 1st January or 1st July, as the case may be, or within such extended time as the assessing authority may allow, and unless he proves to the satisfaction of the assessing authority that the building has been occupied for the bona fide residence the owner for a continuous period of six months preceding 1st July, as the case may be;
- (f) the owner shall produce such further evidence and proof in support of his claim as the assessing authority may call for; and
- (g) if the assessing authority is satisfied that the building has not been occupied by the owner for his bona fide residence for a continuous period of six months preceding ²[1st of January] or the ³[1stof July,] as the case may be, the owner shall forfeit the exemption and shall pay tax in addition to the penalty that may be imposed on account of evasion of tax.

28. Rule 28: The prescribed authority may impose a penalty not exceeding two hundred rupees on any person who contravenes any of the provisions of these rules.

29. Rule 29: The warrant to be issued under sub-section (1) of section 16 of the Act shall be in Form P.T. 20.

¹ Inserted vide F.A 2004

² Substituted vide West Pakistan Government Notification No. Tax-111/2/1/58 of 18th February, 1959

³ Amended by Notification No. 267/63-332 T-III. published on Gazette of West Pakistan, Part I, of 22nd March, 1963

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

30. Rule 30: The rules made and the notifications issued under the following enactments are superseded:

- (1) The Khyber Pakhtunkhwa Urban Immovable Property Tax Act, 1948.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.2

PUBLIC NOTICE FOR MAKING A RETURN OF ANNUAL RENT

(Subsection (1) of section 18 of the West Pakistan Urban Immovable property Tax Act, 1958, and Rule 6 (1) (d) of the West Pakistan Urban Immovable Property Tax Rules, 1958).

Whereas it is intended to assess the annual value of the immovable property situated in the _____

Rating area, notice is hereby given for the information of the public in general and the owners, occupiers

or lessees of buildings and lands situated in the _____ rating area in particular to submit to the

undersigned in Form P.T.4 obtaining from his office, a true and correct statement of the rent of the

property situated in the _____ rating area for the financial year _____ within thirty

days of the publication of this notice.

Assessing Authority

Rating Area _____

Dated at _____

This _____ day of _____ 20

(Seal of Assessing Authority).

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.3

MAKING A RETURN OF ANNUAL RENT.

NOTICE FOR _____
PRODUCTION OF ACCOUNTS OF RENT.
[See Rule 6 (1) (d)]

Office of the Assessing Authority
Rating Area _____
Dated _____ .20

To _____

Whereas it is necessary to assess the annual value of the Immovable property, noted on the reverse of which you are alleged to be the owner/occupier/lessee exclusively or jointly with others, you are hereby required to

submit a true and correct statement of the rent of this property for the financial year _____ in the enclosed form attend in person or by a representative authorised by you in writing in this behalf, and produce or cause to be produced

P.T.4 to me at my office within thirty days of the service of this notice
the account of the rent of this property for the financial year _____ on _____
at _____.

Further take notice that in case you fail to submit a return as stated above, the annual value for the

purpose of the West Pakistan Urban Immovable Property Tax Act, 1958 will be assessed without any further opportunity being given to you.

Assessing Authority.
Rating Area _____.

Dated at _____
This _____ day of _____ 20

DESCRIPTION OF PROPERTY

1. Rating Area _____.
2. Sub-Division or Mohallah and street _____.
3. Number of the property according to property register _____.
4. Nature of the property _____.
5. The use to which the property is supposed to be put _____.
6. Any other particulars which in the opinion of the authority issuing the notice may be necessary _____.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

**FORM P.T.4
RETURN OF RENT FOR THE FINANCIAL YEAR _____**

[See Rule 6 (1) (d)]

Rating Area _____

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
Name of sub-division or mohallah and street in which the property is situated.	Number according to Property Register	Nature of property	Use to which the property is being put	Name, parentage, caste and residence of owner	Name, parentage, caste and residence of present occupier	Total Plot Area	Total Covered Area	PARTICULARS FOR THE FINANCIAL YEAR UNDER REPORT.				PARTICULARS FOR THE YEAR WHEN PROPERTY WAS LAST LET OUT BEFORE THE YEAR UNDER REPORT				In case the property has never been let out at what rent could it reasonably be let out during the year under report	Remarks
								Name, parentage, caste and residence of the person to whom let out	The period and the total rent for which let out	Deductions from gross annual rent claimed on account of furniture let with property.	Land revenue payable in respect of the property for the year.	Year with name, parentage, caste and residence of the person to whom let out.	The period and the total rent for which let out.	Deduction from gross annual rent claimed on account of rent of furniture let with property.	Land revenue actually paid in respect of the property for the year.		

Note—Columns 11 to 15 are to be filled in only if columns 7 to 10 cannot be filled in.

Dated at _____ The _____ day of _____ 20

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.5
DRAFT VALUATION LIST
 [See Rule 6 (2)]

Rating Area _____
 Date of publication of the list _____
 Last date for filing objections _____
 Date/dates for hearing of objections _____
 Place for hearing of objections _____

Note: - If an objection cannot be heard or disposed of on the date or dates specified above it will be heard and disposed of on succeeding working days.

1	2	3	4	5	6	7	8	9	10	11 12 13			14	15	16
Sub-divisions or mohalla	Street	Number of the property in the property Register	Nature of the property	How used?	Total Plot Area	Total Covered Area	Name, parentage, caste and residence of the owner	Name, parentage, caste and residence of the occupier	Gross annual rent assessed.	DEDUCTIONS ALLOWED UNDER SECTION 5 OF THE ACT			Total	Annual value proposed to be assessed.	Deduction allowed under Section 5 of the Act.
										Under clause (a)	Under clause (b)	Under clause (c)			

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.6
REGISTER OF PUBLICATION OF DRAFT VALUATION LIST
[See Rule 7 (3)]

Rating Area _____

1	2	3	4	5	6	7
Serial No.	Sub-division or mohalla and street	Total number of properties in the list	Date of publication	How published?	Name of the person actually affected from publication	Remarks

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.7
REGISTER OF OBJECTIONS
[See Rule 8 (2) AND 10 (4)]

Rating Area _____
Year _____

Objections under section 8/9/15 of the Act _____

1	2	3	4	5	6	7	8	9
Serial No.	Date of receipt of objections	Name, parentage, caste and residence of the objector.	Number of the property in the property Register about which objections is made	Nature of objection.	Abstract of the order made with date thereof	Name of the authority deciding the objections	Result of appeal if any with the date of order	Remarks

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.8
TAX DEMAND AND RECEIPT REGISTER
 [See Rules 13(3) AND 15(1)]

Rating Area _____
 Year _____

S.No	Sub-division or mohallah	Street	Number of the property in property Register	Name, parentage, caste and the address of the assessee	Annual value assessed	Amount of Tax				Recoveries		Remission or Refund Allowed			Remarks
						Balance of tax and penalty if any from Last year	Tax demand for current year and the due date for payment	Penalties imposed during the current year	Total	Date with receipt No.	Amount	Date of order	Amount remitted or refunded	Balance at the close of the year carried forward	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

**FORM P.T. 9
NOTICE OF DEMAND
[See Rule 15(2)]**

To _____

1. Take notice that for the assessment year _____ a sum of Rs. _____ has been determined to be payable by you as property tax in respect of the property/properties specified overleaf.
2. You are required to pay a sum of Rs. _____ being the amount of the 1st/2nd installment of the tax on or before the _____ day of _____ ensuing to the Treasury Officer/Agent of a bank authorised to accept money on/Sub-Treasury Officer behalf of Government at _____ when you will be granted a receipt.
A chalan in FOR I is enclosed for the purposer.
3. If you do not pay the amount of the installment on or before the dates specified above, you will be liable under section 15 (1) on the Act a penalty not exceeding of the amount of the instalment.
3. You are also informed that a further sum of Rs. _____ is recoverable from you as arrears of Property Tax in respect of the said property/properties for the years _____ in respect of which penalty is also chargeable under Section 15 of the West Pakistan Urban Immovable Property Tax Act, 1958.

Assessing Authority
_____ Rating Area.

Dated at _____
This _____ day of _____ 20

(Seal of Assessing Authority)

Note:- (1) If payment is made by cheque, it should be drawn on the local branch of a bank authorised to accept money on behalf of Government having clearing account with the Imperial Bank in favour of the Treasury Officer of the district and forwarded to him along with the enclosed chalan.

(2) if payment is made by money order, the money order commission should be paid by the remitter, the money order should be addressed to the Treasury Officer of the district and the enclosed chalan forwarded to him separately, quoting the number and the date of the money order in the forwarding letter.

2

Description of the property/properties referred to overflow

Rating Area

Number of the property in the property Register	Situation	Use to which property in being put	Annual value	Amount of the statement	Total Plot Area	Total Covered Area	Remarks

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

--	--	--	--	--	--	--	--

FORM P.T.10

[See Rule 15 (4) and (5)]

(Original to be returned to the Assessing Authority)

The West Pakistan Urban Immovable Property Tax Act, 1958.

Treasury

Invoiced of tax paid into _____ Sub-Treasury.
 Branch of Bank authorised to accept
 Money on behalf of Government.
 Last date of payment _____

1	2	3	
Number in Demand Register With year	Name and Address of Assessee	Amount to be entered in words as well as in figure	
		Rs.	Paisa

Dated _____ the 200 [For use in the Treasury only]

Certified that all the
Particulars given above
Are correct.

(Sd.)

Property Tax Clerk.

Received and granted receipt.

(Sd.)

Assessing Authority Rating Area.

1. Number of challan _____

2. Number of entry in Tax Receipt Register.

3. Date of entry on Tax Receipt Register.

4. Amount received _____

(Sd.)

Treasury Accountant.

(Sd.)

Treasury Officer.

(Sd.)

Treasurer.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

Assessing
Authority

Treasury Stamp.

FORM P.T.10
[See Rule 15 (4) and (5)]
Receipt to given to the payee.

Treasury.

_____ Sub-Treasury.

Branch of Bank authorised to
Accept money on behalf of
Government.

Rating Area _____

Number in Demand Register with year _____

Last date for payment _____

Received the sum of Rs. _____

On account of property tax for the year, 20 _____

200 _____ due from _____

(Sd.)
Treasurer.

(Sd.)
Treasury Officer.

Sub-Treasury Officer.

Agent of Bank authorised on behalf of Government.

Dated _____ 20

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 11
NOTICE TO SHOW CAUSE AGAINST IMPOSITION OF PENALTY
[See Rule 16 (16)]

To

.....
.....
.....

Whereas, you have not paid the sum of Rs.....by the specified datein accordance with the Notice of Demand served on you on.....you are hereby informed that unless you appear personally or through a duly appointed Agent before me at my office on.....and prove to my satisfaction that the failure to pay this amount was not willful, you will be liable to a penalty not exceeding the amount of the tax so remaining unpaid.

If you do not appear as directed above, the case will be decided in your absence.

Prescribed Authority,

Dated, at.....

Rating Area.....

This.....day of.....20

(Seal of Assessing Authority)

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.12.
NOTICE ON DEMAND OF PENALTY
[See Rule (3)].

Office of the Assessing Authority
.....**Rating Area.**

To

.....
.....
.....

(1) Whereas I am satisfied that you have willfully failed to pay the tax assessed on you in connection with the undermentioned property for the assessment year, 20..... Within the period prescribed in the notice of demand served on you on, therefore imposed on you under section 15 of the West Pakistan Urban Immovable Property Tax Act, 1958, a penalty amounting to Rs.....which you are required to pay along with the amount of the un-

Treasury Officer,
Sub-Treasury Officer,

Paid tax on before.....to the Agent Bank authorised to accept money on behalf of Government.

At.....when you will be granted a receipt. A challan in Form 1 is enclosed for the purpose.
(P.T.O.)

(2) Further take notice, that if the sum due from you on account of the tax and penalty is not paid within the prescribed period, it shall be recoverable from you as it is an arrear on Land Revenue.

Assessing Authority,
Rating Area.....

Dated, at.....

This.....day of.....20

(Seal of Assessing Authority).

Description of Property

1. Rating Area.....
2. No. of the Property according to the Property Register.....
3. Sub-Division or Mohallah and Street.....
4. Nature of the Property.....
5. Use to which the Property is being put.....
6. Any other particulars that may, in the opinion of the Authority issuing the notice, be necessary.....

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.13.

URBAN IMMOVABLE PROPERTY TAX Act, 1958.

[See Rule (9)].

No..... Office of the Assessing Authority,
.....District.

To
.....
.....
.....

1. In view of information received by me with regard to the under mentioned property owned/occupied by you. It is necessary to amend the valuation list for the reasons and in the manner indicated below so far as it related to this property.
2. You are hereby required to file objections if any in writing to the proposed amendment within 14 days of service of this notice.
3. In case you fail to file an objection within the period specified above the proposed amendment will be given effect to, and will be binding on all concerned.

[P.T.O]

(Signature).....
Assessing Authority,
Rating Area.....

Dated.....
This.....day of20

(Seal of Assessing Authority).

Description of Property.

1. Rating Area.....
2. Sub-Division or Mohallah and street.....
3. No. of the property in the property register.....
4. Types of the property.....
(House, Bungalow, Shop, Vacant land, etc.)
5. Use which the property is being put.....

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T.14.

NOTICE OF TENANT'S LIABILITY OF TAX

[See Rule (17)]

To

.....
.....
.....

1. Whereas a sum of Rs.....due from.....son of.....
caste.....resident oftehsil.....district.....as tax in respect
of the under mentioned property for the assessment year 19.....is in arrears and whereas you are
liable as a tenant to pay rent to the said.....for this property, you are hereby required
under section 14 of the West Pakistan Urban Immovable Property Tax Act, 1958, to make all future
payments of the entire rent (Whether the same has accrued or not) direct to the undersigned, until the
said arrears are cleared.

2. You are required to intimate per registered post to the undersigned within 15 days of the
receipt of this notice the amount of rent payable by you and the date on which it falls due, so that a
chalan in Form P.T. 10 may be sent to enable you to make the payments of the amount due.

3. If u do not pay to the undersigned the periodical rent or necessary portion thereof within
thirty days of its falling due in compliance with this notice you will be liable under section 15 (1) of the
Act to a penalty which may amount to the tax due and the tax and penalty may be recovered from you
by attachment and sale of your movable/immovable property as arrears of land revenue as though
you were the owner of the said property.

Assessing Authority,
Rating Area.....

Dated of
This day.....day of.....20

(Seal of Assessing Authority).

Description of Property.

1. Rating Area _____
2. Sub-Division or Mohallah and Street _____
3. Number of the property according to the property register _____
4. Nature of the property _____
5. Use to which the property is being put _____
6. Any other particulars that may in the opinion of the authority issuing the notice
be necessary. _____

Note:-- If the tax is assessed with regard to more property than one, the particulars of all such
properties shall be given.

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 15
TAX BILL AND RECEIPT (COUNTERFOIL)
[See Rule 18 (4)]

Book No.....

Receipt No.....

Dated

1. No in demand register with year.....

2. Date by which the tax is/was payable.....

Tax..... Rs. Ps.

3. Amount Penalty imposed if any

Total

4. Particulars of the property in respect of which
due.....

5. Particulars of the persons from whom due.....

Assessing Authority
Rating Area.....

Date of receipt.....

Amount received.....

Progressive daily total of receipt.....

(Seal)

Signature of Collecting Officer.....

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 15
TAX BILL AND RECEIPT (COUNTERFOIL)
[See Rule 18 (4)]

Book No.....

Receipt No.....

Dated

6. No in demand register with year.....

7. Date by which the tax is/was payable.....

Tax..... Rs. Ps.

8. Amount Penalty imposed if any

Total

9. Particulars of the property in respect of which due.....

10. Particulars of the persons from whom due.....

Assessing Authority

Rating Area.....

Date of receipt.....

Amount received.....

Progressive daily total of receipt.....

(Seal)

Signature of Collecting Officer.....

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 16

[See Rule 19]

No.....

The Collector
.....District

This is to certify that the sum of Rs..... is due from..... on of
..... caste..... residence of tehsil district
..... as arrears of property tax or penalty. As required by Section 16(2) of the
West Pakistan Urban Immovable Property Tax Act, 1958, it is required that the amount
may be recovered as an arrears of land revenue:-

Details:-

Tax Rs.....

Penalty Rs.....

Assessing Authority

(Seal)

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 17.
CERTIFICATE OF CHARITABLE INSTITUTION.
(See Rule 24 (3).)

Certified that the institution, the particular of which are noted below, in a charitable Institution within the meaning of clause (f) of section 4 of the West Pakistan Urban Immovable Property Tax Act, 1958.

Particulars of the Institution.
(Sd.) Collector of

Dated at.....

Seal of the Collector

Note:- The attention of the authority issuing the certificate is invited to provisos (i) and (ii) of clause (f) of Section 4 of the Act.

RENEWAL OF CERTIFICATE

No. of Renewal	Year for which renewed	Signature of the renewing Authority	Remarks
1	2	3	4

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 18
[See Rule 24 (6)]

	1	Serial No.
	2	Name of the Institution
	3	Head Office of the Institution
	4	No. of the Certificate
	5	Date on which Certificate issued
	6	Date of renewal
	7	Year for which renewed
	8	Date on which cancelled
	9	Remarks
	10	No. of Renewal
	11	Year for which renewed
	12	Signature of renewing authority
	13	Remarks

Renewals

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 19
[See Rule 27 (e)]

To
THE ASSESSING AUTHORITY
_____ DISTRICT.

I _____, son of _____ residence _____
Solemnly affirm as follows:-

- (i) I own property No. _____ in _____ Rating Area.
 - (ii) Said property is a building occupied for my bona fide residence since _____ upto date.
 - (iii) The annual value of the said property has been shown in the current valuation list of _____ Rating Area to be Rs. _____.
 - (iv) In addition to the said property I own the following properties of annual values shown against each in _____ Rating Area.
 - (a)
 - (b)
 - (c)
 - (v) Total annual value of the lands and buildings owned by me in _____ Rating Area is _____.
 - (vi) Neither any portion of said property No. _____ has been let on rent nor any trade or business is being carried thereon.
 - (vii) I undertake to inform the assessing authority as soon as the said property ceases to be occupied for my bona fide residence.
2. The information given in the foregoing paragraph is true to the best of my knowledge and belief.

Name and Signature of the witness _____

- 1. _____
- 2. _____

Name and signature of the owner.
Address _____

THE WEST PAKISTAN URBAN IMMOVABLE PROPERTY TAX RULES, 1958

FORM P.T. 20

(WARRANT FOR DISTRESS AND SALE OF MOVABLE PROPERTY AND ATTACHMENT AND
SALE OF IMMOVABLE PROPERTY)

(See Rule 29)

To

Whereas _____ was served with a notice of demand under the West Pakistan Urban Immovable Property Tax Act, 1958, and whereas he has not paid the sum of Rs. _____ as property tax and Rs. _____ as penalty within the time specified in the said notice; these are to command you to attach the movable/immovable property of the said _____ and unless the said _____ pay to you the said sum of Rs. _____ together with Rs. _____ as the cost of recovery within _____

Days of the attachment of said movable/immovable property you should put it to sale to recover the aforesaid amounts out of its sale-proceeds.

You are further commanded to return this warrant on or before the _____ day of _____ with an endorsement certifying the day on which and manner in which it has been executed, or why it has not been executed.

Given under the seal of the Collector (Deputy Director, Excise & Taxation), this day of _____ 20

Seal.

Collector
(Deputy Director, Excise & Taxation)

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

PART-B

**THE KHYBER PAKHTUNKHWA MOTOR
VEHICLE ORDINANCE, 1965**

(WEST PAKISTAN ORDINANCE XIX OF 1965)

The
¹[KHYBER PAKHTUNKHWA]
Motor Vehicles
Ordinance, 1965
²[West Pakistan Ordinance XIX OF 1965]

[8th June, 1965]

Preamble: Whereas it is expedient to amend and consolidate the law relating to Motor Vehicles in the Province of ¹[Khyber Pakhtunkhwa];

AND WHEREAS the Provincial Assembly of West Pakistan is not in session and the Governor of West Pakistan is satisfied that circumstances exist which render immediate legislation necessary;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of Article 79 of the Constitution, the Governor of West Pakistan is pleased to make and promulgate the following Ordinance:

CHAPTER I
PRELIMINARY

1. Short title and extent: (1) This Ordinance may be called the ¹[Khyber Pakhtunkhwa] Motor Vehicles Ordinance, 1965 (West Pakistan Ordinance XIX of 1965).

(2) It extends to the whole of Province of ¹[Khyber Pakhtunkhwa], except the Tribal Areas.

2. Definitions: In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say—

(1) "ambulance" means a vehicle designed for the carriage of sick, wounded or invalid persons or animals;

(2) "axle weight" means in relation to an axle of a vehicle the total weight transmitted by the several wheels attached to that axle to the surface whereon the vehicle rests;

(3) ³["board"] means the ³[Road Transport Board] established under Section 70;

(4) "certificate of registration" means the certificate issued by a competent authority to the effect that a motor vehicle has been registered in accordance with the provisions of Chapter III;

(5) "contract carriage" means a motor vehicle which carries a passenger or

¹ Subs, for the word "West Pakistan" by KHYBER PAKHTUNKHWA. Adaptation of Laws Order, 1975.

² This Ordinance was approved by the West Pakistan Assembly in pursuance of clause (3) of Article 79 of the Constitution (1962) at its meeting held on the 10th July, 1965, vide Notification No. PAWP Legis (65)-58 published in Gazette of West Pakistan, Extra-ordinary, 8th June, 1965.

³ General Amendments by KHYBER PAKHTUNKHWA. Ordinance of 1972.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

passengers for hire or reward under a contract expressed or implied for the use of the vehicle as a whole at or for a fixed or agreed rate or sum and from one point to another without stopping to pick-up or set down along the line of route passengers not included in the contract; and includes a motor cab notwithstanding that the passengers may pay separate fares;

(6) "delivery van" means any goods vehicle the registered laden weight of which does not exceed 5,000 pounds avoirdupois;

(7) "driver" includes, where a separate person acts as steersman of a motor vehicle, that person as well as any other person engaged in the driving of the vehicle;

(8) "emergency vehicle" means a motor vehicle used solely for police, fire-brigade or ambulance purposes or to relieve distress;

(9) "fares" includes sums payable for a season ticket or in respect of the hire of a contract carriage;

(10) "goods" include live-stock, and anything (other than equipment ordinarily used with the vehicle) carried by a vehicle except living persons, but does not include luggage or personal effects carried in a motor car or in a trailer attached to a motor car or the personal luggage of passengers traveling in the vehicle;

(11) "goods vehicles" means any motor vehicle constructed or adapted for use for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods, solely or in addition to passengers;

(12) "Government" means the Government of Baluchistan/Khyber Pakhtunkhwa/Punjab/Sindh;

(13) "heavy transport vehicle" means a transport vehicle the registered axle weight of which exceeds 10,600 pounds avoirdupois, or the registered laden weight of which exceed 14,500 pounds avoirdupois;

(14) "intersection" shall include the area bounded by the side lines, real or projected, of two or more public highway which meet or cross each other;

(15) "invalid carriage" means a motor vehicle the unladen weight, of which does not exceed five hundred pounds, specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability, and used solely by or for such a person;

(16) "licence" means the document issued by the competent authority authorizing the person specified therein to drive a motor vehicle or a motor vehicle of any specified class or description;

(17) "licensing authority" means an authority empowered to grant licenses under this Ordinance;

(18) "light transport vehicle" means any public service vehicle other than a motor cab, or any goods vehicle other than a heavy transport vehicle or a delivery van;

(19) "locomotive" means a motor vehicle which is itself not constructed to carry any load (other than equipment used for the purpose of propulsion), the unladen weight of which exceeds 16,000 pounds avoirdupois, but does not include a road-roller;

(20) "motor cab" means any motor vehicle constructed, adapted or used to carry not more than ten passengers excluding the driver for hire or reward;

(21) "motor car" means any motor vehicle, other than a transport vehicle, locomotive, road-roller, tractor, motor cycle or invalid carriage;

(22) "motor cycle" means a motor vehicle other than an invalid carriage, with less than four wheels, the unladen weight of which, inclusive of any side-car attached to the

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

vehicle, does not exceed 900 pounds avoirdupois;

(23) "motor vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the powers of propulsion is transmitted thereto from an external or internal source, and includes a chassis to which a body has not been attached ¹[or a tractor] and a trailer; but does not include a vehicle running, upon fixed rails or used solely upon the premises of the owner;

(24) "owner" means the person in whose name the motor vehicle is registered and includes—

- (a) a transferee of the motor vehicle from such persons;
- (b) in relation to motor vehicle which is the subject of a hire-purchase agreement, the person in possession of the vehicle under that agreement; and
- (c) where the person in whose name the motor vehicle is registered or the person in possession of the motor vehicle under a hire-purchase agreement is:-
 - (i) a minor, the guardian of such minor;
 - (ii) a company registered under the Companies Act, 1913 the directors of such company;
 - (iii) A society registered under the Societies Registration Act, 1860, or under any law relating to co-operative societies, the principal officer of such society by whatever designation known;
 - (iv) A firm, all the partners of such a firm; and
 - (v) Any other association of persons, all the members of such association;

Provided that where such company, firm, society or other association of persons has given notice to the registering authority that has nominated a director, Partner, office-bearer, member or officer, as the case may be of the company, firm, society or association to be the owner of the vehicle for the purposes of this Ordinance, the person so nominated shall alone be deemed to be the owner for the purpose of this Ordinance;

(25) "permit" means the document issued by the Provincial Transport Authority of a Regional Transport Authority authorizing the use of a transport vehicle as a contract carriage or stage carriage, or authorizing the owner as a private carriage or public carrier to use such vehicle,

(26) "prescribed" means prescribed by rules made under this Ordinance;

(27) "private carrier" means an owner of a transport vehicle other than a public carrier who uses that vehicle solely for the carriage of goods which are his property or the carriage of which is necessary for the purposes of his business, not being a business of providing transport, or who uses the vehicle for any of the purposes specified in subsection(2) of Section 44;

²[(27-A) "Province" means the Khyber Pakhtunkhwa;]

(28) "public carrier" means an owner of a transport vehicle who transports or undertakes to transport goods, or any class of goods, for another person at any time and in any public place, for hire or reward, whether in pursuance of the terms of a

¹ Ins. by Amendment Ord. VIII of 1978.

² Vide KHYBER PAKHTUNKHWA Ordinance I of 1972. This clause shall be deemed to have been so inserted on and from 1st July, 1970.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

contract or agreement or otherwise, and includes any person, body, association or company engaged in the business of carrying of the goods of persons associated with that person, body, association or company for the purposes of having their goods transported;

(29) "public highway" shall include any highway, road, street, avenue, alley, public place, public driveway or any other public way;

(30) "public place" means a road, street, way or other place, whether a thoroughfare or not to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage;

(31) "public service vehicle" means any motor vehicle used or adapted to be used for the carriage of passengers for hire or reward, and includes a motor cab, contract carriage, and stage carriage;

(32) "registered axle weight" means in respect of any vehicle the axle weight certified and registered by the registering authority as permissible for that vehicle;

(33) "registered laden weight" means in respect of any vehicle the total weight of the vehicle and load certified and registered by the registering authority as permissible for that vehicle;

(34) "registering authority" means an authority empowered to register motor vehicles under Chapter III;

(35) "school bus" means any motor vehicle used exclusively for the carriage of students of any educational institution, recognized by the Government or the managing committee of which is a society registered under the Societies Registration Act, 1860;

(36) "semi-trailer" means any vehicle which is so designed that when operated, the forward end of its body or chassis rests upon the body or chassis of the towing motor vehicle;

(37) "stage carriage" means a motor vehicle carrying or adapted to carry more than six persons excluding the driver which carries passengers for hire or reward at separate fares paid by or for individual passengers, either for the whole journey or for stages of the journey;

(38) "Street (roadway)" means that part of the public highway which is intended for vehicular traffic;

(39) "tractor" means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion) the unladen weight of which does not exceed 16,000 pounds avoirdupois; but does not include a road-roller;

(40) "traffic signs" includes all signals, warning signs posts, direction posts, or other devices for the information, guidance or direction of drivers of motor vehicles;

(41) "trailer" means any vehicle other than a side-car drawn or intended to be drawn by a motor vehicle;

(42) "transport vehicle" means a public service vehicle, a goods vehicle, a locomotive or a tractor ¹[****];

(43) "unladen weight" means the weight of a vehicle or trailer, including all equipment ordinarily used within the vehicle or trailer when working, but excluding the weight of the driver or attendant; and where alternative parts or bodies are used, the unladen weight of the vehicle means the weight of the vehicle with the heaviest such alternative part or body;

(44) "weight" means the total weight transmitted for the time being by the wheels of a

¹ Certain words omitted by Ord. VIII of 1978

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

vehicle to the surface on which the vehicle rests.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

**CHAPTER II
LICENSING OF DRIVERS
OF MOTOR VEHICLES**

- **From Section (3) to Section (22) of Chapter II relate to Traffic Police.**

CHAPTER III
REGISTRATION OF MOTOR VEHICLES

23. Motor vehicles not to be driven without registration: (1) No person shall drive any motor vehicle and not owner of a motor vehicle shall cause or permit the vehicle to be driven in any ¹[place] unless the vehicle is registered in accordance with this Chapter and the vehicle carries a registration mark displayed in the prescribed manner.

Explanation: A motor vehicle shall not be deemed to be registered in accordance with this Chapter if the certificate of registration has been suspended or cancelled.

(2) Nothing in this section shall apply to a motor vehicle while being driven within the limits or jurisdiction of a registering authority to or from the appropriate place of registration for the purpose of being registered under Section 24, 26, 40 or 41 or to a motor vehicle exempted from the provisions of this Chapter while in the possession of a dealer in motor vehicles.

²**[23-A. Penalty in default of registration.]**—If any owner of a motor vehicle imported into the country or purchased from any authorized manufacturer in the country, fails to register it within sixty days of its import or purchase, as the case may be, he shall, besides the registration fee prescribed under the rules, be liable to a penalty described in the table below:

TABLE

S.No.	Motor Vehicle type/ Engine Capacity of vehicle	Where the default does not exceed 6 months (Rs.)	Where the default exceeds 6 months (Rs.)
1.	2.	3.	4.
(i)	Motor Cycle/scooter	200	500
(ii)	Tractor not being used for agricultural purposes	1000	2000
(iii)	Other vehicles up to 800 CC	1000	2000
(iv)	801- 1000 CC	1500	3000
(v)	1001 – 1300 CC	1700	3400
(vi)	1301 – 2000 CC	2000	5000
(vii)	Above 2000 CC	5000	10000

]

24. Registration where to be made: (1) Subject to the provisions of Section 26, Section 40 and Section 41, every owner of a motor vehicle shall cause the vehicle to be

¹ Substituted by Ordinance VIII of 1978

² Substituted vide Khyber Pakhtunkhwa Finance Act, 2011 (Khyber Pakhtunkhwa Act No.XIII of 2011)

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

registered by the registering authority of the division in which he has his residence or place of business or in which the vehicle is normally kept.

(2) Government may, by rule made under Section 43 require that any certificate of registration issued under the provisions of the Motor Vehicles Act, 1939 (IV of 1939) shall be presented within a prescribed period, to a specified registering authority for entry therein of such further particulars of the vehicle as that authority may, for the purposes of this Ordinance, deem fit to record.

25. Registration How To Be Made,---(1) An application for registration of a Motor Vehicle shall be made to the registering authority by the owner personally, or through a duly authorized agent, in Form "F" as set forth in the First Schedule to this Ordinance, and shall be accompanied by the following:-

- (a) import permit and the bill of lading through the motor vehicle is imported and papers indicating the payment of customs duty, etc., leviable on the import of such a motor vehicle;
- (b) sale authority letter and invoice issued by authorized manufacturer of the motor vehicle or by his authorized dealer in Pakistan; and
- (c) in case of re-registration under section 30 of this Ordinance, the registration certificate issued by the original registering authority together with a No Objection Certificate (NOC) issued by it.

(2) The registering authority shall, in accordance with the provisions of this Ordinance, issue to the owner of the motor vehicle, a certificate of registration in Form "G" on payment of prescribed fee, as set forth in the First Schedule to this Ordinance and shall enter the particulars of such certificate in the register to be maintained by it in this behalf.

(3) ¹[The registering authority shall assign to motor vehicles for display thereon, in the prescribed manner, a distinguishing mark (in this Ordinance referred to as registration mark), containing the name of the province, the name of the district where the vehicle is registered and such letter or group of letters and figures as may be prescribed.

Provided that after coming into force of the Provincial Motor Vehicles (Khyber Pakhtunkhwa) (Amendment) Act, 2010, the owners of motor vehicles to whom personalized numbers were issued, shall cease to display these number plates hence forth and shall start to display the number plates provided to them under sub-section (6):

Provided further that an amount of twenty-five thousand rupees received from each owner of vehicle to whom personalized number was issued, shall be refunded to them as per prescribed procedure."];

¹ Amended vide Khyber Pakhtunkhwa (Act No. XII of 2010) dated 01.10.2010.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

¹(3A) [***deleted***]

(4) The certificate issued under sub-section (2) shall be provisional certificate till documents referred to in clauses (a), (b) and (c) of sub-section (1) are verified from the concerned agencies by the registering authority;

Provided that if the concerned agencies fail to verify the documents within a period of one year from the date of reference, it shall be presumed that the documents produced are fake and the provisional certificate shall stand suspended and cancelled as provided in section 34 and 35 of this Ordinance:

Provided further that the motor vehicles of which the registration certificate is cancelled under the first proviso or the motor vehicles the owners or keepers whereof may fail to produce any valid documents in support of their ownership, shall be seized by Government and disposed off in the prescribed manner.

(5) In every district each series shall start from No.1001 and end at No. 9998; provided that serial numbers 1111, 2222, 3333, 4444, 5555, 6666, 7777, 8888, 9999, in each series shall not be assigned to any motor vehicle.

(6) The number plates to be affixed on motor vehicles for display shall be provided by Government to the owner of the motor vehicles on such payment as may be fixed by Government from time to time.

(7) The motor vehicle registered in a district under this section shall not be re-registered in any other district of the Province.

(8) Government may, by notification in the official Gazettes, allow the motor vehicle already registered in the Province under the old system to continue to display the old registration marks till such time as new registration mark, in the manner specified therein, are assigned to them;

Provided that till such notification is issued, shall not be unlawful for the owner of such motor vehicle to display the old registration marks”.

(9) ²[Any person found using the number plate other than the one provided to him under sub-section (6), or a registration mark other than the one he is allowed to use under sub-section (8), shall be liable to a penalty of five thousand rupees in violation of misuse of registration mark].

26. Temporary registration: (1) Notwithstanding anything contained in Section 24, the owner of a motor vehicle may apply in the prescribed manner to any registering authority to have the vehicle temporarily registered and thereupon such registering authority shall issue to the owner of the vehicle a temporary Certificate of registration

¹ Deleted vide Khyber Pakhtunkhwa (Act No. XII of 2010) dated 01.10.2010.

² Substituted by Khyber Pakhtunkhwa (Act No. XII of 2010) dated 01.10.2010.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

and assign to the owner of the vehicle a temporary certificate of registration and assign to the vehicle a temporary mark of registration.

(2) A registration made under this section shall be valid only for a period of one month, and shall not be renewable.

27. Production of vehicle at the time of registration: The registering authority may, before proceeding to register a motor vehicle, require the person applying for registration of the vehicle to produce the vehicle either before itself or such authority as Government may by order appoint for this purpose in order that the registering authority may satisfy itself that the particulars contained in the application are true and that the vehicle complies with the requirements of Chapter VI and the rules made thereunder.

28. Refusal of Registration: (I) The registering authority may, for reasons to be recorded in writing, refuse to register any motor vehicle, if-

- (a) the vehicle is mechanically so defective as to render its use unsafe; or
- (b) the vehicle does not comply with the requirements of Chapter VI, or of the rules made thereunder; or
- (c) the applicant fails to furnish particulars of any previous registration of the vehicle; or
- (d) the applicant fails to produce before the registering authority-
 - (i) where the vehicle has been previously registered under this Ordinance or under any other law relating to the registration of motor vehicles in force in any place in Pakistan, a letter of authority or a certificate of transfer from the person shown as owner in the last registration certificate in respect of such vehicle; or
 - (ii) where the vehicle has been imported from any place outside Pakistan and has not been previously registered in any place in Pakistan, an import licence for the vehicle.

(2) Where a registering authority refuses to register a motor vehicle, it shall furnish to the applicant free of cost a copy of the reasons for such refusal.

29. Effectiveness in West Pakistan of registration: (I) Subject to the provisions of Section 30, a motor vehicle registered by a competent authority in any part of Pakistan not included in the Province under the law relating to motor vehicles in force in such part, shall not be required to be registered under this Ordinance.

Providing that there is in force in respect of the vehicle a certificate conforming to and containing substantially the same particulars as the certificate of registration in Form G as set forth in the First Schedule issued by such competent authority in respect of such vehicle.

(2) A certificate complying with the requirements of the proviso to the last preceding sub-section shall be effective throughout the Province as if it were a certificate of registration issued under this Ordinance and the provisions of this Ordinance shall apply thereto.

(3) Sub-section (I) shall not apply to any motor vehicle previously registered in the Province if the certificate of registration of the vehicle is, for the time being,

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

suspended or cancelled for any reason other than that of permanent removal of the vehicle from the Province.

30. Assignment of fresh registration mark on removal to another

Province: (1) When a motor vehicle not required to be registered in the Province by virtue of sub-section (1) of Section 29 is kept in the Province for a period exceeding twelve months, the owner of the vehicle shall apply to the registering authority, within whose jurisdiction the vehicle then is, for the assignment of a new registration mark and shall present the certificate of registration of the vehicle to that registering authority.

(2) The registering authority, to which application is made under sub-section (1) shall assign the vehicle a registration mark [referred to in Section 25] to be carried thenceforth on the vehicle and shall enter the mark upon the certificate of registration of the vehicle before returning it to the applicant and shall also, in communication with the registering authority by whom the vehicle was previously registered, arrange for the transfer of the registration of the vehicle from the records of that registering authority to its own records.

(3) Government may make rules under Section 43 requiring the owner of a motor vehicle not registered within the Province, which is brought into or is for the time being in the Province, to furnish to the prescribed authority such information with respect to the motor vehicle and its registration as may be prescribed.

31. Change of residence or place of business:

(1) If the owner of a motor vehicle ceases to have his place of business at the address recorded in the certificate of registration of the vehicle, he shall, within thirty days of such change of address, intimate his new address to the registering authority by which the Certificate of registration was issued, or, if the new address is within the jurisdiction of another registering authority, to that other registering authority and shall at the same time forward the certificate of registration to the registering authority in order that the new address may be entered therein.

(2) A registering authority other than the original registering authority making any such entry shall communicate the altered address to the original registering authority.

(3) Nothing in sub-section (1) shall apply where the change of the address recorded in the certificates of registration is due to a temporary absence not intended to exceed six months in duration or where the motor vehicle is neither used nor removed from the address recorded in the certificate of registration.

32. Transfer of ownership:

(1) Within thirty days of the transfer of ownership of any motor vehicle registered under this Chapter, the transferee shall report the transfer to the registering authority within whose jurisdiction he ordinarily resides and shall forward the certificate of registration of the vehicle to that registering authority together with the prescribed fee in order that particulars of the transfer of ownership may be entered therein.

(2) A registering authority other than the original registering authority; making any such entry shall communicate the transfer of ownership to the original registering authority.

¹[32.A. Cancellation of certificate of registration of vehicles registered in the Tribal Areas of Baluchistan in certain cases: If the owner of a motor vehicle registered by a registering authority having jurisdiction in the Tribal Areas of the Province of Baluchistan ceases to reside or to have his place of business in those areas, or sells or otherwise transfers the motor vehicle to any person who does not reside or have his place of business in those areas, the certificate of registration and registration mark of the vehicle shall stand cancelled as from the day on which he ceases to reside or to have his place of business in those areas or as the case may be, sells or otherwise transfers the vehicle to such person].

33. Alteration in motor vehicle: (1) If a motor vehicle is so altered that the particulars contained in the certificate of registration are no longer accurate, the owner of the vehicle shall within fourteen days of the making of any such alteration, report the alteration, to the registering authority within whose jurisdiction he reside and shall forward the certificate or registration of the vehicle to that authority together with the prescribed fee in order that particulars of the alteration may be entered therein:

Provided that it shall not be necessary to report any change in the unladen weight of the motor vehicle consequent on the addition or removal of fittings or accessories, if such change does not exceed two per cent., of the weight entered in the certificate of registration.

(2) A registering authority other than the original registering authority; making any such entry shall communicate the details of the entry to the original registering authority.

34. Suspension of registration: (1) A registering authority or any other prescribed authority may, after giving the owner an opportunity of making any representation he may wish to make, for reasons to be recorded in writing suspend the registration certificate of a motor vehicle, if-

- (a) the vehicle is not insured as required by law; or
- (b) any fees or taxes payable in respect of the vehicle under this Ordinance or the rules framed thereunder, or the West Pakistan Motor Vehicles Taxation Act, 1958 (XXXII of 1958), have remained unpaid for a period exceeding three months from the date such fees or taxes were due; or
- (c) in the case of a public service vehicle it is not covered by a valid certificate of fitness; or
- (d) the authority has reason to believe that the vehicle is in such a condition that its use in a public place would constitute a danger to the public, or that it fails to comply with the requirements of Chapter VI or of the rules made thereunder; or
- (e) a substantially false statement has been made in the application for registration of the vehicle; or
- (f) the registration certificate has been deliberately defaced or mutilated or unauthorised additions or alterations have been made therein;

and such suspension shall remain in force till the vehicle is duly insured as required by law, or the fees or taxes have been paid, or a valid certificate or fitness in respect of the vehicle has been obtained, or the defects are remedied to the satisfaction of such

¹ Added by Ord. VIII of 1978.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

authority, or the false statement in the application for registration has been replaced by a correct statement in the prescribed manner, as the case may be.

(2) A registering authority or any prescribed authority may, after giving the owner an opportunity of making any representation he may wish to make and for reasons to be recorded in writing, suspend for a period not exceeding six months, the certificate of registration of a vehicle, if it is satisfied that -

- (i) the vehicle is used for subversive activities against the State; or
- (ii) the vehicle is used for hire or reward without obtaining a permit from the Provincial or a Regional Transport Authority as required under Section 44; or
- (iii) the vehicle has been found by a Court to have been used by the owner of the vehicle or with his knowledge or connivance in the commission of a cognizable offence punishable with imprisonment of not less than five years.

(3) An authority other than a registering authority shall when making a suspension order under sub-section (1), intimate in writing the fact of suspension and the reason therefor to the registering authority within whose jurisdiction the vehicle is at the time of the suspension.

(4) A registering authority or other prescribed authority suspending the registration certificate of a motor vehicle under this section shall communicate the fact of suspension together with the reasons therefor in writing to the owner of the vehicle, and the owner shall thereupon forthwith surrender to that authority the certificate of registration and any token Or card issued to authorise the use of the vehicle in a public place.

(5) Where the registration of a motor vehicle has been suspended under sub-section (1) for a continuous period of not less than one month, the registering authority, within whose jurisdiction the vehicle was when the registration was suspended shall, if it is not the original registering authority, inform that authority of the suspension, and when the suspension has continued without interruption for a period of not less than six months, the registering authority within whose jurisdiction the vehicle was when the registration was suspended may, if it is the original registering authority, cancel the registration and the entry relating to the vehicle in its records, and if it is not the original registering authority, shall forward the certificate of registration and any token or card surrendered under sub-section (4) to that authority which may cancel it forthwith.

(6) The certificate of registration and any token or card surrendered under sub-section (4) shall be returned to the owner when the order suspending registration is rescinded.

35. Cancellation of registration: (1) If a motor vehicle has been destroyed or has been rendered permanently incapable of use, the owner shall, as soon as may be, report the fact to the registering authority within whose jurisdiction he resides and shall forward to that authority the certificate of registration of the vehicle together with any token or card issued to authorise the use of the vehicle in a public place.

(2) The registering authority shall, if it is the original registering authority, cancel the registration and the certificate of registration, or, if it is not shall forward the report

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

and the certificate of registration, to the original registering authority and that authority shall cancel the registration and the certificate of registration.

(3) Any registering authority may order the examination of another vehicle within its jurisdiction by such authority as Government may by order appoint and, if upon such examination and after giving the owner an opportunity to make any representation he may wish to make it is satisfied that the vehicle is in such a condition that its use in a public place would constitute a danger to the public and that it is beyond reasonable repair, may, for reasons to be recorded in writing, cancel the registration of the vehicle.

(4) If a registering authority is satisfied that a motor vehicle has been permanently removed out of the Province, it shall cancel the registration of the vehicle.

(5) A registering authority or any prescribed authority canceling the registration of a motor vehicle under this section shall communicate the fact together with the reasons therefor in writing to the owner of the vehicle and the owner of the vehicle shall thereupon forthwith surrender to that authority the certificate of registration of the vehicle and any token or card issued to authorise the use of the vehicle in a public place.

(6) A registering authority making an order of cancellation under this section shall, if it is the original registering authority, cancel the certificate of registration and the entry relating to the vehicle in its records, and if it is not the original registering authority, intimate in writing the fact of cancellation and the reasons therefor, and forward the certificates of registration and any token or card surrendered to it under sub-section (6) to the original registering authority, and that authority shall cancel the certificate of registration and the entry relating to the motor vehicle in its records.

(7) The expression "original registering authority" in this section and in Section 31, 32, 33 and 34 means the registering authority in whose records the registration of the vehicle is recorded.

36. Appeals: (1) Any owner of a motor vehicle aggrieved by an order of refusal to register a motor vehicle made under Section 28 or to issue a certificate of fitness made under sub-section (1) of Section 39 or by an order of suspension or cancellation of registration made under Section 34 or 35 or by an order of cancellation of the fitness certificate made under sub-section (3) of Section 39 may, within thirty days of the date on which he has received notice of such order, appeal against the order in the prescribed manner to the prescribed authority.

(2) the appellate authority shall give notice of the appeal to the original authority, and after giving opportunity to the original authority and the appellant to be heard either personally or by pleader in the appeal, pass such orders as it thinks fit.

37. Special requirement for registration of transport vehicles: (1) A registering authority shall refuse to register any transport vehicle, other than a motor cab unless the application for registration is accompanied by a document in form H as set forth in the First Schedule signed by the maker of the vehicle or an assembler duly authorised by the maker in this behalf stating the maximum laden weight and maximum axle weight for which the vehicle is and the several axles are designed.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

(2) Where a transport vehicle or chassis, as the case may be, has affixed to it a metal plate, bearing the stamp, of the maker or assembler and identified as appertaining to the particular vehicle or chassis to which it is attached, which contains the particulars specified in sub-section (1), that plate may at the discretion of a registering authority be deemed to be the document referred to in that sub-section.

38. Special particulars to be recorded on registration of transport vehicles: A registering authority, when registering a transport vehicle other than a motor cab, shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely:-

- (a) the unladen weight of the vehicles;
- (b) the number, nature and size of the tyres attached to each wheel;
- (c) the laden weight of the vehicle and the axle weights pertaining to the several axles thereof, determined in accordance with the tyre and Rim Manufacturers Association load ratings for tyres as revised from time to time and approved by the Provincial Transport Authority;
- (d) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided,

and the owner of the vehicle shall have the said particulars exhibited in the prescribed manner on the vehicle.

39. Certificate of fitness of transport vehicles: (1) Subject to the provision of Section 40, a transport vehicle shall not be deemed to be validly registered for the purposes of Section 23, unless it carries a certificate of fitness in Form I as set forth in the First Schedule, issued by the prescribed authority, to the effect that the vehicle complies for the time being with all the requirements of Chapter VI and the rules made thereunder: and where the prescribed authority refuses to issue such certificate, it shall supply the owner of the vehicle with its reasons in writing for such refusal.

(2) Subject to the provisions of sub-section (3), a certificate of fitness shall remain effective for three years unless a shorter period, not being in any case less than six months, is specified in the certificate by the ¹[authority issuing the certificate]:

²[Provided that in case of a permit issued under Section 60 (1) (a), a certificate of fitness shall remain effective for a period of six months and on the expiry of the period that permit shall be deemed to be suspended until a new certificate of fitness has been obtained.]

(3) The ³[---] prescribed authority may, for reasons to be recorded in writing, cancel a certificate of fitness at any time, if satisfied that the vehicle to which it relates no longer complies with all the requirements of this Ordinance and the rules made thereunder; and on such cancellation, the certificate of registration of the vehicle, and any permit granted in respect of the vehicle under Chapter IV shall be deemed to be suspended until a new certificate of fitness has been obtained.

¹ Subs by W.P Ordinance IX of 1970

² Proviso ins. by W.P ordinance IX of 1970.

³ Certain words omitted , ibid.

40. Registration of vehicles, the property of the Federal Government:

(1) The authorities specified in Part B of the Fourth Schedule may register any motor vehicle which is the property or for the time being under the exclusive control of the Federal Government; and any vehicle so registered shall not, so long as it remains the property or under the exclusive control of the Federal Government, require to be registered otherwise under this Ordinance.

(2) A transport vehicle registered under this section shall carry a certificate of fitness in Form 1 as set forth in the First Schedule issued by the authority referred to in sub-section (1).

(3) An authority registering a vehicle under sub-section (1) shall assign to it a registration mark, in accordance with the provisions contained in the Fourth Schedule and shall issue a certificate in respect of the vehicle that the vehicle has been registered under this section.

(4) If a vehicle registered under this section ceases to be the property or under the exclusive control of the Federal Government, the provisions of Section 24 shall thereupon apply.

(5) The authority registering a vehicle under sub-section (1) shall furnish to Government all such information regarding the general nature, over-all dimensions, and axle weight of the vehicle as Government may at any time require.

41. ¹[Special registration of vehicles: Notwithstanding anything contained in this Chapter and the Sixth Schedule. Government may, by rules, prescribe a special procedure for the registration of any class, or type or category of motor vehicles, or motor vehicles belonging to a specified class of persons, and such rules may among other matters provide for-

- (a) the appointment of a special registration authority for such motor vehicles; and
- (b) special registration mark to be carried by such motor vehicles].

42. Application of Chapter III to trailers: (1) The registration mark assigned to a trailer shall be displayed in the prescribed manner on the side of the vehicle.

(2) No person shall drive a motor vehicle to which a trailer is or trailers are attached unless the registration mark of the motor vehicle so driven is displayed in the prescribed manner on the trailer or on the last trailer in the train, as the case may be.

43. Power To Make Rules: (1) Government may make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) Without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely :-

- (a) the conduct and hearing of appeals that may be preferred under this Chapter, the fees to be paid in respect of such appeals and the refund of such fees;
- (b) the appointment, functions and jurisdiction of registering and other prescribed authorities;

¹ Subs. by West Pakistan Amendment Ordinance ,XXXIX of 1963.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLE ORDINANCE, 1965

- (c) the issue of certificates registration and certificates of fitness and duplicate of such certificates to replace certificates lost, destroyed or mutilated;
- (d) the temporary registration of motor vehicles, and the issue of temporary certificates of registration and mark;
- (e) the manner in which registration marks and the particulars referred to in Section 38, and other prescribed particulars shall be exhibited;
- ¹[(ee) the authorising of suitable automobile workshops to issue certificates of fitness, the licensing of such workshops, the equipment and apparatus to be maintained by such workshops, their inspection, the terms and conditions and the period for the inspection, the terms and conditions and the period for which, and the authorities by whom, the licences may be granted and renewed, and the fees to be paid for the grant and renewal of the licences];
- (f) the fees to be charged for the issue or alteration of certificates of registration, for certificates of fitness, for registration marks, and for the examination or inspection of motor vehicles, and the refund of such fees;
- (g) the exemption of prescribed persons or prescribed classes of persons from payment of all or any portion of the fees payable under this Chapter;
- (h) the forms, other than those set forth in the First Schedule, to be used for the purposes of this Chapter;
- (i) the communication between registering authorities of particulars of certificates of registration and by owners of vehicles registered outside the Province of particulars of such vehicles and of their registration;
- (j) the particulars to be furnished by the owner of any motor vehicle to the registering authority, upon the transfer of possession of the motor Vehicle under the terms of a hiring agreement;
- (k) the extension of the validity of certificates of fitness pending consideration of applications for their renewal;
- (l) the exemption from the provisions of this Chapter and the conditions and fees for exemption, of motor vehicles in the possession of; dealers;
- (m) the exemption of road-rollers, graders and other vehicles designed and used solely for the construction, repair and cleaning of roads from all or any of the provisions of this Chapter and the rules made thereunder and the conditions governing such exemption; and the exemption of light goods Vehicles from the provisions of Section 39 and the conditions governing such exemption.

¹ Ins. by W.P Ordinance IX of 1970.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES RULES, 1969

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES RULES, 1969

**THE ¹[KHYBER PAKHTUNKHWA]
MOTOR VEHICLES
RULES, 1969**

Notification No. T-9/225-65, dated 3rd November, 1969: In exercise of the powers conferred by Sections 22, 43, 68, 69, 70, 74, 95 and 120 of the Provincial Motor Vehicles Ordinance, 1965 (Ordinance, XIX of 1965,) and in supersession of the Punjab Motor Vehicles Rules, 1940 the Khyber Pakhtunkhwa Motor Vehicles Rules, 1940, the Baluchistan Motor Vehicles Rules, 1940 and the Sind Motor Vehicles Rules, 1940 the Governor of West Pakistan is pleased, after taking into consideration the Draft Rules previously published with the Government of West Pakistan, Transport Department Notification No. T-9/225-65, dated the 26th July, 1968 in the Gazette of West Pakistan, Part I, dated the 6th December, 1968, to make the following rules:-

**CHAPTER 1
PRELIMINARY**

1. Short title, extend and commencement : (1) These rules may be called the

¹[Khyber Pakhtunkhwa], Motor Vehicles Rules, 1969 (West Pakistan Motor Vehicles Rules, 1969).

²(2) They shall apply to the whole of the Khyber Pakhtunkhwa.]

(3) They shall come into force at once.

³[Note: For the word "Corporation" and the words "Road Transport Corporation" wherever occurring, the word "Board" and the words "Khyber Pakhtunkhwa Road Transport Board" shall respectively be substituted.]

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

(a) "articulated vehicle" means a motor vehicle to which a trailer is attached in such a manner that part of the trailer superimposed on and part of the weight of trailer is borne by the principle vehicle;

(b) "Government": means the Government of West Pakistan;

(c) "Form" means a form set forth in the First Schedule to the Ordinance or appended to these rules;

¹ Subs, for the word "West Pakistan" by KHYBER PAKHTUNKHWA. Adaptation of Laws Order, 1975

² Vide Notification No. 1195/PTA KHYBER PAKHTUNKHWA, Extra. 20.10.1971

³ Vide Notification No. 1734-72/5505/TPT/XV-B-3, KHYBER PAKHTUNKHWA Gazette Extraordinary 19.4.1972

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES RULES, 1969

- (d) "Forwarding Agent" means any registered firm or a company with limited liability engaged in the business of booking goods for transit from one place to another and permitted under Chapter VIII of the rules to use a place for the loading, unloading and halting of goods vehicles;
- (e) "Motor cab rickshaw" means a motor cab, with three wheels, the unladen weight of which does not exceed 900 pounds avoirdupois, constructed, adapted or used to carry not more than two passengers excluding the driver;
- (f) "Motor cycle rickshaw" means a motor vehicle with three wheels, the unladen weight of which does not exceed 900 pounds avoirdupois, constructed, adapted or used for private purposes, other than for hire or reward, to carry not more than two persons excluding the driver;
- (g) "Motor Vehicles Examiner" means an officer appointed by the Inspector-General of Police under rule 35;
- (h) "Ordinance" means the Provincial Motor Vehicles Ordinance, 1965 (Ordinance XIX of 1965);
- (i) "Passenger" for the purposes of the rules in Chapter IV means any person travelling in public service vehicle other than the driver or the conductor or an employee of the permit holder while on duty;
- (j) "pounds" means pounds avoirdupois;
- (k) "Province" means Province of West Pakistan;
- (l) "section" means a section of the Ordinance;
- (m) "urban area" means the area of a municipality, small town or cantonment, or other local area which may be specially notified by Government as an urban area.

CHAPTER II

LICENSING OF DRIVERS OF MOTOR VEHICLES

From Rule No.5 to Rule No.27 of this chapter belongs to Driving License (Traffic Police)

CHAPTER III

REGISTRATION OF MOTOR VEHICLES

28. Registering Authority: (1) The registering authority shall be the Excise and Taxation Officer of the District ¹[or any other officer of the Excise & Taxation Department not below the rank of Assistant Excise & Taxation Officer, as may be duly authorized by Government.]

(2) The area of jurisdiction of each registering authority shall be the area of the District.

(3) The registering authority, before cancelling or suspending the certificate of registration of a motor vehicle, shall give the owner an opportunity of being heard.

29. Appellate Authority: (1) The authority to hear appeals against any appealable order passed by a registering authority under Chapter III of the Ordinance shall be the ¹[Director General] Excise and Taxation having jurisdiction in the district.

(2) The authority to hear appeals against any order passed to suspend certificate of registration under Section 34 read with rule 45 shall be the ¹[Director General], Excise and Taxation having jurisdiction in the area.

(3) The authority to hear appeals against an order in respect of a certificate of fitness under Section 39 read with rule 35 shall be the Superintendent of Police having jurisdiction in the area to which the order was passed.

30. Conduct and Hearings of Appeals: (1) An appeal under rule 29 shall be preferred in duplicate in the form of a memorandum, setting forth concisely the grounds of objection to the order of the registering authority or the Motor Vehicles Examiner, as the case may be, and shall be accompanied by a fee of rupees five and a certified copy of that order. The Director, Excise and Taxation, or the Superintendent of Police, as the case may be, may, if the appeal succeeds, refund the fee in whole or in part, as he thinks fit.

(2) The appellate authority after giving an opportunity to the parties to be heard and after such further enquiry, if any, as it may deem necessary, may confirm, vary or set aside the order of the registering authority of the Motor Vehicles Examiner or the Court, as the case may be, and shall make an order accordingly.

(3) Any person preferring an appeal under rule shall be entitled to

¹ Substituted vide No.SO(Tax) 1-39/06 Vol.. VI dated 21.08.2006.

obtain a copy of any document filed with the registering authority or the Motor Vehicles Examiner or the Court in connection with any order against which he is preferring an appeal on the payment of a fee of rupees two in respect of each such document.

(4) Subject to the provision of sub-rule (3), the Director, Excise and Taxation or the Superintendent of Police may give any person interested in such appeal, copies of any document connected with the appeal, on payment of a fee of rupees two per copy of each document.

31. Assignment Registered Weights: In assigning any weight other than the unladen weight to a transport vehicle under section 28, the registering authority may, if the owner so desires, assign a weight less than the maximum permitted by the provisions of that section as the registered laden weight or the registered axle weight of any axle.

32. Assignment and Exhibition of Registration Marks: (1) The registration marks to be assigned under sub-section (3) of Section 25 are set forth in the Sixth Schedule to the Ordinance.

(2) The registration marks shall be clearly and legibly exhibited on a plane surface on a plate or part of the vehicle both at front and rear facing direct to the front or rear, as the case may be, in the manner hereinafter specified Motor Vehicles owned by Government Departments, except those of the Special Branch, shall carry the distinctive registration plate in the form illustrated in the Second Schedule to these rules. The name of the Department to which the vehicle belongs shall be shown in this plate. In the case of a public service vehicle, the registration mark shall also be exhibited on a plane surface inside the vehicle, above the wind screen.

(3) The registration mark shall be in English letters and numerals, and:-

- (a) save in the case of a motor cycle or a motor cab rickshaw or a motor cycle rickshaw or an invalid carriage the letters shall be not less than two and-a-half inches high and a five-eighths of an inch thick at any part; the numeral shall not be less than three and a half inches high and three-quarter of an inch thick at any part, and there shall be space between any letter and any numeral, and the edge of the plane surface, of not less than half an inch and a space between any two letters and between any two-numerals of not less than three eight of an inch;
- (b) in the case of a motor cycle or a motor cab rickshaw or a motor cycle rickshaw or an invalid carriage, letters shall be not less than one and two-third inches high and half an inch thick at any part, and there shall be space between any, letter and any numeral, and the edge of the plane surface, of not less than a third of an

inch and a space between any two numerals of not less than a quarter of an inch.

(4) The plane surface aforesaid shall not be inclined from the vertical by more than thirty degrees. The letters and numerals shall be exhibited in the following manner-

(a) in the case of a transport vehicle, other than a motor cab excluding motor cab rickshaw, both registration marks assigned to the vehicle shall exhibit the letters and numerals in two separate horizontal lines, the letters above and the numerals below;

(b) in all other cases, the registration marks may exhibit the letters and numerals either in two horizontal lines as aforesaid or in one horizontal line.

(5) Notwithstanding anything contained in sub-rule (2), the registration mark exhibited at the front of a motor cycle of an invalid carriage may be displayed on a plate in a line with the axis of the vehicle and shall in such case be displayed on both sides of roof plate.

(6) The front and rear registration mark exhibited on a public service vehicle shall be affixed at a distance of not less than eighteen inches from the ground level.

(7) If the letters and numerals are exhibited in any polished metallic surface they shall have plane and not rounded surfaces

33. Registration Mark on a Trailer: (1) The registration mark of a trailer shall be exhibited on a plane plate or surface on the left hand side of the trailer. The letters, figures, space and margin shall be of dimensions not less than those prescribed in (b) of sub-rule (3) of rule 32.

(2) The registration mark of the drawing motor vehicle required by the Ordinance to be affixed to the rear of a trailer shall be in conformity with all the provisions of these rules applicable to the registration mark affixed to the rear of a motor vehicle.

34. Particulars to be Printed on Transport Vehicles: (1) Save in the case of motor cabs, delivery vans or trailers of the nature specified in clause (h) of sub-section (3) of Section 44, the particulars set forth below shall be exhibited in a fixed frame inside the vehicle in the driver's cab, in English letters and numerals:

1. Registered No. of vehicle
2. Name and address of owner as set forth in the Certificate of Registration

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES RULES, 1969

3. The Registered Unladen Weight in lbs denoted by U.W.
4. The Registered Laden weight in lbs. denoted by R.L.W.
5. Carrying capacity:-
 - (a) If a stage or a contract carriage, the number of the passengers of whom accommodation is provided
 - (i) Upper class
 - (ii) Lower class
 - (b) and (b) if a goods vehicle, in lbs
6. Registered Front Axle Weight in lbs. denoted by FAW.
7. Registered Rear Axle Weight in lbs. denoted by RAW
8. Number and size of tyres-
 - (a) Front Axle
 - (b) Rear Axle
 - (c) Intermediate Axle, if any

Signature and name of the
Motor Vehicle Examiner.

[Signature of the authorised person

Seal of the licensed Automobile Workshop
.....

Licence No

Place of issue

(2) The full name of the company, society, firm or person owning the vehicle as set forth in its registration certificate shall be exhibited on both sides, of every transport vehicle other than motor cabs, delivery vans and trailers, in block letter measuring four inches in height and three-fourths of an inch in thickness:

Provided that with the approval of the Regional Transport Authority concerned abbreviation of names may be used.

(3) In case of a motor cab, or a motor cab rickshaw, the word "TAXI" shall be painted in white in the middle of the wind screen as well as of the rear glass. The letters shall be not less than 2-1/2 inches high and 5/8th of an inch thick at any part. The word "Private" in block letters not less than 2-1/4 inches high and 5/8th of an inch thick at any part shall be painted in red in the middle of the wind-screen of a motor cycle rickshaw.

(4) This rule shall not apply to any vehicle registered under section 40 or 41].

35. Issue and Renewal of Certificate of Fitness—(1) (a) The authority prescribed to issue or renew a certificate of fitness and to perform all other functions which are to be discharged by a prescribed authority under section 36, shall be:-

- (i) In the case of vehicles owned and operated by the Road Transport Corporation established under section 70, the Work Manager of the corporation or any other officer appointed by it for the purpose; and
- (ii) In the case of other vehicles, the Motor Vehicles Examiner appointed by the Inspector-General Police, West Pakistan.

(b) The authority granting a certificate of fitness shall send a copy thereof to the registering authority concerned.

¹[Provided that the Regional Transport Authority may authorise any licensed Automobile Workshop to perform the functions of a Motor Vehicles Examiner]

(2) An application for the issue or renewal of certificate of fitness shall be made in Form C. F.A., Form C. F. R. A., respectively to the Motor Vehicles Examinee ²[or a licensed Automobile Workshop] of the area where the owner has his principle office of business.

(3) The Motor Vehicles Examiner or a licensed Automobile Workshop by whom a certificate of fitness was issued or if it has been renewed, the Examiner or a licensed Automobile, Workshop by whom it was last renewed, may endorse thereon the date, appointed for the next inspection of the vehicles and the owner shall cause the vehicle to be produced accordingly.

(4) If the owner finds that the vehicle cannot be produced for the next inspection on the date endorsed on the certificate of fitness, he shall, not less than fifteen days before the aforesaid date, apply to the Motor Vehicles Examiner ³[or a licensed Automobile Workshop] for the change in the date of inspection stating the reasons for such a change. When date of inspection is extended by

¹ Ins. by notification , published in Gaz. W.P. Extraordinary ,2nd June, 1970.

² Ins. by notification , published in Gaz. W.P. Extraordinary ,2nd June, 1970.

³ Ins. by notification , published in Gaz. W.P. Extraordinary ,2nd June, 1970.

the Examiner ¹[or a licensed Automobile Workshop] no penalty as provided in sub-rule (9) shall be chargeable for the period for which extension is granted.

(5) If no date for the next inspection is endorsed on the certificate of fitness as provided in sub-rule (3), application for the renewal of a certificate of fitness shall be made in Form C. F. R. A. not less than fifteen days before the date of expiry of the certificate and the owner of a vehicle in respect of which such application is made shall cause the vehicle to be produced for inspection on such date as the Motor Vehicles Examiner or a licensed Automobile Workshop may appoint.

(6) There shall not be more than one certificate of fitness in respect of any vehicle which shall be bound in registration certificate of the vehicle.

(7) If, owing to mechanical break-down or other cause, a motor vehicle is, after the expiry of the certificate, outside the area in which the Motor Vehicles Examiner or a licensed Automobile Workshop by whom the certificate is to be renewed has jurisdiction the Motor Vehicles Examiner ¹[or a licensed Automobile Workshop] may without prejudice to any penalty to which the owner a driver may have become liable, if the vehicle is in his opinion fit for use, by endorsement in Form C. F. Sub. and subject to such condition as he may specify, authorise its continued use for such time not exceeding one week as may be reasonably necessary for the vehicle to return to the area of the Examiner by whom the certificate should be renewed, and the vehicle may be driven to such area in accordance with such endorsement but shall not be used after return to that area until the certificate has been renewed.

(8) If a vehicle is damaged at any time so as to be unfit for ordinary use and may in the opinion of any Motor Vehicle Examiner ¹[or a Licensed Automobile Workshop] safely be driven at a reduced speed to a place of repair, and if the Examiner ¹[or a licensed Automobile Workshop] is satisfied that it is necessary that the Vehicle should be so driven any Motor Vehicles Examiner ¹[or a licensed Automobile Workshop] may, by endorsement in Form C. F. X. specify the time within which, and the condition subject to which, the vehicle may be driven to a specified destination for the purpose of repair and the limit of speed beyond which this all not be driven.

(9) The fee for: -

(i) the grant of a certificate of fitness shall be rupees twenty; and

(ii) for the renewal of such certificate:--

(a) in cases where the vehicle in respect of which the certificate is required, is produced for inspection within fifteen days of the expiry of the certificate, rupees ten, and

¹ Ins. by notification , published in Gaz. W.P. Extraordinary ,2nd June, 1970.

(b) in case where the vehicle is not produced for inspection within the aforesaid period of fifteen days, rupees ten, plus a penalty not exceeding rupees twenty:

¹[Provided that the fees for the grant or renewal of a certificate of fitness payable to a licensed Automobile Workshop shall be rupees ten].

(10) Any Motor Vehicle Examiner or any Police Officer not below the rank of Deputy Superintendent of Police may after giving the owner an opportunity of being heard cancel the certificate of fitness of transport vehicles under sub-section (3) of Section 39 or may suspend the certificate for a period not exceeding two months if in his opinion the vehicle does not comply with the provisions of Chapter VI of the Ordinance or the rules thereunder.

(11) The authority cancelling a certificate of fitness under sub-rule (10) shall give the owner or other person in charge of the vehicle a notice in Form C.F.C. for such cancellation and shall make a report of his action and toward the certificate to the (appropriate) Superintendent of Police.

After the authority has cancelled the certificate of fitness, such authority may by endorsing in Form C.E.X. specify the time within which and the conditions subject to which the vehicle may be driven to a specified destination for the purposes of repair.

(12) Nothing in sub-rule (11) shall debar the owner or the person in charge of the vehicle, the certificate of fitness of which has been cancelled, from applying at any time for the restoration of the certificate of fitness if the vehicle has been repaired in such a manner that the provisions of Chapter VI of the Ordinance and of the rules made thereunder are complied with. If such a vehicle is inspected and passed within fourteen days of the date of cancellation of the certificate of fitness but before the date of expiry specified in such certificate the certificate shall be restored to its original date of expiry and no restoration fee shall be charged. If, however, the vehicle is brought for inspection at any other time, fresh certificate of fitness will require.

(13) While inspecting a motor vehicle, the Motor Vehicles Examiner ²[or a licensed Automobile Workshop] shall fill in Form MV. Ins., ³[or] in duplicate, and shall on completion deliver the original copy to the owner or his authorised agent or his driver.

⁴[35-A. Licensing of Automobile Workshops: (1) Any automobile

¹ Ins. by notification , published in Gaz. W.P. Extraordinary ,2nd June, 1970.

² Vide N-N.F.P Notification No.S.O.III (ind)8-6/79, dated 24th Feb, 1980.

³ Ins. by notification Crl. W.P Extra. 2nd June, 1970.

⁴ Rules. 35-A to 35-C ins. vide No. dated 2.6.1970 in W.P Gazette Ext.

workshop may an application in Form C.F.L.A. to the Regional Transport Authority of the area, for the grant of a licence to issue or renew a certificates fitness of a vehicle.

(2) On receipt of application in Form C.F.L.A. the Regional Transport Authority may, after such enquiry as it may deem necessary, either reject the application or grant a licence in Form C.F.L. on the conditions specified therein:

Provided that no such licence shall be granted unless the Automobile Workshop is of the standard laid down by the Provincial Transport Authority in this behalf.

(3) The fee for such licence shall be rupees one thousand per annum.

[35-B. Suspension or cancellation of a licence for the establishment of an automobile workshop to grant and renew certificate of fitness:

(1) The Regional Transport Authority granting licence may at any time suspend or cancel the licence in case any condition thereof is contravened by the licensed Automobile Workshop; provided that the Regional Transport Authority before passing an order for cancellation of the licence may afford the licensee an opportunity of being heard.

(2) The licence granted under rule 35-A shall, unless he suspended or cancelled under sub-rule (1), be valid for a period of one year from the date of issue.

[35-C. Appellate Authority: Any person aggrieved by an order passed under sub-rule (1) of rule 35-B, may within thirty days of the order prefer an appeal to the Chairman, Provincial Transport Authority, whose order shall be final].

36. Temporary Registration of Newly Sold Vehicles: (1) When for any reason it is impracticable for the purchaser of a newly sold vehicle to obtain registration certificate, in the ordinary course, owing to a temporary closure of the office of the registering authority or for other similar reason, of where the purchaser of a newly sold vehicle intends to take it immediately to the district where he has his permanent residence or a place of business, a temporary certificate of registration and a temporary registration mark may be issued his rule, and temporary certificate and registration marks shall for the time being serve all the purposes of a regular certificate and registration mark.

(2) For the purpose of issuing temporary certificates of registration and temporary registration marks any Revenue Officer of or above rank of Assistant Collector or any Police Officer of or above the rank or Inspector or any approved firm of motor dealers or association of persons, using motor vehicles may be appointed by Government to be a special registering authority. Where a firm of

motor dealers or association of users of motor vehicles is so appointed the registering authority, may, from time to time, prescribe the names of the persons being members of employees of the firm or association, who shall be competent to sign the temporary certificate of registration, and no certificate signed on behalf of the firm or association by any other person shall be valid.

(3) A temporary certificate of registration or a temporary registration mark shall not be issued except in respect of vehicle which has not previously been registered under the Ordinance.

(4) Every application for a temporary certificate of registration shall be in writing and shall indicate the District or place where the vehicle is intended to be produced for permanent registration. It shall be supported by a certificate from the person or firm from whom the vehicle has been purchased to the effect that it has been sold to the applicant on the day when the certificate is signed.

(5) On presentation of the application with its accompanying certificate, an authority empowered under sub-rule (2) may issue a temporary certificate of registration in Form CR Tern Foil A of this form shall be handed to the applicant. If the place in which it is intended permanently to register the vehicle in Pakistan Foil B shall be dispatched immediately to the registering authority of the District in which it is to be registered. In other cases Foil B shall be dealt with according to such directions as may be issued by Government from time to time. The counter-foil, together with the application and its accompanying certificate, shall be kept on record by the authority issuing the permit and shall be exhibited for inspection of the registering authority of the district at the end of every calendar month or at such other intervals as the registering authority may direct. The counter-foils, with the connected application and certificates, shall unless they are taken by the registering authority into his own charge be preserved by the issuing authority for a period of, not less than twelve months for the date of issue.

(6) In the case of vehicles included to be permanently registered in the Province, the registering authority receiving Foil B under the preceding sub-rule shall forthwith send an acknowledgment to the authority which issued it and the authority shall attach the acknowledgment to the counter-foil.

(7) The records maintained under sub-rule (4) by any firm of motor dealers or association of persons using motor vehicles approved for the purpose of issuing temporary certificates of registration and temporary registration marks shall be open to inspection at all reasonable times by any police officer not below the rank of Sub-Inspector.

(8) A temporary certificate of registration shall not be valid for more than ten days shall not be capable of renewal.

(9) An authority issuing a temporary certificate of registration shall at

the same time assign to the vehicle a distinguishing mark, to be displayed thereon in the manner prescribed for distinguishing marks assigned under sub-section (3) of Section 25, the letters and figures composing the marks being in red on yellow ground. Where the temporary registration mark has been issued by an approved firm of motor dealers or association of motor users, the designation and address of firm or association shall also be printed in small letters along the lower edge of each plate.

(10) To enable the authorities empowered under sub-rule (2) to fulfill the requirements of the preceding sub-rule, the registering authority of the district shall allocate to each authority a block of registration marks out of those assigned to the district in the Sixth Schedule to the Ordinance.

37. Loss Or Destruction of Certificate of Registration of a Vehicle Other Than Transport Vehicle:

(1) If at any time the certificate of registration of a vehicle other than a transport vehicle is lost or destroyed, the owner shall forthwith intimate the facts in writing to the registering authority by whom the certificate was issued or by whom the registration mark of vehicle was assigned under section 30 and shall apply in Form C.R.L.D. to the said authority for the issue of a duplicate.

(2) Upon receipt of an application in Form C.R.L.D. together with a fee of rupees three the registering authority may, after making such enquiries as appear necessary, issue a duplicate certificate of registration Form G clearly stamped "Duplicate" in red ink.

38. Loss or Destruction of Certificate of Registration and Certificate of Fitness of a Transport Vehicle:

(1) If at any time the certificate of registration or the certificate of fitness of a transport vehicle is lost or destroyed, the owner shall forthwith intimate the facts in writing to the registering authority by whom the certificate of registration was issued or by whom the registration mark was assigned under section 30, and shall apply in Form C.R.L.D. Tran. to the said authority for the issue of a duplicate certificate of registration of certificate of fitness.

(2) Upon receipt of an application in Form C.L.R.D. Tran. together with a fee of rupees five the registering authority may, after making such enquiries as appear necessary and obtaining particulars of the original certificate of fitness from the Motor Vehicles Examiner ¹[or licensed Automobile Workshop] by whom it was issued or last renewed, issue a duplicate certificate of registration and certificate of fitness in Forms G and I, respectively, clearly stamped "Duplicate" in red ink

(3) No person shall be liable to be convicted of an offence under

¹ Ins. by Notification Gaz. Of W.P .ExtraOrdinary 2nd June, 1970.

section 90 if, at any time when the certificate is demanded, he has already reported the loss or destruction thereof in accordance with the provisions of this rule and duplicate certificate has not been delivered to him.

39. Defaced or Torn Certificate of Registration and Certificate of Fitness of Transport Vehicles: (1) If at any time the certificate of registration or the certificate of fitness of a transport vehicle is so torn or defaced that it has ceased to be legible or any important part of the certificate is missing or any unauthorised alteration has been made therein, the registering authority may impound the certificate and after ascertaining the correct entries which should have appeared in the said certificate issue a duplicate certificate in Form G or Form I, as the case may be, clearly stamped "Duplicate" in red ink.

(2) The fee on a duplicate under this rule shall be rupees five.

40. Procedure When a Lost Certificate is Subsequently Found: (1) When a duplicate certificate of fitness or certificate of registration has been issued upon representation that the original, has been lost and the original is afterwards found by the holder; the original certificate of fitness or certificate of registration shall be delivered forthwith to the registering authority.

(2) Any other person finding a certificate of fitness or certificate of registration shall deliver it to the holder or to the nearest police station.

41. Temporary Receipt For a Certificate of Registration Or Certificate of Fitness Taken into Possession by Competent Authority: (1) When the holder of a certificate of registration and a certificate of fitness of a transport vehicle has submitted them to a registering authority or other authority for any purpose under the Ordinance of these rules and neither the certificate of registration nor the certificate of fitness has been suspended or cancelled, the registering authority shall furnish him with a receipt for the certificate of registration in Form R Tern and during such time as the receipt shall be specified to remain in force it may be produced in place of the certificate of registration or the certificate of fitness under sub-section (2) of Section 90.

(2) Any authority granting a receipt under the preceding sub-rule may at his discretion extend the time thereof by order endorsed thereon.

(3) No fee shall be payable in respect of a receipt given under this rule.

42. Registration Fees: (1) The fee for the registration of a motor vehicle shall be:-

¹[Table: Latest Fee of Registration]

S.NO	Category of Motor Vehicle	Rate of Fee
1	Motor Cycle / Scooter	One percent of the value of the vehicle.
2	Motor Cars, Jeeps, Vans, Double Cabin / Single Cabin Pickups etc upto 1300CC Engine Power.	One Percent of the value of Vehicle
3	Motor Cars, Jeeps, Vans, Double Cabin / Single Cabin Pickups etc from 1300 CC upto 2500 CC Engine Power	Two Percent of the value of Vehicle
4	Motor Cars, Jeeps, Vans, Double Cabin / Single Cabin Pickups etc of above 2500 CC Engine Power	Four Percent of the value of Vehicle
5	Trucks / Busses and commercially used Vans, Single Cabin Pickups, Motor Cab Rickshaws and Motor Propelled Tricycles etc	One percent of the value of the vehicle
6	Tractors	Rs. 1000

43. Exemption from Payment of Registration Fees: No Fee Shall be Charged for the Registration of a Vehicle in the Following Cases:

- (a) such motor ambulances use solely for the conveyance of the dead body or sick or injured, as may be notified by Government from time to time;
- (b) any motor vehicle belonging to Foreign missions. Foreign Consular Officer and staff of the United Nations including its various organs and specialized agencies in Pakistan and any other person or vehicle exempted by Government by a special order;
- (c) Motor vehicles upto 1300 CC specially designed for use by invalids.

44. Maintenance of Record of Motor Vehicles by Registering Authority:

(1) The registering authority shall maintain record of all motor vehicles registered under the Ordinance and such record shall contain the name and address of the owner together with a description of the vehicle.

(2) Persons applying for copies of particular of any vehicle entered in the said record shall pay fifty paise for each copy with a maximum of rupees three when copies of particulars of more than one vehicle are applied for by the same person and at the same time.

¹ Latest Registration fee of motor vehicles substituted vide KHYBER PAKHTUNKHWA Finance Act 2009.

(3) In addition to the fee prescribed under sub-rule (2) a copying fee at the rate of six paise for copies of particulars of three vehicles or less shall be payable.

45. Authority to Suspend Certificate of Registration: Any Police Officer not below the rank" of Deputy Superintendent and any Motor vehicles Examiner may after giving the owner an opportunity of being heard suspend the certificate of registration of a motor vehicle under section 34.

46. Hire-Purchase Agreements: (1) When in an application for the registration of a motor vehicle the parties to an agreement of hire purchase declare, in the form of the note endorsed on Form F, that the vehicle is the subject of such an agreement, the registering authority shall complete and affix his signature to the note appended to Form G but shall not be required to satisfy as to the title of the two parties in the vehicle nor shall be endorsed on Form G in any way affect the title of any part.

(2) If, upon termination of an agreement of hire-purchase or otherwise, the registered owner and the other party desire that the note on Form G relating to such an agreement shall be cancelled, they shall apply in Form H. P. Ter. to the registering authority by whom the vehicle was registered or by whom a new registration mark has been assigned to the vehicle under section 30, and the registering authority shall thereupon cancel the note endorsed on Form G.

(3) Nothing contained in this shall prevent a registering authority from recording a change of the address of the registered owner on the certificate of registration as provided in Section 31, nor shall the registering authority be required to inform the other party to an agreement of hire-purchase of any intimation of change of address, but the registering authority shall not record any transfer of ownership of a motor vehicle under section 32 so long as the certificate of registration contains the note of an agreement of hire-purchase, unless the other party to that agreement signifies' his consent to such by endorsement upon Form T. O.

(4) If the other party to an agreement of hire-purchase satisfies the registering authority that he has taken possession of the vehicle owing to the default of the owner under the provisions of the agreement, and the owner has absconded or refuses to deliver the certificate of registration the registering authority may after giving the owner an opportunity of being heard and notwithstanding that the certificate of registration is not produced, cancel the certificate of registration and issue duplicate of registration and deliver the same to the other party.

(5) The owner shall be deemed to have been given an opportunity being heard within the meaning of the preceding sub-rule if a notice has been

duly served on him by registered post to the address stated in the certificate or registration and he fails to appear before the registering authority on the due date to show-cause against the cancellation of the certificate.

(6) If a note in respect of an agreement of hire-purchase is to be endorsed on a certificate of registration, there shall be payable in addition to the registration fee a further fee of rupees ten. No fee shall be payable in respect of the cancellation of the note under sub-rule (2). There shall be payable for recording transfer of ownership a further fee of rupees five when the transfer is of a vehicle which is the subject of a hire-purchase agreement.

47. Transfer of Ownership: (1) Application for transfer of ownership of a motor vehicle under sub-section (1) of Section 32 shall be made in Form T. O. and shall be accompanied by a fee of ¹[rupees five]¹.

(2) Communication of transfer to the original registering authority under section 32 shall be in Form C. R. T I.

²[LATEST TRANSFER FEE

S. No	Category of Motor Vehicles	Rate of Fee
1	Motor Cycle/ Scooters	Rs.120/-.
2	M/Cars, Jeeps, etc. upto 1000 cc Engine Power	Rs.660/-
3	M/Cars, Jeeps, etc. from 1001 cc to 1300 cc Engine Power	Rs.1,020/-
4	M/Cars, Jeeps, etc. from 1301 cc to 3500 cc Engine Power	Rs.1,440/-.
5	M/Cars, Jeeps, etc. of above 3500 cc	Rs.2,400/-
6	Rickshaws	Rs.480/-
7	Tractors	Rs.1,200/-

² Duplicate Registration Fee is half of the transfer fee.

48. New Registration Marks: (1) Application for a new registration mark under section 30 shall be made in Form R. M. A. and shall be accompanied by a fee of ³[rupees five]³.

⁴[

S. No	Category of Motor Vehicles	Rate of Fee
1	Motor Cycle/ Scooters	Rs.120/-.
2	M/Cars, Jeeps, etc. upto 1000 cc Engine	Rs.660/-

¹ Replaced with latest transfer fee rates in the preceding table.

² Rates substituted vide notification No.SO(TAX)E&T/6-2/2008 dated 12-07-2011.

³ Replaced with latest transfer fee rates in the preceding table.

⁴ Rates substituted vide notification No.SO(TAX)E&T/6-2/2008 dated 12-07-2011.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES RULES, 1969

	Power	
3	M/Cars, Jeeps, etc. from 1001 cc to 1300 cc Engine Power	Rs.1,020/-
4	M/Cars, Jeeps, etc. from 1301 cc to 3500 cc Engine Power	Rs.1,440/-.
5	M/Cars, Jeeps, etc. of above 3500 cc	Rs.2,400/-
6	Rickshaws	Rs.480/-
7	Tractors	Rs.1,200/-

]

(2) The registering authority assigning a new registration mark to a motor vehicle shall intimate the fact to the owner and the other party, if any, to an agreement of hire-purchase specified in the note on the certificate of registration, and shall apply to the original registering authority for transfer of the records of the vehicle in form R.M.I.

49. Application for Change of Address and Alteration in Motor Vehicle:

(1) Application for change of address under section 31, shall be made in Form C. A. and shall be accompanied by a fee of ¹[rupees five]¹.

²[

S. No	Category of Motor Vehicles	Rate of Fee
1	Motor Cycle/ Scooters	Rs.100/-.
2	M/Cars, Jeeps, etc. upto 1000 cc Engine Power	Rs.200/-
3	M/Cars, Jeeps, etc. from 1001 cc to 1300 cc Engine Power	Rs.300/-
4	M/Cars, Jeeps, etc. from 1301 cc to 3500 cc Engine Power	Rs.500/-.
5	M/Cars, Jeeps, etc. of above 3500 cc	Rs.800/-
6	Rickshaws	Rs.100/-
7	Tractors	Rs.100/-

]

(2) Application for alteration in a motor vehicle under section 33 shall be made in Form A. M. and shall be accompanied by a fee of ³[rupees five].

⁴[CHANGE OF BODY TYPE IN REGISTRATION CERTIFICATE

S#	Category of Vehicles	Existing fee in (Rs)	Approved fee in (Rs)
1	In respect of Motor Vehicles up	5	5,000

¹ Replaced with latest transfer fee rates in the preceding table.

² Rates substituted vide notification No.SO(TAX)E&T/6-2/2008 dated 12-07-2011.

³ Replaced with latest transfer fee rates in the preceding table.

⁴ Rates substituted vide notification No.SO(TAX)E&T/6-2/2008 dated 12-07-2011.

	to 2446 CC		
2	In respect of Motor Vehicles above 2446 CC	5	10,000

50. Vehicles Entering the Province from Outside: (1) When any motor vehicle which is not registered in the Province has been kept therein for a period exceeding fourteen days, the owner or other person in charge of the vehicle shall send intimation to the registering authority of the District in which the motor vehicle is at the time of making the report and shall intimate—

- (a) his name and permanent address, and his address for the time being;
- (b) the registration mark of the vehicle;
- (c) the mark and description of the vehicle; and
- (d) in the case of a transport vehicle the name of the authority within the

Province by whom the permit has been issued or counter-signed; Provided that in the case of a transport vehicle covered by a permit having validity in the Province, it shall be necessary to make a report under this sub-rule upon the occasion of first entry only.

(2) Nothing in this rule shall apply to a motor vehicle which is exempted from registration under the provisions of rule 52.

(3) Nothing in this rule shall apply to any vehicle registered under section 30 or under section 41.

51. Hiring Agreement: When possession of a motor vehicle is transferred by the registered owner to another person under a hiring agreement, the registered owner shall forthwith intimate the fact and the full name and address of, the transferee to the registering authority of the area in which the said owner has his residence or place of business.

(2) Nothing in the preceding sub-rule shall make it necessary to give intimation of a hiring agreement when the vehicle is to be used thereunder as a stage carriage

52. Exemption of Vehicles in the Possession of Manufacturer or Dealer: (1) Section 23 shall not apply to a motor vehicle in the possession of a manufacturer of or dealer in, motor vehicles in the course of the business of the manufacturer or dealer so long as it is used under the authorization of a trade certificate granted by the registering authority within whose area the manufacturer or dealer has his place of business.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES RULES, 1969

(2) Applications for trade certificates shall be made in Form T.C.A. and shall be accompanied by the prescribed fee.

(3) The fee for the trade certificates shall be rupees one hundred in respect of any number of certificates upto ten and rupees fifty in respect of each additional number of five or less certificates. The fees shall be payable annually in advance.

(4) if the registering authority declines to issue a trade certificate for issue a less number of certificates than the number specified in the application, the fee or a proportion of the fee determined in accordance with sub-rule (3), as the case may be, shall be refunded to the applicant

(5) upon the receipt of an application for trade certificate as aforesaid the registering authority shall, if satisfied that the number of certificates applied for is reasonable in relation to the business of the applicant, issue the certificates in Form T.C accordingly and assign to the applicant a series of trade registration marks consisting of the two letters of the registration mark specified in the Sixth Schedule to the Ordinance followed by not more than three figures and followed by one letter of the alphabet in respect of each certificate .

(6) The trade certificate shall be attached to the registration mark in a weather proof holder, in the manner set out hereunder.

(7) Not more than one vehicle shall be used in a public place at any one time under any one trade certificate.

(8) No person to whom a trade certificate is granted shall cause or allow it to be used upon any motor vehicle other than motor cycle unless the holder of the certificate or a bona fide employee of the holder is present in the vehicle or for any purpose other than one purpose, set below:--

- (a) For test during the course of or after completion of construction or repairs.
- (b) For proceeding to or returning from a weight-bridge for or after weighing, or to from any place for its registration.
- (c) For reasonable trial by or for the benefit of a prospective purchaser and for proceeding to or returning from the place where such person intends to keep it.
- (d) For proceeding for the purpose of delivery to or from the premises of the dealer and from such premises to the premises of a purchaser of another dealer.
- (e) For proceeding to or returning from a workshop with the object of fitting a body to the vehicle or of painting or for repairs.
- (f) For proceeding to or from a railway station or where for or after being transported.

(g) For proceeding to or returning from an exhibition of motor vehicles or any place at which the vehicle is to be or has been offered for sale.

(9) No vehicle carrying a trade registration mark and certificate shall be used as a transport vehicle under the authorization of any permit or otherwise.

(10) (a) Every holder of a trade certificate shall keep a register in form T.R.C and enter or cause to be entered in duplicate in such register full and trade particulars of the purposes for which every vehicle leaves his premises under a trade, certificate of the driving –in-charge, and of the period during which the vehicle was on the road under the trade certificate.

(b) The register shall be in the form of foil and counter-foil in a bound book, the pages of which shall be numbered serially. The necessary particulars, except in regard to the time or return, shall be entered in it by the holder of the certificate or his agent before the commencement of each trip. The register shall be open to inspection on demand by any Police Officer below the rank of Sub-Inspector.

(c) The foil containing the entries made prior to the commencement of the trips shall be carried by the driver of the vehicle and counter – foil shall be retained for a period of thirty days after trip has been completed and shall be exhibited on demand by any Police Officer authorised to inspect the register.

(11) if at any time the registering authority is satisfied that the holder of a trade certificate has contravened any of provisions of this rule he may, after giving the holder an opportunity of making any representation which he may wish to make, suspend or cancel any or all of the trade certificates held by him.

(12) When a trade certificate has been lost, destroyed or mutilated through negligence of the holder or by accident or passage of time, the holder may apply to the registering authority for the issue of a duplicate certificate and the registering authority shall, if satisfied, about such loss, destruction or mutilation, issue a duplicate certificate.

(13) A duplicate certificate shall be issued with the words “DUPLICATE” in bold rd letters written or stamped across it.

(14) The fee for the issue of duplicate trade certificate shall be rupee one irrespective of the fact whether the original certificate was lost , destroyed or mutilated due to negligence of the holder or accident or its replacement is occasioned by the passage of time.

53. Exemption of Road Rollers, Graders and Delivery Vans: (1) Nothing contained in Chapter III of the Ordinance shall apply to road rollers, graders and other road making and cleaning plant save that every tractor capable of other use shall be registered and shall require a certificate of fitness.

(2) The provision of Section 39 shall not apply to delivery vans.

¹SCHEDULE-I

S.NO	Category of Motor Vehicle	Rate of Fee
1	Motor Cycle / Scooter	One percent of the value of the vehicle.
2	Motor Cars, Jeeps, Vans, Double Cabin / Single Cabin Pickups etc upto 1300CC Engine Power.	One Percent of the value of Vehicle
3	Motor Cars, Jeeps, Vans, Double Cabin / Single Cabin Pickups etc from 1300 CC upto 2500 CC Engine Power	Two Percent of the value of Vehicle
4	Motor Cars, Jeeps, Vans, Double Cabin / Single Cabin Pickups etc of above 2500 CC Engine Power	Four Percent of the value of Vehicle
5	Trucks / Busses and commercially used Vans, Single Cabin Pickups, Motor Cab Rickshaws and Motor Propelled Tricycles etc	One percent of the value of the vehicle
6	Tractors	Rs. 1000

¹ Schedule for Registration fee of vehicles substituted vide KHYBER PAKHTUNKHWA Finance Act 2009.

¹SCHEDULE-II

S.No	Description of Change	Rate of Fee
01	Change of Engine	
	(a) 1000cc to 1600cc	Rs. 1000.00
	(b) Exceeding 1600cc	Rs. 3000.00
02	Conversion of Seating Capacity	
	(a) In respect of motor vehicles upto 2446cc and	Rs. 2000.00
	(b) In respect of motor vehicles above 2446cc	Rs. 5000.00

¹ Schedule for change of engine substituted vide KHYBER PAKHTUNKHWA Finance Act 1999.

**THE KHYBER PAKHTUNKHWA
MOTOR VEHICLES TAXATION ACT,
1958**

**THE KHYBER PAKHTUNKHWA
MOTOR VEHICLES TAXATION
ACT
(WEST PAKISTAN ACT, XXXII 1958)**

An Act consolidate the law relating to imposition of tax on motor vehicle in the Punjab

Preamble: WHEREAS it is expedient to consolidate the law relating to imposition of tax on motor vehicles in West Pakistan in the manner hereinafter appearing;

It is hereby enacted as follows:-

1. Short Title, Extent and Commencement: (1) This Act may be called Khyber Pakhtunkhwa Pakistan Motor Vehicle Taxation Act, 1958 (West Pakistan Act, XXXII 1958).

(2) It extends to the whole of the Province of the ¹[Khyber Pakhtunkhwa] except the Tribal Areas.

2. Definitions: In this Act, unless there is anything repugnant in the subject or context.---

- (a) "Government" means the Government of West Pakistan;
- (b) "licensing officer" means an officer appointed by the Government to perform the duties and exercise the powers imposed or conferred upon a licensing officer under this Act;
- (c) "motor vehicle" includes a vehicle carriage or other means of conveyance propelled, or which may be propelled on a road by electrical or mechanical power either entirely or partially;
- (d) "prescribed" means prescribed by rules made under this Act;
- (e) "tax" means the tax imposed under this Act;
- (f) "token" means a ticket to be displayed on a motor vehicle as an indication that the tax leviable thereon has been dully paid or that no tax is payable;
- (g) "Director" means the officer appointed by the Government as the head of the Taxation Department; and
- (h) "Deputy Director" means an officer appointed by the Government as Deputy Director of the Taxation Department, and includes an officer appointed by the Government to perform the duties of Deputy Director under this Act.

3. Imposition of Tax: (1) A tax shall be leviable on every motor vehicle in equal installments for quarterly periods, commencing on the first day of July, the first day of October, the first day of January, and the first day of April, at the rate specified in the Schedule to this Act:

¹ Subs for the word "KHYBER PAKHTUNKHWA" by Khyber Pakhtunkhwa.

¹[Provided that for reasons specified therein the Government may by notification, in respect of any class of motor vehicles or motor vehicles plying in any specified area or along any specified route, prescribe a rate lower than the rate mentioned in the Schedule]

Provided further that any broken period in such quarterly periods shall, for purpose of levying the tax be considered as a full period:

²[Provided also that if so opted by a tax payer, the tax in respect of a motor vehicle other than transport vehicle may be levied once for all at such rate in accordance to the specifications of such motor vehicle and in such a manner and subject to such terms and conditions as may be prescribed and if the tax is so paid such motor vehicle shall forever cease to be liable to the payment of tax under this Act.

Explanation: For the purpose of this section, transport vehicle shall have the same meaning as given to them in the Motor Vehicles Ordinance, 1965 (W.P Ord. XIX of 1965).]

(2) The tax shall be paid upon a licence to be taken out and paid for under the provisions of this Act by the person who keeps the motor vehicle for use.

(3) A rebate equal to 15 percent of the amount of annual tax for a financial year will be given if the amount of annual tax is paid in lump sum on or before the 31st day of July of the financial year.

4. Obligation of persons keeping motor vehicles to make declaration and to pay tax: (1) Every person who keeps a motor vehicle for use shall fill up and sign a declaration in the prescribed form stating the prescribed particulars, and shall deliver the declaration as filled up and signed by him to the licensing officer before the expiry of twenty-one days from the day of his commencing to keep the motor vehicle for use. Any such or similar declaration filled up signed and delivered under any of the enactments mentioned in sub-section (1) of Sec. 17 of this Act, shall be deemed to have been filled up signed and delivered under this section.

³(2) The tax to which he appears by such declaration to be liable shall be paid by the person keeping the motor vehicle, if for the first quarterly period, before the 31st day of July, if for the second quarterly period, before the 31st day of October, if for the third quarterly period, before the 31st day of January and if for the fourth quarterly period, before the 30th day of April]

Provided that if such person commences to keep the motor vehicle for use after the commencement of this Act he shall pay the first installment due before the expiration of twenty-one days from the day of his commencing to keep the motor vehicle for use.

(3) Every person who owns any motor vehicle which is let for hire, shall, for the

¹ Ins. by W.P ord. 57 of 1959.

² Ins. through the Khyber Pakhtunkhwa Finance Act, 2015 vide Notification No.Pakhtunkhwa/Bills/2015/93 dated 01-07-2015.

³ Subs. by W.P ord: VI of 1961.

purposes of this Act, be the person who keeps the motor vehicle for use.

5. Obligation to Make Additional Declaration and to Pay Further Tax:

Whenever any person, who has delivered a declaration under the preceding section becomes liable to an additional tax by reason of his keeping a greater number of motor vehicles for use than he has stated in the declaration, or by reason of any change in the character of any motor vehicle kept by him for use, he shall fill up and sign an additional declaration specifying with reference to such liability the particulars required by the preceding section. Such person shall deliver the additional declaration so filled up and signed and pay such additional tax by the last mentioned declaration appears to be payable by him to the licensing officer before the expiration of twenty-one days from the day of his becoming so liable as aforesaid:

Provided that when payment is made of additional tax by reason of any change in the character of any motor vehicle, an allowance shall be made for the tax already paid.

6. Service of Special Notice to Make Declaration and to Pay Tax:

The licensing officer may direct a special notice to be served upon any person requiring such person to fill up, sign and deliver to the officer named in such notice, a form of declaration, to be left with such notice stating whether such person is or is not liable to the payment of any tax and to pay the tax to which he appears by such declaration to be liable to the person named therein before the expiration of fourteen days from the date of the service of such special notice.

7. Grant of License: Every licensing officer shall grant and deliver to every person who pays to him the first instalment of tax due, a licence in which shall be specified the particulars of the tax paid, with any other particulars that may be prescribed. The licence shall be dated on the day of granting the same and shall expire on the ¹[30th day of June], next following.

8. Penalty for Omission to Comply with the Provisions of Section 4: (1) If a person—

(a) fails to deliver a declaration in accordance with the provisions of this Act; or

(b) delivers a declaration wherein the particulars prescribed to be therein set forth are not fully and truly stated,

the licensing officer may, after making such enquiry as he deems fit and after hearing the person if he desires to be heard, impose on such person any tax or

¹ Subs by W.P Ord. VI of 1961

additional tax for such quarterly period or periods as the licensing officer may find that such person is liable to pay under the provisions of this Act, and may also impose a penalty which may extend to twice the amount of the tax to which he is found liable.

(2) The tax or additional tax imposed shall be payable before the expiry of fourteen days from the date of order of the licensing officer.

9. Penalty for Keeping a Motor Vehicle without a License or Failure to Pay Tax: Whoever—

- (a) keeps a motor vehicle for use without having a proper licence; or
- (b) neglects or refuses to pay any amount of tax to which he is liable within the period fixed for such payment,

shall be liable to pay, in addition to any arrear of tax that may be due from him, a penalty which may extend to an amount ¹[equal to twice the amount of the tax] to which he is liable.

10. Recovery of a Tax or Additional Tax Imposed Under Section 8 or Section 9: Any tax or additional tax or penalty imposed under the provisions of Section 8 or Section 9 may be recovered in the manner provided in Section 11 for the recovery of an arrear of tax.

11. Recovery of Arrear of Tax: (1) If any tax payable under this Act is not paid within the fixed period, and the defaulter does not show cause to the satisfaction of the Deputy Director or any officer authorised by him in this behalf, for his failing to do so, such tax (including the cost of recovery thereof) may be recovered under a warrant in the prescribed form signed by the Deputy Director, or distress and sale of movable property belonging to such person. The warrant may be addressed to an officer of the Excise and Taxation Department for execution, who may obtain such assistance from other Government servants of the said Department as he may consider necessary for the execution thereof.

(2) Notwithstanding anything in sub-section (1), any tax, additional tax or penalty under this Act remaining unpaid may be recovered as arrears of land revenue.

12. Appeals: (1) Any person aggrieved by an order relating to the assessment, imposition or recovery of tax or penalty may, within a period of thirty days from the date of such order, appeal from such order to the Deputy Director.

(2) The Director may either of his own accord or on receiving a petition

¹ Subs. by West Pakistan Amendment Ordinance, XIX of 1966, S.2.

from the aggrieved party, at any time revises an appellate order passed by the Deputy Director under sub-section (1).

(3) Subject to the order, if any, passed on revision by the Director under sub-section (2) the order of the Deputy Director passed under sub-section (1) or that of the licensing officer, if not appealed against, shall be final and shall not be called in question in any proceeding whatsoever.

13. Exemptions and Deductions: (1) The Government may by rule, or order exempt a person or class of persons from liability to pay the whole or part of the tax in respect of any motor vehicle, or class of motor vehicles, and may, in like manner, exclude any motor vehicle, or class of motor vehicles, from the operation of this Act.

(2) Whoever becomes liable to pay a quarterly installment of tax, but proves to the satisfaction of the licensing officer that he has not used or permitted the use of the motor vehicles throughout the quarterly period preceding shall be entitled to receive an order in writing from the licensing officer exempting him from liability to pay such first mentioned quarterly instalment and the licensing officer shall make an endorsement to that effect upon the licence.

(3) Whoever becomes liable to pay a quarterly installment of tax in respect of motor vehicle, but proves to the satisfaction of the licensing officer as he has paid a tax imposed by a Municipality, or Cantonment Authority, in respect of the same motor vehicle, and for the whole or part of the quarter for which the installment of tax is due, than the amount of the municipal tax paid for the said period shall be deducted from the quarterly installment of tax and the licensing officer shall make an endorsement to that effect upon the license.

Explanation: A tractor and a trailer used together for transporting agricultural produce of the owner shall, for the purpose of this section, be deemed to be used for the purpose of agriculture.]

14. Bar to Jurisdiction of Civil and Criminal Courts in Matters of Taxation: The liability of a person to pay the tax or penalty shall not be determined or questioned in any other manner or by any other authority than is provided in this Act, or in rules made thereunder, and no prosecution, suit or other proceeding shall lie against any Government officer for anything in good faith done, or intended to be done, under this Act.

¹[14.A Delegation of Powers.. Any of the powers conferred and duties imposed upon Government by this Act may be exercised or performed, subject to

¹ S. 14-A inserted vide KHYBER PAKHTUNKHWA Amdt Ordinance VII of 1982.

such conditions as Government may specify, by a person whom Government may, be general or special order, empower in this behalf.]

15. Power of Government to Make Rules: (1) The government may, after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules on all or any of the following matters, namely:

- (a) to prescribe the form of any declaration, licence, certificate or special notice and the particulars to be stated therein;
- (b) to prescribe the officer by whom any duties are to be performed and the area in which they shall exercise their authority;
- (c) to provide for the total or partial exemption for a limited period from liability to taxation, in respect of any motor vehicle brought into the territory to which this Act extends by persons making only a temporary stay there;
- (d) to regulate the method of assessing and receiving the tax;
- (e) to regulate the manner in which special notices may be served.
- (f) to regulate the extent to which licences may be transferred.
- (g) to regulate the manner in which exemptions or refunds may be claimed and granted;
- (h) to regulate the manner in which appeals may be instituted and heard;
- (i) to require that no motor vehicle shall be used in the Province unless a token is displayed thereon indicating that the tax has been duly paid or that the owner of the vehicle is entitled to exemption;
- (j) to prescribe the form of tokens and the manner in which they shall be displayed;
- (k) to provide for the issue of token and its duplicate; and
- (l) to prescribe the limit of density of traffic and limit of income for the purposes of sub-section (1) of section 3.

16. Punishment: (1) In making any rule under the preceding section the Government may direct that any person contravening the rule shall be punished with fine which may extend to twenty rupees and in the event of any subsequent conviction for the same offence, with a fine which may extend to one hundred rupees.

(2) No Court inferior to that of a Magistrate of the Second Class shall try any offence punishable under this Act.

17. Repeal: (1) The following enactments are hereby repealed:

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES TAXATION ACT, 1958

- (a) the Punjab Motor Vehicles Taxation Act, 1924 (IV of 1924);
- (b) the Khyber Pakhtunkhwa Motor Vehicles Taxation Act, 1936 (I of 1937);
- (c) the Sindh Motor Vehicles Tax Act, 1939 (XV of 1939);
- (d) the Punjab Motor Vehicle Taxation Act, 1924, (V of 1924), as applicable to the area which, before the establishment of the Province of West Pakistan, formed part of the State of Bahawalpur;
- (e) the Sind Motor Vehicles Tax Act, 1939 (XV of 1939), as applicable to the area which, before the establishment of the Province of West Pakistan, formed part of the State of Khairpur; and
- (f) the Sind Motor Vehicles Tax Act, 1939 (XV of 1939), as applicable to Karachi

(2) Notwithstanding the repeal of enactments mentioned in sub-section (1) (hereinafter called the said Acts)-

- (a) The validity of anything done under the said Acts shall not be affected;
- (b) all appointments made, notifications and notices issued and legal proceedings instituted under any of the said Acts shall, so far as they are not inconsistent with the provisions of this Act and the rules made thereunder, continue in force and be deemed to have been made, issued and instituted under this Act; and
- (c) any exemption from liability to taxation granted any of the said Acts shall continue in force and be deemed to have been granted under his Act.

¹SCHEDULE-I

S.No	Description of Motor Vehicles	Annual rate of Tax
1	2	3
01	Motor cycle / Scooter	Rs. 1000 for life time.
02	Truck/ Trailers/ Delivery Vans used for transport or haulage of goods or materials:-	
	a. Vehicles not exceeding 1250 Kg in unladen weight;	Rs. 500.00
	b. Vehicles with maximum laden capacity upto 2030 Kg.	Rs. 800.00
	c. Vehicles with maximum laden capacity exceeding 2030 Kg. but not exceeding 4060 Kg.	Rs. 820.00
	d. Vehicles with maximum laden capacity exceeding 4060 Kg. but not exceeding 6090 Kg.	Rs. 1800.00
	e. Vehicles with maximum laden capacity exceeding 6090 Kg. but not exceeding 8120 Kg.	Rs. 2000.00
	f. Vehicles with maximum laden capacity exceeding 8120 Kg. but not exceeding 12000 Kg.	Rs. 4000.00
	g. Vehicles with long trailers or other vehicles with maximum laden capacity exceeding 12000 Kg. but not exceeding 16000 Kg.	Rs. 6000.00
	h. Vehicles with long trailers or other vehicles with maximum laden capacity exceeding 16000 Kg.	Rs. 8000.00
3	Vehicles plying for hire and ordinarily used for the transport of passengers:	
	(a) Mechanically propelled tricycle / rickshaw with seating capacity of not more than three persons;	Rs. 400.00
	(b) Other vehicles with seating capacity of.....	
	(i) Not more than 4 persons;	Rs. 600.00

¹ Rates for Token Tax substituted vide Finance Ordinance 2000.

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES TAXATION ACT, 1958

	(ii) More than 4, but not more than 6 persons; and	Rs.652.00
	(iii) More than 6 persons, plying on A routes;	Rs.180.00 per seat
	(c) Motor Vehicles with seating capacity of more than 6 but not more than 20 persons, plying exclusively within the limits of corporation / Municipality or Cantonment;	Rs. 160.00 per seat.
	(d) Motor vehicles with seating capacity of more than 6 but not more than 20 persons plying exclusively within the limits of Corporation, Municipality or Cantonment or partly within and partly outside such limits with sixty percent of the total length of the route falling within the limits of a Corporation, Municipality or Cantonment.	Rs. 120.00 per seat
4.	Motor Vehicles (Private Motor Cars/ Jeeps, etc) other than those mentioned and having	
	(a) Seating capacity of not more than 3 persons	Rs. 500.00
	(b) Seating capacity of more than 3 but not more than 6 persons.	
	(i) (b)-I with engine power not exceeding 1000cc a lump sum tax of rupees ten thousand shall be charged from motorcars and jeeps charged up to 1000cc at the time of registration: Provided that in case of a motor vehicle registered before 1st day of July 2015, the amount of tax already paid shall be deducted from the payable tax of rupees ten thousand and the remaining amount shall be paid lump sum at the time of payment of the tax due; and	Rs. 10000.00 Lifetime
	(ii) With engine power exceeding 1000 cc but not exceeding 1300 cc.	Rs. 1200.00
	(iii) With engine power exceeding 1300 cc but not exceeding 1500 cc	Rs. 1800.00

THE KHYBER PAKHTUNKHWA MOTOR VEHICLES TAXATION ACT, 1958

	(iv) a) with engine power exceeding 1500 cc but not exceeding 2500 cc. b) Luxury Vehicles	Rs. 2500.00
	(v) with Engine Power exceeding 2500 cc; and	Rs. 5000.00
	(c) Seating capacity of more than 6 persons	Rs. 800.00 per seat.
5	All Tractors with or without trailers.	Rs.600.00

**THE KHYBER PAKHTUNKHWA
MOTOR VEHICLES TAXATION
RULES, 1959**

**THE KHYBER PAKHTUNKHWA
MOTOR VEHICLES TAXATION
RULES, 1959**

Notification No Tax-1-1/1-58, dated 20th March, 1958: in exercise of the powers conferred any sub-section (1) of Section 15 of the Motor Vehicles Taxation Act, 1958, the Government of West Pakistan is pleased to make the following rules: a draft of which was published in the West Pakistan Gazetted, dated 18th February, 1959, under Notification No.Tax-1-1/1-58, dated 16th February, 1959

1. Short Title and Commencement: (a) These rules may be called the ¹[Khyber Pakhtunkhwa] Motor Vehicles Taxation Rules, 1959.
(b) They shall come into force at once.

2. Definitions: In these rules, the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:-

(a) "Act" means the Baluchistan Khyber Pakhtunkhwa Punjab Sind Motor Vehicles Taxation Act, 1958.

(b) "Form" means the specified form appended to these rules.

3. Form of the Declaration and The Manner in which Declarations are to Sent: (1) The declaration to be made under subsection (1) of Section 4 and the additional declaration to be made under Section 5 of the Act shall be in Form 1.

(2) The aforesaid declaration may be presented by the persons keeping the vehicles in person or by his agent, or may be sent by post to the Licensing Officer.

4. Form of The Special Notice and The Manner in Which it is to be Sent: (1) The special notice to be served by a Licensing Officer under Section 6 of the Act shall be in Form II.

(2) The special notice may be sent to the persons required to fill up, sign and deliver the declaration, by post or may be served upon him in person, or (if service cannot be made upon him in person) upon any adult male member or servant of his family.

(3) If the special notice cannot be served in the manner described under the last preceding sub-rule, it may be served by affixing it to some conspicuous part of the place of residence or business of such person, or in such other manner as the Licensing Officer may think fit.

¹ Substituted for the words "West Pakistan" by KHYBER PAKHTUNKHWA. Adaptation of Laws Order, 1975

5. Forms Obtainable from Licensing Officers: The forms may be obtained from the Licensing Officer.

6. Exemptions from Payment of Tax: (1) The persons who keep for use motor vehicles of the following classes shall be totally exempted from liability to pay the tax in respect of such vehicles:-

- (i) Motor Vehicles owned and kept for non-commercial use by Departments of the Central Government or Provincial Government or by a local authority situated within the province.
- (ii) Motor Vehicles owned by the management of a school and kept for the sole use of conveying pupils to and from the school.
- (iii) Motor vehicles classed as ambulances owned by approved hospitals or associations and kept for the sole use of conveying patients to and from the hospitals otherwise than for hire or reward.
- (iv) Motor vehicles (other than such transport vehicles registered outside the Province as normally operate on a route which lies partly outside the Province and partly inside it unless specially exempted by Government) temporarily brought into the Province and kept for use therein for a period not exceeding thirty days.
- (v) Subject to the provisions of sub-rule (2), motor vehicles imported under a triptych or carnet passage and temporarily brought into the province.
- (vi) Motor vehicles exempted under any law for the time being in force.
- (vii) Motor vehicles kept exclusively for use as hearses.
- (viii) Subject to the provisions of sub-rule(2), motor vehicles other than transport vehicles brought permanently into the province if taxed for the same quarter in any area of Pakistan.
- (ix) Motor vehicles in the use of foreign Consular Officers and Trade Commissioners in Pakistan on basis of reciprocity.

(2) The exemption under clause (v) of sub-rule (1) shall be available only for the first thirty days of the stay of the vehicle in the Province and in the case of a vehicle covered by clause (viii) of sub-rule (1), it shall be for the quarter during which any such vehicle is imported.

(3) A person (other than a Department of the Federal Government or Provincial Government) who is wholly exempted from liability to pay the tax under clauses (i) to (vii) of sub-rule (1) of this rule must nevertheless fill in and deliver the Form I and obtain a licence and a token unless he is exempted under clause (iv) thereof.

7. Exemption when Permissible: No person shall be entitled to exemption under clause (iv) of sub-rule(I) of the last preceding rule unless he has paid tax for (he period for which exemption is claimed to the Government of the area from which the vehicle is brought into the Province:

Provided that exemption may be granted if the vehicle in respect of which exemption is claimed belongs to a person who ordinarily resides in an area

where no taxes are levied on motor vehicles and is normally kept for use in such area.

8. Conditions of Exemption from Payment of Tax: (1) Subject to the following conditions any person keeping a motor vehicle, other than a vehicle let or plied for hire, shall be exempt from liability to pay the tax for any quarter in which the vehicle is used for a period not exceeding seven days:-

- (i) before taking the vehicle into use, the person shall obtain from the Licensing Officer or a motor dealer or association specially authorized in this behalf by the Government a Special Short Term Licence in Form IV, paying therefor a fee equal to one fifth of the tax which would have been payable on the vehicle for the quarter or of five rupees, whichever is greater.
- (ii) The Special Short Term Licence obtained under the last preceding clause shall be exhibited on the windscreen, or of a windscreen is not fitted on some other prominent part of the vehicle during the whole period of its validity and throughout the remainder of the quarter for which exemption is claimed.

(2) Government may, subject to such conditions as it may think fit to impose, authorize any firm of motor dealers or association of persons using motor vehicles, or appointed to be a Special Registering Authority under provisions of the Motor Vehicles Act, 1939 to issue the Special Short Term Licences under clause (i) of sub-rule (1).

(3) If a persons who has obtained a Special Short Term Licence under sub-rule (1) desired to keep the vehicle in use for a longer period and days the full tax for the quarter, he shall be entitled to obtain a refund of the fee paid for the special Short Term Licence: Provided that payment of the tax for the quarter is made before the expiry of the term of the Special Short Term Licence.

9. Proportionate Exemption from Quarterly Tax: If a person becomes liable to pay a quarterly instalment of tax, but proves to the satisfaction of the Licensing Officer that he has neither used nor permitted the use of the motor vehicle for a part of the preceding quarter, he shall be exempted from liability to pay such part of the quarterly instalment from the current quarter as may be proportionate to the period during which the motor vehicle was not used, and the Licensing Officer shall make an endorsement to that effect on the licence: Provided that in calculating the period during which the motor vehicle was not used regard shall be had only to complete period of one month during which it was not used and shorter period shall be disregarded.

Explanation.When a motor vehicle is for the first time registered under the Motor Vehicles Act, 1939 and is brought into use during the course of a quarterly period exemption may be granted from the corresponding quarterly instalment of tax to the extent of the ratio borne to ninety days by such portion or

the quarterly period before the date of its registration and use as a multiple of thirty days.

10. ¹[Proof in Claims to Exemption: Unless otherwise permitted by the Director, Excise and Taxation:

- (a) any person making a claim to exemption on the ground of non-use under rule 9 or under sub-section (2) of section 13 of the Act, shall, for purposes of entitlement to such exemption, surrender the Registration Book and Insurance Certificate of the motor vehicle in respect of which exemption is claimed with fifteen days for the date from which such period of non-use of motor vehicle has commenced;
- (b) an application for the grant of exemption shall not be entertained by a Licensing Officer other than that of the district where the tax was last paid or where the motor vehicle was, registered.]

[Original provision of rule 10. Proof in claims to exemption. Any person making a claim to exemption under sub-section (2) of section 13 of the Act or under rule 9 shall support his claim to exemption by such proof or in such manner as the Licensing Officer may direct].

11. Refund of Tax Paid: A person who has paid a quarterly instalment of tax in respect of a motor vehicle, but afterwards proves to the satisfaction of the Licensing Officer that he is not liable to the payment of that instalment of tax or part thereof on account of the exemption or deductions provided in the Act or these rules shall be entitled to claim refund of the tax already paid to the extent admissible under the Act or these rules.

Explanation: Claims for refund for tax paid to a local authority must be supported by a receipt or licence or other documents signed by a competent officer of that authority showing that tax has been paid for the period for which refund is claimed.

12. Entries Regarding Exemptions, Deductions and Refunds to be in the License: Wherever an exemption or deduction or refund is claimed by a licence and his claim is admitted, the Licensing Officer shall make the necessary entry certifying the exemption or deduction or refund, as the case may be, in the remarks column of the Licence.

13. Issue of The Fresh License on Purchase or Transfer of Vehicle: When a person purchases or keeps for use a motor vehicle in respect of which licence has already been issued, he shall produce the licence referred

¹ Rule 10 substituted by West Pakistan Government Notification No. 1342-67-944-Tax. 1, published in Gazette of West Pakistan, Part I, 14th July, 1967.

to in sub-rule (2) of rule 18 before the Licensing Officer, and the Licensing Officer shall then issue a fresh licence in his name in which he shall enter as paid those installments of the tax which were entered as paid on the licence already issued.

14. In the event of a licence having been lost or destroyed, and on an application being made by the licensee to the Licensing Officer, a duplicate licence may be issued on the payment of fee of rupee one.

15. Laden Weight of the Vehicle to be Stated in the Declaration:

(1) Where the assessment of tax payable in respect of a motor vehicle depends on the unloaded weight of the vehicle, the assessee shall state such weight in the declaration in Form 1, submitted by him.

(2) The Licensing Officer may accept the statement or may in his description demand from the applicant proof that the declaration of unladen weight is correct, and in the absence of such proof the Licensing Officer shall determine the weight of the unladen motor vehicle and shall assess that tax accordingly.

16. Assessment in Cases Where Tax Payable Depends on Seating Capacity:

Where the assessment of tax payable in respect of a vehicle depends on the number of persons that can be seated in the vehicle the Licensing Officer shall check the applicant's declaration by his own judgment as to the seating capacity of the vehicle: and vehicles of the kind known as 4/5 seaters may be classed as 5 seaters.

17. Production of Vehicle for Inspection to Determine Tax Payable:

The Licensing Officer may, in order to determine the tax payable, require an applicant for a licence for token in Form V to produce the vehicle before him for his inspection and the applicant shall produce the vehicle accordingly.

18. Licensing Officer to Inform the Applicant as to Tax Payable:

(1) As soon as an applicant for a licence has filed the declaration, the Licensing Officer may inform him of the tax payable and the applicant shall pay it accordingly.

(2) On the production of the evidence of payment the Licensing Officer shall deliver to the applicant the licence, which shall be in Form III.

19. Vehicle to Stop for Checking:

(1) The owner or driver of any motor vehicle. When called upon to do so by any police officer on duty or any officer of the Excise and Taxation Department not below the rank of a Sub-Inspector, shall stop the vehicle and cause it to remain stationary so long as may reasonably be

necessary for the purpose of satisfying that the tax has been duly paid in respect of the vehicle and that a licence or token has been obtained.

(2) Should the aforesaid officer find that the tax has not been paid or that the licence or token required has not been obtained, he may take down the necessary particulars and make a report to the Licensing Officer for such section as may be necessary.

20. Opportunity to Show Cause to be Given Before Imposition of Penalty: Before imposing a penalty under Section 8 and 9 of the Act the Licensing Officer shall call upon the person concerned to show cause why the penalty should not be imposed: and shall record a brief memorandum of the facts of the case and the statement, if any, of such person and a finding with a brief statement of his reasons for that finding.

21. Appeals: (1) The appeal under Section 12 of the Act shall be preferred by a memorandum in writing to the Deputy Director stating the grounds on which the appellant disputes the order appealed against.

- (2) The officer hearing the appeal may in his discretion:-
- (a) dismiss the appeal summarily: or
 - (b) call on the Licensing Officer for a report and after considering such report and hearing the appellant may confirm, modify or set aside the order.

¹[22. Mode of Payment of Tax and Issue of Tax Tokens: (1) The tax may be paid for the whole year in lump sum or in quarterly installments.

(2) When a person pays a quarterly instalment of tax or lump sum amount to annual tax, he shall be entitled to receive a token in Form V or V-A, as the case may be.

(3) In respect of motor vehicle other than a motor vehicle liable to tax under 3[Articles 3.4(e) or 5(n) of the Schedule appended to the West Pakistan Motor Vehicles Taxation Act, 1958, as amended from time to time] the payment of the tax shall be made in the Post Office at which the motor vehicle is registered for the purpose. The payment of tax shall be entered over the signature for the Postmaster of such Post Office in the licence in Form III pertaining to the vehicle, and tax token shall be issued by the Postmaster.

- (4) The postmaster in charge of the Post Office shall:-

1. Subs, vide Noti. No. 5076/69/Tax I, dated 20th February, 1970.

- (a) open a separate account in respect of every motor vehicle registered at that Post Office for payment of tax: and
- (b) by the 10th of every month submit to the Licensing Officer of the district in which the Post Office is situated, a statement in form VII, of all motor vehicles registered at the Post Office during the previous month for the payment of the tax.

(5) The Postmaster in charge of the Post Office with which a motor vehicle is registered for payment of a motor vehicle tax shall submit to the Motor Licensing Officer of the district in which the Post Office is situated:-

- (a) within ten days of the close of the month, a statement in Form VIII showing the particulars of receipt of the tax paid during the preceding month: and
- (b) by the 15th of August, 15th of November, 15th of February and 15th of May, every year the particulars of motor vehicles owing payment of motor vehicles tax in respect of any preceding quarterly period or periods in Form IX.

(6) In respect of motor vehicle liable to tax under [Articles 5(e) or 6 (e) of the Schedule appended to the West Pakistan Motor Vehicles Taxation Act, .1958, as amended from time to time] the tax token shall be issued by the Motor Licensing Officer on production of proof of payment of tax.

(7) When a person satisfies the Motor Licensing Officer that he is entitled to exemption from the payment of tax, he shall be entitled to receive from the Motor Licensing Officer a tax token on which shall be written the word "exempt".

Explanation: In this rule, the term "Post Office" includes a sub-post office, and the term a Postmaster includes an Assistant Post master or a Sub-Postmaster in charge of a Sub-Post Office:

23. Token to be displayed on the vehicle: (1) No person shall drive or causes to be driven any motor vehicle unless a valid token is displayed thereon in the manner hereinafter prescribed.

(2) In the case of motor cycles not having more than two wheels (whether with or without a side-car) the token shall be affixed to the plate bearing the front registration mark so as to face towards the left hand side of the motor cycle: and in the case of any other motor vehicle, it shall be affixed to the bottom

left hand corner of the windscreen facing forward if the vehicle is Right Hand Drive Control and to bottom right hand corner of the windscreen facing forward if the vehicle is a Left Hand Drive Control, or if the vehicle is not fitted with a windscreen then is some other conspicuous place on the left or right hand side of the vehicle.

(3) Nothing in sub-rule (1) shall apply in the case of a vehicle owned or kept for use by any Department of the Federal Government or Provincial Government other than a vehicle used in connection with the business of a railway or which is for the time being exempt from liability to pay tax under clauses (iv) or (vii) of sub-rule (1) of rule 6, or under rule 8, or which has not been kept for use by the owner for more than thirty days.

24. Duplicate Token: (1) Any holder of a token which has been lost, destroyed, defaced, or torn may apply to the Licensing Officer for the issue of a duplicate token, and the Licensing Officer may, if he is not satisfied after making inquiries, issue a duplicate token.

(2) A duplicate token shall be in Form V with the words "DUPLICATE" in bold red letters written or stamped across it.

(3) The fee for the issue of a duplicate token shall be one rupee.

25. Penalty: Any person who contravenes any of the provisions of these rules shall, if no penalty is specified in the Act, be punished with fine which may extend to twenty rupees, and in the event of any subsequent conviction for the same offence shall be punished with fine which may extend to one hundred rupees.

26. The warrant under Section 11 of the Act shall be Form VI.

27. Repeal: These rules supersede all rules made, notifications issued and exemptions granted under any of the following enactments:-

- (a) Punjab Motor Vehicles Taxation Act, 1924:
- (b) the Khyber Pakhtunkhwa Motor Vehicles Taxation Act, 1936:
- (c) the Sind Motor Vehicles Tax Act, 1939:
- (d) the Punjab Motor Vehicles Taxation Act, 1924, as applicable to the areas which, before the establishment of the Province of West Pakistan, formed part of the State of Bahawalpur:
- (e) the Sind Motor Vehicles Tax Act, 1939, as applicable to the area which, before the establishment of the Province of West Pakistan, formed part of State of Khairpur: and
- (f) the Sind Motor Vehicles Act, 1939, as applicable to the area which before the establishment of the Province of West Pakistan, formed part of the State of Khairpur].

KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) ORDINANCE, 1983

**KHYBER PAKHTUNKHWA REAL
ESTATE AGENTS AND MOTOR
VEHICLES DEALERS (REGULATION
OF BUSINESS) ORDINANCE, 1983**

AN ORDINANCE

To regulate the business of real estate agents and motor vehicle Dealers in the Khyber Pakhtunkhwa.

WHEREAS it is expedient to regulate the business of real estate agents and motor vehicle dealers in the Khyber Pakhtunkhwa in the manner hereinafter appearing.

AND WHEREAS the Governor of Khyber Pakhtunkhwa Province is satisfied that circumstances exist which render it necessary to take immediate action.

NOW, THEREFORE, in pursuance of the proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf the Governor of the Khyber Pakhtunkhwa is pleased to make and promulgate the following ordinance:

1. Short Title and Commencement.- (1) This Ordinance may be called the Khyber Pakhtunkhwa Real Estate Agents and Motor Vehicles Dealers (Regulation of Business) Ordinance, 1983.

- (2) It shall extend to whole of the Khyber Pakhtunkhwa.
- (3) It shall come into force at once.

¹[Note: Khyber Pakhtunkhwa Ord. No.VIII of 1983, shall apply to the Provincially Administered Tribal Areas of Dir, Chitral, Swat, Kalam and Malakand Protected Area.]

2. Definition.- In this Ordinance unless the context otherwise requires.

- (a) "Government" means the Government of the Khyber Pakhtunkhwa;
- (b) "motor vehicles" means any propelled vehicle adapted for use upon roads the power of propulsion is transmitted thereto from an external or internal source and includes a tractor, a trailer and a chassis to which a body has not been attached;
- (c) "motor vehicles dealer" means a person who arranges or negotiates any transaction of sale, exchange, transfer or pledge of a motor vehicle in consideration of some commission or other remuneration in cash or otherwise or who deals in ²[sale, purchase or rent] of motor vehicles;
- (d) "prescribed" means prescribed by rules made under this Ordinance;

¹ Extended vide Notification No. Legis:I (9)/70 Vol:VI dated 13-1-1990.

² Substituted vide KHYBER PAKHTUNKHWA Finance Act 2009.

KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) ORDINANCE, 1983

- (e) "real estate" means immovable property, including land, benefits to arise out of land and things attached to the earth:
- (f) "real estate agents" means a person who arranges or negotiates any transaction of sale, exchange, mortgage, lease or tenancy of a real estate in consideration of some commission or other consideration in cash or otherwise; and
- (g) "registering authority" means the District Excise and Taxation Officer or any other Officer notified by Government for the purpose, in whose jurisdiction the ordinary place of business of the real estate agent or the motor vehicles dealer is situated.

3. Prohibition of Business Without Registration: (1) No person shall engage in or carry on the business of a real estate agent or a motor vehicles dealer unless he is registered with the registering authority and holds a valid certificate issued by such authority:

Provided that in the case of a person who is already carrying on the business of a real estate agent or a motor vehicle dealer on the date of commencement of this Ordinance, this provision shall not be applicable until the expiry of a period of ninety days from the date of such commencement.

(2) A person already carrying on the business of a real estate agent or motor vehicle dealer on the date of commencement of this Ordinance shall apply for a certificate of registration within a period of ninety days from the date of such commencement.

(3) If any person already carrying on the business of a real estate agent or a motor vehicles dealer on the date of commencement of this Ordinance fails to apply for a certificate of registration as required under sub-section (2), the registering authority may, instead of taking action against him under the penal provisions of this Ordinance, entertain his application for grant of a certificate of registration on payment of a penalty which shall be five hundred rupees, if the application is made within a period of six months, one thousand rupees if it is made within a period of one year from the date of the commencement of this Ordinance.

4. Disqualification: No person shall be registered as a real estate agent or a motor vehicles dealer and granted a certificate of registration if he.--

- (a) is a minor; or
- (b) is found to be of unsound mind by a court of competent jurisdiction ; or
- (c) is declared insolvent ; or
- (d) has been found guilty of criminal misappropriation or criminal breach of trust or cheating or any other offence involving moral turpitude or an abetment of or attempt to commit any such offence by a court of competent jurisdiction: provided that this disqualification will not operate if a period of three years has elapsed since the completion of the sentence

imposed on any person in respect of any such offence.

5. Procedure for registration: (1) A person who wishes to obtain a certificate of registration to engage in or carry on the business of a real estate agent or a motor vehicles dealer shall make an application to the registering authority concerned in such form and manner and on payment of such fee¹[...] as may be prescribed.

(2) The registering authority, on being satisfied that the applicant has fulfilled all the requirements and does not suffer from any of the disqualifications laid down in section 4, shall register him as a real estate agent or a motor vehicles dealer, as the case may be and grant him a certificate in the prescribed form.

6. Renewal of Registration: (1) A certificate of registration issued under section 5 shall be valid for a period of one year only and shall be renewable annually.

(2) A real estate agent or a motor vehicles dealer who wishes to get his certificate of registration renewed shall, within thirty days preceding the date of expiry of his certificate, apply to the registering authority concerned in such form and manner and on payment of such fee as may be prescribed.

(3) The registering authority, on being satisfied that the applicant has fulfilled all the requirements and does not suffer from any of the disqualifications laid down in section 4, shall grant a certificate of renewal of registration in the prescribed form.

(4) If a real state agent or a motor vehicle dealer fails to apply for the renewal of his certificate of registration within the period provided by sub-section (2), the registering authority may, instead of taking action against him under the penal provisions of this Ordinance, entertain his application for renewal of registration on payment of penalty of one hundred rupees, the application is made within one month and five hundred rupees if it is made within three months of the date when the renewal was due.

7. Fixation of Commission: Government may prescribe maximum rate of commission or remuneration which a real estate agent or a motor vehicles dealer may charge on any transaction of real estate or motor vehicle arranged or negotiated by him.

8. Maintenance of Record and Accounts etc: (1)A real estate agent and a motor vehicle dealer shall maintain such accounts and other record of the transactions arranged, negotiated or made by him and in such manner as

¹ "and furnishing of such security" omitted vide KHYBER PAKHTUNKHWA Finance Act 2009.

KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) ORDINANCE, 1983

may be prescribed.

(2) A real estate agent and a motor vehicle dealer shall, as and when required to do so, produce the accounts and other record maintained by him under sub-section (1) before such officer or authority as may be prescribed and shall also supply such information and in such form and within such time as may be required by the authority.

9. Cancellation and Suspension of Registration: (1) The registration authority may, by an order in writing, cancel or suspend a certificate for such period not exceeding three months for a first breach and not exceeding six months for a second or subsequent breach as may be specified in that order, if it is satisfied that a real estate agent or motor vehicle dealer has committed a breach of any of the conditions of the certificate or has committed any of the following mal-practices:

- (a) has maintained or submitted incorrect account of the transactions;
- (b) has arranged or negotiated a transaction knowing that there was a defect in the title of the real estate ; or
- (c) has charged commission or remuneration at a rate higher than that prescribed :

Provided that no such order shall be passed without giving the persons concerned an opportunity to show cause within fifteen days from the date of issue of show cause notice.

(2) Any person aggrieved by an order passed under sub-section (1) may, within thirty days of the passing of the order, prefer an appeal to the Director, Excise and Taxation, and the decision of the said Director shall be final.

10. Section 10: (1) A person who contravenes any of the provisions of this Ordinance shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to twenty five thousand rupees or with both.

(2) No court shall take cognizance of the offence under this Ordinance, except on a complaint made in writing by the registering authority.

(3) The offences under this Ordinance shall be bail able.

11. Section 11: Government may make rules for carrying into effect the purposes of power to make rules under this Ordinance.

Peshawar
Dated, the 29th June, 1983.
FAZLE-HAQ

LIEUTENANT-GENERAL
Governor of Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

**THE KHYBER PAKHTUNKHWA
REAL ESTATE AGENTS AND
MOTOR VEHICLES DEALERS
(REGULATION OF BUSINESS)
RULES, 1983**

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

**GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE AND TAXATION DEPARTMENT.**

NOTIFICATION

PESHAWAR DATED THE 16/11/1983.

No. **27319**, - In exercise of the powers conferred by section 11 of the Khyber Pakhtunkhwa Real Estate Agents and Motor Vehicle Dealers (Regulation of Business) Ordinance, 1983 (Khyber Pakhtunkhwa Ordinance No.VIII of 1983), the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

**THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR
VEHICLES DEALERS (REGULATION OF BUSINESS) RULES, 1983.**

1. Short title and commencement.-(1) These rules may be called the Khyber Pakhtunkhwa Real Estate Agents and Motor Vehicles Dealers (Regulation of Business) Rules, 1983.

(2) They shall come into force at once.

2. Definitions.- In these rules, unless there is anything repugnant in the subject to context,-

- (a) "certificate" means a certificate issued under section 3 of the Ordinance and includes a certificate renewed under section 6 thereof;
- ¹[(aa) "customer" means the person to whom the motor vehicle is being rented out against certain remuneration; and
- (ab) "driver" means an employee of the motor vehicle dealer who is deputed with the vehicle that is being rented out to a customer.]
- (b) "Form" means a form appended to these rules;
- (c) "Ordinance" means the Khyber Pakhtunkhwa Real Estate Agents and Motor Vehicles Dealers(Regulation of Business) Ordinance, 1983 (Khyber Pakhtunkhwa Ordinance No.VIII of 1983);
- (d) "Ordinary place of business" means such place within the territorial limits of a registering authority as may be declared from time to time, by a motor vehicles dealer or a real estate agent for carrying on his business;
- (e) "Transaction" means any transaction of sale, exchange, transfer or pledge of a motor vehicles or, as the case may be, any transaction of sale, exchange, mortgage, lease or tenancy of a real estate; and
- (f) "Treasury" means a Government treasury or sub treasury or a Branch of a Bank authorized by Government to receive payment in this behalf.

¹ Substituted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

3. Application for Registration, etc.-(1) An application for registration as a real estate agent or a motor vehicles dealer, as the case may be, shall be in form 'I' and for renewal of certificate in Form-II. The application shall be duly signed by the applicant and shall be accompanied by a receipt showing the deposit of the prescribed fee into the Treasury. In case of registration, the application shall also be accompanied by a receipt showing deposit of the security, as required under rule 5.

(2) Where the applicant is a firm, the application shall be signed by all the partners of the firm and where the applicant is a company, the application shall be signed by the person authorized under the Memorandum and articles of association of the company to sign instruments on behalf of the company.

(3) The application shall be presented before the registering authority either in person or by registered post with acknowledgment due by the applicant or his agent duly authorized by him for the purpose.

4. Section 4 (1) The fee payable for the grant of a certificate shall be rupees ¹[seven thousand and five hundred.]

(2) The fee payable for renewal of a certificate shall be rupees ¹[two thousand].

5. ²Security Deposit.- (1) The security to be furnished by a real estate agent or a motor vehicles dealers shall be rupees [fifteen thousand] and will be deposited in cash.

(2) The security shall be deposited in the Treasury under Head "3000-Deposit not bearing interest -3800-0-Other Accounts 3834- Deposits Accounts, under the Khyber Pakhtunkhwa, Real Estate Agents and Motor Vehicles Dealers (Regulation of Business) Ordinance, 1983".

(3) The security shall be refunded on the cancellation of the certificate of registration or on the expiry of the certificate if the real estate agent or the Motor Vehicle Dealer, as the case may be, does not want to continue the business.

Provided that where there is pending a case in the court against a motor vehicles dealer or a real estate agent for committing any offence under the Ordinance or these rules, the security shall not be refunded till final decision of the case.

6. Proof of Particulars:- (1) Before granting a certificate of registration the registering authority may call upon the applicant to appear before it and may make such other enquiries as it considers necessary to satisfy itself that the

¹ Substituted vide Finance Bill 1995 Notification No.26866

² The Furnishing of security has been omitted vide Finance Act, 2009 from KHYBER PAKHTUNKHWA Real Estate Agents and Motor Vehicle Dealers (Regulation of Business) Ord. No. VIII of 1983.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

particulars given in the application are correct, the applicant does not suffer from any of the disqualification specified in section 4 of the Ordinance and that the applicant is entitled to the grant of the certificate.

(2) The registering authority for the purpose of renewing a certificate shall not call upon the applicant to appear before it to satisfy itself that the particulars given in the application are correct, nor shall it institute any fresh enquiry unless it is in possession of some prime facie evidence of the fact that the applicant has suffered from any of the disqualification given in section 4 of the Ordinance or is otherwise unfit to hold a certificate.

(3) If the registering authority decides not to grant a certificate or renew it, it shall record its reasons therefor and shall supply a copy of its order to the applicant free of cost.

7. Certificate of Registration and its Renewal.- (1) The certificate shall be issued in Form-III.

(2) The renewal of a certificate shall be made in the form of an endorsement on the certificate duly signed by the registering authority.

(3) The certificate shall be non-transferable.

(4) Where there is an introduction of a new partner, in a firm holding a certificate as real estate agent or a motor vehicle dealer, the firm shall make an application to the registering authority indicating the name and other particulars of the new partner and the registering authority on being satisfied that the new partner is not disqualified or unfit to hold a certificate, shall make necessary entries in the certificate and in the register of certificates maintained under rules 8.

(5) The certificate shall be exhibited at some prominent place in the ordinary place of business of the certificate holder.

8. Register of Certificate.- The registering authority shall maintain a register in Form-IV containing particulars of the certificate issued and renewed by it from time to time.

9. Change of Place of Business.- (1) Where the Certificate holder decides to change the ordinary place of his business within the jurisdiction of the registering authority which issued the certificate, he may make an application to the registering authority accompanied by the certificate and the details of the new place of business with site plan. The registering authority may on being satisfied about the correctness of the change of the ordinary place of business, revise the place of business entered in the certificate and shall also make necessary changes in the register of certificate.

(2) Where a certificate holder intends to change the ordinary place of his business to a place outside the jurisdiction of the registering authority which issued the certificate, he may in the manner specified in sub-rule (1), make an application to the Director, Excise and Taxation, who may after calling for the

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

record of the certificate from the original registering authority and on being satisfied about the correctness of the changed place of business, forward the case to the registering authority of the district concerned. The registering authority concerned shall then cancel the existing certificate under intimation to the registering authority who issued it and issue a new certificate in lieu thereof to be valid only for the remaining prior of the cancelled certificate.

(3) There shall be charged a fee of ¹[five hundred] rupees in case of change of address under sub-rule (1) and a fee of ²[two thousand] rupees in case of change of address under sub-rule (2).

10. Maintenance of Record and Accounts :- (1) A certificate holder shall maintain the following record at his ordinary place of business :

- (i) a register in Form-V containing the particulars of transactions arranged or negotiated by him;
- ³[(i-a) a register in Form-V(A) containing the particulars of transactions involving renting of motor vehicles;]
- (ii) a receipt book in Form-VI with each page serially numbered and containing particulars of the payments received by the certificate holder in respect of transactions arranged

(2) Every transaction arranged or negotiated by the certificate holder shall be entered by him in the register forthwith.

(3) The certificate holder shall immediately issue a proper receipt on outer file of the receipt book in Form VI for every payment received by him in respect of such transaction arranged or negotiated by him.

(4) The register or the receipt book maintained under sub-rules (1) and (2) shall not be destroyed by the certificate holder without the previous permission in writing of the registering authority.

11. Inspection and Production of Record.:- (1) The Director, Excise and Taxation, the registering authority or any other officer of the Excise and Taxation Department, not below the rank of Inspector and duly authorized by the registering authority in this behalf, may inspect the record maintained by the certificate holder under rule 10 and may make any note thereon or take any extract therefrom or seize the same, if he has reason to believe that the record has not correctly been maintained.

(2) Where any record is seized under the provisions of sub-rule (1), the registering authority or the officer seizing it, shall issue a receipt to the certificate

1 Substituted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

2 Substituted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

3 Inserted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

holder.

(3) The registering authority may at any time shall call upon the certificate holder to bring and produce before it the record maintained by him under rule 10.

(4) Where a motor vehicle dealer or a real estate agent is accused of committing any offence under the ordinance or these rules, the registering authority may seize the record, sign-board and other documents concerning the business and seal the ordinary place of his business and then lodge a complaint before the Illaqa Magistrate. The record, etc; so seized or the ordinary place of business so sealed shall not be released or opened, except with the orders of the Court trying the complaint.

12. Return.- (1) A certificate holder shall submit to the registering authority a monthly return in Form-VII, at the close of each month.

(2) The registering authority may require a certificate holder to supply him such additional information in respect of transactions arranged or negotiated by him or in respect of the record maintained by him and the certificate holder shall supply such information within such time as may be required by the registering authority.

13. Rate of Commission or Remuneration:- (1) The rate of commission and other remuneration chargeable by a real estate agent on a transaction arranged or negotiated by him shall not exceed.

- (a) half a month's rent in the case of a transaction of lease or tenancy;
- (b) two percent of the amount of consideration involved in transactions of mortgage; and
- (c) two percent of the value of the property involved in transactions other than those mentioned in clauses (a) and

(2) The rate of commission and other remuneration chargeable by a motor vehicles dealer shall not exceed 1% of the value of the motor vehicle sold, exchanged or transferred or that of the amount against which the motor vehicle is pledged.

(3) The maximum rates chargeable under sub-rules (1) and (2) are the rates chargeable in respect of a transaction irrespective of whether the commission and other remuneration is payable by one of the parties only or by both the parties to the transaction.

¹[(4) The rate of remuneration charged by the motor vehicle dealer in

¹ Added vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

cases of renting out of motor vehicle shall not exceed from the following prescribed rates:

- (a) vehicle of 800 cc and below; Rs. 1000/-per day.
- (b) vehicle above 801 cc but not more than 2500cc; Rs. 1800/-per day.
- (c) vehicle above 2500 cc. Rs. 3000/-per day:

Provided that daily charges of rupees five hundred shall be in addition to these rates if driver is attached with the vehicle being rented:

Provided further that the cost of fuel of the vehicle shall be borne by the customer for the journey.]

¹**[13A.** where the transaction involve renting of motor vehicle, the motor vehicle dealer shall ensure that-

- (a) the driver or customer, as the case may be, shall be mentally and physically fit to drive. He shall not suffer from physical impairment;
- (b) the vehicle being rented out shall be duly insured as per the requirements of the Motor Vehicles Ordinance, 1965;
- (c) the driver or customer, as the case may be, shall be in possession of validly issued driving license;
- (d) the driver or customer, as the case may be, shall keep the registration documents of the vehicle along throughout the journey;
- (e) the driver shall not accompany himself any luggage or other items other than his personal wardrobe without prior intimation to the customer. Any other item or luggage of the driver, shall be his personal liability;
- (f) the customer shall maintain gentle attitude with the driver during his journey. He shall not indulge with him in any unnecessary debate;
- (g) where the journey is without the driver, the customer shall be personally responsible for the safety and security of the vehicle and vice versa; and
- (h) in case of any untoward incidence, or accident, the driver or customer, as the case may be, shall take appropriate action according to their best abilities.]

14. Appeal:- (1) Any person aggrieved by an order of the registering authority passed by it under these rules may prefer an appeal to the Director, Excise and Taxation, within thirty days of the communication of the order to him.

(2) An appeal may be admitted by the Director, Excise and Taxation,

¹ Added vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

after the period of thirty days mentioned in sub-rule (1), if the applicant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) The appeal under sub-rule (1) shall be preferred in form of a memorandum bearing the requisite court fee mentioned in column 3 of item 11(aa) of Schedule II of the court Fees Act, 1870(VII of 1870), and shall be duly signed by the appellant and presented to the appellate authority or to such officer as it appoints in this behalf. The memorandum shall be accompanied by a copy of the order appealed against, unless the appellate authority dispenses with this requirement.

(4) The appellate authority shall not give its decision unless the person concerned has been given a reasonable opportunity of being heard.

15. Credit of Fees:- The fees payable under these rules shall be credited to the head "0000-Tax Revenue-0200-Indirect Taxes 0250-Provincieal Excise-0259 other receipt-Receipt on accounts of license fee of Real Estate Agents and Motor Vehicles Dealers".

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

FORM-I
(See Rule 3)

I/We hereby apply for certificate of registration to engage in or carry on the business of a REAL AGENT / MOTOR VEHICLE DEALERS (Strike out whichever is not applicable).

1. Name of the applicant. _____
2. Permanent address. _____
3. Status (Individual, Firm or Company). _____
4. If a firm or a company, the names, parentage and addressed of its partners / Directors and managers if any. _____
5. Ordinary place of business (with complete address and site plan thereof.) _____
6. Particular of the receipt of deposited of fee. _____
7. Particulars of the security provided. _____
8. Whether the applicant held such a certificate previously, if so particulars thereof. _____

DECLARATION.

I/We hereby declare that:-

- a. I am not minor.
- b. I have not been found to be unsound mind or declare insolvent by a court of competent jurisdiction.
- c. I have not been found guilty of criminal misappropriation, criminal breach of trust or of cheating or of any offence involving moral turpitude or an abetment or attempt to commit any such offence, by a court of competent jurisdiction.

I further declare that the particulars and other facts mentioned above are true to the best of my knowledge and belief and that nothing has been concealed or misstated by me.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

Name (In Block Letters)

Signature

Note:

1. If the applicant is a firm or company the declaration should be signed by all the partners /Directors of the firm or company, as the case may be and also by the Managers, if any.
2. If the applicant is a firm or company, the application should be accompanied by a copy of the deed of partnership or the Memorandum and Articles of Association, as the case may be.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

FORM-II
(See Rule-4)

I/We hereby apply for renewal of certificate of registration to carry on the business of a REAL ESTATE AGENT/ MOTOR VEHICLES DEALER. (Strike out whichever is not applicable).

1. Name of the applicant.

2. Certificate No, and Date.

3. Date of expiry of the Certificate.

4. Particulars of the receipt of deposit of renewal fee.

DECLARATION

I/We hereby declare that :-

- (a) The various particulars given by me/us in the original application for registration have not undergone any change except the following:-
.....

(b) I/We have not suffered any of the disqualification to hold the certificate.

I/We further declare that the particulars and other facts mentioned above are true to the best of my knowledge and belief and that nothing has been concealed or mis-stated by me/us.

Name (In Block Letters).

Signature _____

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

- Notes:-** 1. If the applicant is a firm, the declaration is to be signed by all the partners of the firm.
2. If the applicant is a company, the declaration is to be signed by the person authorized to sign on behalf of the company.

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES
DEALERS (REGULATION OF BUSINESS) RULES, 1983.

FORM-III
(See Rule 8)

No.REA/MVD/_____

Reg : Fee Rs._____ Paid vide

TR NO._____ Dated _____

CERTIFICATE OF REGISTRATION.

(To be displayed at the ordinary place of business of the holder)

Subject to the provision of Khyber Pakhtunkhwa, Real Estate Agents and Motor Vehicle Dealers (Regulation of /Business) Ordinance, 1983 (VIII of 1983) and the Rules framed thereunder, this certificate is granted to

MR./Miss

_____ to
engage in or carry on the business of REAL ESTATE AGENT/ MOTOR
VEHICLE DEALER in the Khyber Pakhtunkhwa

2. This certificate, unless renewed, is valid for the year ending-----
----.

Registering Authority

Signature_____

Registering Authority .

Date_____

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS)
RULES, 1983.

FORM-IV
(See Rule 9)

REGISTER OF CERTIFICATE OF REAL ESTATE AGENTS / MOTOR VEHICLES DEALERS.

Certificate No. and date of Issue.	Name and other particulars of the holder.(Indicate whether an individual, firm or company).	Name& other particulars partners in case of a firm and Directors and Managers in the case of a company.	Ordinary place of business.	Date of expiry of certificate.	Particulars of the Security furnished.	Particulars of registration fee and renewal fee deposited.	Renewed for the period ending.	Remarks if any.	Signature of the Registration Authority.
1	2	3	4	5	6	7	8	9	10

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS)
RULES, 1983.

FORM-V

(See Rule 2)

REGISTER OF CERTIFICATE OF REAL ESTATE AGENTS / MOTOR VEHICLES DEALERS.

Serial No. and date of finalization of the transaction	Nature of transaction arranged or negotiated (whether sale, exchange mortgage, lease/tenancy-transfer or pledge.	Description of the subject matter of the transaction	Amount of consideration and in case of lease / tenancy, the monthly rent.	Name & other particulars of the vender, mortgagor etc or lesser as the case may be.	Name & other particulars of the vendee, mortgagee etc. or the lessee as the case may be.	Particulars of the instruments executed if any relating to the transaction.	Amount of Commission and other remuneration charged.	Particulars of receipt issued (i.e. receipt No. and date).	Signatures of the parties to the transaction.	Remarks	Signature of certificate holder.
1	2	3	4	5	6	7	8	9	10	11	12

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS)
RULES, 1983.

¹[FORM-V(A)]

(see rule 10(1)(i-a))

REGISTER OF MOTOR VEHICLES DEALERS UNDERTAKING RENT TRANSACTION

S.No. and date of finalization of the transaction.	Name address and computerized National Identity Card of the customer to whom motor vehicle is rented out	Any sort of personnel or financial security sought from the customer.	The luggage of the customers (or customers if more than one) reported to the motor vehicle dealers	Registration number and other description of the vehicle being rented	Whether the vehicle is road worthy (Yes/No). Specify if there is any defect in the vehicle.	Whether driver is attached. (Yes/No). If yes, name and driving license No of the Driver.	If no driver is attached, the driving license No. of the customer, or any other companion or companions of the customer, who is/are expected to drive the rented vehicle during their journey.
1.	2.	3.	4.	5.	6.	7.	8.

Specification of items/luggage carried along by the driver (if any).	Particulars of the receipt issued (i.e. receipt No. and date).	Time of the release of vehicle.	Time of the return of vehicle.	Signature of the customer (at the time of return and release of vehicle).	Remarks.	Signature of certificate holder.”.
9.	10.	11.	12.	13.	14.	15.

¹ Inserted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

FORM-VI.

(See Rule-2)

FORM OF RECEIPT ISSUED BY THE REAL ESTATE AGENT/MOTOR VEHICLES DEALER.

Counterfoil. S.No. _____

Receipt. S.No. _____

Received from _____

Received from _____

a sum of rupees. _____

a sum of rupees _____

as commission/remuneration for arranging /negotiating
negotiating transaction No. _____/
entered in the Register of Transaction maintained by me/us.

as commission/remuneration for arranging/
transaction No. ____/entered in the
Register of Transactions maintained by me/us.

Signature of the
Certificate holder
Dated _____

Signature of the
Certificate holder.
Dated _____

THE KHYBER PAKHTUNKHWA REAL ESTATE AGENTS AND MOTOR VEHICLES DEALERS (REGULATION OF BUSINESS) RULES, 1983.

¹[FORM-VII.

FORM OF MONTHLY RETURN TO BE SUBMITTED BY THE REAL ESTATE AGENT/MOTOR VEHICLES DEALER.

Name of the certificate holder _____

Ordinary place of business _____

Period to which the return pertains _____

Total No. of transactions arranged or negotiated during the month in respect of:					Total amount of commission or other remuneration received in cash.	Nature and particulars of remuneration received otherwise than in the form of cash.	Remarks (if any).
Sale.	Mortgage.	Lease or tenancy.	Pledge.	Rent.			

Dated: _____

SIGNATURE OF CERTIFICATE
HOLDER.

¹ Substituted vide Notification NO.SO(TAX)E&T/6-9/2012 dated 28.09.2012.

THE KHYBER PAKHTUNKHWA PROVINCE SEIZURE AND DISPOSAL OF MOTOR
VEHICLES) RULES, 1999

**THE KHYBER PAKHTUNKHWA
(SEIZURE AND DISPOSAL OF
MOTOR VEHICLES) RULES, 1999**

THE KHYBER PAKHTUNKHWA PROVINCE SEIZURE AND DISPOSAL OF MOTOR VEHICLES) RULES, 1999

No.SO(Taxation)FD/MVT-18/99, dated 5th April, 1999. ---- In exercise of the powers conferred by section 43 read with Sub-Section (4) of Section 25 of the Provincial Motor Vehicles Ordinance, 1965 (Khyber Pakhtunkhwa Ord No. XIX), the Government of Khyber Pakhtunkhwa is pleased to make the following rules:-

1. Short Title and Commencement:- (1) These rules may be called the Khyber Pakhtunkhwa (Seizure and Disposal of Motor Vehicles) Rules, 1999.

(2) They shall come into force at once.

2. Definition:- (1) In these rules, unless the context otherwise requires, the following expressions shall have the meanings respectively assigned to them, that is to say,

- (a) **“Deputy Director”** means the Deputy Director Excise & Taxation, the Khyber Pakhtunkhwa;
- (b) **“Director General”** means the Director General, Excise & Taxation, the Khyber Pakhtunkhwa;
- (c) **“District Officer”** means the Motor Registering Authority/Excise & Taxation Officer of the District concerned and includes the Officer Incharge entrusted with the work of motor vehicle registration and taxation;
- (d) **“Form”** means a form appended to these rules;
- (e) **“Government”** means the Government of the Khyber Pakhtunkhwa;
- (f) **“Secretary”** means the Secretary to the Government of the Khyber Pakhtunkhwa Excise & Taxation Department;
- (g) **“Motor Vehicle”** means a motor vehicle as defined in the Ordinance, which was seized under second proviso to sub section (4) of Section 25 of the Ordinance;
- (h) **“Officer”** means an Officer of the Excise & Taxation Department not below the rank of Excise Inspector/Assistant Excise and Taxation Officer authorized by the Director General; and
- (i) **“Ordinance”** means the Provincial Motor Vehicles Ordinance, 1965.

(2) The words and expressions used in these rules, but not defined shall have the same meanings as assigned to them in the Ordinance.

249. KHYBER PAKHTUNKHWA GOVERNMENT GAZETTE,
EXTRAORDINARY, 5TH APRIL, 1999.

3. Rule 3: Any motor vehicle the registration certificate of which has been cancelled under the first proviso to sub-section (4) of section 25 of the Ordinance, or a motor vehicle the keeper of which fails to produce any valid documents in support of his claim of ownership or possession over the vehicle to the satisfaction of the Excise & Taxation Officer, shall be taken into possession by the Officer.

THE KHYBER PAKHTUNKHWA PROVINCE SEIZURE AND DISPOSAL OF MOTOR VEHICLES) RULES, 1999

4. Rule 4: Government shall establish a warehouse at Peshawar, to be known as Excise Warehouse and shall for the safe custody of vehicle seized under section 25 of the Ordinance, keep all such vehicles in the said warehouse.

5. Rule 5: (1) The Officer, soon after taking possession of the vehicle under rule 3, shall prepare inventory in Form "A" in quadruplicate. One copy of the receipt shall be given to the person from whom the vehicle is taken into possession while the second copy, along with the vehicle, shall immediately be sent to the officer in charge of the warehouse for safe parking of the vehicle. The third copy shall forthwith be sent to the District Officer, along with a brief report, who shall inform the Director General, Excise & Taxation accordingly. The fourth copy of the receipt shall be kept by the officer for his own record.

(2) On receipt of Form "A" and the vehicle the officer in charge of the warehouse shall enter Form "A" and other particulars of the vehicle in a separate register to be maintained by him in Form "B" and shall be responsible for the safe custody of the vehicle till its disposal in accordance with these rules:

Provided that the officer incharge of the warehouse after recovery of the vehicle under sub-rule (2), shall send the vehicle to the Forensic Science Laboratory for chemical examination of its chassis number and the notice to this effect may also be given to the owner or possessor of the vehicle as per Form-A and the expenses whereof to be borne by the Excise & Taxation Department.

6. Rule 6: (1) The District Officer on receipt of the report under rule 5(1), shall issue notice to the owner or keeper through registered post with acknowledgement due, asking him to appear before him within two weeks and establish that he is bonafide owner/possessor of the vehicle.

(2) In case the owner or keeper appears and advances him claim regarding the ownership for the vehicle seized, the District Officer shall finalize his claim and decide the case within two weeks time after hearing both the sides. If for some unavoidable reason the proceedings cannot be finalized within two weeks time, the case shall be referred to the Director General, Excise & Taxation for extension of time, who may grant extension for a period not more than thirty days.

(3) If the owner or possessor establishes that he is rightful owner or possessor of the vehicle, the District Officer shall, under his seal, direct the Officer Incharge of the warehouse to deliver the vehicle to him under intimation to the Officer who seized the vehicle.

7. Rule 7: In case the owner or keeper of the vehicle fails to respond to the notice given to him under sub-rule (1) of rule 6, or fails to establish his bonafide ownership with regard to the vehicle, the District Officer shall issue a

THE KHYBER PAKHTUNKHWA PROVINCE SEIZURE AND DISPOSAL OF MOTOR VEHICLES) RULES, 1999

proclamation specifying the full particulars of the vehicle and require any person who may have any claim what so ever, thereto, to appear before him for establishing his claim within two weeks time from the date of issue of such a proclamation. The proclamation shall be made in such manner as to ensure its wide publicity.

8. Rule 8: If no claim is received pursuant to the proclamation made under rule 7, or if received and the claimant is unable to prove his bonafide ownership to the vehicle, the District Officer shall record his order for confiscation of the vehicle and confiscate the same in favor of Government and subject to rule 9, dispose of the vehicle by way of sale in an open auction through an auction committee to be constituted by Government. The sale proceeds thereof shall, after clearance of the dues of the Custom Department, if any, in the form of custom duty, sale tax, Iqra tax etc. be paid into Government Treasury under the Provincial Receipt head "0200000-Indirect Taxes-0280000-Motor Vehicle-0281000-Sale Proceeds of auctioned Item (Motor Vehicle)":

Provided that the confiscated vehicle in which no other number is deciphered on its chassis number or its chassis sheet is refitted and welded, will not be put to sale by way of auction. Such vehicles can be retained in the Excise & Taxation Department for performance of official duties or allotment to other Departments of the Government for official duty, by the Secretary, after fulfilling all the codal formalities

9. Rule 9: (1) Any body aggrieved from the order of the District Officer may prefer an appeal to the Director General, within 30 days of the order appealed against and the orders passed by the Director General shall, subject to sub-rule (2) be final;

Provided that no order on the appeal shall be passed without giving both the sides an opportunity of being heard.

(2) Government may, on its own accord or on a revision petition filed with it by any claimant within 60 days of the orders of the Director General, call for the record of the case and may pass such orders as its deems fit.

HOTEL TAX ACT

PART-C
HOTEL TAX ACT

AN ORDINANCE

To revive and modify certain taxes and duties in the
Khyber Pakhtunkhwa.

WHEREAS it is expedient to revive and modify certain taxes and duties the
Khyber Pakhtunkhwa;

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

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the
fourteenth day of October, 1999, as amended up-to-date, and the Provisional
Constitution Order No. 1 of 1999, read with Article 4 of the Provisional Constitution
(Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in
that behalf; the Governor of the Khyber Pakhtunkhwa is pleased to make and
promulgate the following Ordinance:

1. Short title extent and commencement.--- (1) This Ordinance may
called **the Khyber Pakhtunkhwa Finance Ordinance 2002.**

- (2) It shall extend to whole of the Khyber Pakhtunkhwa.
- (3) It shall come into force on the 1st day of July, 2002.

2. Amendment of Act II of 1899.--- In the Stamp Act, 1899 (II of 1899), for
Schedule I, the Schedule specified in Appendix I to this Ordinance shall be
substituted.

3. Amendment of section 7 of Khyber Pakhtunkhwa Act IV of 1990.--- In the Khyber Pakhtunkhwa Finance Act, 1990 (Khyber Pakhtunkhwa Act
No. IV of 1990), in section 7, for the existing Table, the Table specified in
Appendix II to this Ordinance shall be substituted.

4. Tax on hotels.--- There shall be levied and collected every year a tax on
hotels, payable by the owner or management, thereof at the rate of five percent of
the room rent per lodging unit per day, on the basis of fifty percent of the total
number of lodging units available in the hotel concerned;

Provided that the assessment in relation to a hotel at a hill station shall be
made at the aforesaid rate for four months only in a year, that is from 1st day of
May to 31st day of August (both days inclusive);

HOTEL TAX ACT

¹[Provided that hotels in Kaghan Valley of the Khyber Pakhtunkhwa shall be exempted from tax for a period starting from 1st July, 2010 to 30th June, 2012.]

Explanation.--- In this section, unless there is anything repugnant in the subject or context,-

(a) “hotel” means establishment where lodging with board or other service is provided for a monetary consideration, but shall not include-

(i) any home or hostel maintained exclusively for aged or sick persons, or, as the case may be, for student, by or under the control of charitable, medical or educational institution;

(ii) any rest house, mess or other premises belonging to or in the possession of the Federal or a Provincial Government, where lodging, board or other service is provided for Government officials or members of the Defence Forces;

(b) “lodging unit” means a bed or other sleeping accommodation which is, or is intended to be, provided to a person staying over night in a room for lodging; and

(c) “room rent” includes fans, air-conditioning, light, heat, telephone, bedding and all other payments connected with the lodging unit, except the portion, if any, directly attributable to supply of foodstuff.

¹ Added vide Khyber Pakhtunkhwa Government Gazette, Extraordinary, 15th November, 2010.

HOTEL TAX RULES

HOTEL TAX RULES

GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE AND TAXATION DEPARTMENT

NOTIFICATION

Peshawar, dated the 12th September, 2003.

No,SO(Tax)/E&T/5-16/Vol-II/2002. In exercise of the powers conferred by section 4 of the Khyber Pakhtunkhwa Finance Ordinance, 2002 (Khyber Pakhtunkhwa Ord No XXIII of 2002). Government of the Khyber Pakhtunkhwa is pleased to make and promulgate the following rules:

1. Short Title Commencement.—(1) These rules may be called the Khyber Pakhtunkhwa Hotel Tax Rules, 2003.

(2) They shall come into force at once.

2. Definitions.— In these rules unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say-

- (a) "Director General" means the Director General Excise and Taxation Department, Government of Khyber Pakhtunkhwa;
- (b) "District Excise and Taxation Officer" means the Excise and Taxation Officer of the District in which the hotel liable to the tax is situated;
- (c) "Form" means a Form appended to these rules and includes a statement or any such communication on a plain paper containing any information or particulars required under the Ordinance;
- (d) "Ordinance" means the Khyber Pakhtunkhwa Finance Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No.XXIII of 2002);
- (e) "Owner" means the owner of a hotel liable to the tax and includes the manager of the hotel or any other person, who is carrying on the business of the hotel on the owner's behalf;
- (f) "Secretary" means the Secretary to Government of Khyber Pakhtunkhwa, Excise and Taxation Department.
- (g) "Tax" means the tax payable under section 4 of the Ordinance,
- (h) "Treasury" means a Treasury or Sub-Treasury or a Bank in the Khyber Pakhtunkhwa authorized to receive money on behalf of Government, and
- (i) "Year" means the financial year beginning from the 1st day of July and ending

HOTEL TAX RULES

on 30th June next following.

3. Statement to be Furnished.--- (1) Every hotel owner shall furnish to the District Excise and Taxation Officer a statement of particulars of his hotel in Form H.T.I, before 31st day of July in each year.

(2) If, in the opinion of the District Excise and Taxation Officer, the statement furnished by an owner under sub-rule (1) is not complete or no such statement is at all furnished by an owner, he shall after giving such owner an opportunity of being heard, proceed to determine to the best of his judgment, the particulars in the statement for the purposes of assessment of the tax. The orders made by the District Excise and Taxation Officer in this behalf shall be reduced to writing of which the owner shall duly be informed.

4. Maximum Charges for Lodging Units in a Hotel. —(1) The lodging units in a hotel on which the tax is worked out for the year shall be maximum number of lodging units or the maximum charges made for a lodging unit on any day during the year for which the tax is assessed.

(2) Subject to such general or special instructions as may be issued by the Government, the District Excise and Taxation Officer, himself or through any sub-ordinate officer not below the rank of an Inspector of the Excise and Taxation Department may make physical or on the spot verification, of the number of lodging units or of the maximum daily charges for a single lodging unit in a hotel, on any day during the year, keeping however, in view the convenience of the persons occupying the lodging units.

(3) If it is found at any time during the year that actually the number of lodging units in a hotel is more or the maximum daily charges on the basis of which the tax for the year was assessed are lesser than the daily charges being charged from the customer, the District Excise and Taxation Officer shall, after giving an opportunity to the owner of being heard, enhance the amount of the tax already assessed on the hotel and shall determine the additional tax for the year accordingly.

5. Powers of District Excise and Taxation Officer.—Subject to the provisions of section 4 of this Ordinance and these rules, the District Excise and Taxation Officer shall be empowered,-

- (a) to assess or determine the total number of lodging units and the daily charges made by the owner for a single lodging unit in a hotel;
- (b) to assess and collect the tax or the additional tax determined under sub-rule (3) of rule 4;
- (c) to determine all questions as to whether the tax is recoverable, the person from whom it is recoverable and the amount so recoverable, and
- (d) to take any other measures incidental to the assessment or collection of the tax.

6. Maintenance of Register.—The District Excise and Taxation Officer shall maintain a register in form H.T.2 in respect of all hotels in his jurisdiction liable to pay the tax.

7. Mode of Recovery of Tax.— (1) The tax for the year may be recovered in equal monthly installments payable within ten days of the close of the month concerned.

(2) Every owner shall, unless he has already paid the tax, on receipt of a notice in Form H.T.3 from the District Excise and Taxation Officer, pay the tax as specified in the said notice, but not later than seven days of the service of such demand notice upon him.

(3) The tax demand notice may be accompanied by a treasury challan in Form H.T.4.

8. Recovery of Tax as Arrears of Land Revenue.—(1) If the tax or a part thereof has remained unpaid after the period specified in the demand notice under rule 7, duly served on an owner has expired, the District Excise and Taxation Officer shall remind the owner to pay the tax or additional tax, within extended period not exceeding seven days.

(2) If any sum due on account of the tax or additional tax remains still unpaid, the District Excise and Taxation Officer shall proceed to recover the actual amount outstanding as arrears of land revenue in his capacity as Assistant Collector First Grade under the provision of the West Pakistan Land Revenue Act, 1967 (W.P. Pakistan Act No XVII of 1967)

9. Maintenance of Record by an Owner.—Every owner, who is already maintaining a register containing the requisite particulars of all his customers staying in the hotel, as required by any law for the time being in force, regulating the running of hotels and Sarais, shall issue a receipt to each of the customer, staying in the hotel in Form H.T.5. Such receipt shall be maintained in a book, serially machine numbered and shall be prepared in duplicate, the original copy whereof shall be given to the customer while the duplicate carbon copy shall be kept for inspection by the Excise and Taxation Department and shall not be destroyed, except with the written permission of the District Excise and Taxation Officer concerned.

10. Appeal.—(1) Any person aggrieved by an order of the District Excise and Taxation Officer made under these rules, may prefer an appeal against such order to the Director General, Excise and Taxation within thirty days of the communication to him of the said order.

(2) No order shall be made or decision taken under sub-rule (1), unless the persons concerned have been given an opportunity of being heard.

HOTEL TAX RULES

11. Propriety of Orders, etc.—The Secretary, Excise and Taxation or such other officer, as may be appointed by him in this behalf, may on his own motion, at any time, or on application made to him within ninety days from the date of the taking of any proceedings or passing of any order by an authority sub-ordinate to the Secretary to Government, Excise and Taxation Department call for and examine the record of the-proceedings or order for the purpose of satisfying himself as to the legality or propriety of the same and may pass such order with reference thereto as he may consider fit.

12. Review.—The authority making an order under these rules may, on an application made to it within fifteen days of the order passed, or of his own motion, during the year, review it, in order to correct a clerical or arithmetical error or any erroneous insertion or any mis-description apparent on the face of the record.

13. Refund and Adjustment of Tax.—The Secretary, Excise and Taxation or any other officer authorized by him may, on an application made to him in this behalf by an aggrieved Person by an order in writing, with reason therefor, direct the refund or adjustment of any tax wrongly collected or collected in excess of the amount of tax determined under the Ordinance or these rules.

SECRETARY TO GOVERNMENT
OF KHYBER PAKHTUNKHWA
EXCISE AND TAXATION
DEPARTMENT,

Endst: No So(Tax)/E&T/5-16/Vol-II/2002 Dated Peshawar, the 12th September, 2003.

A copy is forwarded for information and necessary action to the:-

1. Secretary to Government of Khyber Pakhtunkhwa, Law Department, Peshawar.
2. Secretary to Government of Khyber Pakhtunkhwa, Finance Department, Peshawar.
3. Secretary to Government of Khyber Pakhtunkhwa, Industries Department, Peshawar.
4. Secretary to Government of Khyber Pakhtunkhwa, Tourism Department, Peshawar.
5. Secretary to Chief Minister, Chief Minister's Secretariat, Khyber Pakhtunkhwa, Peshawar.
6. Director General, Excise and Taxation, Khyber Pakhtunkhwa, Peshawar.
7. The Manager, Government Printing Press, Peshawar with the request to publish these rules in the next official gazette and provide one hundred (100) printed copies of these rules to this department.
8. All Excise and Taxation Officers, Khyber Pakhtunkhwa.
9. PS to Minister, Excise and Taxation, Khyber Pakhtunkhwa, Peshawar.

HOTEL TAX RULES

10. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
11. P.S to Secretary, Excise and Taxation Department, Khyber Pakhtunkhwa, Peshawar.
12. PA to Deputy Secretary, Excise and Taxation Department, Khyber Pakhtunkhwa, Peshawar.

Section Officer (Taxation)

HOTEL TAX RULES

FORM H.T.1.

To
The District Excise and Taxation Officer,

Sir,

The information required in section 4 of the Khyber Pakhtunkhwa Finance Ordinance 2002, is appended below in respect of our hotel:-

1. Name of the Hotel _____

2. Location of the Hotel

3. Name of the Owner/
Manager

4. Total number of the lodging units(category-wise) in the hotel and the maximum charges for lodging units.

S.No.	Number of the lodging units	Daily rate of the charges per lodging unit.	Annual Tax calculated at 50% of the total No. of the lodging unit @ of 5%
(i)			
(ii)			
(iii)			

5. Financial year for which the return is furnished.

The above stated information is true and correct to the best of my knowledge and belief and nothing has been concealed or mis-stated. It is further declared that I, the undersigned is fully competent and authorized to sign the above statement in respect of the hotel.

Dated _____

Signature _____

Name _____

On behalf of _____ hotel
(Seal of the hotel)

HOTEL TAX RULES

The return furnished by the hotel owner is checked and found correct. The tax due for the year _____, thus worked out to be Rs. _____ is to be paid in monthly installment.

Dated _____
Officer,

District Excise and Taxation

OR

(i) The return furnished by the hotel owner is checked and the following variations were found in it _____.

(ii) According to the actual tax for the year _____ on the basis of the above checking is worked out to be Rs. _____

Dated _____
Officer.

District Excise and Taxation

HOTEL TAX RULES

FORM H.T.2

Register showing the details of Hotels liable to the tax u/s of the Khyber Pakhtunkhwa Finance Ordinance 2002.

Demand No. (Rule 6) Detail of tax paid during the year

Name and location of the Hotel

Year of assessment of the Tax D.E.T.O. Date of Payment Amount paid initial of

Name of owner of the Hotel

Total number of category-wise lodging units in the hotel.

S.No	No of the lodging units	Daily rate of the charges per lodging unit.	Annual tax assessed at 50% of the hotel lodging unit.
(i)			
(ii)			
(iii)			

TOTAL

Rs. _____ the balance amount of tax left
On 30.6. _____ has been carried over to the register for
the following year.

DISTRICT EXCISE AND TAXATION OFFICER.

HOTEL TAX RULES

**FORM H.T.3
(RULE 7(2))**

To

Mr. _____

Owner/Manager of Hotel _____

Consequent to finalizing the assessment of the annual tax on your
Hotel for the

year _____ on or before in the State Bank/National Bank of Pakistan

through the authorized treasury challan in Form H.T.4.

Dated _____/

DISTRICT EXCISE AND TAXATION
OFFICER _____.

HOTEL TAX RULES

**FORM H.T.4
(RULE 7(3))**

Challan for payment of Hotel Tax.

Demand No. in the H.T.2 register.	Name of the Hotel.	Amount of the Tax to be paid.	Period/month for which the tax is due.	Head of Account.

Signature and Official

Seal

Dated _____
Taxation Officer/

District Excise and

Officer.

Any Authorized

Received Rs. _____ (in words)

On _____.

Signature with the Seal of Bank.

HOTEL TAX RULES

FORM H.T.5.
(RULE-9)
(NAME OF HOTEL)

Name of Customer _____

S.No. of Rooms occupied by him _____

Date of occupation From _____ To _____

Daily charges per lodging unit _____

Total number of lodging unit occupied by the customer

Total Amount Paid. _____

of

Signature of the Customer

Dated. _____

Signature of the Manager
of the hotel with printed seal

Hotel.
Dated.

PROFESSIONAL TAX ACT

PROFESSIONAL TAX ACT

**THE KHYBER PAKHTUNKHWA
FINANCE ACT, 1990
KHYBER PAKHTUNKHWA ACT NO. IV OF 1990.**

[First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated the 24th June, 1990].

AN ACT

to continue, levy and revise certain taxes, cesses and fees in the Khyber Pakhtunkhwa.

WHEREAS it is expedient to continue, levy and revise certain taxes, cesses and fees in the Khyber Pakhtunkhwa.

Preamble.---WHEREAS it is expedient to continue, levy and revise certain taxes, cesses and fees in the Khyber Pakhtunkhwa in the manner hereinafter appearing. It is hereby enacted as follows:-

1. Short Title, Extent and Commencement.- (1) This Act may be called the Khyber Pakhtunkhwa Finance Act, 1990.

(2.) It shall extend to the whole of the Khyber Pakhtunkhwa.

(3.) It shall come into force on the first day of July, 1990.

2. Definition.--- In this Act, unless the context otherwise requires, "Government" means the Government of the Khyber Pakhtunkhwa.

Section 3-to-6 of this ACT does not relate to Tax on Profession, Trade and callings

7. Tax on Professions, Trades and Callings.—(1) There shall be levied and collected a tax, for each financial year, from persons engaged in professions, trades, callings or employment described in column 2 of the Table below at the specified rate against each category in column 3 thereof:

Provided that where a person falls in more than one category of profession, trade, calling, etc., he shall be liable to pay tax in respect of the one where the rate of tax is highest.

(2) If a person liable to pay tax under sub-section (1) fails to pay the tax

PROFESSIONAL TAX ACT

by the 30th day of September of the year to which the tax pertains he shall be liable to pay a penalty at the rate of 50% of the tax due from him in addition to the actual tax.

(3) The Tax and the penalty levied and imposed under this section shall be recoverable as arrears of land revenue.

¹TABLE

S.No	Description of Tax Payers	Rates of Tax
1	2	3
1 (i)	All persons engaged in any profession, trade, calling or employment, other than those specifically mentioned hereinafter, in the Khyber Pakhtunkhwa Province, whose monthly income or earning:	
	(a) when exceeds Rs.6,000 but not exceed Rs.10,000;	Exempted
	(b) when exceed Rs.10,000 but not exceed Rs.20,000;	Rs.330
	(c) when exceed Rs.20,000 but does not exceed Rs. 50,000;	Rs.435
	(d) when exceed Rs.50,000 but does not exceed Rs. 100,000;	Rs.600
	(e) when exceed Rs.100,000 but does not exceed Rs. 200,000;	Rs.800
	(f) when exceed Rs.200,000 but does not exceed Rs. 500,000;	Rs.1000
(ii)	Employees of Federal and Provincial Government drawing pay in Basic Scales:	
	(a) BS-01 to 04;	Exempted
	(b) BS-05 to 12;	Rs.100
	(c) BS-13 to 16;	Rs.200
	(d) BS-17;	Rs.300
	(e) BS-18;	Rs.500
	(f) BS-19; and	Rs.1000
	(g) BS-20 and above.	Rs.2000
2-	All Limited Companies, Modarbas, Mutual Funds and any other body corporate with paid up capital and reserves in the preceding year, whichever is more:	
	(a) when not exceeding Rs.10 million.	Rs.18,000
	(b) when exceeding Rs.10 million but not exceeding Rs. 25 million;	Rs.27,000
	(c) when exceeding Rs.25 million but not-exceeding Rs. 50 million;	Rs.36,000
	(d) when exceeding Rs.50 million but not exceeding Rs.100 million;	Rs.90,000
	(e) when exceeding Rs.100 million but not exceeding Rs. 200 million; and	Rs.100,000
	(f) when exceeding Rs. 200 million.	Rs.100,000
	Explanation.- The paid up capital in case of foreign banks shall be the minimum paid up capital as determined by the State Bank of Pakistan.	
3-	Persons, other than companies, owning factories, commercial establishments, private education institutions and private hospitals, having the following commercial establishments:	

¹ Substituted vide Khyber Pakhtunkhwa Finance Act 2014 (Khyber Pakhtunkhwa Act No.XXV of 2014)

PROFESSIONAL TAX ACT

	a. Any Commercial establishment/factories having 10 or more employees which have not been otherwise explicitly given in this Table.	Rs.10000
	b. Private Clinics & Hospitals having up to 10 employees.	Rs.10000
	c. Private Clinics hospitals having employees more than 10 but not more than 50.	Rs.50000
	d. Private Clinics & Hospitals having more than 50 employees	Rs.100000
	e. Private Medical Colleges.	Rs.100000
	f. Private Engineering Institutes having degree programs.	Rs.100000
	g. Private Business Education Institutes. (i) Having Upto 100 students (ii) Exceeding 100 students.	Rs.70000 Rs.100000
	h. Private Law Colleges.	Rs.100000
	i. Private education institutions including professional and technical institutions, other than specified at e, f, g & h, charging monthly fee not exceeding Rs.1000/- per student.	Rs.5000
	j. Private education institutions including professional and technical institutions, other than specified at e, f, g & h, charging monthly fee exceeding Rs.1000/- but not exceeding Rs.2000/- per student.	Rs.7000
	k. Private education institutions including professional and technical institutions, other than specified at e, f, g & h, charging monthly fee exceeding Rs.2000/- but not exceeding Rs.5000/- per student.	Rs.20000
	l. Private education institutions including professional and technical institutions, other than specified at e, f, g & h, charging monthly fee exceeding Rs.5000/- per student.	Rs.100000
4-	Holders of import or export license, assessed to income tax in the preceding year with annual turnover:	
	(a) when not exceeding Rs.50,000;	Rs.4000
	(b) when exceeding Rs.50,000	Rs.5000
5-	Clearing Agents licensed or approved as Custom House Agents.	Rs.10000
6-	Travel Agents-	
	a) IATA travel agents approved.	Rs.15000
	b) Non-IATA approved.	Rs.8000
	c) Hajj and tour operator;	Rs.15000
7-	Restaurants/Guest Houses liable to Sales Tax.	Rs 15000
8-	Professional Caterers.	Rs 15000
9-	Wedding Halls/Lawns (irrespective of their nomenclature).	Rs.30000
10-	Advertising Agencies.	Rs.10000
11-	DOCTORS,-	
	a- Specialists;	Rs.20000
	b- Non specialists including Medical Practitioners, Hakeems, Homeopaths etc;	Rs.2000
	c- Dentists.	Rs.15000

PROFESSIONAL TAX ACT

12-	"Diagnostics and Therapeutic Centers" including pathological and chemical Laboratories"	
	a- Located at Divisional Headquarters,	Rs.15000
	b- Located at other places	Rs.3600
13-	Contractors, Suppliers and Consultants who, during preceding financial year supplied to the Federal or any Provincial Government or any local authority in the District, Goods, Commodities, or rendered service of the value,-	
	a) When exceeding Rs.10,000/- but not exceeding Rs.0.5 million	Rs 4000
	b) When exceeding Rs.0.5 million but not exceeding Rs.1 million.	Rs.5000
	c) When exceeding Rs.1.50 million but not exceeding Rs.2.5 million.	Rs.7000
	d) When exceeding Rs.2.50 million but not exceeding Rs.10 million.	Rs 18000
	e) When exceeding Rs.10 million but not exceeding Rs.25 million.	Rs.25000
	f) When exceeding Rs.25 million but not exceeding Rs.50 million.	Rs.30000
	g) When exceeding Rs.50 million.	Rs.100000
14-	Petrol/diesel/C.N.G. Filling Stations-	Rs.8000
15-	All establishments, including video shops, real estate shops/agencies, card dealers, and net cafes assessed or not assessed to income tax in the preceding financial year.	Rs.3000
16-	Chartered Accountants with an independent audit practice and excluding those who are employed in companies not owned by them.	Rs.15000
17	Vehicles Service Stations	Rs.5000
18	Transporters/ Transport Companies;	
	a) within provincial headquarter's limits; and	Rs.3000
	b) others.	Rs.2000
19	Member of Stock Exchange.	Rs.5000
20	Money Changer:	
	a) within provincial headquarter's limits; and	Rs.10000
	b) others.	Rs.5000
21	Health Fitness Centers/ Gymnasium:	
	a) within provincial headquarter's limits; and	Rs.2000
	b) others.	Rs.1000
22	Jewelers.	Rs.1000
23	Departmental Stores.	Rs.1000
24	Electronic goods stores.	Rs.1000
25	Cable Operators	Rs.1000
26	Printing Press	Rs.1000
27	Pesticides Dealers.	Rs.1000
28	Tobacco Whole Sellers	Rs.2000

8. Application of Existing Laws.---Where any tax, fee or cess imposed by this Act is by way of an addition to the procedure provided in such enactment and the rules framed thereunder for the assessment, collection and recovery of such tax, shall, so far as applicable, apply to the assessment, collection and recovery of the additional tax, fee or cess.

9. Bar of Suit in Civil Court.— No suit shall lie in any Civil Court to set aside or modify any assessment, levy or collection of a tax, fee, duty or cess made under this Act and the rules thereunder, or any penalty imposed under sub-section (2) of section 7.

10. Power to Make Rules.--- Government may make rules for carrying into effect the purposes of this Act, and such rules may, among other matters, prescribe the procedure for the assessment, collection and payment of any tax, fee or cess, levied, or imposition of any penalty under this Act, in so far as such procedure is not provided for in this Act.

PROFESSIONAL TAX RULES

PROFESSIONAL TAX RULES

NOTIFICATION

Peshawar, dated the 4.2.1991.

No.3242 / Prof-64:- In exercise of the powers conferred under the sections 7 and 10 of the Khyber Pakhtunkhwa Act, (Act No. IV of 1990), the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:-----

1. These rules may be called the Khyber Pakhtunkhwa Professions, Trade and callings Tax Rules, 1991.

2. They shall come into force at once.

In these rules, unless the context otherwise requires:-

- (a) "Act" means the Khyber Pakhtunkhwa Finance Act, 1990.
- (b) "Accounts Officer" means the Accountant General, Khyber Pakhtunkhwa, and includes the District Accounts Officer of a District wherefrom a Government Servant is drawing his monthly pay.
- (c) "assessee" means a person who is liable to pay the tax.
- (d) "Board of Revenue" means a Board of Revenue Khyber Pakhtunkhwa.
- (e) "Collector" means the Director Excise and Taxation, Khyber Pakhtunkhwa.
- (f) "Drawing and Disbursing Officer" means an Officer from whom a person serving under the Government of the Khyber Pakhtunkhwa or the Government of Pakistan draws his pay.
- (g) "Form" means a form appended to these rules.
- (h) "Principal Officer" means the Secretary, Treasurer, Manager, Agent or an executive officer of a local authority, company, body, corporation or association and includes any representative of such authority upon whom the District Excise and Taxation Officer has served a notice of his intention to treat him as the principal officer thereof.
- (i) "Tax" means the tax payable under section 7 of the Act.
- (j) "Treasury" means a treasury or sub-treasury or a branch of Bank in the province and authorized to receive payments on behalf of Government; and
- (k) "Year" means the financial year commencing from the first day of July and ending on the 30th day of June.

3. (1) Every person liable to pay the tax other than Government servants, shall pay it on the commencement of the year but not later than 30th day of September in each financial year.

Provided that in respect of the financial year 1990-1991 the last date for payment of tax shall be the 31st day of December, 1990

(2) The tax shall be deposited into a Treasury through treasury challan in Form FPT-1.

(3) The assessee shall forward a return, within fifteen days of the deposit of the tax into the Treasury, to the District Excise and Taxation Officer of the District concerned, alongwith a Photostat copy of the treasury challan through which the tax has been paid.

4. Upon receipt of the return under rule 3, the District Excise and Taxation Officer shall determine the correctness of the amount of tax paid and if in his opinion the tax paid is less than the tax due under the Act, he shall ask the assessee to pay the difference of the tax through a challan in Form FPT-2 by a specified date.

5. If an assessee fails to comply with the provisions of rule 3 or rule 4, as the case may be, the District Excise and Taxation Officer shall give him a notice in Form FPT-3 requiring him to pay the due tax alongwith the penalty imposed

under sub-section (2) of section 7 of the Act, within a specified period mentioned in the notice.

6. The District Excise and Taxation Officer shall have exclusive authority to determine all questions regarding liability of any person to the tax, the amount of tax recoverable and other related matters. In the exercise of these powers, the District Excise and Taxation Officer, where he has reasons to believe that a person is liable to pay the tax, require such person to furnish such particulars and produce such documents as he may require or deem necessary for the purposes of determining the actual tax payable by an assessee.

7. Any person aggrieved by any order of the District Excise and Taxation Officer made under rule 6 or any notice issued under rule 5, may prefer an appeal, within sixty days of the service of such order or the notice, to the Collector. The Collector shall not pass on an order or an appeal without giving an opportunity of hearing to the person concerned.

8. The Board of Revenue may, of its own motion or on an application made to it within ninety days of an order made under rule 6 or 7, call for the record of any case decided under the said rules, so as to ascertain legality and propriety of the decisions and may pass such orders as it may deem fit in the circumstances of the case. The orders passed by the Board of Revenue shall be final.

9. For reasons to be recorded in writing, the Collector and the District Excise and Taxation Officer may on an application made in this behalf by an aggrieved person, order the refund or adjustment of the tax, if it is found to be wrongly assessed and collected.

10. (1) In case of assessee being Government Servant, the drawing and disbursing officer shall deduct at source the amount of tax from the pay bills of such Government servant for the month of May in each financial year by sending a schedule in Form FPT-4, in triplicate, to the Accounts Officer concerned. The Accounts Officer shall credit the amount of tax so deducted to the receipt head as specified in rule 12 and shall send one copy of the schedule to the respective District Excise and Taxation Officer with a covering statement indicating the total deduction made in respect of each Department/Office of Government so as to reach there not later than the 30th June of the respective financial year.

Provided that in case of such Government servants who receive their salaries through computerized system, the tax shall be deducted at source by the Accountant General in the manner specified in this sub-rule.

(2) In case of local authority, company or other public body, the principal officer thereof shall deduct the amount of tax from the salaries of their employees liable to pay the tax for the month of August payable in September in each financial year and deposit the same into the Treasury under the head specified in rule 12 within a period of fifteen days from the date of deductions.

(3) The principal officer shall send a statement of the deductions as made to the District Excise and Taxation Officer by the 31st January of the respective financial year, giving the names of the persons from whom tax has been collected.

11. If any person liable to pay the tax discontinues the trade, profession, calling or employment on the basis of which he was liable to pay the tax, he shall, within thirty days of his discontinuing such trade, profession, calling or employment, notify the fact to the District Excise and Taxation Officer concerned will delete his name from the demand register.

12. The amount of Tax shall be paid into Treasury located in this Province under the following head:-

PROFESSIONAL TAX RULES

“0000000-Tax Revenue
0100000-Direct Taxes (on income and wealth)
0170000-Tax on Profession, Trades and Callings”.

13. The District Excise and Taxation Officer of each District shall maintain a register of persons assessable to tax under section 7 of the Act in respect of each category in form FPT-5.

PROFESSIONAL TAX RULES

KHYBER PAKHTUNKHWA TAX ON PROFESSIONS TRADE AND CALLINGS.
FORM FPT-I (SEE RULE 4)

I/We _____ (give name and address)
do hereby solemnly affirm what I/we are engaged in Profession, Trade and
Callings herein- under mentioned and liable to pay the tax amounting to
Rs. _____ for the year _____ vide item No.
_____ below:-

S.No.		Annual Tax Payable
1.	Individuals engaged in a profession, trade, callings or employment, either wholly or part time with monthly salary exceeding Rs. 3,000/-	Rs. 100/-
2.	Companies registered under the companies Ordinance, 1984, with paid up capital:- a) Exceeding rupees 0.2 million but not exceeding Rs. One million. b) Exceeding rupees one million but not exceeding Rs. 2.5 million. c) Exceeding rupees 2.5 million.....	Rs. 1,000/- Rs. 2,500/- Rs. 5,000/-
3.	Persons other than companies owing factories and commercial establishment with ten or more employees.	Rs. 500/-
4.	Persons holding licenses under the import and export control Act, 1950 who in the preceding financial year have imported/exported goods of the value:- a) Not exceeding Rs. 50,000/-..... b) Exceeding Rs. 50,000/-.....	Rs. 500/- Rs. 1,000/-
5.	Clearing Agents licensed or approved as Custom House Agents,	Rs. 500/-
6.	Contractors who during the preceding financial year supplied to the Federal or any Provincial Govt: or any local authority goods, commodities or rendered services of the value:- a) Exceeding Rs. 2.5 million..... b) Exceeding Rs. One million but not exceeding Rs. 2.5 million. c) Exceeding Rs. 10,000/- but not exceeding Rs. One million.	Rs. 2,000/- Rs. 1,000/- Rs. 500/-

Dated _____

Signature of Assessee

Note:-

Strike out the rest leaving only one which is applicable.

PROFESSIONAL TAX RULES

<p>KHYBER PAKHTUNKHWA, TAX ON PROFESSION AND CALLING "FROM FPT-2" (See Rule 3). (To be returned to the Distt: Excise and Taxation Officer).</p>	<p>KHYBER PAKHTUNKHWA TAX ON PROFESSION, TRADE AND CALLINGS FROM FPT-2 (See Rule 3) (To be returned in the treasury).</p>	<p>KHYBER PAKHTUNKHWA TAX ON PROFESSION, TRADE AND CALLINGS FROM FPT-2 (See Rule 3) (To be given to payer).</p>						
<p>Head of Account... "0000000 – Tax Revenue 0100000 – Direct Taxes (on income) 0170000 – Tax on profession, wealth. Trades and callings"</p> <table border="1" style="width:100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width:20%; text-align: center;">No. in Tax demand register with year</td> <td style="width:30%; text-align: center;">Name and address of assessee</td> <td style="width:50%; text-align: center;">Amount (to be entered in figures as well as in words)</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	No. in Tax demand register with year	Name and address of assessee	Amount (to be entered in figures as well as in words)				<p>Head of Account... "0000000 – tax Revenue 0100000 – Direct Taxes 0170000 – Tax on Profession, Trades and callings"</p>	<p>Tax are _____ No. in tax demand register with year _____ Name of assessee. _____ Tax for the year. _____</p>
No. in Tax demand register with year	Name and address of assessee	Amount (to be entered in figures as well as in words)						
<p>Dated :- Distt: Excise & Taxation Officer. Office stamp.</p> <p style="text-align: right;">Amount received Treasury Accountant Treasury Officer Treasure. Stamp of Treasury / Bank</p>	<table border="1" style="width:100%; border-collapse: collapse; margin-bottom: 10px;"> <tr> <td style="width:20%; text-align: center;">No. in Tax demand register with year</td> <td style="width:30%; text-align: center;">Name and address of assessee</td> <td style="width:50%; text-align: center;">Amount (to be entered in figures as well as in words)</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table> <p>Dated :- Distt: Excise & Taxation Officer. Office stamp.</p> <p style="text-align: right;">Amount received Treasury Accountant Treasury Officer Treasure. Stamp of Treasury / Bank</p>	No. in Tax demand register with year	Name and address of assessee	Amount (to be entered in figures as well as in words)				<p>Received the sum of Rs. _____ (both in figures and words). Dated :- _____</p> <p style="text-align: right; margin-top: 20px;">Treasury Officer Agent of Bank.</p>
No. in Tax demand register with year	Name and address of assessee	Amount (to be entered in figures as well as in words)						

PROFESSIONAL TAX RULES

KHYBER PAKHTUNKHWA TAX ON PROFESSIONS, TRADES AND
CALLINGS.

FORM FPT-3 (See Rule-6).

To,

NOTICE

Whereas you liable to pay the tax as per item No. _____ of the table appended to Section 7 of the Khyber Pakhtunkhwa Finance year _____ and whereas you failed to pay the same amount upto 30th September; 19 _____, thereby rendering yourself _____ liable to a total amount of Rs. _____ You are therefore called upon to pay the total amount of Rs. _____ (Rs. _____ Tax; Rs. _____ penalty) on or before _____, through attached challan in Form FPT-2, in the Treasury.

Item No. _____ (herein this space enter the specified item).

Should you fail to deposit the amount by due date, it shall be recovered as arrears of Land Revenue.

DISTRICT EXCISE AND TAXATION
OFFICER _____

Dated _____

(OFFICE STAMP).

TOBACCO DEVELOPMENT CESS

PART-D
TOBACCO DEVELOPMENT CESS

**THE KHYBER PAKHTUNKHWA FINANCE
ACT, 1996.**

KHYBER PAKHTUNKHWA ACT NO. I OF 1996.

First published after having received the assent of Governor of Khyber Pakhtunkhwa on the Gazette of Khyber Pakhtunkhwa (Extraordinary), dated 20th June, 1996.

AN ACT

To levy and revise rates of certain taxes, duties and fees in the Khyber Pakhtunkhwa

PREAMBLE: WHEREAS it is expedient to levy, revise and modify certain taxes, cesses, duties and fees in Khyber Pakhtunkhwa.

It is hereby extended as follow:

1. Short Title, Extent and Commencement.—(1) This Act may be called the Khyber Pakhtunkhwa Finance Act, 1996.

(2) It shall extent to the whole of Khyber Pakhtunkhwa.

(3) It shall come into force with effect from the 1st day of July 1996.

Section 2-to-10 of this Act do not relate to Tobacco Development Cess.

11. ¹[Tobacco Development Cess: (1) There shall be levied and collected development cess on ²[the following categories of tobacco and its various parts] at the following rates, namely:

(a) ³[for Virginia (flue-cured, barley and dark-air-cured); ... Rs.3.50 per kilogram

(b) for white patta/rustica tobacco Rs.2.00 per kilogram including khaka, and the roth made of main stalk (dandi) and stem of tobacco;

(c) for snuff/niswar Rs.1.50 per kilogram.]

(la) The cess shall be recovered from---

(a) tobacco manufacturing factories on the basis of quota fixed for the factory concerned by the Pakistan Tobacco Board; and

¹ Substituted vide Finance (Fourth Amendment) Act, 2003

² Inserted vide Finance Act 2015-16 vide Notification No.Khyber Pakhtunkhwa Bill/2015/93 dated 1/7/2015.

³ New rates substituted vide Khyber Pakhtunkhwa Finance (Amendment) Ordinance, 2014 dated 10-09-2014

TOBACCO DEVELOPMENT CESS

(b) ¹[persons dealing in tobacco business, who purchase tobacco from growers or any other sources or transport tobacco to-

- I. any of the cigarette manufacturing /re- drying factories, processing centers, in the Khyber Pakhtunkhwa; or
- II. any area other than the areas mentioned in clause (i) above:

Provided that no cess shall be leviable in relation to such quantity of the tobacco for which the cess has already been paid under clause (a):

Provided further that persons bringing tobacco from any place outside the province of the Khyber Pakhtunkhwa to any place within the said province shall also be liable to pay the cess at the rate specified in sub-section(1).

Explanation:- for the purpose of this section the word “person” used in this clause shall also include cigarette manufacturing / re-drying factories, processing centers, if these factories/centers are transporting tobacco, as aforesaid, in addition to the quota allocated to them by the Pakistan Tobacco Board.

(1b) The cess levied under sub-section (1) shall be collected at the entry point of the cigarette manufacturing factories and re-drying factories or, as the case may be, at the check points established for the purpose.]

²[(2) No other person, except the tobacco factories mentioned in sub-section (1), shall deal in the purchase and sale of tobacco, except on obtaining a licence from Government in such manner and on payment of such fee as Government may prescribe.]

- ³[(3) The proceeds of the cess shall be utilized for-
- (i) special maintenance and development of roads, highways and special plant protection service in the tobacco growing areas in the Province;
 - (ii) other activities directed towards the development of tobacco production in the Province⁴[.]
 - (iii) ⁵[***Deleted***]⁴]²

¹ Substituted vide Finance Act VI of 2004

² Substituted vide Finance (Amendment) Ordinance, 2002

³ Substituted vide Finance (Second Amendment) Ordinance, 2002.

⁴ Substituted vide Finance Act 2009

⁵ Deleted vide Finance Act 2009

THE KHYBER PAKHTUNKHWA (RECOVERY OF TOBACCO DEVELOPMENT CESS RULES,
2004

**THE KHYBER PAKHTUNKHWA
(RECOVERY OF TOBACCO
DEVELOPMENT CESS) RULES, 2004**

GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE AND TAXATION DEPARTMENT

NOTIFICATION.

Dated Peshawar, the 12th August, 2004.

NO. SO(TAX)/E&T/4-1/2002: In exercise of the powers conferred by section 14 of the Khyber Pakhtunkhwa Finance Act, 1996 (Khyber Pakhtunkhwa Act No.I of 1996), read with section 11 thereof, and in super session of the Khyber Pakhtunkhwa (Recovery of Tobacco Development Cess) Rules, 2003, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely;

**THE KHYBER PAKHTUNKHWA
(RECOVERY OF TOBACCO DEVELOPMENT CESS) RULES, 2004.**

1. Short Title and Commencement.---These rules may be called the Khyber Pakhtunkhwa (Recovery of Tobacco Development Cess) Rules, 2004.

(2) They shall come into force at once.

2. Definitions.---In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them that is to say:-

- (a) "Act" means the Khyber Pakhtunkhwa Finance Act, 1996 (Khyber Pakhtunkhwa Act No. I of 1996);
- (b) "assessee" means a factory, a company or an individual, assessable to cess under the Act and these rules;
- (c) "District Officer" means Excise and Taxation Officer of the District concerned and includes the officer incharge entrusted with collection of development cess on tobacco; and
- (d) "Director General" -means the Director General, Excise & Taxation Department, Khyber Pakhtunkhwa;
- (e) "Form" means the forms annexed to these rules.
- (f) "Government" means the Government of the Khyber Pakhtunkhwa;
- (g) "Secretary" means Secretary, to Govt. of Khyber Pakhtunkhwa for Excise & Taxation Department;

- (h) "tobacco" means leaves of the plants *Nicotiana Tabacum* *Nicotiana Rustica* commonly known as tobacco and used in the manufacturing of cigarettes or for consumption by other modes such as Chillum hookah, niswar, gazari and bidis and also includes Khaka, Kara and roth made of main stalk (dandi) and steam of tobacco.

3. Recovery of Cess in Relation to Quota Fixed by P.T.B. (1) On receipt of figures of quota fixed by the Pakistan Tobacco Board for the crop year in case of a factory, the District Officer shall issue a specified demand notice to the tobacco factory, hereinafter referred to as "assessee", specifying the liability of the assessee for the total amount of cess payable in two equal installments, i.e. first on or before 31st December and the second on or before 31st May of the financial year concerned.

(2) In case of default in payment of the cess or any part thereof by the 31st May, the defaulter shall be liable to pay a penalty at the rate of twenty five percent in addition to the cess due.

(3) The amounts recoverable under these rules in default shall be recovered as arrears of land revenue.

4. Determination of Exact Figures of Quota:- The cess in the case of factories, herein after referred to as "assessee" shall be determined on the basis of tobacco purchased from open market in- addition to quota so fixed by Pakistan Tobacco Board under rule 3; provided that cess on tobacco purchased from open market, if already paid by an assessee referred to in rule 5; shall not be charged again on its re-purchase by the factories.

5. Recovery of Cess other than the Cess Recovered Under Rule 3. (1) Cess other than the cess recovered under rule 3; to be recovered from an assessee, including Tobacco Factories, shall be recovered at the entry point of the cigarette manufacturing factories and re-drying factories or, as the case may be, at the check points established by Government for the purpose. The collection of this cess may be out sourced through public auction or collected by Excise and Taxation Department whichever is deemed proper by Government. In case of collection of cess through contractors, provision shall be made in the agreement to be executed with the contractor to ensure that no cess on the quantity of tobacco already paid by the tobacco manufacturing factories under rule 3; is charged by the contractor. For this purpose a proper record shall be maintained by the factories and the District officer concerned in the form appended to these rules and shall be made part of the agreement executed with the contractor.

6. Check-Post:- Check-posts for the collection of cess in respect of tobacco will, if necessary, be established at the entry point of Re-drying Centers / Cigarette Manufacturing Factories and Entry / Exit points of Khyber Pakhtunkhwa or any other place that may be deemed proper by Government. Government may, in order to avoid double taxation, monitor / supervise the process of collection at the check post through the Excise & Taxation Department or any other person authorized, for the purpose.

7. In case of dispute between an assessee, and the authorized agent of Government or any other person on behalf of either side, the matter must be referred to the Excise & Taxation Officer concerned for decision, who shall decide the matter within thirty (30) days from the date of reference.

8. Any party aggrieved by the decision of the Excise & Taxation Officer may prefer an appeal to the Director General, within thirty (30) days of such order / decision whose decision in the matter, subject to rule 9 shall be final.

9. Government may, on its own accord or on a revision petition filed with it by any assessee within sixty (60) days of the orders of the Director General, Excise & Taxation, Khyber Pakhtunkhwa call for the record of the case and pass such orders as it deems fit.

**SECRETARY TO GOVERNMENT OF THE
KHYBER PAKHTUNKHWA,
EXCISE & TAXATION DEPARTMENT,
PESHAWAR.**

Endst. NO. SO(TAX)/E&T/4-1/2002 /

Dated 12.8.2004.

A copy is forwarded for information and necessary action to:-

1. The Senior Member, Board of Revenue, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary, to Govt, of Khyber Pakhtunkhwa, Law Department Peshawar, with reference to Law-Department's letter No.LEGIS:3(4)/77/4809, dated 10.8.2004.
3. The Secretary, to Govt. of Khyber Pakhtunkhwa, Finance Department Peshawar.
4. The Secretary, to Govt. of Khyber Pakhtunkhwa, Local Govt. & Rural Development, Department Peshawar.
5. The Secretary, to Govt. of Khyber Pakhtunkhwa, Agriculture, Live Stock & Cooperation Department Peshawar.
6. The Director General, Excise & Taxation, Khyber Pakhtunkhwa Peshawar.
7. The Secretary, Pakistan Tobacco Board, Peshawar.
8. The Manager Government Printing Press, Peshawar, with the request to publish these rules in the next official gazette. He is further requested to provide one hundred printed copies of these rules to this Department.
9. All Excise & Taxation Officers, Khyber Pakhtunkhwa.
10. PS to Minister, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
11. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
12. PS to Secretary, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar.
13. PA to Deputy Secretary, Excise & Taxation, Khyber Pakhtunkhwa, Peshawar

**TOBACCO DEVELOPMENT CESS
UTILIZATION RULES, 2007**

**GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT**

NOTIFICATION.

Dated Peshawar the 20th February, 2007.

No.SO(TAX)E&T/4-1/2006: In exercise of the powers conferred by section 14 of the Khyber Pakhtunkhwa Finance Act, 1996 (Khyber Pakhtunkhwa Act No.1 of 1996), read with section-11 thereof, the Government of the Khyber Pakhtunkhwa is pleased to make the following rules, namely:

THE KHYBER PAKHTUNKHWA (UTILIZATION OF TOBACCO DEVELOPMENT CESS) RULES, 2007.

1. Short Title and Commencement:---(1) These rules may be called the Khyber Pakhtunkhwa (Utilization Of Tobacco Development Cess) Rules, 2007.

(2) They shall come into force at once.

2. Definition:---In these rules, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say:

- (a) “Act” means the Khyber Pakhtunkhwa Finance Act, 1996 (Khyber Pakhtunkhwa Act No.1 of 1996);
- (b) “Board” means the Pakistan Tobacco Board constituted under section 3 of Pakistan Tobacco Board Ordinance,1968 (Ordinance No.1 of 1968);
- (c) “Cess” means the Tobacco Development Cess levied and collected under section 11 of the Act;
- (d) “Committee” means the Committee constituted under these rules;
- (e) “Constituency” means an area declared as a constituency for the purposes of election of Members of the Provincial Assembly of the Khyber Pakhtunkhwa;
- (f) “Government” means the Government of the Khyber Pakhtunkhwa;
- (g) “tobacco growing district” means the district in the Province where tobacco is grown;

3. Utilization of Cess: (1) The Cess collected under section 11 of the Act shall be utilized for the purposes specified in the Act.

(2) For the purposes of utilization of the Cess there shall be constituted a Committee by Government, Khyber Pakhtunkhwa Province which shall consist of the following:-

- | | | |
|---|------|---------------------|
| i. Chief Minister, Khyber Pakhtunkhwa | | Chairman |
| ii. Minister, Excise & Taxation, Khyber Pakhtunkhwa
Chairman/Convener | Vice | |
| iii. Minister, Finance Khyber Pakhtunkhwa | | Member. |
| iv. Minister, Agriculture Khyber Pakhtunkhwa | | Member |
| iv-a. Minister, Planning & Development, Khyber Pakhtunkhwa | | Member ¹ |
| iv-b. Minister, Revenue, Estate & Relief, Khyber Pakhtunkhwa | | Member ² |
| v. One Member of the Provincial Assembly
from each tobacco growing District,
to be nominated by the Chairman. | | Member |
| vi. Secretary, Government of Khyber Pakhtunkhwa
Secretary Excise & Taxation Department. | | Member-cum- |

(3) The Committee shall meet at least once in four months on a date, time and venue notified to all the members by the Secretary of the Committee, at least one week before the date of meeting. The schemes for utilization of the Cess as per district share¹ shall be put before the Committee for scrutiny and approval by the Committee. Quorum of the Committee shall be 1/3rd of the total number of the members.

(4) The Finance Department shall release the Cess collected in the preceding years¹ in the month of August of the financial year for the utilization as per sub-section (3) of section 11 of the Act to the districts concerned.

(5) Cess shall be distributed among the tobacco growing districts on the basis of tobacco production of the previous year, for which the Board shall provide district-wise tobacco production data, before the commencement of new financial year:

Provided that any undistributed Cess for any year or period shall be distributed among the tobacco growing districts on the basis of tobacco production of the respective year or period as the case may be.¹

¹ Amended vide Notification No.SO(TAX)E&T/4-1/2006 dated 28.2.2009

² Amended vide Notification No.SO(TAX)E&T/4-1/2006 dated 18.9.2009

(6) Deleted.¹

**Sd/
SECRETARY TO GOVT. OF KHYBER
PAKHTUNKHWA,
EXCISE & TAXATION DEPARTMENT**

Endst: No.SO(TAX)E&T/4-1/2006.

Dated 20.2.2007

A copy is forwarded for information and necessary action to :-

1. All Administrative Secretaries, Khyber Pakhtunkhwa Peshawar.
2. All District Coordination Officers, Khyber Pakhtunkhwa.
3. Registrar Peshawar High Court Peshawar.
4. Director General, Excise & Taxation Khyber Pakhtunkhwa, Peshawar.
5. Assistant Legal Drafter - I Khyber Pakhtunkhwa, Law Department, Peshawar w/r to Law Department's letter No. Legis:3(4)/1977-II, dated 11.7.2006.
6. The Secretary, Pakistan Tobacco Board, Peshawar.
7. All Excise & Taxation Officers, Khyber Pakhtunkhwa.
8. PS to Chief Minister, Khyber Pakhtunkhwa.
9. PS to Minister, Finance, Khyber Pakhtunkhwa.
10. PS to Minister, Excise & Taxation Khyber Pakhtunkhwa.
11. PS to Minister, Agriculture, Livestock & Cooperation Khyber Pakhtunkhwa.
12. PS to Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
13. PS to Secretary, Provincial Assembly, Khyber Pakhtunkhwa Peshawar.
14. The Manager Government Printing Press, Peshawar with the request to publish these rules in the official gazette of today's date. He is further requested to provide one hundred gazette copies of these rules to this department.

**Sd/
SECTION OFFICER (TAXATION).**

THE WEST PAKISTAN ENTERTAINMENTS DUTY ACT, 1958.

PART-E

**THE WEST PAKISTAN
ENTERTAINMENTS DUTY ACT, 1958**

to consolidate the law relating to the levy of a duty in respect of admission to entertainments in West Pakistan.

WHEREAS it is expedient to consolidate the law relating to the levy of a duty in respect of admission to entertainments in West Pakistan;

It is hereby enacted as follows :-

1. Short Title and Extent: (1) This Act may be called the West Pakistan Entertainments Duty Act, 1958.

(2) It shall come into force at once.

(3) It extends to the whole of West Pakistan, except the Special Areas and the Federal Capital.

2. Definition: In this Act, unless there is anything repugnant in the subject or context:—

(a) "Admission to an entertainment" includes admission to any place in which the entertainment is held;

(b) "Collector" means an officer appointed² by the Government to discharge, throughout any specified local area, the functions of a Collector under this Act;

(c) "Commissioner" means an officer appointed² by the Government to discharge the functions of a Commissioner under this Act in any specified area;

(d) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted on payment;

(e) "Government" means the Government of West Pakistan;

(f) "payment for admission" includes—

(i) any payment made by a person who having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving duty or additional duty is required;

(ii) any payment for seats or other accommodation in a place of entertainment;

(iii) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment, if any, for admission to the entertainment;

(g) "prescribed" means prescribed by the rules made under this Act;

(h) "proprietor" in relation to any entertainment includes any person responsible for the management thereof;

(i) "seats" include standing accommodation; and

(j) "ticket" means a ticket indicating—

- (i) the class to which the holder of the ticket is entitled to admission;
- (ii) the amount paid or payable for admission and in case of any holder of the ticket being admitted without making payment therefor, the amount otherwise payable for admission; and
- (iii) the entertainments duty paid thereon.

3. Duty on Payments for Admission to Entertainments: (1) There shall be levied and paid to the Government on all payments for admission, to any entertainment, a duty (hereinafter referred to as the "entertainments duty") at the rate of fifty per cent of such payment, excluding the amount of the duty:

Provided that where the proprietor of an entertainment admits any person to any place of entertainment without any payment or on payment of an amount less than the amount normally charged for admission thereto, the entertainments duty shall nevertheless be levied and paid on the amount which would have been normally charged for admission to that place.

Explanation I—In case there be different classes in connection with an entertainment, the phrase "place of entertainment" means the class to which a person is admitted.

Explanation II—The fact that any such person as is mentioned in the proviso to this sub-section has been admitted to a class more advantageously placed for viewing the entertainment than the class to which others making larger payments are admitted may be taken into account for determining whether the payment made is not that normally charged.

(2) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time or for any privilege, right, facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced charge the entertainments duty shall be paid on the amount of the lump sum; but where the Government is of the opinion that the payment of a lump sum or any payment for a ticket represents payments for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the duty has not been in operation, the duty shall be charged on such amount as appears to the Government to represent the right of admission to entertainments in respect of which the entertainments duty is payable.

4. Liability of Complimentary Tickets to Entertainments Duty: Entertainments duty shall be levied and paid on all complimentary tickets issued by the proprietor of an entertainment for any performance:

Provided that, subject to such conditions as may be prescribed, no such duty shall be charged on complimentary tickets issued to representatives of the press.

5. Method of Levy: (1) Save as otherwise provided by this Act, no person shall be admitted on payment to any entertainment where the payment is subject to entertainments duty except—

- (i) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the Government for the purposes of revenue and denoting that the proper entertainments duty has been paid; or
- (ii) with a ticket sealed or printed in the manner prescribed by rules framed by the Government.

(2) The Government may, on the application of the proprietor of any entertainment in respect of which the entertainments duty is payable under section 3, permit the proprietor on such conditions as the Government may prescribe to pay the amount of the duty due—

- (a) by a consolidated payment; or
- (b) in accordance with returns of the payments for admission to the entertainment and on account of the duty; or
- (c) in accordance with the results recorded by any mechanical contrivance that automatically registers the number of persons admitted.

(3) The provisions of sub-section (1) shall not apply to any entertainment in respect of which the duty is pay-able in accordance with the provisions of sub-section (2).

6. Penalty for Non-Compliance with Sections 4 and 5.

If any person is admitted to any place of entertainment and the provisions of section 4 or 5, as the case may be, are not complied with, or the payment of entertainments duty is otherwise evaded, the Collector shall, in addition to the recovery of the entertainments duty evaded or underpaid, impose on the proprietor of the entertainment to which such person is admitted, a penalty not exceeding a sum of five hundred rupees, or a sum not greater than five times the entertainments duty the payment of which was evaded, whichever is greater:

Provided that no such penalty shall be imposed unless the person on whom it is to be imposed or his duly authorized agent is given an opportunity of being heard by the Collector, or by an officer authorized by him in this behalf.

7. Liability for Punishment: When an employee of the proprietor of a place of entertainment or a person acting on behalf of the proprietor has been found guilty of any offence punishable under this Act, the proprietor, as well as the actual offender, shall be punished for the offence committed:

Provided that the proprietor shall not be punished where he proves to the satisfaction of the Court, or of the Collector, that he had taken all reasonable precautions to prevent the commission of the offence.

8. Entertainments for Charitable or Educational Purposes Exempted.

(1) The Collector may, on such conditions as he considers necessary, exempt from liability to entertainments duty any entertainment where he is satisfied that the whole of the net proceeds of the entertainment will be devoted to philanthropic, charitable, educational, athletics, sports, national or scientific purposes.

(2) The Government may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty.

9. Security for Observance of Conditions of Exemption. The Collector, or the Government, when exempting any entertainment from liability to entertainments duty under sub-section (1) or sub-section (2) of section 8, as the case may be, may direct that the proprietor of the entertainment concerned shall furnish to the Collector such security as he may require for ensuring the observance of the conditions subject to which the exemption is granted.

10. Security for Default in Payment of Duty. Where it appears to the Collector, or to an officer authorized by him in this behalf, that the proprietor of an entertainment has wilfully failed to make suitable arrangements for the payment of duty in accordance with the provisions of this Act, or it is apprehended that he will not pay the duty in full, the Collector or the said officer may, for reasons to be recorded in writing, call upon him to furnish such cash security as he considers appropriate, failing which the Collector or the said officer may direct that the entertainment shall not be proceeded with,

11. Power to Make Rules. (1) The Government may, after previous publication, make rules¹ for securing the payment of the entertainments duty and generally for carrying into effect the provisions of this Act, which shall be laid before the Provincial Assembly at its earliest session.

(2) Without prejudice to the generality of the power conferred by sub-section (1) such rules may provide for all or any of the following matters:-

- (a) supply and use of stamps or stamped tickets or sealing, printing or stamping of tickets and securing of the defacement of stamps when used;
- (b) use of tickets covering the admission of more than one person and the calculation of the duty thereon; and the payment of the duty on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;
- (c) controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivance for payments of a different amount), and securing proper records of admission by means of mechanical contrivances;
- (d) checking of admissions, including the requirement that the persons admitted to an entertainment should retain their tickets or portions thereof and produce them for examination by the checking staff;

- (e) the form, maintenance and production of accounts and the furnishing of returns by the proprietors of entertainments;
- (f) renewal of damaged or spoiled stamps and the procedure to be followed on applications for refund;
- (g) keeping of accounts of all stamps used under this Act;
- (h) presentation and disposal of applications for exemption from payment of the entertainments duty or the refund thereof;
- (i) exemption from entertainments duty of soldiers, sailors and airmen in uniform belonging to the defence forces of Pakistan or of any foreign country; and
- (j) prescribing the rank of Excise, Taxation, Revenue or Police Officers for the purposes of section 12.

(3) If any person acts in contravention of, or fails to comply with any of the provisions of such rules or any direction given under section 10, he shall be liable in respect of each contravention, or failure, to such penalty not exceeding five hundred rupees as the Collector may determine.

12. Power to Enter Place of Entertainment for Purposes of the Act. (1)

The Collector or any Excise, Taxation, Revenue or Police Officer not below such rank as the Government may prescribe may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment, at any reasonable time, with a view to seeing whether the provisions of this Act or the rules made thereunder are being complied with.

(2) If any person prevents or obstructs an officer empowered under sub-section (1) from entering a place of entertainment, he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable, on conviction before a Magistrate, to a fine not exceeding two hundred rupees.

13. Recoveries. (1) The entertainments duty evaded or under-paid or penalty imposed shall be payable within the time specified by the Collector.

(2) If any sum payable under this Act is not paid within the time allowed for its payment and the person from whom it is due does not show cause to the satisfaction of the Collector, or any officer authorized by him, why he should not pay the same, such sum (including the cost of recovery) may be recovered under a warrant in the prescribed form signed by the Collector, By the distress and sale of movable property belonging to such person. The warranty may be addressed to an officer of the Excise and Taxation Department for execution, and in executing It he may obtain such assistance from other servants of the laid Department as he may consider necessary.

(3) Notwithstanding anything contained in sub-section (2) any sum on account of entertainments duty or penalty under this Act remaining unpaid shall be recoverable as an arrear of land revenue.

14. Delegation of Powers by the Government. Any of the powers conferred

and duties imposed upon the Government by this Act may be exercised or performed, subject to such conditions as the Government may prescribe, by any person whom the Government may, by general or special order, empower in this behalf.

15. Revision. (1) The Commissioner may, on his own motion, at any time, or on an application made to him in this behalf within thirty days of the date of an order made by the Collector under this act, call for the record of any proceedings held or any order made by the Collector, for the purposes of satisfying himself as to the legality or propriety of such proceedings or order and may pass such order in reference thereto as he may think fit.

(2) The application referred to in sub-section (1) shall be written on standard water-marked plain judicial paper and stamped with a court-fee label of the value of rupee one and shall be accompanied by a certified copy of the order sought to be revised and be presented by the applicant in person, or through a duly authorized agent, or be sent under registered post.

(3) The day on which the order complained of was passed and the time requisite for obtaining a copy of the order sought to be revised shall be excluded in computing the period of thirty days under sub-section (1).

16. Repeal. (1) The following enactments are repealed:-

- (a) the Punjab Entertainments Duty Act, 1936;
- (b) the Khyber Pakhtunkhwa Entertainments Duty Act, 1937;
- (c) the Sind Entertainments Duty Act, 1923;
- (d) the Bahawalpur State Entertainments Duty Act, 1948;
- (e) the Baluchistan Entertainments Duty Regulation, 1942;
- (f) the Khairpur Entertainments Duty Act, 1945;
- (g) the West Pakistan Entertainments Duty Ordinance, 1958.

(2) Any exemption granted under any of the enactments enumerated in sub-section (1) shall continue to be in force as if the same were granted under sub-section (2) of section 8.

THE WEST PAKISTAN CINEMA TAX RULES, 1961

**THE WEST PAKISTAN CINEMA TAX
RULES, 1961**

**GOVERNMENT OF WEST PAKISTAN
REVENUE AND REHABILITATION DEPARTMENT**

NOTIFICATION.

Dated, Lahore the 17th August, 1961.

No.S.O.Tax-II/14-1/59, In exercise of the powers conferred by sub-section (l) of section 13 of the West Pakistan Finance Ordinance, 1961 (XV of 1961) and in super session of:-

- (i) the Punjab Cinema Tax Rules, 1950;
- (ii) the Khyber Pakhtunkhwa Classification of Cinema (Taxation) Rules, 1951;
- (iii) the Sind Tax on cinemas Rules, 1951;
- (iv) the Baluchistan Tax on Cinema Rules, 1951;
- (v) the Baluchistan Tax on Cinema, (Extension) Rules, 1958;
- (vi) the Khairpur Tax on Cinema Rules, 1958, and
- (vii) the former Bahawalpur Government Notification No.8.L.D., dated 21st January, 1952;

the Governor of West Pakistan is pleased to make the following rules namely:-

THE WEST PAKISTAN CINEMA TAX RULES, 1961.

1. Short Title and Commencement:- (1) These rules may be called the West Pakistan Cinema Tax Rules, 1961.

(2) They shall come into force at once.

2. Definitions. In these Rules, unless the country otherwise requires, the following expressions shall have the meaning hereby respectively assigned to them, that is to say.—

- (a) "Cinema" means a place licensed under the Cinematograph Act, 1918 (11 of 1918).
- (b) "Cinema tax" means the tax leviable on Cinemas under section 6 of the West Pakistan Finance Ordinance 1961 (XV of 1961)
- (c) "Deputy Director" and "Excise and Taxation Officer" mean respectively, the Deputy Director, Excise & Taxation, and the Excise and Taxation Officer, having, jurisdiction over the place where the cinema which is to be classified or in respect of which any tax is leviable under these rules is situated.
- (d) "Director" means the Director, Excise and Taxation, West Pakistan.
- (e) "Entertainment Duty" means the duty levied or leviable under the West Pakistan entertainment Duty Act, 1958 (X of 1958).

3. Rule 3. For the purpose of assessment of cinema tax the classification of cinemas shall be made from year to year.

4. Rule 4. The Excise and Taxation Officer, shall as Soon as may be after the beginning of the financial year, Work out the average monthly entertainment duty in respect of each cinema in his jurisdiction on the basis of the entertainment duty paid and payable in respect of it during the preceding financial year and communicate it to the Deputy Director.

5. Rule 5. On receipt of the information referred to in rule 4 the Deputy Director shall determine the class of the cinema as follows :-

- (a) If the amount of the average monthly entertainment duty exceeds Rs. 5,000/- the cinema shall be classed as a first class cinema.
- (b) If the amount of the average monthly entertainment duty exceeds Rs. 2,000/- but does not exceed Rs. 5,000/- the cinema shall be classed as a second class cinema.
- (c) If the amount of the average monthly entertainment duty exceeds Rs. 2,000/- or less the cinemas shall be classed as a third class cinema.
- (d) In respect of cinemas which did not function during the proceeding financial year or in respect of which no entertainment duty has been or is being levied, the Director shall, after making such inquires as he may consider necessary, determine the class of the cinema.

6. Rule 6. As soon as possible after the classification of a cinema under rule 5, the Excise and Taxation Officer shall serve a notice, in the form here under annexed, together with a treasury challan in triplicate on the owner or manager of the cinema calling upon him to pay, within thirty days from the date of service of the notice the amount of cinema tax to which it is liable into Government Treasury or sub-treasury or a bank authorized to receive payment on behalf of Government.

7. Rule 7. If on receipt of a notice under rule 6 by the owner or manager of a cinema, the cinema tax in respect of such cinema remains unpaid for a period of thirty days from the receipt of the notice, the tax shall, on the certificate of the Excise and Taxation Officer be recoverable from the owner or manager as arrears of land-revenue.

8. Rule 8. The certificate under rule 7 shall specify the amount of the cinema tax due and the person from whom it is due and shall be signed by the Excise and Taxation Officer and bear his seal.

FORM OF NOTICE OF ASSESSMENT AND TAX DEMAND.

(Rule 6 of the West Pakistan Cinema Tax Rules, 1961)

Office of the Excise and Taxation Officer.

No: _____ Dated the _____ District.

To

Take notice that for the period ending 30th June.

_____your cinema has been classed as First Class/Second Class/Third Class and that according under section 6 of the West Pakistan Finance Ordinance 1961, (Ordinance XV of 1961) a sum of Rs. _____ has been determined to be payable as a tax on your cinema.

2. You are, therefore, required to pay this amount within thirty days from the date of service of this notice into the Treasury/Sub-Treasury/State Bank of Pakistan. A Treasury challan in triplicate is enclosed to enable you to make the payment.

3. If you do not make the payment within the period specified above, the tax will be recovered as arrears of land-revenue.

Excise and Taxation Officer,

_____ District.

BY ORDER OF THE GOVERNOR OF WEST PAKISTAN.

1. The Director, Excise and Taxation, West Pakistan, Lahore for information with reference to his memo.No.1595/T, dated the 22nd July, 1961.
2. The Superintendent, Government Printing for Publication in the next issue of the West Pakistan Government Gazette. Ten spare copies of the Notification may kindly be supplied to this Department.
3. The Director, Public Relation, West Pakistan, Lahore for information.

Sd/-

Said_ud_Din

Section Officer (Taxation II)
for Secretary to Government of
West Pakistan, Revenue &
Rehabilitation Department.

PART-F

**THE KHYBER PAKHTUNKHWA
MANUFACTURE RULES, 1950**

EXCISE AND TAXATION DEPARTMENT.

12th January, 1950.

No. 339_Exe/XIX_C_353, The Khyber Pakhtunkhwa Manufacture Rules, 1949. In exercise of the powers conferred by Section 18,21,24 and 53 of the Khyber Pakhtunkhwa prohibition Act, 1938, (Act XI of 1938) the provincial Government are pleased to make the following Rules. In these Rules unless a different intention appears from the subject or context.

- (a) "Licence" means a Licence granted for manufacture under Section 18, of the Prohibition Act, 1938.
- (b) "Inspector" includes sub-Inspector.
- (c) "Wash" means a saccharine solution from which after distillation, spirit is obtained.
- (d) "Bub" is a composition itself in a state of formation prepared, for addition to wash, to promote fermentation.
- (e) "Low wines" means impure spirits produced from the first distillation of the wash in a pot-still.
- (f) "Feints" means that portion of the distillate from the low wines which is considered unfit by reason of its impurities to be collected in the spirit receiver.
- (g) "Spirit" means both finished and unfinished spirits.
- (h) "Rectified Spirit" means spirit of a strength of 43 degree or more over proof.
- (i) "Receiver" means any vessel into which the worm of a still discharges.
- (j) "Spent wash" means the residue left after the wash has been exhausted of spirit.
- (k) "Spent less" means the residue left after unfinished spirit has been redistilled.

Grant of Licenses

1. The Provincial Government hereby appoints Excise Commissioner to exercise all powers of the Provincial Government and the Provincial Excise and Taxation Officer to exercise all the powers of collector under the prohibition Act. All licenses under Section 18, read with Section 20, for the manufacture of any Liquor intoxicating drug or article containing such Liquor or drug shall be subject to the conditions laid down in these Rules.

2. Any person desiring to obtain a license to manufacture alcohol under Section 18, of the prohibition Act of 1938, may apply to the collector.

3. Every application for a license to manufacture shall be in writing in Form D.I and shall be accompanied.

(a) a correct plan of the premises which the applicant proposes those for the purposes of his business under his license or of the building existing or to be created thereon, for the said purposes.

(b) a list and plan of all warehouses, store-rooms and other places appertaining thereto, or to be used in connection thereon the and

(c) a certificate from the Civil Surgeon that there is no objection on sanitary grounds to the construction of manufacturing premises, or to the manufacturing of spirit on the site and in the building shown in the accompanying plans.

4. No license, shall be granted unless and until the applicant therefor has-

(a) deposited a security for the fulfillment of all the condition of his license a sum to be fixed by the Excise Commissioner which shall not be less than Rs. 2,000/00 and

(b) Satisfied the Collector that the proposed building, plant and apparatus to be used in connection with the business of manufactory storage and issue of spirit are built in accordance with the prescribed regulations and that due precaution has been taken against fire. But, in respect of the present buildings, plant and apparatus of existing manufactory which do not conform with the provisions of these Rules, the Excise Commissioner may in his discretion grant in writing exemption from the operation of any of these Rules.

5. The license shall be in Form D.2, and is not transferable except with the sanction of the Excise Commissioner.

Security:

6. The licensee shall execute a bond in the prescribed form from pledging the premises, stock of spirit, stills, all apparatus and utensils employed in the manufacture and storage of spirit for the due discharge of all payments which may become due to Government, with the sanction of the Excise Commissioner. The licensee may in lieu of executing such a bond, deposit Government promissory notes of such value as the Excise Commissioner may direct. A deposit made under this Rule shall be separate and distinct from the security deposit required by Rule 4.

Period of Licenses:

7. Licenses are granted without limit of the period for which they are in force, but can be cancelled for breach of the terms, or can be determined by the Excise Commissioner at one year's notice.

8. If the licensee ceases to work the manufactory without giving notice as required in his license, or if he ceases to manufacture within the period of such notice, the Collector may take possession of the manufactory and its plants and work it by himself or by the agency of any person authorised by him in that behalf for a period equivalent to the period of notice or un-expired period of notice as the case may be.

9. In the case mentioned in the foregoing clause the licensee shall be entitled to receive from Government such reasonable rent for the use of the buildings and plants as shall be determined by the Excise Commissioner.

- 10.** If a license be revoked, cancelled or determined the licenses shall dispose, under the conditions of his license, of his stock of spirit apparatus, storage vessels and other manufactory plants in such manner as the Excise Commissioner may direct.
- 11.** The licensee may not phythecate the whole or any part of the licensed premises without the previous written sanction of the Excise Commissioner.
- 12.** Inspection:- The licensee shall at any time permit the Collector or any Officer authorised by the Collector in that behalf to inspect and examine his licensed manufactory premises and warehouses connected with and the spirit made and stored therein, and shall render to the Collector or Officer (as aforesaid) all proper assistance in making such inspection and examination.
- 13.** The licensee shall agree to the posting of a Government Excise establishment to his manufactory for the purpose of ensuring the due observance of these Rules and for watch and ward. This establishment shall consist of an Inspector and aid as many Sub-Inspectors and peons as the Excise Commissioner shall deem sufficient for the requirements of the manufactory. This staff shall be subject to the Inspection and under the orders and control of the Collector.
- 14.** The licensee shall provide within his manufactory enclosure an office for the Inspector, as well as quarters, to be approved by the Excise Commissioner, for the Inspector, Sub-Inspectors and the peons who will be required to remain within the manufactory enclosure on night duty.
- 15.** The licensee shall, if required by the Excise Commissioner, provide residential quarters for the Government excise establishment posted to the manufactory.
- 16.** The licensee shall, if required by the Excise Commissioner make into the Government treasury such payment as may be demanded on account of the salaries of the Government excise establishment posted to the manufactory, but he shall not make any direct payment to any member of such establishment.
- 17.** The licensee shall, when required, permit samples of the material used for spirit prepared in the manufactory to be taken for analysis under the orders of the Collector or the Inspector. Each sample shall be taken in three reputed quarts bottles, or (when the material cannot be placed in a bottle) in three paroles, in the presence of a responsible representative of the licensee, each bottle or parole shall be immediately and securely sealed in the presence of the Inspector and the proprietor's representative. One bottle or parole shall then be made over to the licensee's representative, the second shall be sent for analysis and the third kept by the Inspector, pending disposal of the case.
- 18.** The licensee shall afford all reasonable assistance to the Inspector in carrying out his duties.

Management and Working of the Manufactory:

19. The licensee, unless he personally sets as manager, shall be bound to appoint a competent manager as his agent, whose appointment shall be subject to the approval of the Excise Commissioner.

20. The licensee shall furnish to the Inspector a list containing the names of any manager or assistant manager employed by him and of all employees whose duties require them to enter the manufactory enclosure. The Inspector shall forward a copy of this list to the Collector, and the licensee shall not employ on such duties persons to whom the Collector objects.

21. If the licensee desires to employ any person temporarily on duties requiring him to enter the manufactory, e.g. to replace a servant who is absent on leave or for sickness or otherwise or to perform any special duty in the manufactory, he shall inform the Inspector, who shall add the name of such person to the list mentioned in Rule 20 above.

22. If any servant leaves the service of the licensee or is no longer employed on duties requiring him to enter the manufactory the licensee shall give notice to the Inspector and have his name removed from the list. The Inspector shall inform the Collector accordingly.

23. No person shall be allowed to enter the manufactory except the licensee, and director of a company owing the manufactory, any Government official or police officer whose duties require him to enter the manufactory, any person introduced by the licensee or director, the manager and any person whose name has been entered on the list mentioned in Rule 20 above.

24. Every person entering the manufactory shall, on leaving the manufactory, be liable to be searched under the Inspector's order, but the Inspector shall not have any person searched, except upon reasonable grounds for suspicion, and he shall record in his diary the details of every search made.

25. The licensee shall not close the manufactory for more than three days in any month, exclusive of Sunday and holidays, without the previous written permission of the Collector.

The Commencement and Closure of Manufactory Work and Working Arrangement:-

26. If it is intended to close the manufactory for a period of 15 days or more, the licensee shall give notice, in written to the Collector of his intention not less than 15 days prior to the date on which it is intended to be closed.

27. Before a manufactory commences work or recommences work after a closure of 15 days or more, the licensee shall give notice, in writing to the Collector at least 10 days prior to the date fixed for the commencement or recommencement of work.

28. The ordinary working hours of manufactory by day shall be from 6.30 a.m.

to 6 p.m. in each month from April to September, inclusive, and from 7 a.m. to 5 p.m. in each other month.

29. During the ordinary working hours, if the manufactory is working the outer door shall, except as provided in Rule 33 below, be kept continually unlocked.

30. Upon giving a general notice to the Inspector, or, if night work is only occasional upon giving notice to the Inspector not less than four hours before the ordinary closing of the day after which night working is to be done, the manufactory may be worked at hours other than the ordinary working hours.

31. If still in any manufactory are so worked that there is ordinarily no period on an ordinary working day in each week during which the stills are simultaneously silent, the licensee shall, at least once a week on any day other than a Sunday or a holiday gazetted under the negotiable instruments Act and at any time during the ordinary working hours by day, after giving to the Inspector 24 hours notice of the day and hour fixed by him, work off every still in the manufactory and arrange that no manufactory shall be in progress for one hour in order that the Inspector may take an account of the working of the manufactory.

32. A manufactory shall be open for work on a Sunday or a holiday gazetted under the Negotiable Instruments Act only with the sanction of the Collector, which may be a general sanction, or else must be obtained at least 24 hours before the Sunday or holiday in question.

33. If the manufactory works at other than the ordinary hours by day or on Sunday or gazetted holiday, the Inspector shall remain present within the manufactory enclosure, but except in case of emergency, he shall not be required to lock or unlock any receiver, vat or other part of the plant or to take any action for the issue of spirit, and he shall lock the outer door of the manufactory and shall not allow any person to enter or leave the manufactory enclosure, except in accordance with arrangement to be made with the sanction of the Collector for the convenience of persons who may be permitted to enter or leave the manufactory at fixed hours, in connection with the operations being carried on.

34. The use of naked lights of any description within the manufactory is prohibited.

Prescribed Outturn of Spirit and Stocks of Spirit and Manufactory Base:

35. The licensee shall, if there is a demand upon his manufactory for such a quantity, produce during each calendar year at least 90 percent, of the outturn of rectified and denatured spirit which his stills are capable of producing according to the estimate of their charge capacity entered in his license. The calculation of the outturn shall be based on the assumption that 100 gallons of wash, whether of gur, molasses or mahua, will yield 12 proof gallons of spirit, that each continuous still will work on an average 12 hours a day and that each pot still will be charged with wash one and a half times a day, and that all stills will work for

an average of five days a week throughout the year.

36. Subject to the provisions of the preceding clause, the licensee shall maintain a stock of rectified and denatured spirits so that such stock shall, at the beginning of each month from May to September, inclusive, after allowing for compliance with all orders in hand at the time, be equal to one-third the average amount issued during that month in the three preceding years, and at the beginning of every other month to half such average amount. If, on account of an emergency and unexpected demand during the last days of preceding month, the stock on the first day of next month is below the amount required by this clause, the licensee shall, in the beginning of the month make it good with the least possible delay. In case of serious or continued failure to comply with this condition the licensee may be required to pay a penalty determined by the Excise Commissioner and persistent failure to comply with the condition will entail the cancellation of the licensee's license.

37. The licensee shall have always in stock, in gur, molasses or mahua store, to be provided by him and approved by the Excise Commissioner, a quantity of gur, molasses or mahua sufficient for the preparation of wash for the full working of all his stills, calculated upon the data set forth in Rule 35 above for 10 full working days in the month from October to March, inclusive, and for 7th full working days in the month from April to September. The stock shall be calculated on the basis that it requires 3 mounds of gur or 4 mounds of molasses or mahua to prepare 100 gallons of wash. The licensee shall, on the 1st and 15th day of each month, report to the Inspector the quantity then in stock, and shall permit the Inspector to verify the quantity if he desires to do so.

Accounts and Registers:

38. The licensee shall keep up the registers which are by these rules prescribed for maintenance by the licensee, and shall submit them for inspection when required.

39. The licensee is entitled to inspect those registers maintained by the inspector which relate to the operation of manufacturing and issue and to stock-taking, and notice should be given to him of any corrections made in them.

40. (1) If the licensee has a laboratory attached to his manufactory, and requires spirit for use in the laboratory he shall be entitled to remove to the laboratory from the manufactory duty free, from either the safe of the stills, or the spirit receivers or the spirit stores, finished spirit and unfinished spirit to the extent of one gallon per month; provided that the spirit so removed shall not be used in the manufactory laboratory otherwise than for experimental work connected with manufactory operations only. The licensee shall keep a regular account of the disposal of such duty free spirit, which will be subject to examination by excise officers. All spirit which becomes waste in the laboratory and does not by the addition of any chemicals or otherwise become deleterious shall be returned to the manufactory for manufacturing.

(2) An application for every quantity of spirit required to be removed

from the manufactory under this rule must be made in writing to the manufactory Inspector, who shall record thereon the quantity and strength of the spirit taken, and make a note of the same in his diary and other relevant manufactory registers.

(3) If spirit removed under this concession is used otherwise than as permitted by sub-rule (1) of this rule, the concession may be with drawn.

41. The licensee, within one week of their being made, but not later, may call in question, by an objection in writing presented to the Inspector, any entries in those of the Inspector's registers which are open to his inspection. Any dispute regarding such entries cannot be settled by discussion between the Inspector and the licensee shall be referred to the Collector, if no objection is raised the entries shall be presumed to be correct.

The Up Keep of Buildings and Plants:

42. All buildings and plant used directly for the manufacture and storage of wash and spirit must be situated in a manufactory enclosure in which no business shall be carried on, except that of the manufacture, storage and issue of spirit. The enclosure shall be surrendered by a wall having one opening only and so built as to prevent communication between the manufactory enclosures and outside, except through the opening provided.

43. The buildings and plant shall be specified in the license, and shall be properly maintained to the satisfaction of the Collector, Particular attention shall be given to their cleanliness.

44. The licensee shall provide for use in measuring spirit in the manufactory, and at the time of issue such measures, gauging machines, weighing machines and other appliances, as the Excise Commissioner may direct him to provide.

45. If the buildings and plant (including the measures, etc., referred to in the preceding rule) are not properly maintained and the premises and plant are not kept properly clean, the licensee maybe required to stop all work in the manufactory within one week after receipt of notice to that effect from the Collector.

46. If any still, vat, pipe or other part of the plant is at any time found to be defective or leaking, and the Excise Commissioner, or Collector orders the discontinuance of Its use, it shall not be used again till it has been repaired to the Excise Commissioners or Collector's satisfaction.

47. The licensee shall not alter the building or plant specified in his license without the Excise Commissioner's permission provided that any minor and urgent alteration or repair may be made with the consent of the Inspector, who shall forthwith report to the Collector. Any important alteration sanctioned shall be noted on the license.

48. All processes for the manufacture, issue and sale of rectified, denatured liquor must be conducted within the manufactory enclosure.

Stills and Other Plant:

Pipes

49. The manufactory and its apparatus shall be so arranged that from the time when the fermented wash is passed into a still to the time when the spirit is issued from the store vats, the distillate shall be contained in closed receptacles and be conveyed, to stills, receivers and other receptacles only through closed pipes, preferably by force of gravitation, but, when this cannot be arranged, by pumping. Water required for the manufactory working shall also be conveyed into the receptacles where it is required, and waste water shall be carried off only through closed pipes. Wash shall be conveyed from the fermentation vats to stills, and spent wash and spent less shall be carried off in closed pipes or covered drains.

50. The ends of still worms and all pipes which carry spirit or serve spirit receptacles shall be firmly fixed into the receptacles they serve.

51. If a spirit pipe is required to charge or discharge one or other of a series of receptacles, the pipe shall be connected with each of the receptacles, by half-unions of the same pattern fixed in the receptacles, the other half of the union, common to all, being fixed to the connecting pipe.

52. All the joints in spirit pipes must either be riveted or be joined with bolts. In the latter case, the flanges bolted together must have, in addition to the bolts, at least two rivets made of a composition of lead and tin, and sealed with a revenue seal, or, in the case of certain joints when this is specially permitted by the Excise Commissioner, the flanges may be pierced by a bolt carrying a reverse lock, inserted through a hole, at one end of the bolt.

53. The licensee shall be responsible for preventing any leakage from pipes.

54. Pipes intended for the conveyance of wash and spirit must be so fixed that they can be examined throughout their entire length.

55. All pipes and covered drains shall be coloured with a colour indicating the purposes for which they are used, as follows:-

If intended for the conveyance of wash, green; if for the conveyance of spirit, red; if for the conveyance of water or steam, white; if for the conveyance of spent wash, yellow; if for the conveyance of gas used for the purposes of illumination or power, black; if for the conveyance of molasses blue,

Locks:

56. The charging and discharging pipes of pot-stills, all spirit safes and all man doors, cocks or other opening in stills, spirit vats, spirit receivers, spirit chargers and other receptacles for spirit, and in spirit pipes with branches, the point where each branch joins the pipes and the doors of all buildings and rooms used for the storage of spirit, shall be so fitted as to enable them to be closed with two locks, the keys of which are not interchangeable, and of which one lock shall be a revenue lock, in charge of the Inspector, and the other a manufactory lock in

charge of the licensee.

57. Revenue locks supplied by the Excise Commissioner will invariably be put on whenever necessary under these rules, but the licensee may dispense with his own locks except in the case of such as must be affixed to all receptacles or rooms used for the storage of spirit.

58. Locks shall be so arranged as to render it impossible to use any pipe or part of a pipe, unless the locks are either removed or else closed only with working fastenings, or to extract any of the contents of any building, pipe, receiver or other receptacle concerned, without opening both the locks which control such buildings, pipe or receptacle.

59. Lock fastenings must be constructed as much as possible in one piece. When hinges on them are necessary, the hinges must be formed by welded joints, and not by reveted pins, if a part of any fastening is attached to a door or a receptacle, it must be by revets and not be screws. The fastenings for cocks must be fitted so closely as not to admit of any cock being partially turned or opened, or the plug or key lifted up or taken out after the fastening is applied. Chain fastenings must not be used, except in cases where it would be impracticable to apply any other description of fastening,

60. When it is necessary for the licensee's operation that cocks upon closed pipes be left open, when the Inspector is not present working fastenings must be provided. Such fastenings must be so constructed that the revenue lock shall not interfere with the free use of the cock and so fitted that no abstraction of spirit is possible.

General Rules as to Receptacles For Wash, Bub, Rectified Spirit and Denatured Spirit.

61. Except for the bona fide purposes mentioned below the licensee shall not introduce or permit the introduction of bottles or other vessels having a capacity of less than four gallons each, into the distillery enclosure.

Exceptions:-

(i) Bottles required for bottling rectified spirit or denatured spirit under rule 93.

Bottles or other vessels, not exceeding 30 in number, containing acids, essences and the like, needed for the licensee's legitimate operations.

(iii) Bottles or other vessels intended for use as containers of rectified or denatured spirit, to be supplied to Civil Surgeons or to the scientific institutions approved by the Excise Commissioner,

62. Vats shall ordinarily be used for the storage of spirit, but a limited number of casks may, subject to the provisions of Rule 64 below, be kept in the store room for the storage, and for the use in collecting quantities withdrawn from store vats in slight excess of requirements and the like, and a limited number, not exceeding 30, of casks filled according to Rule 106 of these rules for issue, may

be kept temporarily in the store room for issue to purchasers.

63. The vessels used as receptacles may be of any material. They shall be of regular shape, Large covered vessels shall be fitted with manholes of a size approved by the Excise Commissioner and every vessel shall be provided with proper approved arrangements for gauging with rods and with tables showing the number of gallons contained in them, when filled to every tenth of an inch, by either the wet or the dry method of gauging, accordingly as the Excise Commissioner decides to apply one or other method to such vessel. When the wet method of gauging is applied to any vessel, a permanent dipping rod of a pattern approved by the Excise Commissioner shall be fixed in a manner approved by him to that part of the vessel where there is the greatest depth of liquid in it.

64. Each vessel shall have legibly painted on it in English its number, its capacity and the use to which it is applied, and its details shall be properly registered by the Inspector.

65. Except with the special sanction of the Excise Commissioner, in the case of a receptacle, sunk under the ground level, each vessel shall be fixed so as to permit of examination all round it, it shall slope slightly down to its cock, and its cock shall be so fitted that the vessel can drain entirely through the cock without being moved.

66. No receptacle of which the contents are estimated by the gauge rod, shall be brought originally into use, till it has been gauged and passed by the Inspector and a table book has been prepared for it, and, if any gauged receptacle is repaired or moved, it may not be brought again into use till it has been re gauged and passed by the Inspector and a revised table book has been prepared.

Fermentation Vats:

67. Fermentation vats shall Be placed in a room or building specially set apart for them alone.

68. The licensee shall provide vats for the fermentation of wash having a capacity sufficient for the continuous working of all the stills in the manufactory, up to the maximum of their capacity, as recorded in the license, upon the calculation that it requires five days to ferment wash.

69. No wash shall be used, except such as has been prepared within the manufactory, nor shall any wash be removed from the manufactory.

70. When wash is about to be prepared, the licensee shall give notice to the Inspector. The licensee shall enter in the register prescribed for the purpose the exact quantity of the gur, molasses, mahua or other substance used, and shall give the Inspector an opportunity of verifying this quantity whenever the latter may deem it desirable to do so.

71. (a) If wash is prepared from a malt base, it must be collected in the fermenting vat and be ready for gauging and proving within six hours, after it has

began to run into the vat.

(b) In the case of gur or molasses wash, complete solution must be attained, and the contents of the vat must be ready for proving and gauging by the Inspector within eight hours of the commencement of dissolving, whether solution is affected in the fermentation vat or in a dissolving vat, separate from the fermentation vat. Where hard molasses is used, the time allowed for complete solution may extend to 36 hours.

(c) In the case of a malt, gur or molasses wash, immediately after it is ready for gauging and proving, the Inspector shall ascertain, by gauging the quantity of wash in the vat and by the use of the saccharometer, its specific gravity and he shall record these in his prescribed register. The licensee shall, at the expiry of 24 hours from the first mixing or before, enter in the register prescribed for maintenance by him the actual initial quantity and specific gravity of the wash fermented in each vat, or, in case any addition has been made to the wash, after it was first set up, its calculated initial quantity and specific gravity.

(d) If mahua is used, the initial quantity and specific gravity of the wash shall be ascertained in such manner as the Excise Commissioner may specially prescribe.

72. No substance of any kind shall be added to the wash after it has been gauged and proved, except water and such substances as the Excise Commissioner may have specially approved, or bub added under the procedure set forth in the next succeeding clause, provided (1) that due notice of such addition is given by the licensee to the Inspector, (2) that the requisite entries regarding it are made by the licensee in the prescribed register and (3) that no addition of any kind is made to the wash more than 24 hours after it was first gauged and proved. After the lapse of this period of 24 hours, the wash shall remain undisturbed in the fermentation vat, until fermentation is completed and the wash is removed to the still.

73. (a) The preparation of bub shall be conducted in a special bub vat or vats set apart only for such preparation, and the registration of the materials used and of solution and other matters connected with it, shall be carried out in the register specially prescribed for the purpose. The bub vats used may be smaller than the ordinary fermenting vats if desired, and there may be connected with it an auxiliary vessel for dissolving the materials used for setting up the bub, but fermentation must not be allowed to proceed in this vessel, ordinarily the whole of the bub must be conveyed into the fermentation vat or vats to which it is to be added within 24 hours of first beginning to make, or dissolve or set it up.

(b) With the special permission of the Excise Commissioner any licensee who is able to declare the alcoholic percentage and the original specific gravity of a bub may keep such bub for more than 24 hours after the time when its making solution for setting up commences, and he may be permitted to make such a bub and keep it going continuously by adding to it fresh saccharine substance and water from time to time. In such a case he must, at the time of adding any of such continuously maintained bub, to the contents of any

fermentation vat containing wash, records the quantity in bulk gallons, and the original specific gravity of the addition. The Inspector shall enter a copy of these particulars in his register and make the necessary alteration in the records of the wash, to which it is added.

(c) The licensee shall give notice to the Inspector, with details of the registered number of vessels concerned, before any conveyance of the bub from the vat in which it is prepared to the main wash. The gauge and the specific gravity of the contents of any fermentation vat to which bub is added must, after thorough mixing, be recorded by the Inspector immediately before and after the addition.

74. As soon as wash is fully attenuated and ready for manufacturing the licensee shall inform the Inspector, and Inspector shall again, by gauging and the use of the saccharometer, ascertain the quantity and specific gravity of the attenuated wash and record these in his prescribed register. The Licensee shall record the final quantity and specific gravity in the register prescribed for maintenance by him.

75. The licensee shall not draw off or use the attenuated wash until it has been gauged and proved by the Inspector, and, when he does draw it off, the Inspector shall enter in the prescribed register particulars regarding the quantity drawn off and the still into which it is drawn off.

STILLS:

76. Stills may be of any form or construction the licensee may think proper and for which he has a license, but the still power of the manufactory shall not be increased without the special sanction of the Excise Commissioner.

77. The Excise Commissioner may authorise the replacement of any still by another of equivalent manufacturing capacity, or the re-use of any still which has been dismantled and thrown out of use without its place being taken by another still.

78. There shall be no opening into any still, except these in connection with the charging and discharging pipes, condensers, manddoors and air cocks or valves upon the breast or head. The external office of an air valve must be so constructed and covered by a perforated metal plate, as to make it Impracticable by means of it either to introduce wash or to abstract spirit or to convey away, spirit vapour for condensation elsewhere.

79. When wash is being manufactured in a pot-still and in all manufacturing by a continuous Still, the still need not be secured by the Inspector with a revenue lock.

80. When a pot-Still is being used for the re-manufacturing of unfinished spirit, the manddoor and the charging and discharging pipes shall be secured by the Inspector with closed fastening, and a pot-Still used for re-manufacturing shall be charged and discharged only after notice has been given to the Inspector and under his supervision.

SAFES:

81. A safe furnished with a hydrometer or specific gravity heads, capable of showing the strength of the distillate, shall be provided between every Still and its receiver or receivers. There may be separate safes between each Still and its receiver or receivers, or a central safe which controls the worm ends communicating between a number of Stills and their receivers.

Receivers and Chargers:

82. Two or more receivers may be fitted to the same Still in order to enable the distillate to be collected in separate portions, and one receiver may work in connection with more than one Still. There should be a separate receiver for feints.

83. The receiver or receivers attached to each still or set of stills shall be of a capacity enabling them to contain all the distillates which can be produced by the Still or set of Stills in 36 hours full working.

84. The spirit, whether finished or unfinished, produced by any one manufacture shall be run into an empty receiver or receivers, and such spirit shall be gauged and proved by the Inspector in the receiver or receivers of the Still or set of Stills in which it is produced before it is passed out of such receiver or receivers or mixed with spirit produced by any other act of manufacturing,

85. The admixture of sugar or other foreign substance in the spirit after it has been drawn from the Still and before it is tested is prohibited.

86. The Inspector shall arrange ordinarily to discharge into a Still or charger, as desired by the licensee, directly after each act of manufacturing, all unfinished spirit run into the receiver or receivers connected with such act of manufacturing and to pass into the store vats each evening all spirit finished during the day and each morning all spirit finished during the night, and he shall, by the use of the gauge and hydrometer, verify and record in the prescribed registers the quantity and strength of all spirit so discharged or passed in.

Store Vats:

87. Store Vats shall be kept in a room or building set apart entirely for them and provided with only one door. This Room or building will be designated the store-room.

88. The licensee shall provide store vats, having an aggregate capacity equal at least to half of the demand of the month in which most spirit is issued during the year. If the existing capacity at any time appears from the average of the issues, recorded during the previous three years, to be materially deficient, the licensee shall, if required by the Excise Commissioner make the necessary increase to it.

89. A Store vat or vats may be separately set apart and used for the storage of each of the following different kinds of spirits, viz:-

- (1) Rectified Spirit.
- (2) Denatured Spirit.

Provided that any vessel set apart and used for the storage of any one of the above kinds of spirits shall not be used for the storage of any other kind, and provided also that any vessel or vessels set apart for the storage of denatured spirit shall be in a separate room or building set apart solely for such spirit. That room or building shall be called the ethylating room.

90. With the previous sanction of the Excise Commissioner, rectified and denatured spirit intended to undergo the process of maturing may be stored, without prepayment of duty, in an unlimited number of casks in a room within the manufactory enclosure specially set apart and used only for this purpose and secured under the double lock of the Inspector and the licensee. The room will be designated the matured spirit warehouse. Deposits in, and with draws from the warehouse will be governed by the following regulations:-

- (1) An Application for the removal of rectified spirit or denatured spirit from the store-room to the matured spirit warehouse must be made in writing to the Inspector. The application, or presentation must specify the serial number of each cask, and before, removal takes place, must be completed by specifying for each cask its full capacity and the quantity and strength of the spirit it contains.
- (2) Removals may be made at any strength not below the strength prescribed for the issue of spirit.
- (3) No cask of less than eight gallons capacity may be removed for deposit in the matured spirit warehouse.
- (4) In preparation for removals, the tare or weight empty of each cask must first be ascertained, the cask thereafter after filled to the bung-hole with the spirit int_____ for removal and the capacity determined in the manner prescribed by the Excise Commissioner. No objection need be raised if it is desired to draw of any quantity by imperial measures from the full cask before the removal is made. In that case, the quantity remaining in the cask, i.e., ullage quantity, will be reckoned by deducting the measured quantity from the ascertained full capacity.
- (5) All particulars of gauge and proof must be recorded at the time of removal in the appropriate columns of the warehouse register, instead of on the pass, as in the case of ordinary issues. The quantity removed in London proof gallons will be shown as transferred to the warehouse in the appropriate that the removal should not be classed with the issue.
- (6) Upon the outside of both of the heads of every cask removed from the store-room for deposit in the matured spirit warehouse must be legibly printed with oil colour the progressive number of the cask, beginning with number one on the 1st of January in each year, also the calendar year in which the deposit is made, and the full capacity to the nearest tenth of a gallon.

- (7) No pass will be necessary to cover transport from the spirit store-room to the matured spirit warehouse.
- (8) Immediately preparation for removal has been completed, the Inspector must see the cask or casks safely deposited in the warehouse.
- (9) Each cask deposited in the warehouse must be closed with a bung of hard wood, fitted flush with the outside of the bung stave.
- (10) Casks must be so arranged in the warehouse as to allow easy access to them, in order that a correct account of their contents may be taken at any time and leakages may be readily discovered.
- (11) It will be unnecessary to take account of the spirit in stock in the matured spirit warehouse monthly as in the case of spirit in the store-room. The stock of spirit in the warehouse will invariably be the total quantity in London proof gallons as shown in the warehouse register. The Collector at his periodical visits and an Assistant Excise and Taxation Officer should, however, check the quantity of spirit in a few of the casks in the warehouse, and record the result briefly in the warehouse register. Where he finds that the deficiency is in excess of the scale prescribed by the Excise Commissioner, he should enquire into the cause and satisfy himself that no illicit abstraction from the cask has occurred. The Inspector will be responsible that the casks, while in the warehouse are not tampered repairs, or for examination of the spirit by the Collector, the Assistant Excise and Taxation Officer, the licensee or his manager.
- (12) Reduction of the contents of a cask is not permitted in the warehouse, Removal from the warehouse will be made to the store-room, where reduction can be effected before the spirit is finally issued from the manufactory, No objection need be raised, however, to the introduction of a new cask, whose full capacity has been first ascertained, for reception or the contents of a defective cask in the warehouse. When this is necessary, the Inspector will attend, have the spirit transferred to the new cask, which must be marked and numbered similarly to the old one, and make a note of the transfer in the warehouse register.
- (13) No removal of part of the contents of a cask is permitted from the warehouse to the store-room.
- (14) Removal will be made from the warehouse to the store-room on the written application of the licensee specifying the progressive number of the cask, the year when ware-housed and (on its removal) the ullage quantity and strength.
- (15) On receipt of the licensee's application, the Inspector will, after taking account of the spirit in the cask by means of the bung rod in the manner prescribed by the Excise Commissioner, see the cask removed to the store-room from which the issues of matured

spirit will be made under the ordinary Rules and procedure. The actual quantity of spirit in London proof gallons removed from the warehouse to the store-room will be recorded in the warehouse register as passing into the stock of the latter.

- (16) The deficiency allowable during the period of storage in the warehouse is calculated according to the scale prescribed by the Excise Commissioner. In the event of the deficiency being in excess of the prescribed scale, the Inspector will make a brief report in the warehouse register on the condition of the cask on delivery i.e. 'on apparent cause' in cases where the cask is in an apparently sound condition, and a few brief remarks where such causes as leaks, defective stays, broken hoops, porous, wood, etc., which account for the excess. The Collector or Assistant Excise & Taxation Officer at his inspections will enquire into the reasons given for the excess, and, if he is satisfied, will initial the Inspector's entry in the warehouse register. If the inspecting Assistant Excise and Taxation Officer is not satisfied that the excess is due to natural or accidental cause, he will submit a report, recording his reasons at full length, to the Collector so that action for recovery of duty on the excess may be taken under Rule 102 if necessary.

Manufacture, Storing and Passing Out Spirit.

91. Blending or reduction of spirit is permitted in the store vats, provided the blending and reduction is done in the presence of the Inspector and under his supervision. Any other blending or reduction as is desired may be done at the time of issue in the special issue room mentioned in Rule 103 below. Water used for reduction must be pure, and the licensee must comply with the directions of the Collector according the water supply.

92. The colouring or compounding of spirit, except in the case of spirit coloured or compounded in the store-room in a special vat set apart and used only for the storage of such spirit, shall take place only at the time of issue, and in a special room to be provided for the purpose by the licensee near the exit from the manufactory enclosure. All colouring and compounding materials brought into the manufactory shall be kept only in this room and registered, their quality and character shall be subject to check and the licensee shall not use any materials which are disapproved by the Excise Commissioner.

93. Subject to the approval of the Excise Commissioner operation connected with the filling of bottles with Rectified and Denatured Spirit for issue shall be conducted in bond under the supervision of the manufactory Inspector, in separate rooms called bottling rooms for country spirit and Indian made foreign spirit, respectively, set apart for the purpose, within manufactory enclosure, near the spirit store, Bottled spirit shall be stored in separate room called the bottled spirit store for Rectified spirit and Denatured spirit, respectively, set apart for the purpose within the manufactory enclosure near the bottling rooms. The bottling

rooms and the bottled spirit store rooms shall be secured in such manner as the Excise Commissioner may approve, In the bottling room, bottling vats may be erected and spirit stored therein. The following Rules shall be observed for the conduct of bottling operations:-

- (a) Rectified and Denatured spirits shall be bottled at the strength from time to time prescribed by the Excise Commissioner.
- (b) Bottling shall be done during the ordinary working hours of the manufactory. If the licensee has reduced the strength of spirit by blending or otherwise, he shall not bottle the spirit until 24 hours after operations are complete, unless arrangements approved by the Excise Commissioner have been made to cool the spirit to normal issue temperature thereby preventing shrinkage in bottles after issue.
- (c) No bottles shall be filled with spirit except in the joint presence of the Inspector and a representative of the licensee.
- (d) Spirit required for bottling shall be measured out and brought into the bottling rooms by a permanently fixed pipe (bearing, within the spirit store, a cock and fastening for an Excise lock or such other means as may be approved by the Excise Commissioner.
- (e) Bottles of the following sizes only shall be used:-
 - (i) Quarter bottles of the capacity 6-2/3 ounces.
 - (ii) Reputed pint bottles of the capacity of 13-1/3 ounces.
 - (iii) Reputed quart bottles of the capacity of 26-2/3 ounces.
- (f) The bottles mentioned in sub-clause (e) above shall be of standard pattern and shall bear the following specifications moulded on the glass:-
 - (i) the words 'Khyber Pakhtunkhwa Excise'
 - (ii) The figures and words "26-2/3 ounces", "13-1/3 ounces", or "6-2/3 ounces" in the case of reputed quarts, pints and quarter bottles, respectively.
 - (iii) the name or mark of manufacturer of the bottles, and
 - (iv) a line across the up to which the bottles shall be filled, in order to contain the proper quantity.
- (g) All the bottles mentioned in sub-clause (e) above, shall be securely sealed with a lead capsule, cemented on the bottled in such a way as to make it impossible to remove the capsule without damaging it. The capsule shall bears-(i) the name of the manufactory; (ii) the district in which it is licensed; (iii) the kind of liquor bottled; (iv) the strength of liquor in degrees of proof.

All the capsules shall bear in block letters the information set forth in clause (e) above.

- (h) The licensee shall not use taper corks for bottling. The licensee shall soak the corks in clean water for 24 hours before corking the bottles.

- (i) The licensee shall label each bottle after bottling with a label showing in Urdu and English printed characters the name of the licensed manufactory and the place where the bottling is done.
- (j) The licensee may also affix to his bottles any other labels but before bringing any labels into use the licensee shall submit exact copies of them, in triplicate, to the Collector, who shall forward one copy direct to the Excise Commissioner for his approval. The licensee shall comply with such instructions as the Excise Commissioner may issue regarding any label and shall deposit in the Excise Commissioner's Office an exact copy of each label that has been approved. In particular he shall carry out the following directions:-
- (k) Labels must be so affixed as to be easily distinguishable. No label shall be pasted over the words 'Khyber Pakhtunkhwa Excise' and the figures and words "26-2/3 ounces" "13-1/3 ounces" "6-2/3 ounces" moulded on the bottles.
- (l) An account of spirit received and used for bottling shall be maintained in Form D-13B.

Denaturation of Spirit

94. For the purpose of rendering spirit effectually and permanent unfit for human consumption, no substance other than light cautchoucine and mineral pyridine bases shall be used. They shall be mixed with the spirit to be so rendered unfit for human consumption, in the pronortion of one-half per cent, by volume of cautchoucine and one-half per cent, of mineral pryridinebases to the whole volume of spirit which shall be of not less strength than 50 degress overproof.

Provided that, if the spirit to be removed is required for use in particular arts and manufactures, the Excise Commissioner on special application being made to him, may authorize special methods of denaturation.

95. The specifications of light cautchoucine and mineral pyridine bases shall be those from time to time approved by the Excise Commissioner.

96. No Commissioner of denaturing materials intended for use in rendering spirit permanently and effectually unfit for human consumption shall be brought into a manufactory otherwise than with the permission, and in the presence, of the Inspector.

97. The licensee shall provide a special room for the storage of the denaturing agents and vessels and receptacles used in the process of denaturation, and the process shall be carried out in the is room only, and in the presence of the Inspector. After denaturation is completed the denatured spirit shall be immediately issued or stored in the special room, which shall be secured by double locks, the keys of which are not interchangeable. The key of one lock shall remain with the Inspector, and the key of the other lock shall remain with

the licensee.

98. For purpose of satisfying himself that the denaturing materials stored in any licensed manufactory are efficacious for the purpose of rendering spirit effectually and permanently unfit for human consumption, the Collector shall, from time to time, but not less than twice in each year, send a sample of every separately stored quantity, of such denaturing materials to the Chemical Examiner, Khyber Pakhtunkhwa Government or any other officer appointed by the Provincial Government for the purpose of being tested and its quality and efficacy being reported upon.

No spirit stored within a licensed manufactory shall be denatured otherwise than with the permission of, and in the presence of, the Inspector.

99. For the purpose of ascertaining that spirit has been effectively and permanently rendered unfit for human consumption in the manner prescribed, the Collector shall not less than once in every three months, and without previous notice to aobut six fluid ounces, and shall send such sample to the Chemical Examiner, Khyber Pakhtunkhwa Government, for examination and report. A copy of the report of the Chemical Examiner shall be submitted to the Excise Commissioner.

Wastage and Loss

100. If it is found that the wastage in any manufactory is excessive, the Excise Commissioner may prescribe a scale of wastage and the licensee shall pay duty, as on issue, in respect of all losses attributed to wastage, in excess of the scale fixed.

101. In case extraordinary wastage of spirit occurs in a manufactory owing to any cause, an enquiry into the circumstances shall be made immediately under the orders of the Collector or Excise Commissioner, and, if it is found that the wastage was due to preventable causes, which the licensee should have foreseen or guarded against, and that the spirit was required to meet a demand, the licensee shall, if directed to do so by the Excise Commissioner, may all or such part, as seems reasonable of the duty that would have been recovered on the wasted spirit if it had been issued.

Preparation for Issue

102. A special issue-room shall be provided by the licensee near the spirit warehouse for the operations connected with the filling of vessels for issue and their issue from the manufactory.

103. No vessel may be filled with spirit for issue, except in the joint presence of the Inspector and of a representative of the licensee.

104. In the process of filling vessels for issue, spirit from different store vats may be blended according to calculation, or water may be added for the purpose of producing spirit of a strength required, the Inspector shall record the actual quantity and strength of the spirit actually drawn from each vat.

105. Spirit may be measured into a vessel for issue by being passed directly from

a store vat into the issue vessel through a pipe or armoured hose attached to the cock of the vat and discharging into a gauging machine placed in the issue room at a convenient level, to discharge into vessels placed under it, provided that, when this cannot be arranged, spirit may, with the Excise Commissioner's sanction, be measured into a vessel for issue by means of gallon measures.

106. Before a gauging machine is brought into use, the Inspector shall verify its correctness with his standard measures, and he shall with these measures verify it on the 1st and 15th day of each month.

107. The licensee shall not decline sale or refuse supplies to any licensed vendor, whole-sale or retail, who has obtained a permit for the issue of spirit from his manufactory and tenders payment for such spirit at the rate then current. If more than one licensed vendor be applying at one time for supplies, in case of dispute who shall be supplied first, the licensee shall supply them in the order of the dates of the applications received by the Inspector, the decision between applications bearing the same date, being made by the Inspector by lot, provided that not more than 500 gallons shall be supplied at one issue to a licensed vendor or who desires an issue of bottled spirit or in the case of bulk spirit who desires his issues to be made in casks of capacity of at least 50 gallons each, supplied by himself or by the manufactory on his behalf, and tendered at the time to be filled, and that not more than 50 gallons shall be supplied at one time to a licensed vendor tendering vessels of a smaller capacity. If any customer cannot with due diligence, be supplied before a notified change of price takes place, the licensee may demand payment from him at the changed price in force when he is actually supplied.

General Rules Regarding the Issue of Spirit

108. No bulk spirit shall be issued in quantities of less than four gallons, and no bottled spirit shall be issued in quantities of less than two gallons. The removal of any spirit other than bottled spirit shall not be permitted in vessels of less than four gallons capacity.

109. The licensee shall, if required to do so by the Excise Commissioner, issue spirit only in specified strength either generally or for particular classes of purchasers.

110. No spirit shall be issued, except/under a manufactory pass granted by the Inspector.

111. A manufactory pass for the removal of denatured spirit may be granted in favour of any of the following persons only, namely:-

- a. A person certified to be holding a license in the Khyber Pakhtunkhwa, to sell such spirit;
- b. A person authorized by the Collector of any district in the Khyber Pakhtunkhwa to remove such spirit for industrial use; and
- c. A person holding a permit signed by an officer duly ___authorized in that behalf for export of such spirit to a Pakistan State, a Pakistan Province, the Federal Capital or any other approved destination.

112. The licensee may act as a n agent in removing spirit for any licensed vendor

(including any wholesale agency licensed in the name of a manufactory) who, to enable the licensee to obtain a manufactory pass, furnished him with a certificate showing that he is a licensed vendor.

113. Every application for a manufactory pass for the removal of spirit shall be made in writing to the Inspector, and shall be accompanied by the certificate or permit required under the relevant sub-clause of Rule III above, such certificate or permit being either a general one for the purpose of removals to be made from time to time or special one for the purpose of a single removal.

114. If the applicant tenders cash in payment of Still-head duty, the Inspector shall fill up the chalan for presentation, with the cash, at the treasury or sub-treasury of the district in which manufactory is situated. The applicant shall present the treasury receipt in token of his having paid the duty, and the Inspector shall affix it to the counterfoil Form D-20.

115. The applicant for a manufactory pass shall be responsible for the correct calculation and full payment of the Still-head duty due upon the spirit to be removed, but, if he is in doubt as to the amount of such Still-head duty, he may, prior to its payment in the treasury, apply to the Inspector for a revision of the calculation.

In calculating duty on bottled spirit 24 half pints, twelve pints of six quart bottles shall be reckoned as one gallon.

116. If, in removing spirit from the manufactory as an agent for a licensed vendor, the licensee prefers not to pay duty at the time, he may remove the spirit subject to the adjustment of such duty against an advance payment made by him into the Government treasury on account of the duty recoverable on such removals. Such an advance payment shall be not less than Rs.2,000, and, each time an advance is replenished, it must be a sum that will bring it up to at least Rs. 2,000. The Treasury Officer will keep the Inspector informed of all payments credited to an advance and the Inspector shall maintain a statement showing such payments and the duty debitable against them. He shall balance this statement on every day on which the manufactory is open for the issue of spirit, and on every such day shall inform the licensee of the balance standing to his credit and he shall permit the removal of spirit of which the duty is debitable against the advance only so long as the balance is not exhausted.

117. In addition to the methods described in Rules 114 and 116 above, spirit may be removed from a licensed manufactory (a) free of duty in bond and (b) on execution of a bond for the payment of the duty, but only with the sanction in writing, in each case, of the Collectory.

118. If the Inspector is satisfied that the applicant is entitled under Rules III and 113 above to remove spirit, and that the Still-head duty has on paid or accounted for in one of the methods prescribed in Rules 113, 116 and 117, he shall issue the spirit, At the same time he shall make over a pass in the form prescribed (Form D-20), sending a duplicate to the Inspector of the district of destination.

119. The licensee shall duly comply with any directions that may, from to time, be issued by the Excise Commissioner concerning the price or prices to be charged by him to licensed vendors, and shall, if and whenever so directed, forthwith reduce or enhance as the case may be, such price or prices.

THE KHYBER PAKHTUNKHWA PROVINCE CHEMICAL WORKS RULES, 1935

THE KHYBER PAKHTUNKHWA CHEMICAL WORKS RULES, 1935

NOTIFICATION

27th September 1935.

No.12187-Exc.---In exercise of the powers conferred by section 59 of the Punjab Excise Act, I of 1914, as extended to the Khyber Pakhtunkhwa by Chief Commissioner's notification No.120-Exc., dated the 8th/9th February 1915, the Revenue Commissioner is pleased to make the following rules for the manufacture of medicinal and other preparations containing rectified spirit. These rules shall be called the Khyber Pakhtunkhwa Chemical Works Rules, 1935:—

THE KHYBER PAKHTUNKHWA **CHEMICAL WORKS RULES**

SECTION A.— Definitions.

1. The words "Chemical Works" mean the premises or part of the premises approved and licensed by the Revenue Commissioner for the manufacture of medicinal and other preparations containing alcohol under bond and for the storage of alcohol and finished preparations containing alcohol on which duty has yet to be paid. The instructions for the management of distilleries contained in the Punjab Distillery Rules, published in Chapter 9 of the Punjab Excise Manual, volume II (1933 edition), shall apply to Chemical Works in such of their details as are not provided for in the following rules and to such extent as the Revenue Commissioner may from time to time direct.
2. "Spirit Store" means that part of the Chemical Works which is set apart for the storage of rectified spirit.
3. "Laboratory" means that part of the Chemical Works in which the actual manufacture of the medicinal and other preparations containing rectified spirit takes place.
4. "Warehouse" means that part of the Chemical Works in which finished preparations containing rectified spirit, on which duty has not yet been paid, are stored.

5. "Rectified spirit" means spirit of the strength of 43 degrees or more over proof.
6. "Officer in charge" means an officer of the Excise Department deputed to supervise Excise work in the Chemical Works.
7. "Approved Manufacture" means a person to whom a license has been granted in Form M.C.-12 for the manufacture of medicinal and other preparations in bond.

SECTION B.— Licenses and Licensed Premises.

8. Any person desiring to use rectified spirit of Indian manufacture for the manufacture of medicinal and other preparations under bond shall apply in writing to the Collector of the district giving the following particulars:—

- (a) name or names and addresses of the applicant ;
- (b) the situation of the Chemical Works ;
- (c) the maximum quantity of proof spirit likely to be in stock at any one time on the licensed premises ;
- (d) the amount of security which the applicant is prepared to furnish as a guarantee for the performance of the conditions under which the privilege is granted ; and
- (e) a correct plan of the buildings to be used. The plan shall be submitted in duplicate, drawn to scale on tracing cloth, showing the plan and elevation of the premises and the position of the spirit store, laboratory and warehouse and the exact position and dimensions of all permanent vessels for the storage of rectified spirit or medicinal or other preparations and of all compounding tables, almirahs, safes, sinks and all important details connected with the Chemical Works or with the vessels in it.

9. In case the application is granted no further alterations will be made in the building or plant without the previous sanction of the Revenue Commissioner.

10. The application shall be forwarded by the Collector for the consideration of the Revenue Commissioner, who, if he accepts the application, will fix the nature and amount of security, which each applicant (subsequently referred to as the approved manufacturer) will be required to give for the due execution of these rules and the payment of all sums chargeable against him. The Revenue Commissioner may at any time require a change in the security if the amount originally fixed should prove unsuitable.

11. Each application shall include for the approval of the Revenue Commissioner—

a list of the preparations of which the manufacture is proposed, under the following heads:—

- (a) medicinal preparations;
- (b) toilet preparations;
- (c) non-medicinal essences;
- (d) perfumed spirits;

and if necessary under a further miscellaneous head. The Revenue Commissioner in consultation, if necessary, with the Medical Officers of Government reserves the right to exclude any preparation or preparations from the list or to transfer preparations from one head to another.

12. A license in Form M.C.-12 may be granted by the Collector for a period not exceeding one year and ending on the 31st March. It may be renewed from year to year by the Collector, who may however on sufficient cause shown refuse to renew it or may at any time determine it.

13. Sales under this license shall only be of such preparations as the Revenue Commissioner may approve, and sales of medicinal preparations duty free shall only be made to such Government and charitable hospitals and dispensaries as have been approved by the Revenue Commissioner.

14. ¹[The license shall be granted or renewed on the payment of Rs. 1000.00 as annual fee, which shall be paid within 15 days of the grant of the license or in case of renewal within 15 days of the commencement of the financial year for which the renewal is sought.]

15. If the approved manufacturer goes out of business, he shall dispose of his stock of rectified spirit and unissued preparations in such manner as the Revenue Commissioner may direct.

16. The approved manufacturer shall not transfer or divide his interest in the business without the previous permission of the Revenue Commissioner.

17. The Chemical Works shall at all time be open to inspection by authorized Government servants who may take any necessary samples for analysis.

18. The cost or a portion of the cost of the Excise staff required for supervision may be charged to the approved manufacturer, as the Revenue Commissioner may direct.

19. Work in the Chemical Works shall only be carried on during such hours as may be fixed by the Revenue Commissioner. The works shall only be opened in the presence of the Officer-in-charge, appointed to supervise the work there.

20. Only the approved manufacturer or his manager and such servants, as are required to be there, shall enter the Chemical Works. The approved manufacturer shall furnish to the officer-in-charge a list containing the names of the manager or assistant manager employed by him and of all the employees whose duties require them to enter the Chemical Works. He should inform the officer-in-charge of any changes which are to

¹ Substituted vide Notification No. 2014-64/1277-EX.1 Dated 30.6.1964.

be made in the list. The officer-in-charge shall forward a copy of such list to the Collector.

21. If the licensee from any cause, physical or mental, becomes incapable of carrying on business, or dies, or becomes insolvent, or in the case of company, is wound up, the Collector may either (1) cancel the licence or (2) continue it; in the name of the legal representative of the licensee. Neither the licensee nor any other person shall be entitled to any compensation or damage what-so-ever in respect of the revocation, cancellation or determination of the licence.

SECTION C. – Manufacture

22. No preparation, other than those previously approved by the Revenue Commissioner shall be manufactured under these rules.

23. Rectified spirit and absolute alcohol, obtained or prepared under these rules shall not be sold to public or trade, provided that transfers from one Chemical Works to another may be made with the special sanction of the Revenue Commissioner.

24. Rectified spirit may be obtained in bond without pre-payment of duty from any distillery in the Punjab or elsewhere in quantities not less than 10 Gallons at a time , under a .permit issued by the Collector of the district of destination. In any case however the quantity in the possession of the approved manufacturer shall not exceed a limit fixed by the Revenue Commissioner and an un-necessarily large stock of spirit shall not be carried by the approved manufacturer.

25. Immediately on receipt of the consignment, the officer-in-charge shall enter in ink upon the pass the bulk gallons strength and proof gallons found by him after gauging and proving as well as the transit wastage in proof gallons for each vessel. The passes shall be retained along with other accounts and kept in a special book file. The Revenue Commissioner, after considering the monthly return furnished under rule 44, may call upon the approved manufacturer to pay duty at such rate not exceeding the tariff rate, as he thinks fit on the whole or any part of the wastage which may appear excessive or due to theft or fraud.

26. Rectified spirit shall be emptied forthwith into locked vessels in the spirit store of the Chemical works. Each such vessel shall be fixed and gauged and shall be marked with words "Rectified spirit..... Store Vessel," the capacity of the vessel and a distinctive number. Tables shall be compiled to show the contents of each inch and tenth of an inch of its depth in Register Form D. 6. Excise ticket locks shall be placed on the main door and discharge cocks of such vessels. The officer in-charge must take the dip in each store vessel once every time the spirit is issued as a check on loss or abstraction. The dip thus taken must be entered in diary in Form D.9 and the prescribed account in Form M.C. 1.

27. The charging and discharging pipes of spirit store vats, and all vessels used for the store of spirit, all main doors of such vats or vessels, and the doors of spirit store, laboratory and the warehouse shall be so fitted as to enable them to be closed with two locks, the keys for which are not interchangeable, and of which one lock shall be a revenue lock (ticketed) in charge of the officer-in-charge and the other in charge of the approved manufacturer. The keys of all the revenue locks shall be kept by the officer-in-

charge in whose absence no doors or vessels in the Chemical works shall be unlocked or remain unlocked.

28. Any distilling or converting apparatus which may be erected shall be locked with ticketed locks, and the reservoir, trap vessels, works, etc, in-Which portable spirit may be contained or received shall be so constructed as to prevent abstraction of spirit before the officer-in-charge has taken an account of it.

29. No spirit shall be removed from any store vessel until an account of the quantity and strength has been taken by the officer-in-charge.

30. Whenever any preparation is to be manufactured, the spirit required for such preparation shall be obtained from the spirit store for the manufacture of particular preparations. The spirit thus obtained shall be added without delay in the presence of the officer-in-charge to the respective materials to be treated, and to every percolator or other vessel in which the spirit is placed, there shall be attached a label in Form M.C.8 showing the description of the preparation, the date with the quantity and strength of all spirit placed in it from time to time and the date on which any of the finished products were removed to stock with the quantity so removed.

31. Spirit recovered from residues shall be either --

- (a) transferred to a gauged and locked vessels kept for the purpose and thence removed for use as required; or
- (b) Used at once in continuation of the process from which it was obtained; or
- (c) Destroyed in the presence of the officer-in-charge who shall certify in red ink in the diary in Form D-9 its quantity and apparent strength or,
- (d) kept for use in some special way approved by the Revenue Commissioner.

32. If it is not intended to recover from the residues the contained spirit the residues must be destroyed in the presence of the Officer-in-charge, who will record this as directed in rule 31.

33. In cases in which it is necessary to use some quantity of the finished preparation instead of, or in addition to, rectified spirit, the quantity so required shall be taken from the ware-house and added in the presence of the Officer-in-charge without delay to the materials to be treated. Such quantity shall be shown separately in columns 2, 3 and 4 of Form M.C. 3 with a reference to the number of the batch from which it was taken, and on the label attached to the percolator or other vessel. It shall also be shown in Form M.C. 4, the entry in column 8, being "used in manufacture of.....". It shall, however, be deducted from the monthly total of column 10 of Form M.C. 3 since the spirit contained in it is replaced in stock and is not shown as issued in Form M.C.7.

34. (1) The finished preparations shall be kept separate from those in the course of preparations and be stored in a separate store room approved for the storage of finished preparation, called "the ware-house". The door of the ware-house must be fastened with Excise ticketed locks. The words "ware-house for bonded medicinal and other preparations" must be painted on the door in which these preparations are allowed to be stored. Similarly the words "Spirit Store" and "Laboratory" shall be painted on the doors of the rooms set apart as such.

(2) Finished preparations may be stored :-

- (a) in bulk, in Jars or bottles containing not less than one quart (40 fluid ounces); or
- (b) Stored ready for issue in bottles of not less than two fluid ounces capacity, every bottle containing not less than two fluid ounces of a preparation.

(3) Every preparation stored in bulk must be measured into the storage vessels to the nearest fluid ounce by the Officer-in-charge, who must then close and seal the vessel with his Official seal.

(4) The description, quantity and true strength of the preparation must then be recorded on a label in Form M.C. 8 by the approved manufacturer or his agent and each label must also bear the distinctive serial number corresponding with the number entered in the prescribed register (Form M.C.3).

(5) In the case of preparations stored in bulk, the Label on every vessel must be signed and dated by the officer-in-charge.

(6) When any of the contents of a vessel referred to in clause 2 (a) has been removed, the officer-in-charge must enter on the label attached thereto the quantity taken out and the manner of disposal with his signature and date. Finished preparations shall only be removed from the ware-house in accordance with an application in Form M.C. 6. The approved manufacturer must state in Form M.C. 6 the number of bottles or Jars in which each preparation is contained and the bulk quantity to be removed.

(7) Sub-rule (4) must be followed in respect of preparations referred to in sub-rule 2 (b), but the contents of bottles are to be checked at the time of issue according to the following scale:

Whenever the number of bottles in any consignment does not exceed 100, the Officer-in-charge is to measure one in every 25 and fraction of 25 up-to 50 and one in any remaining number upto 100. When the number exceeds 100, three bottles are to be measured in the first 100 and one in every 50 and fraction of 50. A large proportion should be measured, should the officer-in-charge consider it necessary. The officer-in-charge must certify in Form M.C.6 the number of bottles

issued, and how many were checked on measurement. Only standard gallon measures and graduated glass measures, approved by the Revenue Commissioner, are to be used in gauging preparations.

35. Samples of any finished preparation may at the time of its removal to the warehouse be taken for dispatch to the Chemical Examiner for analysis and test of the amount of proof spirit contained therein. Not less than ten percent, of the preparations issued from the Chemical Works in the month should thus be sampled. The officer-in-charge is responsible for ensuring that not less than this percentage of issues is sampled monthly. The following procedure shall be observed in sampling the preparations:-

- (1) A sample shall not be less than three fluid ounces.
- (2) Every sample must be taken, in duplicate, personally by the officer-in-charge. The cork of every bottle must be sealed by him with a revenue seal and the name of every preparation must be stated on a label affixed to each bottle. The duplicate sample should be kept under Excise locks until the result of analysis has been received unless specially asked for by the Chemical Examiner or the authority to replace the original samples or to repeat an analysis. Duplicate samples to which no further reference can be needed may be returned to the approved manufacturer.
- (3) The sample must be placed in a case and securely fastened with tape or wire provided by the approved manufacturer and be sealed by the officer-in-charge with a revenue seal and delivered without delay at the expenses of the approved manufacturer to the Chemical Examiner or any other authority appointed by Government in this behalf.
- (4) An advice letter in Form M.C. 9 must be dispatched to the Chemical Examiner or authority at the same time.

36. The approved manufacturer must submit, if required, samples of all or any of his medicinal preparations to the Chemical Examiner or such medicinal officers as Government may designate for test, and must agree to abide by any rules drawn up by the medical officers of Government authorised in this behalf with a view to ensuring the efficacy and purity of the medicinal preparations produced in the Chemical Works.

37. At the time of issue the approved manufacturer shall declare the strength of finished preparations and all calculations of duty on rectified spirit contained in finished preparations from the warehouse shall be made according to the strength declared by the approved manufacturer, unless the result of the Chemical Examiner has been received before issue. If the strength of sample actually found by the Chemical Examiner does not exceed the declared strength by three degrees, then no correction need be made in the strength of the preparations shown in the registers, but if the actual strength exceeds the declared strength by three degrees or more, then the strength of the preparation as well as the quantity shown in proof gallons shall be corrected

accordingly. A surcharge of duty shall be levied in the latter case if any issues have been allowed from the particular batch before the receipt of the Chemical Examiner's report. No refund will be allowed if the strength declared by the approved manufacturer is found higher than the actual strength reported by the Chemical Examiner. At the close of each month the officer-in-charge shall make a list giving the name of the preparations, number of gallons manufactured, batch number, declared strength and strength found on analysis during the month in regard to which the strength found by the Chemical Examiner exceeded the declared strength by three degrees or more. The list shall be sent by the Deputy Commissioner immediately to the Revenue Commissioner who may impose a penalty to the extent of ten times the shortage of duty on the quantity manufactured.

SECTION D. – Issue of Tinctures, Extracts and Other Preparations

38. An account of all medicinal or other preparations received into and issued from the ware-house shall be maintained in Form M.C. 7. All issues shall be made only on application by the approved manufacturer in Form M.C 6 which shall be accompanied by treasury receipt in token of payment of the prescribed duty on the preparations concerned. The officer-in-charge, after satisfying himself that the amount of duty has been paid to the treasury shall issue the preparations applied for and shall grant a pass in Form L-4.

39. The approved manufacturer may make an advance deposit against payment of duty an issue of finished preparations may then take place so long as sufficient balance is available. In this case the officer-in-charge shall keep an account in Form D.15.

40. All jars, bottles or other vessels and packages in which consignments are issued shall be sealed by the officer-in-charge with his official seal before they leave the ware-house. Every bottle containing such preparations shall bear a label on which the percentage of alcohol contained in the preparation is clearly and accurately indicated. Medicinal and other preparations put up in small bottles shall be packed in boxes containing such number of bottles that the total proof spirit, contents of the preparations contained in each box is not less than 0.1 proof gallon. These boxes shall be securely fastened and sealed by the officer-in-charge.

SECTION E. – Accounts to be Maintained and Returns to be Submitted

- 41.** The officer-in-charge shall maintain a diary in Form D-9 in which he shall record from day to day all the relevant entries regarding operations carried on in the chemical works.
- 42.** The following register shall be maintained by the approved manufacturer:-
- (a) M.C. 2 Stock account of spirit used for making Tinctures.
 - (b) M.C. 3 Register of operation in the Laboratory.
 - (c) M.C. 4 Stock account of each preparation.
 - (d) M.C. 6 Application for pass for the removal of medicinal or other preparations from the Chemical works.
 - (e) M.C. 8 Labels.
 - (f) M.C. 11 The monthly return.
- 43.** The following registers shall be maintained by the Officer-in-charge:-
- (a) M.C. 1 Vat account of spirit received in the spirit store.
 - (b) M.C. 5 Account of spirit recovered in the Laboratory.
 - (c) M.C. 7 Account of finished preparations issued from the ware-house.
 - (d) M.C. 9 Advice of samples sent to the Chemical Examiner.
 - (e) M.C. 10 Account of samples sent to the Chemical Examiner.
 - (f) D-6 Table book of spirit Vats.
 - (g) D-9 Inspector's Diary.
 - (h) D-15 Register regarding advance payment of duty.
- 44.** At the end of each month the approved manufacturer must deliver a statement in Form M.C. 11 in duplicate, to the officer-in-charge who shall verify its correctness and forward a copy of it through the Collector to the Revenue Commissioner. He shall furnish such true statements as may be required by the Collector in Forms prescribed under the rules.
- 45.** All registers and forms of the M.C. and D series shall be printed and supplied by the approved manufacturer free of charge. Forms bound together shall bear printed serial and consecutive numbers. Loose sheets of such forms as are necessary shall also be supplied to the officer-in-charge.

SECTION F. – Stock Taking and Wastage

46. The stock of spirit in the spirit store shall be taken by the officer-in-charge on the last working day of each month.

47. The stock of medicinal or other preparations containing rectified spirit in the ware-house shall be similarly taken.

48. Nothing in these rules justifies the use on a label or in an advertisement or words stating or implying that the preparation is sold under a Government guarantee as to contents or quality.

49. If a fire occurs in a Chemical works, the Collector shall immediately cause an enquiry to be held by a Gazetted Officer in order to determine the liability of the licensee to pay duty on the spirit wasted. No duty will ordinarily be assessed on the spirit on which duty has not been paid, but if duty has been paid on any quantity of spirit contained in the preparations, although these have not left the chemical works, the Collector must satisfy himself that the spirit was really destroyed before any refund is paid. If such a refund is to be paid, it shall be calculated on the actual quantity of spirit on which duty has been paid. Once preparations have passed out of the chemical works no refund of duty shall be paid upon them. The previous sanction of the Excise Commissioner is required before any refund can be paid, and if either duty is to be levied or a refund is to be granted the collector in his report should to a clear finding whether the loss was due to preventable causes, which should have been foreseen, or guarded against by the Licensee.

50. (1) If the approved manufacturer infringes or causes or permits any person to infringe any of the conditions enumerated above or any of the conditions of the license, the Collector may revoke and determine the license and he may forfeit to Government the whole or any part of the security deposit:

Provided that if the infringement is of minor nature, the license may be restored and the order forfeiting of the security may be set aside on payment of a sum not exceeding Rs.50.

51. The Revenue Commissioner reserves to himself the right of adding to, altering, revising or changing these rules from time to time, either after or without consulting the licensee of Chemical Works and the licensee shall carry out all orders and instructions issued in these rules in their original or revised form so long as he holds his license.

Secretary to Government of Khyber
Pakhtunkhwa, Excise and Taxation
Department.

CONTROL OF NARCOTIC SUBSTANCES ACT (XXV OF 1997)

**CONTROL OF NARCOTIC
SUBSTANCES ACT
(XXV OF 1997)**

CONTROL OF NARCOTIC SUBSTANCES ACT (XXV OF 1997)

[7th July, 1997]

An Act to consolidate and amend the laws relating to
narcotic drugs and psychotropic substances

Preamble: Whereas it is expedient to consolidate and amend the laws relating to narcotic drugs, psychotropic substances, and control the production, processing and trafficking of such drugs and substances;

Chapter I PRELIMINARY

1. Short Title, Extent and Commencement: (1) This Act may be called the Control of Narcotic Substances Act, 1997.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions: In this Act, unless there is anything repugnant in the subject or context,--

(a) "addict" means a person physically or mentally dependent on any narcotic drug or psychotropic substance or a person who habitually uses narcotic drugs or psychotropic substances;

(b) "assets" means any property owned, controlled or belonging to an accused, whether directly or indirectly, or in the name of his spouse or relatives or associates whether within or without Pakistan for which they cannot reasonably account;

(c) "associate", in relation to an accused, means—

(i) any individual who is, or has, at the relevant time been residing in the residential premises, including out houses and servant-quarters, of an accused;

(ii) any individual who is or has, at the relevant time, been managing the affairs or keeping the accounts of an accused,

(iii) any association of persons, body of individuals, firm or private limited company within the meaning of Companies Ordinance, 1984 (XLVII of 1984), of which an accused is, or has, at the relevant time, been a member, partner or director;

(iv) any individual who is, or has been at the relevant time a member, partner or director of any association of persons, body of individuals, firm or a private limited company referred to in sub- clause (iii);

(v) a trustee of any trust created by an accused; or

(vi) where the Special Court for reasons to be recorded, considers that any property of an accused is held on his behalf by any other person, such other person;

- (d) “cannabis (hemp)” means—
- (i) cannabis resin (charas) that is, the separated resin, whether crude or purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;
 - (ii) the flowering or fruiting tops of the cannabis plant (excluding the seed and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated or known; and
 - (iii) any mixture with or without neutral materials of any of the above forms of cannabis or any drink prepared there from;
- (e) “cannabis plant” means any plant of the genus cannabis;
- (f) “coca bush” means the plant of any species of the genus Erythroxylon;
- (g) “coca derivative” means---
- (i) crude cocaine, that is any extract of coca leaf which can be used, directly or indirectly, for the manufacture or production of cocaine;
 - (ii) ecgonine, that is, leavo-ecgonine having chemical formula $C_9H_{15}NO_3H_2O$ and all chemical derivatives of leavo-ecgonine including benzoylecgonine from which it can be recovered;
 - (iii) cocaine, that is, methyl-benzoyl-leavo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$ and its salts; and
 - (iv) all preparations containing more than 0.1 percent of cocaine;
- (h) “coca leaf” means---
- (i) the leaf of the coca bush except a leaf from which all ecgonine, cocaine or any other ecgonine alkaloids have been removed;
 - (ii) any mixture thereof, with or without neutral material, but does not include any preparation containing not more than 0.1 percent of cocaine;
- (j) “controlled delivery” means the technique of allowing illicit or suspect consignments of narcotic drugs, psychotropic substances or chemical precursors to pass out of, through or into Pakistan, with the knowledge and under the supervision of the Federal Government with a view to identifying persons involved in the commission of offences cognizable under this Act;
- (k) “controlled substance” means any substance which may be used for the production or manufacture of narcotic drugs or psychotropic substance;
- (l) “conveyance” means a conveyance of any description whatsoever and includes, any aircraft, vehicle, vessel, railways or animal;
- (m) “Director-General” means Director-General of the Anti-Narcotics Force or any other officer appointed by the Federal Government to perform the duties and functions of the Director-General under this Act; and
- (n) “foreign Court” means a Court of competent jurisdiction of a foreign country recognized by the Federal Government fro time to time;
- (o) “freezing” means prohibiting by an order made by the Special Court or an officer authorised under this Act the transfer, conversion, disposal or movement of any assets and includes the holding, controlling, assuming custody or managing any assets in pursuance of such order and, in the case of assets which are perishable the disposal thereof;
- (p) “manufacture”, in relation to narcotic drugs or psychotropic substances, includes-

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- (i) all processes by which such drugs or substances may be obtained;
- (ii) refining of such drugs or substances;
- (iii) transformation of such drugs or substance; and
- (iv) making or preparing such drugs or substance;
- (q) “manufactured drug” includes—
 - (i) all coca derivatives, medicinal hemp, opium derivatives, cannabis in any form and any mixture of stalks and flowering or fruiting tops of the Indian hemp plant (*cannabis sativa* L.), Acetic Anhydride; and
 - (ii) any other narcotic substance which the Federal Government may, by notification in the official Gazette made in pursuance of recommendations of any International Convention or otherwise, declare to be a manufactured drug;
- (r) “medicinal hemp” means any extract or tincture of hemp;
- (s) “narcotic drug” means coca leaf, cannabis, heroin, opium, poppy straw and all manufactured drugs;
- (t) “opium” means---
 - (i) poppy straw, that is to say, all parts of the poppy plant (*Papaver somniferum* or any other species of *Papaver*) after mowing, other than the seeds;
 - (ii) the spontaneously coagulated juice of capsules of poppy which has not been submitted to any manipulations other than those necessary for packing and transport; and
 - (iii) any mixture, with or without natural materials, of any of the above forms of opium, but does not include any preparation containing not more than 0.2 percent of morphine;
- (u) “opium derivative” includes----
 - (i) medicinal opium, that is, opium which has undergone the process necessary to adapt it for medicinal use;
 - (ii) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;
 - (iii) morphine, that is, the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$ and its salts;
 - (iv) diacetylmorphine, that is, the semi-synthetic substance, also known as diamorphine or heroin, having the chemical formula $C_{21}H_{23}NO_5$ and its salts; and
 - (v) all preparations containing more than 0.2 percent of morphine or containing any diacetylmorphine;
- (v) “opium poppy” means the plant of the species *Papaver Somniferum* L;
- (w) “poppy straw” means all the parts, except the seeds, of the opium poppy after mowing;
- (x) “poppy straw concentrate” means the material obtained after the poppy straw has been subjected to a process for the concentration of its alkaloids;
- (y) “prescribed” means prescribed by rules made under this Act;
- (z) “property” includes—
 - (i) all forms of property, whether corporeal or incorporeal, movable, tangible or intangible, real estate or personal property of every description;

- (ii) property used to commit, or to abet the commission of , an offence punishable under this Act;
 - (iii) all kinds of shares or interest in any corporate body, company, firm, business concern, society or fund; and
 - (iv) all documents of title to land, goods or property wherever situated; money or valuable security issued by the Government;
- (z-a) “psychotropic substance” means the substance, specified in the Schedule to this Act, and such substances as the Federal Government may, by notification in the official Gazette, declare to be a psychotropic substance;
- (z-b) “relative”, in relation to an accused, means the spouse or any lineal descendant or the accused and includes any other person holding property for or on his behalf;
- (z-c) “Special Court” means the Special Court established under Section 46 or any other Court empowered to exercise the power of the Special Court under this Act; and
- (z-d) “tracing” means the finding out the true nature, source, disposition, movement or ownership of assets and includes determining the movement or conversion of assets by any means, and “trace” shall be construed accordingly.

3. Calculation of Percentages in Liquid Preparation:

The Federal Government may make rules prescribing the methods by which percentages in the case of liquid preparations shall be calculated for the purposes of clauses (g),(h),(t) and (u) of Section 2:

Provided that, unless and until such rules are made, such percentages shall be calculated on the basis that a preparation containing one percent of a substance means a preparation in which one gram of the substance, if a solid, or one milliliter of the substance, if a liquid, is contained in every one hundred milliliters of the preparation, and so in proportion for any greater or less percentage.

Chapter II PROHIBITION AND PUNISHMENT

4. Prohibition of Cultivation of Narcotic Plants: No one shall cultivate any cannabis plant, coca bush or opium poppy, or gather any portion of a cannabis plant, coca bush or opium poppy:

Provided that the Federal Government or a Provincial Government authorised by the Federal Government may, subject to such conditions as it may prescribe, permit under a licence cultivation or gathering of any such narcotic plant or any portion thereof exclusively for medical, scientific or industrial purposes.

5. Punishment for Contravention of Section 4: Whoever contravenes the provisions of Section 4 shall be punishable with imprisonment which may extend to seven year, or with fine, or with both.

6. Prohibition of Possession of Narcotic Drugs, etc.: No one shall produce, manufacture, extract, prepare, possess, offer for sale, sell, purchase, distribute, deliver on any terms whatsoever, transport, dispatch, any narcotic drug, psychotropic substance or controlled substance, except for medical, scientific or

industrial purposes in the manner and subject to such conditions as may be specified by or under this Act or any other law for the time being in force.

7. Prohibition of Import or Export of Narcotic Drugs, etc:

(1) No one shall---

- (a) import into Pakistan
- (b) export from Pakistan
- (c) transport within Pakistan
- (d) transship,

any narcotic drug, psychotropic substance or controlled substance save in accordance with rules made under subsection (2) and in accordance with the conditions of any licence, permit or authorization for that purpose which may be required to be obtained under those rules.

(2) The Federal Government may make rules permitting and regulating the import into and export from Pakistan, transport within Pakistan and transshipment of narcotic drugs, Psychotropic substance or controlled substances, and such rules may prescribe the ports or places at which any kind of narcotic drug, psychotropic substance or controlled substance may be imported, exported, transported within Pakistan or transshipped, the form and conditions of licence, permit or authorities by which such licences, permits or authorization may be granted, the fees that may be charged therefore, any other matter required to have effective control of the Federal Government over such import, export, transportation and transshipment.

8. Prohibition on Trafficking or Financing the Trafficking of Narcotic Drugs, etc: No one Shall---

- (a) Organize, manage, traffic in, or finance the import, transport, manufacturing or trafficking of, narcotic drugs, psychotropic substances or controlled substances; or
- (b) use violence or arms for committing or attempt to commit an offence punishable under this Act.

9. Punishment for Contravention of Section 6, 7 and 8:

Whoever contravenes the provisions of Sections 6, 7 or 8 shall be punishable with---

- (a) imprisonment which may extend to two years, or with fine, or with both, if the quantity of the narcotic drug, psychotropic substance or controlled substance is one hundred grams or less;
- (b) imprisonment which may extend to seven years and shall also be liable to fine, if the quantity of the narcotic drug, psychotropic substance or controlled substance exceeds one hundred grams but does not exceed on kilogram;
- (c) death or imprisonment for life, or imprisonment for a term which may extend to fourteen years and shall also be liable to fine which may be up to one million rupees, if the quantity of narcotic drug, psychotropic substance or controlled substance exceeds the limits specified in clause (b):

Provided that if the quantity exceeds ten kilograms the punishment shall not be less

than imprisonment for life.

10. Prohibition on Owning, Operating Premises or Machinery for Manufacture of Narcotic Drugs, etc.:

No one shall own, manage operate or control any premises, place, equipment or machinery for the purpose of manufacture or production of cannabis, cocaine, opium, opium derivatives, narcotic drugs, psychotropic substance or controlled substance save in accordance with the conditions of a licence and payment of such fees as may be prescribed.

11. Punishment for Contravention of Section 10:

Whoever contravenes the provision of Section 10 shall be punishable with imprisonment which may extend to twenty-five years but shall not be less than ten years and shall also be liable to fine which shall not be less than one million rupees.

12. Prohibition of Acquisition and Possession of Assets Derived from Narcotic Offences: No one shall Knowingly—

- a) Possess, acquire, use, convert, assign or transfer any assets which have been derived, generated or obtained, directly or indirectly, either in his own name or in the name of his associates, relative or any other person through an act or omission relating to narcotic substances which constitutes an offence punishable under this Act, the Custom Act, 1969 (IV of 1969), the prohibition (Enforcement of Head) Order, 1979 (P. O. No. 4 of 1979), or under any other law for the time being in force or constituted an offence under any law repealed by this Act; the control of Narcotic Substances Ordinance, 1996 (XCIV of 1996) or any other law repealed by this Act;
- b) Hold or possess on behalf of any other person any assets referred to in clause (a); and
- c) Conceal or disguise the true nature, source, location, disposition, movement, title, or ownership of such assets by making false declaration in relation thereto.

13. Punishment for contravention of Section 12:

Whoever contravenes the provisions of Section 12 shall be punishable with imprisonment, which may extend to fourteen years but shall not be less than five years and shall also be liable to fine, which shall not be less than the prevailing value of the assets and such assets shall also be liable to forfeiture to the Federal Government.

14. Prohibition on Aiding, Abetment or Association in Narcotic Offences:

(1). No one shall, within or outside Pakistan, participate in, associate or conspire to commit, attempt to commit, aid, abet, facilitate, incite, induce or counsel the commission of an offence punishable under this Act.

Explanation: For the purpose of this section, a person shall be deemed to have associated, with, conspired, aided, abetted, facilitated, incited, induced or counseled an offence within the meaning of this section if he does anything in a place beyond Pakistan which--

- (a) Would constitute an offence as if committed within Pakistan; or

- (b) Under the laws of such other place, is an offence relating to narcotic drugs, psychotropic substances or controlled substances having all the legal or analogous conditions required to constitute it as an offence punishable under this Act.

15. Punishment for Contravention of Section 14:

Whoever participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, incites, induces or counsels the commission of an offence in contravention of section 14 shall, whether such offence be or be not committed in consequence of such participation, association, conspiracy, aid, abetment, facilitation, incitement, inducement or counseling, and notwithstanding anything contained in section 116 of the Pakistan Penal Code (Act XLV of 1860), be punishable with the punishment provided for the offence or such lesser punishment as may be awarded by the Court.

16. Punishment for Offence for which No Punishment is Provided:

Whoever contravenes any provision of this Act or any rule or order made, or any licence, permit or authorization issued hereunder, for which no punishment is separately provided in this Chapter, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both.

17. Obstructions to officers: Whoever hinders or obstructs any officer in the performance

of his functions under this Act or willfully furnishes to such officer any information, which is, to his knowledge or belief, false in material particulars shall be punishable with rigorous imprisonment for a term, which may extend to three years, or with fine, or with both.

18. Limit of Fine, etc.: Where for any offence under this Act no amount of minimum fine has been fixed, the Special Court shall impose the fine keeping in view the quality and quantity of the narcotic drug, psychotropic substance or controlled substance involved in commission of such offence.

19. Forfeiture of Assets of an Offender: Notwithstanding anything contained in section 13, where the Special Court finds a person guilty of an offence punishable under this Act and sentences him to imprisonment for a term exceeding three years, the Court shall also order that his assets derivable from trafficking in narcotic substances shall stand forfeited to the Federal Government unless it is satisfied, for which the burden of proof shall rest on the accused, that they or any part thereof, have not been so acquired.

CHAPTER III SEARCH AND INVESTIGATION

20. Power to Issue Warrants: (1). A Special Court may issue a warrant for the arrest of any person whom it has reason to believe to have committed an offence punishable under this Act, or for the search, whether by day or by night, of any building, place, premises or conveyance in which he has reason to believe any narcotic drug,

psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed is kept or concealed.

(2) The officer to whom a search warrant under sub-section (1) is addressed shall have all the powers of an officer acting under section 21.

21. Power of Entry, Search, Seizure and Arrest Without Warrant:

(1). Where an officer not below the rank of Sub-Inspector of Police or equivalent authorized in this behalf by the Federal Government or the Provincial Government, who from his personal knowledge or from information given to him by any person is of opinion that any narcotic drug, psychotropic substance or controlled substance in respect of which an offence punishable under this Act has been committed is kept or concealed in any building, place, premises or conveyance, and warrant for arrest or search cannot be obtained against such person without affording him an opportunity for the concealment of evidence or facility for his escape, such officer may—

- (a) Enter into any such building, place, premises or conveyance;
- (b) Break open any door and remove any other obstacle to such entry in case of resistance;
- (c) Seize such narcotic drugs, psychotropic substances and controlled substances and other materials used in the manufacture thereof and any other article which he has reason to believe to be liable confiscation under this Act and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act; and
- (d) Detain, search and, if he thinks proper, arrest any person whom he has reason to believe to have committed an offence punishable under this Act.

(2) Before or immediately after taking any action under sub-section (1), the officer referred to in that sub-section shall record the grounds and basis of his information and immediate action and forthwith send a copy to his immediate superior officer.

22. Power to Seizure and Arrest in Public Places: An officer authorized under section 21 may--

- (a) Seize, in any public place or in transit, any narcotic drug, psychotropic substance or controlled substance in respect of which he has reason to believe that an offence punishable under this Act has been committed, and, along with such drug, substance or any other article liable to confiscation under this Act, and any document or other article which he has reason to believe may furnish evidence of the commission of an offence punishable under this Act; and
- (b) Detain and search any person whom he has reason to believe to have committed an offence punishable under this Act, and if such person has any narcotic drug, psychotropic substance or controlled substance in his possession and such possession appears to him to be unlawful, arrest him.

Explanation: For the purpose of this section, the expression “public place” includes any public conveyance, hotel, shop or any other place intended for use by, or accessible to, the public.

23. Power to Stop and Search Conveyance: An officer referred to in section 19, may, if he has reason to suspect that any conveyance is, or is about to be, used for the transport of any narcotic drug, psychotropic substance or controlled substance in respect of which he suspects that any provision of this Act has been, or is being, or is

about to be, contravened at any time, stop such conveyance or, in the case of an aircraft, compel it to land and—

- (a) Rummage and search the conveyance or part thereof;
- (b) Examine and search any goods on or in the conveyance; or
- (c) If it becomes necessary to stop the conveyance, he may use all reasonable force for stopping it.

24. Undercover and Controlled Delivery Operations:

(1) Subject to sub-section (2) and to any treaty, arrangement or understanding with any foreign State to which Pakistan may from time to time be part, the Federal Government may give approval in writing to controlled delivery operations, for the purpose of gathering evidence in Pakistan or elsewhere relating to the commission of any offence against this Act or a similar law of a foreign State.

(2) Approval may not be given under sub-section (1) unless the Federal Government--

- (a) Suspects that persons, whose identity may or may not be known, have engaged in, are engaging in or are about to engage in, conduct constituting an offence against this Act or a similar law of a foreign State; and
- (b) Is satisfied that the proposed operations are properly designed to give such persons an opportunity to manifest that conduct or provide other evidence of it.

(3) The federal Government may give approval from time to time for a period not exceeding three months.

(4) Without limiting the generality of sub-section (1), the activities which may be undertaken by an authorized participant in the course of and for the purpose of a controlled delivery and undercover operation include--

- (a) Allowing any conveyance to enter or leave Pakistan;
- (b) Allowing any narcotic drug, psychotropic substance, manufactured drug, controlled substance, property or other thing in or on the conveyance to be delivered or collected;
- (c) Using such force as may be reasonable in the circumstances to enter and search the conveyance;
- (d) Placing a tracking device in or on the conveyance; and
- (e) Allowing any person who has possession or custody of the narcotic drug, psychotropic substance, manufactured drug, controlled substance, property or other thing to enter or leave Pakistan.

(5) Notwithstanding anything contained in any other law for the time being in force an authorized participant in an undercover operation or a controlled delivery shall not incur any criminal liability by taking part in it in accordance with the terms of approval.

(6) Any drug of dependence, controlled chemical, controlled equipment or controlled material imported into Pakistan in the course of an approved undercover operation or controlled delivery shall be liable to be dealt with as if it were a prohibited import for the purposes of the Customs Act, 1969 (IV of 1969).

25. Mode of Making Searches and Arrest: The provisions of the Code of Criminal Procedure, 1898, except those of Section 103, shall, mutatis mutandis, apply to all searches and arrests in so far as they are not inconsistent with the provisions of Sections 20, 21, 22, and 23 to all warrants issued and arrests and searches made under these sections.

26. Punishment for Vexatious Entry, Search, Seizure or Arrest: Any person empowered under section 20 or section 21 who--

- (a) Without reasonable grounds of suspicion, enters or searches, or causes to be entered or searched, any building, place, premises or conveyance;
- (b) Vexatious and unnecessarily seizes the property of any person on the pretence of seizing or searching for any narcotic drug, psychotropic substance, controlled substance or any other article or document relating to any offence under this Act; and
- (c) Vexatious and unnecessarily detains, searches or arrests any person, shall be punished with imprisonment for a term, which may extend to three years and shall also be liable, to fine, which may extend to twenty-five thousand rupees.

27. Disposal of Persons Arrested and Articles Seized:

(1) Every person arrested and articles seized under a warrant issued under section 20 shall be forwarded without delay to the authority by whom the warrant was issued; and every person arrested and article seized under section 20 or section 21 shall be forwarded without delay to--

- (a) The officer-in-charge of the nearest police station;
- (b) The Special Court having jurisdiction.

(2) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient dispatch, take such measures as may be necessary under the law for the disposal of such person or article.

28. Powers to Invest Officers of Law Enforcement Agencies with Powers of an Officer-in-Charge of a Police Station: The Federal Government may invest any officer of law enforcement agency or any other officer within their respective jurisdiction with the powers of an officer-in-charge of a police station for the investigation of offence under this Act.

29. Presumption from Possession of illicit Articles: In trials under this Act, it may be presumed, unless and until the contrary is proved, that the accused has committed an offence under this Act in respect of--

- (a) Any narcotic drug, psychotropic substance or controlled substance;
- (b) Any cannabis, coca or opium poppy plant growing on any land which he has cultivated;
- (c) Any apparatus specially designed or any group of utensils specially adapted for the production or manufacture of any narcotic drug, psychotropic substance or controlled substance; or
- (d) Any materials which have undergone process towards the production or manufacture of narcotic drug, psychotropic substance or controlled substance or any residue left of the materials from which a narcotic drug, psychotropic substance or controlled substance has been produced or manufactured, for the possession of which he fails to account satisfactorily.

30. Presumption as to Documents in Certain Cases: Where in the course of an investigation for an offence committed under this Act or any other law for the time being in force, any document is produced or furnished, or has been seized from the custody or control of any person, the Special Court shall--

- (a) Presume, unless the contrary is proved, that the signature and every other part of such document which purpose to be in the hand-writing of any particular person or which the Special Court may reasonably assume to have been signed by, or to be in the hand-writing of, any particular person, is in that person's hand-writing, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;
- (b) Admit the document in evidence, notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence; and
- (c) Presume, unless the contrary is proved, the truth of the contents of such document.

31. Power to Call for Information: (1). An officer authorized under section 21 may, during the course of an enquiry in connection with the contravention of any provision of this Act,

--

- (a) Call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made there under;
- (b) Require any person to produce or deliver any document or thing useful or relevant to the inquiry;
- (c) Examine any person acquainted with the facts and circumstances of the case; and
- (d) Require any bank or financial institution, notwithstanding anything contained in any other law for the time being in force, to provide any information whatsoever.

32. Articles Connected with Narcotics: (1) Whenever any offence has been committed which is punishable under this Act, the narcotic drug, psychotropic substance or controlled substance, materials, apparatus and utensils in respect of which, or by means of which, such offence has been committed shall be liable to confiscation.

(2) Any narcotic drug, psychotropic substance or controlled substance lawfully imported, transported, manufactured, possessed, or sold along with, or in addition to, any narcotic drug, psychotropic substance or controlled substance which is liable to confiscation under sub-section (1) and the receptacles or packages, and the vehicles, vessels and other conveyances used in carrying such drugs and substances shall likewise be liable to confiscation:

Provide that no vehicle, vessel or other conveyance shall be liable to confiscation unless it is proved that owner thereof knew that the offence was being, or was to be, committed.

33. Procedure for Making Confiscation: (1). In the trial of offences under this Act, whether the accused is convicted or acquitted, the Special Court shall decide whether any article frozen or seized in connection with such offence is liable to confiscation.

(2) Where any article seized under this Act appears to be liable to confiscation under section 32, but the person who committed the offence in connection therewith is not known or cannot be found, the Special Court may inquire into and decide such liability, and may order confiscation accordingly:

Provided further that if any such article, other than a narcotic drug, psychotropic substance or controlled substance is liable to speedy and natural decay, or if the Special Court is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(3) Any person who is not convicted under this Act and claims any right to property which has been confiscated under sub-section (2) may, within thirty days, apply to the Special Court for setting aside the order of confiscation:

Provided that the period of thirty days may be extended for such further period as may be deemed appropriate by the Court in the event of the said person not having knowledge of the confiscation.

(4) A narcotic drug, psychotropic substance or controlled substance seized under this Act shall be disposed of under section 516-A of the Code of Criminal Procedure, 1898 (Act V of 1898).

34. Federal Narcotics Testing Laboratory, etc.: (1) The Federal Government may, as soon as may be after the commencement of this Act, set-up a Federal Narcotic Testing Laboratory and such other institutes and narcotics testing research laboratories or notify any other laboratory or institute to be a Federal Narcotics Testing Laboratory for carrying out the purposes of this Act.

(2) The Provincial Government may, wherever deems appropriate, set-up Provincial Narcotics Testing Laboratories.

35. Government Analyst: The Federal Government or a Provincial Government, may, by

notification in the official Gazette, appoint such persons as it thinks fit, having the prescribed qualifications, to be Federal Government Analysts or, as the case may be, Provincial Government Analysts, for such areas and in respect of such narcotic drugs, psychotropic substances or controlled substances as maybe specified in the notification.

36. Reports of Government Analysts: (1) The Government Analyst to whom a sample of any narcotic drugs, psychotropic substance or controlled substance has been submitted for test and analysis shall deliver to the person submitting it, a signed reporting quadruplicate in the prescribed form and forward one copy thereof to such authority, as maybe prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force, any document purporting to be a report signed by a Government Analyst shall be admissible as evidence of the facts stated therein without formal proof and such evidence shall, unless rebutted, be conclusive.

CHAPTER IV FREEZING AND FORFEITURE OF ASSETS

37. Freezing of Assets, etc.: (1). Where the Special Court trying an offence punishable under this Act is satisfied that there appear reasonable grounds for believing that the accused has committed such an offence, it may order the freezing of assets of the accused, his relatives and associates.

(2) Where in the opinion of the Director-General or an officer authorized under section 21 an offence is being or has been committed, he may freeze the assets of such accused and within seven days of the freezing shall place before the Court the material on basis of which the freezing was made and further continuation of the freezing or otherwise shall be decided by the Court.

(3) The said officer shall trace, identify and freeze the assets during the investigation or trial for the purpose of forfeiture by the Special Court:

Provided that the Director-General, or as the case may be, the officer freezing any asset shall, within three days, inform the Special Court about such freezing and the Special Court shall, after notice to the person whose assets have been frozen, by an order in writing, confirm, rescind or vary such freezing.

38. Tracing of Assets: (1) On receipt of a complaint or credible information or where a reasonable suspicion exists about any person that he has acquired assets through illicit involvement in narcotics, within or without Pakistan, an officer empowered under section 21 or any other person authorized under section 37, shall proceed to trace and identify such assets.

(2) On receipt of authenticated information from a foreign Court of competent jurisdiction that a citizen of Pakistan has been charged for an offence which is also an offence under this Act, an officer empowered under section 21 or any other person authorized under section 37 shall proceed to trace and identify the assets of the said person, and subject to the provision of sub-section (3) may freeze the said assets.

(3) Information about such assets shall be laid before to the Special Court for the purpose of section 13 and section 19 in case action under this Act or any other law for the time being in force is initiated and in case of the person who has committed the offence is outside Pakistan, before the High Court for the purpose of forfeiture of assets under section 40.

(4) The actions referred to in sub-sections (1) and (2) may include any inquiry, investigation or survey in respect of any person, premises, place, property, conveyance, documents and books of accounts.

39. Order for Forfeiture of Assets: (1). Where the Special Court convicts an accused under section 13, or sentences him to imprisonment for more than three years, the Director-General or an officer authorized by him may request the said Court by an application in writing along with a list of the assets of the convict or, as the case may be, his associates, relatives or any other person holding or possessing such assets on his behalf, for forfeiture thereof.

(2) Where the Special Court is satisfied that any assets specified in the list referred to in sub-section (1) were derived, generated or obtained in contravention of section 12 are liable to be forfeited under section 19, it may order that such assets shall stand

forfeited to the Federal Government:

Provided that no order under this section shall be made without issuing a notice to show cause and providing a reasonable opportunity of being heard to the person being affected by such order:

Provided further that if such person fails to tender any explanation or defaults in making appearance before the Special Court on any date appointed by it, the Special Court may proceed to record an order ex-parte on the basis of the evidence available before it.

(3) Where any shares in a company are forfeited to the Federal Government under sub-section (2), notwithstanding anything contained in the Companies Ordinance, 1984 (XLVII of 1984), or any other law for the time being in force or Articles of Association of the Company, such shares shall be registered in the name of Federal Government.

40. Forfeiture of Assets of Person Convicted Abroad: (1) Notwithstanding anything contained in any other law for the time being in force, where a citizen of Pakistan is convicted by a foreign Court for an offence which is also an offence punishable under this Act, the Special Court may, on an application made by the Director-General or any other officer authorized by the Federal Government, order that the assets acquired in Pakistan by such citizen shall be forfeited to the Federal Government.

(2) The Special Court shall presume, upon the production of any document purporting to be a certified copy of a foreign judgment that such judgment was pronounced by a Court of competent jurisdiction, unless the contrary appears on the records, but such presumption may be displaced by proving want of jurisdiction:

Provided that the judgment or order of conviction--

- (a) Is passed by the foreign Court of competent jurisdiction;
- (b) Has been pronounced on the merits of the case;
- (c) Has not been obtained by fraud;
- (d) Has not been made in contravention of any law in force in Pakistan;
- (e) Has assumed finality through appeal, revision or review and is not subjudice before any appellate forum:

Provided further no order under this section shall be made without providing an opportunity of being heard to such citizen:

Provided also that, notwithstanding any thing contained in clauses (a) to (e) of the first proviso, during the pendency of the application the Court may, by an order, freeze all or any of the assets or restrain such citizen, his associates and relatives from alienating such assets by lease, sale, gift, transfer or in any other manner.

Explanation: For the purpose of this section, the expression "Court" means the High Court of the Province where the assets or any part thereof are located.

41. Prohibition of Alienation of Freezed Property: (1). Where any order under Section 37 or Section 40 is made for freezing of any assets, any alienation or transfer of such assets by any manner or mode shall, till the conclusion of the

proceedings under this Act, or until such order is vacated, be void, and if such asset is subsequently forfeited to the Federal Government, any such alienation or transfer of assets shall be deemed to be of no effect whatsoever.

(2) Any person who knowingly alienates or transfers any assets in respect whereof an order has been made under Section 37 or Section 40 shall be guilty of an offence punishable, on conviction, with imprisonment for a term which may extend to three years, or with fine, or with both.

42. Punishment for Acquiring Property in Relation to which Proceedings Have Been Taken Under This Act: Any person who knowingly acquires any assets, which have been frozen under this Act, shall be punishable with imprisonment for a term, which may extend to three years and with fine.

43. Power to Take Possession: (1) Where any asset is ordered to be forfeited to the Federal Government under Section 39, the Special Court may direct the person holding or possessing such asset to surrender or deliver its possession to the Administrator appointed under Section 44 or any other person authorized by the Special Court in this behalf, with in such time as may be directed by it.

(2) If any person refuses or fails to comply with a direction issued under sub-section (1), the Special Court may require the Superintendent of Police assistance to the Administrator for securing possession thereof, and it shall be the duty of the Superintendent of Police to comply with such requisition.

44. Management of Assets Frozen or Forfeited Under the Act: (1). The Federal Government may, by a notification in the official Gazette, appoint any officer of the Federal Government or a Provincial Government as it may think fit to perform the functions of an Administrator of the assets frozen or forfeited under this order.

(2) The Administrator appointed under sub-section (1) shall take such actions and exercise such powers as the Federal Government may direct for the maintenance and disposal of the assets which are frozen or forfeited to the Federal Government.

CHAPTER V SPECIAL COURTS

45. Jurisdiction to Try Offences: The Special Court established under this Act shall have the exclusive jurisdiction to try an offence cognizable under this Act.

46. Establishment of Special Courts: (1) The Federal Government and, if, so directed by the Federal Government, the Provincial Government shall, by notification in the official Gazette, establish as many Special Courts as it considers necessary and appoint a judge for each of such Courts and where it establishes more than one Special Court, it shall specify in notification the place of sitting of each Special Court and the territorial limits within which it shall exercise jurisdiction under this Act.

(2) There shall be two classes of Special Courts to try offences under this Act, namely:

--

(I) Special Courts having the power to try all offences;

(II) Special Courts having the power to try offences punishable with imprisonment for two years or less.

(3) No person shall be appointed a Judge of a Special Court referred to—

(I) In sub-section (2) (I) unless he is or has been a Sessions Judge or an Additional Sessions Judge; and

(II) In sub-section (2) (II) unless he is a Judicial Magistrate of the First class.

(4) A person shall be appointed as Judge of a special Court after consultation with the Chief Justice of the High Court of the Province in which the Special Court is established.

(5) The Federal Government or the Provincial Government may, in consultation with the Chief Justice of the High Court, confer the powers of a Special Court referred to –

(I) In sub-section (2) (I), on any Sessions Judge or Additional Sessions Judge;

(II) In sub-section (2) (II), on any Judicial Magistrate of the First Class.

47. Application of the Code of Criminal Procedure, 1898: Except as otherwise in this Act, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the Code (including provisions relating to confirmation of a death sentence) shall apply, to trials and appeals before a special Court under this act.

48. Appeal: (1) An appeal against the order of a Special Court comprising a Sessions Judge or an Additional Sessions Judge shall lie to the High Court and shall be heard by a Bench of not less than two Judges of that Court.

(2) An appeal against the order of a Special Court comprising a Judicial Magistrate shall lie to a Special Court comprising a Sessions Judge or an Additional Sessions Judge.

49. Transfer of Cases: (1) Where more Special Courts than one are established within the territorial jurisdiction of a High Court, the High Court may, by order in writing, transfer a case, at any stage, from one Special Court to another Special Court, in accordance with section 526 of the Code as if the Special Court was a Court of Session.

(2) On the establishment of Special Courts under section 45 and 46, all cases where the sentence of an offence is two years or less, shall stand transferred to the respective Special Court comprising a judicial Magistrate of the First Class and all other cases to

the respective Special Courts comprising of Sessions Judges of Additional Sessions Judges.

(3) Notwithstanding anything hereinbefore contained, a remand may be granted by the nearest Special Court comprising a judicial Magistrate of the First Class.

50. Special Prosecutor: (1). The Federal Government may appoint a person who is an advocate of a High Court to be a Special Prosecutor on such terms and conditions as may be determined by it and any person so appointed shall be competent to conduct proceedings under this Act before a Special Court and, if so directed by the Federal Government, to withdraw such proceedings.

(2) When a Special Prosecutor appointed under sub-section (1) is, for any reason temporarily unable to conduct proceedings before the Special Court, the proceedings shall be conducted by such person as may be authorized in this behalf by the special Court.

51. No Bail to be Granted in Respect of Certain Offences: (1) Notwithstanding anything contained in sections 496 and 497 of the Criminal Procedure Code, 1898 (V of 1898), bail shall not be granted to an accused person charged with an offence under this Act or under any other law relating to narcotics where the offence is punishable with death.

(2) In the case of other offences punishable under this Act, bail shall not be normally granted unless the Court is of the security of a substantial amount.

CHAPTER VI TREATMENT AND REHABILITATION OF ADDICTS

52. Registration of addicts: (1) Each Provincial Government shall register all addicts within their respective jurisdiction for the purpose of treatment and rehabilitation of addicts.

(2) The Federal Government shall bear all expenses for first time compulsory de-toxification or de-addiction of an addict.

(3) The addict shall carry a registration card in such form as may be prescribed and produce it to any public authority on demand.

53. Powers of the Government to establish centres for treatment of addicts: The Provincial Government shall establish as many centres as may be deemed necessary for de-toxification, de-addiction, education, after-care, rehabilitation, social integration of addicts and for supply of such medicines as are considered necessary for the de-toxification of the addicts.

CHAPTER VII NATIONAL FUND FOR CONTROL OF DRUG ABUSE

54. National fund for control of drug abuse: (1). The Federal government may, by

notification in the official Gazette, constitute a Fund to be called the National Fund for Control of Drug Abuse, hereinafter to be called the Fund, consisting of –

- (a) Grants from the Federal Government or Provincial Governments;
- (b) The sale proceeds of any assets forfeited under this Act or any other law for the time being in force;
- (c) The sale proceeds of unserviceable commodities and vehicles provided by the donor for narcotics control purposes;
- (d) Any grants made by any person or institution; and
- (e) Any income from the investment of the amounts credited to the Fund.

(2) All receipts mentioned in sub-clauses (a) to (e) of sub-section (1) shall be credited to a Head of Account in the Public Account duly authorized by the Auditor-General of Pakistan.

(3) The purpose and object of the Fund shall be to meet the expenditure incurred in connection with the control and eradication of trafficking in, and abuse of, narcotic drugs, psychotropic substances, controlled substances, or treatment and rehabilitation of drug addicts and for all or any of the related purposes, as may be specified by the federal Government.

(4) The management, overall control and supervision of the affairs of the Fund shall vest in a Governing Body consisting of a Chairman and such other members as may be appointed by the Federal Government by a notification in the official Gazette, on such terms and conditions as may be prescribed.

(5) The Governing Body shall have the powers to regulate its own procedures and co-opt members as it may deem appropriate.

55. Annual Report of the activities financed out of the fund: The Governing Body shall, after the end of each financial year, submit to the Federal Government a report giving an account of its activities and the activities financed out of the Fund during the financial year, together with a statement of accounts.

CHAPTER VIII INTERNATIONAL CO-OPERATION

56. Authority to make and act on mutual legal assistance requests:

(1) This Chapter is subject to any treaty, arrangement or understanding with foreign States to which Pakistan may from time to time be party, and nothing in the Chapter shall be taken to limit the nature or extent of assistance which Pakistan may otherwise lawfully give to, or receive from foreign States.

(2) The Federal Government may ---

- (a) Make request on behalf of Pakistan to the appropriate authority of a foreign State for mutual legal assistance in any investigation commenced, or proceeding instituted, in Pakistan relating to an offence committed, or suspected on reasonable grounds to have been committed under Chapter II of this Act;
- (b) Grant or postpone in whole or in part similar requests from foreign states on such terms and conditions as it thinks fit; and
- (c) Refuse (in whole or in part) such requests from foreign States on the ground that to grant the request would be likely to prejudice the sovereignty, security, public order or other essential public interest of Pakistan.

(3) Requests on behalf of the federal Government to the appropriate authorities of foreign states for the assistance referred to in sub-section (2) shall be made by the Federal Government, or an officer authorized by the Federal Government, and requests for any other form of international assistance in investigations or proceedings relating to criminal matters may be made by any person authorized by the Federal Government in this behalf.

57. Mutual legal assistance requests by Pakistan: (1) The Federal Government or an officer authorized by the Federal Government under sub-section (3) of section 56 may request the foreign State to ---

- (a) Have evidence taken, or documents or other articles produced;
- (b) Obtain and execute search warrants or other lawful instruments authorizing a search for things relevant to investigations or proceedings in Pakistan believed to be located in that State, and if found, seize them;
- (c) Freeze assets the subject of actions or orders under sub-section (2) of section 37, by whatever processes are lawfully available in that State, to the extent to which the assets are believed on reasonable grounds to be located in that State;
- (d) Confiscate articles the subject of orders under sub-section (2) of Section 33 and forfeit assets the subject of orders under sub-section (2) of Section 39 to the extent to which the articles or assets, as the case may be, are believed to be located in that State;
- (e) Transmit to Pakistan any such evidence, documents, things, articles, assets or proceeds realized from the disposal of such articles or assets; and
- (f) Transfer in custody to Pakistan a person detained in the foreign State who consents to assist Pakistan in the relevant investigation or proceedings.

58. Foreign requests for assistance: (1). The Federal Government may authorized the giving of mutual legal assistance to a foreign State of a kind to that

specified in section 57 in investigations commenced or proceedings instituted in such State.

(2) Such requests shall ---

- (a) Give the name of the authority concerned with the criminal matter to which the request relates;
- (b) Give a description of a nature of the criminal matter and a statement setting out a summary of the relevant facts and laws;
- (c) Give a description of the purpose of the request and of the nature of the assistance being sought;
- (d) In the case of a request to freeze or forfeit assets believed on reasonable grounds to be located in Pakistan, give details of the offence, particulars of any investigation or proceedings commenced in respect of the offence, and be accompanied by a copy of any relevant freezing forfeiture order of the Court;
- (e) Give details of any procedure that the foreign State wishes to be followed by Pakistan in giving effect to the request, particularly in the case of a request to take evidence;
- (f) Contain a statement setting out any wishes of the foreign State concerning any confidentiality relating to the request and the reasons for those wishes;
- (g) Give details of the period within which the foreign State wishes the request to be complied with;
- (h) State, where applicable, the grounds for believing that the relevant assets or things to be traced, frozen or seized are located in Pakistan; and
- (i) Contain any other information that may assist in giving effect to the request.

(3) A request may be accepted, after consultation, notwithstanding that the request, as originally made, does not comply with sub-section (2).

59. Foreign requests for an evidence-gathering Order or a search

warrant: (1) Notwithstanding anything contained in any law for the time being in force, where the Federal Government approves a request of a foreign State pursuant to section 60 to obtain evidence in Pakistan, or be able to be given by a person believed to be in Pakistan, the Director-General or an officer authorized by him may apply to the High Court for ---

- (a) A search warrant; or
- (b) An evidence-gathering order.

(2) The High Court to which an application is made under sub-section (1) may issue an evidence-gathering order or a search warrant under this sub-section, where it is satisfied that there are reasonable grounds to believe that ---

- (a) An offence has been committed, or is suspected on reasonable grounds to have been committed against the laws of the requesting State which, if committed in Pakistan, would have constituted an offence under this Act;
- (b) Evidence of the commission of the foreign offence or information that would reveal the whereabouts of a person who is suspected of committing the foreign offence is likely to be found in a building, receptacle or place in Pakistan; and
- (c) In the case of an application for a search warrant, it would not, in all the circumstances, be more appropriate to grant an evidence-gathering order.

(3) An evidence-gathering order ---

- (a) Shall provide for the manner in which the evidence is to be obtained in order to give proper effect to the foreign request unless prohibited under the law of Pakistan, and in particular, may require any person named therein to:
 - (i) Make a record from date or make a copy of a record;
 - (ii) Attend Court to give evidence on oath or otherwise until excused; and
 - (iii) Produce to the High Court or to any person designated by the Court anything, including any record, or copy thereof; and
 - (b) May include such terms and conditions as the High Court considers desirable, including those relating to the interests of the person named therein or of third party.
- (4) A person named in an evidence-gathering order may refuse to answer a question or to produce a record or thing where the refusal is based on ---
- (a) A law in force in Pakistan;
 - (b) A privilege recognized by a law in force in the foreign State that made the request; or
 - (c) A law in force in the foreign State that would render the answering of that question or the production of that record or thing by that person in its own jurisdiction an offence.
- (5) Where a person refuses to answer a question or to produce a record or thing under sub-section (4), the High Court shall report the matter to the Federal Government which shall notify to the foreign State accordingly and request it to provide a written statement on whether the person's refusal was well-founded under the law of the foreign State.
- (6). Any written statement received by the Federal Government from the foreign State in response to a request under sub-section (5) shall, notwithstanding anything contained in the Qanun-e-Shahadat, 1984, be admissible in the evidence-gathering proceedings, and be determinative of whether the person's refusal is well-founded under the foreign law.
- (7) A person who, without reasonable excuse, refuses to comply with a lawful order of the High Court made under this section, or who having refused under sub-section (4), continues to refuse notwithstanding the admission in evidence of a statement under sub-section (6) to the effect that the refusal is not well-founded, commits a contempt of the Court.
- (8) The High Court may issue a warrant for the arrest of a person named in an evidence-gathering order where it is satisfied that the person---
- (a) Did not attend or remain in attendance as required or is about to abscond;
 - (b) Was personally served with the order.
- (9) A person arrested in pursuance of a warrant issued under sub-section (8) shall be forthwith brought before the High Court, to ensure compliance with the order made under sub-section (2), and the Court may order that the person be detained in custody or released on recognizance, with or without sureties.
- (10) A search warrant---
- (a) Shall be issued in accordance with the provisions of Criminal Procedure Code, 1898 (V of 1898);
 - (b) Shall specify a time and date when the High Court will hear any representations from any person from whom, a record or thing is seized pursuant to the warrant, before any order is made to send it to the foreign State; and

- (c) May include such terms and conditions, as the High Court considers desirable, including conditions relating to the time or manner of its execution.
- (11) The person executing a search warrant issued under sub-section (2)---
- (a) May seize anything that he believes on reasonable grounds will afford evidence of, or has been obtained for, or used in, or is intended to be used in, the commission of an offence under this Act;
- (b) Shall, at least five days before the time of the hearing to consider its execution, file in the High Court a written report concerning the execution of the warrant, including a description of the records or things seized.
- (12) At the hearing to consider the execution of a search warrant the High Court, after considering any representation made by the Director-General or an officer authorized by him, or any person from whom a record or thing was seized pursuant to the warrant, and any person who claims to have an interest in the record or thing, may ---
- (a) Order that the record or thing be returned to the person from whom it was seized, or to the person lawfully entitled to its possession, if satisfied that the warrant was not executed according to its terms and that it would be in the public interest to so return it;
- (b) In any other case, order that the record or thing be send to the foreign State, and include in the order such terms and conditions as the High Court considers necessary---
- (i) To give effect to the request from foreign State;
- (ii) With respect to the preservation and return to Pakistan of any record or thing seized; or
- (iii) With respect to the interest of a third party.
- (13) No record or thing seized and ordered to be sent to a foreign State shall be sent until the Director-General is satisfied that the foreign State has agreed to comply with any terms or conditions imposed in respect of the sending abroad of the record or thing.
- 60.** Foreign requests for assistance from detained persons: (1). Where the Federal Government approves a request of a foreign State to have a detain person, who is serving a term of imprisonment in Pakistan, transferred to a foreign State for a fixed period to give evidence or assist in an investigation or proceedings in that State relating to an offence committed, or suspected on reasonable grounds to have been committed against the laws of the requesting State, in respect of conduct which had it occurred in Pakistan would have constituted an offence under this Act, the Director-General may apply to the High Court for a transfer order.
- (2) The High Court to which an application is made under sub-section (1) may make a transfer order where it is satisfied, having considered, among other things, any documents filed, or information given, in support of the application that the detained person consents to the transfer.
- (3) A transfer order made under sub-section (2)---
- (a) Shall set out the name of the detained person and his place of confinement;
- (b) Shall order the person who has custody of the detained person to deliver him into the custody of a person who is designated in the order or who is a member of the class of persons so designated;
- (c) Shall order the person receiving him into custody to take him to the foreign State and, on return of the detained person to Pakistan, to return that person to the

place of confinement where he was when the order was made, or to such other place of confinement as the federal Government subsequently may notify to the foreign State;

- (d) Shall state the reasons for the transfer;
 - (e) Shall fix the period of time at, or before the expiration of, which the detained person must be returned or unless varied on the application of the Federal Government for the purposes of the request;
 - (f) May include such terms or conditions relating to the protection of the interests of the detained persons as the High Court considers desirable.
- (4) The time spent in custody by a person pursuant to a transfer order shall, so long as such person remains in such custody and is of good behaviour, be deemed to have been spent in service of the sentence being served when the order was made.

61. Foreign persons in Pakistan in response to a Pakistan request:

(1).The Federal Government may, by written notice, authorize the temporary detention in Pakistan of a person in detention in a foreign State who is transferred from that State to Pakistan pursuant to a request under clause (f) of (1) of section 62, for such period as may be agreed with that state for the purposes of the request, and the return in custody of the person to the foreign State.

(2) A person in respect of whom a notice is issued under sub-section (1) shall, so long as the notice is in force:

- (a) Be permitted to enter Pakistan and remain in Pakistan for the purpose of the request, and to leave Pakistan when no longer required for those purposes, notwithstanding any Pakistan law to the contrary; and
- (b) While in custody in Pakistan for the purposes of the request, be deemed to be in lawful custody.

(3) The Federal Government may at any time vary a notice under sub-section (1), and where the foreign State requests the release of the person from custody, either immediately or on a specified date, the Federal Government shall direct that the person be released from custody accordingly.

(4) The provisions of this section shall apply, mutatis mitandis, in the case of any detained person in transit through Pakistan from one foreign State to another pursuant to request for assistance of the kind referred to in this section.

(5) Any person, whether or not a detained person, who is in Pakistan in response to a Pakistan request under this Chapter to give evidence in a proceeding or to give assistance proceeding may not, while in Pakistan, be---

- (a) Detained, prosecuted or punished; or
- (b) Subjected to civil process, before the person's departure from the foreign State pursuant to the request in respect of any act or omission that occurred.

62. Foreign requests for Pakistan restraining orders: (1). Notwithstanding anything contained in any law for the time being in force, where the Federal Government approves a request of a foreign State to section 66 to restrain dealings in any assets, some or all of which are believed on reasonable grounds to be located in Pakistan, the Federal Government may apply to the High Court for a restraining order.

(2) The High Court to which an application is made under sub-section (1), may issued a freezing order, where it is satisfied that there are reasonable grounds to believe that---

- (a) An offence has been committed, or is suspected on reasonable grounds to have been committed by a person against the laws of the requesting State which, if committed in Pakistan, would have constituted an offence under this Act;
- (b) An investigation or proceeding has commenced in the foreign State relating to that offence;
- (c) Assets derived by the person, his relatives and associates from the commission of the offence are located in Pakistan; and
- (d) An order has been made, or is likely to be made in the foreign country having, to the effect of forfeiting such assets, this ordinance shall apply as if the offence had been committed in Pakistan, whereupon the freezing order had been made under sub-section (2) of section 38.

63. Requests for enforcement of foreign confiscation or restraining orders:

(1) This section does not apply to cases falling within section 40 of this Act.

(2) Where a foreign State requests the federal Government to make arrangements for the enforcement of a ---

(a) Foreign restraining order, or

(b) Foreign forfeiture order,

the Director-General may apply to the High Court for registration of the orders issued by a Court of that State.

(3) The High Court shall, on application by the Director-General, register the foreign restraining order if the Court is satisfied that the order is in the foreign State.

(4) The High Court shall, on application by the Director-General or an officer authorized by him, register the foreign forfeiture order if the Court is satisfied ---

(a) The order is in force in the foreign State and is not subject to appeal; and

(b) Where the person, the subject of the order, did not appear in the foreign forfeiture order proceedings in the foreign State, that ---

(i) The person was given notice of the proceedings in sufficient time to enable him or her to defend him; or

(ii) The person died or absconded before such notice could be given.

(5) Where a foreign restraining order or foreign forfeiture order is registered in accordance with this section, a copy of any amendments made in the order in the foreign State (whether before or after registration), may be registered in the same way as the order, but shall not have effect for the purposes of this Act until they are so registered.

(6) The High Court shall, on application by the Director-General or an officer authorized by him, cancel the registration of ---

(a) A foreign restraining order if it appears to the Court that the order has ceased to have effect; and

(b) A foreign forfeiture order if it appears to the Court that the order has been satisfied or has ceased to have effect.

(7) Subject to sub-section (8), where the foreign restraining order or foreign forfeiture order comprises a facsimile copy of a duly authenticated foreign order, or amendment made to such a order, the facsimile shall be regarded for the purposes of this Ordinance as the same as the duly authenticated foreign order.

(8) Registration effected by means of a facsimile shall cease to have effect at the end of the period of fourteen days commencing on the date of registration, unless a duly

authenticated original of the order has been registered by that time.

(9) Where a foreign restraining order or a foreign forfeiture order has been registered pursuant to this section, this Act shall be deemed to apply in relation to the order as if the offence the subject of the order had been committed in Pakistan, and the order had been made pursuant to Chapter IV of this Act.

64. Requests to recover foreign fines: (1). Where the Federal Government approves a request from a foreign State to enforce the payment of a fine imposed by a Court of that State, a Court in Pakistan shall enforce the payment of the fine as if the fine as been imposed by a Court in Pakistan.

Explanation: For the purpose of this section the expression "fine" shall include any pecuniary penalty determined by a foreign Court to represent the value of any property, benefit, advantage, obtained or derived directly or immediately as a result of the commission of an offence relating to narcotic substance.

(2) No proceedings under sub-section (1) shall be instituted after the expiry of five years

from the date the fine was imposed.

65. Sharing forfeited property with foreign States: The Federal Government may enter into an arrangement with the competent authorities of a foreign State for the reciprocal sharing with that state of which part of any property realized pursuant to this Act ---

(a) In the foreign State, as a result of action taken by the Federal Government;

(b) In Pakistan, as a result of action taken in Pakistan, on such terms and conditions as the Federal Government may prescribe.

66. Extradition: Notwithstanding anything contained in the Extradition Act, 1972 (XXI of

1972), all offences against Chapter II of this Act shall be deemed to ---

(a) Be extraditable offences; and

(b) Not be political offences.

CHAPTER IX GENERAL

67. Reporting of suspicious financial transaction: (1). Notwithstanding anything contained in any law for the time being in force, all banks and financial institutions shall pay special attention to all unusual patterns of transactions, which have no apparent economic or lawful purpose and upon suspicion that such transactions could constitute or be related to illicit narcotics activities, the manager or director of such financial institution shall report the suspicious transactions to the Director-General.

(2) Whoever fails to supply the information in accordance with sub-section (1) shall be punishable with rigorous imprisonment which may extend to three years, or with both.

68. Presumption to the assets acquired through dealing in narcotics:

Where there is reasonable ground to believe that the assets of a person or any part thereof were acquired before or at the time of, or after the commission of an offence under this Act and there was no other likely source of acquiring such assets or part thereof, it shall be presumed, unless the contrary is proved, that such assets or part thereof were acquired, generated or obtained through cultivation, manufacture, production, sale, purchase, dealing or trafficking of narcotic drugs, psychotropic substances or controlled substances.

69. Departments to render assistance to the Special Courts, etc.:

All departments of the Government, banks, financial institutions, corporate bodies, companies, societies and agencies shall assist the Special Court, Director-General or any other officer authorized by the Federal Government for the purposes of any inquiry, tracing of any assets or for ascertaining whether any assets held by any person, his associate or relative were acquired by committing any offence under this Act.

70. Notice or order not to be invalid for error in description: No notice issued, or order passed, under this Act shall be invalid by reason of any error in the description of the person or assets specified therein if such person or assets are otherwise identifiable from the description specified in such notice or order.

71. Delegation: (1). The Federal Government may, by notification in the official Gazette and subject to such conditions and limitations as may be specified in the notification, delegate all or any of its powers and functions under this Act as it may deem necessary or expedient to the Provincial Government, Director-General or any other authority or officer of the Federal Government.

(2) The Provincial Government may, by notification in the official Gazette, subject to such conditions and limitations as may be specified in the notification, delegate all or any of its powers and functions under this Act as it may deem necessary or expedient, to any authority or officer of that Government.

72. Application of the Customs Act, 1969: All prohibitions and restrictions imposed by or under this Ordinance on the import into, export from, Pakistan and transshipment of narcotic drugs, psychotropic substances or controlled substances shall be deemed to be prohibitions and restrictions imposed by or under the Customs Act, 1969 (IV of 1969), and the provisions of this Act shall apply accordingly;

Provided that, notwithstanding anything contained in the Custom Act, 1969 (IV of 1969), or any other law for the time being in force, all offences relating to narcotic drugs, psychotropic substances or controlled substances shall be tried under the provisions of this Act:

Provided further that where the Officers of Customs apprehends a person involved in any offence relating to narcotic drugs, psychotropic substances or controlled substances shall be empowered to carry out inquiry and investigation in the same manner as an officer authorized under this Act.

73. Saving of Provincial and special laws: (1). Nothing contained in this Act or in the rules made thereunder shall affect the validity of any Federal or Provincial law for the time being in force, or of any rule made thereunder which imposes any restriction or provides for a punishment not imposed by or provided for under this Act or imposes a restriction or provides for a punishment greater in degree than a corresponding restriction imposed by or a corresponding punishment provided for by or under this Act for the cultivation of cannabis plant or consumption of, or traffic in, any narcotic drug or psychotropic substance within Pakistan or other similar matters.

74. Application of other laws: If an offence punishable under this Act, is also an offence in any other law for the time being in force, nothing in that law shall prevent the offender from being punished under this Act:

Provided that nothing contained in section 523 of the Code of Criminal Procedure, 1898 (Act V of 1898), or any other provision of the said Code or any other law for time being in force, the custody of narcotic drugs, psychotropic substances, controlled substances, any material utensils used for production or manufacture of such drugs or substances or any conveyance used in import, export, transport or transshipment thereof or for commission of an offence under this Act, shall not be given on custody to the accused or any of his associate or relative or any private individual till the conclusion of the case.

75. Indemnity: No suit, prosecution or other proceedings shall lie against the Federal Government or Provincial Government or any officer of the Federal Government or of a Provincial Government for anything in good faith, done or intended to be done in pursuance of this Act or the rules made thereunder.

76. Ordinance to override other laws: The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

77. Power to make rules: (1). The Federal Government may, by notification in the official Gazette, make rules for carrying 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 following matters, namely:-

- (a) The administration, management and disposal of the property forfeited under this Act; and
- (b) Terms and conditions of Special Prosecutors.

78. Repeal and saving: (1). The Opium Act, 1857 (XIII of 1857), the Opium Act, 1878 (I of 1878), the Dangerous Drugs Act, 1930 (II of 1930), and the Control of Narcotic Substances Ordinance, 1997 (XLIII of 1997), are hereby repealed.

(2) Notwithstanding the repeal of any law under sub-section (1), the repeal shall not,

except as otherwise provided in this Act,---

- (a) Affect the previous law or anything duly done or suffered thereunder
- (b) Affect any right, privilege, obligation or liability acquired, accrued under such law;
- (c) Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against such law;
- (d) Affect any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment; and
- (e) Affect any such investigation, legal proceedings or remedy may be instituted, continued or enforced or any such penalty, forfeiture or punishment which may be imposed, by the Courts or authorities competent to investigate, try an offence under such law if the said law had not been repealed.

**THE KHYBER PAKHTUNKHWA
PROHIBITION ACT, 1938**

THE KHYBER PAKHTUNKHWA PROVINCE PROHIBITION ACT, 1938
THE KHYBER PAKHTUNKHWA
PROHIBITION ACT, 1938
KHYBER PAKHTUNKHWA ACT XI OF 1938
[AS AMENDED BY KHYBER PAKHTUNKHWA ORDINANCE X OF
1972]

An Act to introduce and extend the prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the Khyber Pakhtunkhwa.

Whereas with a view of improve the moral condition and the material prosperity of the people of the Khyber Pakhtunkhwa, it is expedient as early as possible to bring about the prohibition except for medicinal, scientific, industrial or such like purpose or any purpose other than used as a beverage, of the production, manufacture, possession, ex-port, import, transport, purchase, sale and consumption of intoxicating liquors and drugs in the said Province.

And whereas it is desirable to give effect o the above-mentioned policy by introducing it in certain selected areas in the said Province and utilizing the experience gained therein for extending it to the other areas thereof ;

It is hereby enacted as follows: —

CHAPTER I—PRELIMINARY

1. Short title, extent and commencement. (1) This Act may be called the Khyber Pakhtunkhwa Prohibition Act, 1938.

(2) It extends to the whole of the Khyber Pakhtunkhwa.

(3) The whole of the Act shall come into force at once in the District of Dera Ismail Khan.

(4) This Section and Sections 3, 6, 16 and 24 shall come into force at once in the rest of the Khyber Pakhtunkhwa and the rest of this Act, shall come into force in such local area on such dates, as the Provincial Government, by notification in the official Gazette, may appoint.

(5) The Provincial Government may, by notification in the official Gazette, direct that the provisions of this Act other than this Section and Sections 3, 6, 16 and 24 shall cease to be in force in any local area.

COMMENTARY

Rules framed under the Act—Khyber Pakhtunkhwa Prohibition Rules, 1949. —In exercise of the powers conferred by Section 53 of the Khyber Pakhtunkhwa Prohibition Act, 1938. the Provincial Government have framed the Khyber Pakhtunkhwa Prohibition Rules, 1949.¹ These Rules were amended from time to time.²

¹ PLD 1950 KHYBER PAKHTUNKHWA Statutes 22-38

² For these subsequent amendments, see PLD 1950 KHYBER PAKHTUNKHWA Statues 40, PLD 1959 W.P. Statutes 143, 222, PLD 1962 W.P. Statutes 463, PLD 1963 W.P. Statutes, 14, 16, 244,

THE KHYBER PAKHTUNKHWA PROVINCE PROHIBITION ACT, 1938

Rules regarding the grant of rewards were framed *vide* notification No. 9151-EXC., dated 12th November, 1949.¹

2. Repeals. From the date on which the provisions of this Act other than Sections 1, 3, 6, 16 and 24 come into force in any local area, the Punjab Excise Act, 1914, shall cease to be in force in such area, and if under a direction under sub-section (5) of Section 1, the said provisions cease to be in force in any local area, the said Act as for the time being in force in other parts of the Khyber Pakhtunkhwa shall come into force in that area.

3. Definitions. In this Act, unless there is something repugnant in the subject or context —

- (1) “bottle” means to transfer liquor from a cask or other vessel to a bottle, jar, flask or pot or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes rebottling;
- (2) “buy” or “buying” includes any receipt including gift:
- (3) “Collector” means a Collector of land revenue, or any person appointed under clause (b) of Section 24 to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act;
- (4) “Commissioner” means the officer appointed under clause (a) of Section 24;
- (5) “Cultivation” includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed;
- (6) “Export” means—
 - (a) to take out of any local area in which the whole of this Act is in force into any local area in the Khyber Pakhtunkhwa in which the whole of this Act is not in force, or
 - (b) to take out of the Khyber Pakhtunkhwa otherwise than across a Customs frontier as defined by the Central Government;
- ²[(6a) “foreigner” means a person who is not a citizen of Pakistan];
- (7) “Import” means—
 - (a) to bring into any local area in which the whole of this Act is in force from any local area in the Khyber Pakhtunkhwa in which the whole of this Act is not in force, or
 - (b) to bring into the Khyber Pakhtunkhwa otherwise than across a Customs frontier as defined by the Central Government ;

PLD1964 W.P. Statutes 125, 327, PLD 1965 W.P. Statutes 127, 144 and PLD 1967 W.P. Statutes 44.

¹ Published in PLD 1949 KHYBER PAKHTUNKHWA Statutes 74.

² Ins. by KHYBER PAKHTUNKHWA Ord. X of 1972.

- (8) "Intoxicating drug" mean—
- (i) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*Cannabis Sativa L*) including all forms known as bhang, siddhi or ganja ;
 - (ii) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulation other than those necessary for packing and transport ;
 - (iii) any mixture, with or without neutral material, of any of the above forms of intoxicating drug, or any drink prepared therefrom ; and
 - (iv) any other intoxicating or narcotic substance which the Provincial Government may, by notification, declare to be an intoxicating drug, such substance not being opium, coca leaf, or a manufactured drug, as defined in Section 2 of the Dangerous Drugs Act of 1930 ;
- (9) "Liquor" includes toddy, spirits of wine, methylated spirits, spirits, wine, bear and all liquids consisting of or containing alcohol ;
- (10) "Local Body" means any Municipality or Notified Area constituted under the Punjab Municipal Act, 1911, or any District Board constituted under the Punjab District Boards Act, 1883 ;
- (11) "Manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced, prepared or blended, and also re-distillation and every process for the rectification of liquors ;
- (12) "Place" includes also a house, shed, enclosure, building, shop, tent and vessel ;
- (13) "Police Station" includes any place which the Provincial Government may, by notification, declare to be a police station for the purposes of this Act ;
- (14) "Prohibition Officer" means the Commissioner, a Collector, or any officer or other person lawfully appointed or invested with powers under Section 34 ;
- (15) "Rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith ;
- (16) "Sale" or "selling" includes any transfer including gift ;
- (17) "Spirits" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not) ;

THE KHYBER PAKHTUNKHWA PROVINCE PROHIBITION ACT, 1938

Explanation. “Denatured” means subjected to a process prescribed by the Provincial Government by notification for the purpose of rendering unfit human consumption ;

- (18) “Transport” means to move from one place to another within any local area to which this Act applies.

COMMENTARY

Declaration of medicines to be intoxicating drugs — Notification. In the exercise of power conferred on him by sub-clause (IV) of clause (8) of Section 2 of the Khyber Pakhtunkhwa Prohibition Act, 1938, the Governor of West Pakistan is pleased to declare-

- (i) Medicinal spirituous preparation; and
- (ii) Liquor,

to be intoxicating drugs.¹

CHAPTER II — PROHIBITION AND PENALTIES

4. Prohibition of manufacture of, traffic in, and consumption of, liquors and intoxicating drugs. (1) Whoever—

- (i) imports, exports, transports or possesses liquor or any intoxicating drug ; or
- (ii) manufactures liquor or any intoxicating drug ; or
- (iii) except in accordance with the rules made by the Provincial Government in that behalf, cultivates the hemp plant (*Cannabis Sativa*) ; or collects any portion of such plant from which an intoxicating drug can be manufactured ; or
- (iv) constructs or works any distillery or brewery ; or
- (v) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus, whatsoever for the manufacture of liquor or any intoxicating drug ;
- (vi) bottles any liquor for purposes of sale ; or
- (vii) sells liquor or any intoxicating drug ; or
- (viii) consumes or buys liquor or any intoxicating drug; or
- (ix) allows any of the acts aforesaid upon premises in his immediate possession.

¹ PLD 1962 W.P. Statutes 463.

shall be punished with imprisonment which may extend to six months or with a fine which may extend to one thousand rupees, or with both :

¹[Provided further that any foreigner may, in such quantity as may be notified by the Provincial Government, import, export, transport, possess or buy for his personal consumption any liquor].

- (2) It shall be presumed until the contrary is shown—
- (a) that a person accused of any offence under clauses (a) to (i) of sub-section (1) has committed such offence in respect of any liquor or intoxicating drug or any still, utensil, implement or apparatus whatsoever for the manufacture of liquor or any intoxicating drug or any such materials as are ordinarily used in the manufacture of liquor or any intoxicating drug, for the possession of which he is unable to account satisfactorily ; and
- (b) that a person accused of any offence under clause (i) of sub-section (1) has committed such offence if any offence is proved to have been committed in premises in his immediate possession implement or apparatus whatsoever for the manufacture of liquor or any intoxicating drug, or any such materials as are ordinarily used in the manufacture of liquor or any intoxicating drug.

5. Punishment for rendering or attempting to render denatured spirits fit for human consumption. Whoever renders or attempts to render for human consumption any spirit, whether manufactured in Pakistan or not which has been denatured or has in his possession any spirit in respect of made, shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

For the purpose of this section it shall be presumed, until the contrary is proved, that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.

6. ²[Prohibition of advertisement. Whoever prints or publishes in any newspaper, book, leaflet or booklet or any other single or periodical publication or otherwise displays or distributes any advertisement or other mater commending, soliciting the use of, or offering any liquor or intoxicating drug other than liquor or drug specially approved as of medicinal value by the Medical Council established under law, shall be punished with fine which may extend to one thousand rupees].

7. Punishment for conspiracy. When two or more persons agree :-

- (a) to commit or cause to be committed any offence under sub-section (1) of section 4 or under section 5 ; or

¹ Subs. by KHYBER PAKHTUNKHWA Ord. X of 1972

² Subs. by KHYBER PAKHTUNKHWA Ord. X of 1972

- (b) to evade or nullify the provisions of this Act in any area where it is in force,

each of such persons shall, notwithstanding that no act except the agreement was done by any of the parties thereto in pursuance thereof or that the agreement was made or the operations thereunder took place in an area to which this Act has not been extended, be punished with imprisonment which may extend to three years or with fine which may extend to five thousand rupees or with both.

8. Punishment for vexation, search or arrest. Any officer or person exercising powers under this Act, who—

- (a) without reasonable ground of suspicion, enters or searches or causes to be searched any closed place;
- (b) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ; or
- (c) vexatiously and falsely lays information leading to a search, seizure, detention or arrest ; or
- (d) in any other way maliciously exceeds his lawful powers, shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees or with both.

9. Punishment for vexatious delay. Any officer or person exercising powers under this Act, who vexatiously and unnecessarily delays forwarding to a Prohibition Officer or to the officer in charge of the nearest Police Station as required by section 38, any person arrested or any articles seized under this Act, shall be punished with fine which may extend to two hundred rupees.

10. Punishment for abetment or escape of person arrested, etc. Any officer or person exercising powers under this Act who :—

- (a) unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offences against this Act ; or
- (b) acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, and

any other officer of the Provincial Government or of a local body who abets the commission of any offence against this Act shall be punished with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees.

11. Punishment for offences not otherwise provided for.—Whoever is guilty of any willful act or intentional omission in contravention of any of the provisions of this Act or of any rule, notification or order made thereunder and not

otherwise provided for in this Act shall be punished with fine which may extend to two hundred rupees.

12. Punishment for abetment of offences against Act in area to which Act not extended.—Where any offence against this Act is committed in any area to which it has been extend, whoever commits, or attempts to commit or abets the commission of, any of the acts making up the offence shall be liable to be punished therefore whether such commission, attempt or abetment takes place within or outside such area.

13. Things liable to confiscation.— In any case in which an offence has been committed against this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or entry the same.

14. Confiscation how ordered.— (1) When the offender is convicted or when the person charged with an offence against this Act is acquitted, but the court decides that anything is liable to be confiscated, confiscation may be ordered by the court.

(2) When an offence against this Act has been committed but the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person and determined by the Collector or other Prohibition Officer in charge of the district or any other officer authorized by the Provincial Government in that behalf, who may order such confiscation ;

Provided that no such order shall be made until the expiration of fifteen days from the date of seizing the things intended to be confiscated or without hearing the person, if any claiming any right thereto, and evidence, if any, which they produce in support of their claims.

15. Offences under Act to be cognizable.— All offences under this Act shall be cognizable and the provisions of the Code of Criminal Procedures, 1898 (V of 1898) with respect to cognizable offences shall apply to them.

CHAPTER III—EXEMPTIONS AND LICENCES

16. ¹[Power to notify exemption.—(1) The Provincial Government may, by notifications and on such terms and conditions as it may specify,

- (i) any specified liquor or intoxicating drug or article containing any such liquor or drug ; or
- (ii) any person or class of persons ; or
- (iii) any area, place or premises ; or

¹ Subs. by KHYBER PAKHTUNKHWA Ord. X of 1972.

- (iv) any institution ;

from the observance of all or any of the provisions of this Act.

(2) When issuing a notification under subsection (1), the Provincial Government may provide that a breach of any of the conditions subject to which the exemption is notified shall be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

(3) Any notification issued under subsection (1) shall have effect from the date specified therein, which shall not be earlier than 5th May 1972].

17. ¹[Exemption of foreigners and lawful consignments.—Unless the Provincial Government by notification otherwise direct, the provisions of this Act shall not be deemed to apply—

- (a) to liquor in possession of any foreigner for this own personal use while passing through any local area in which this Act is in force ; or
- (b) to lawful consignments of liquor or intoxicating drugs carried by a railway administration or a public carrier through or into any such local area].

18. Licences for bona fide medicinal or other purposes.—The Provincial Government, or subject to the control of the Provincial Government, the Collector, may issue licences to any person or in respect of any institution whether under the management of Government or not, for the manufacture, export, import, transport, sale or possession of any liquor, intoxicating drug or article containing such liquor or drug on the ground that such liquor or article is required by such person or in respect of such institution for a bona fide medicinal, scientific, industrial or such like purpose.

19. ²[Permits and licences.* * * * * * * *].

20. ³[Form and conditions of licences.—Every licence or permit granted under this Act or the rules made thereunder shall—

- (a) be granted on payment of such fees, if any, for such period, and subject to such restrictions and limitations and no such conditions ; and
- (b) be in such form and contain such particulars ;

as the Provincial Government may direct either generally or in any particular case”]

¹ Subs. by KHYBER PAKHTUNKHWA X of 1972

² Omitted by KHYBER PAKHTUNKHWA Ord. X of 1972.

³ Subs. by KHYBER PAKHTUNKHWA X of 1972

21. ²[Counterpart agreement to be executed by licencees.]—Every person taking out any licence or permit under this Act or the rules made thereunder may be required to execute a counterpart agreement in conformity with the tenor of his licence or permit, and to give such security for the performance of his agreement as the Collector may require.]

22. Power to cancel or suspend licensees and permits.—(1) The Collector may cancel or suspend any such license or permit—

- (a) if any fee payable by the holder thereof be not duly paid ; or
- (b) in the event of any breach by the holder of such licence or permit or by his servants or by any one acting with this express or implied permission on his behalf, of the terms or conditions of such licence or permit ; or
- (c) if the holder thereof is convicted of any offence against this Act, or of any cognizable and non-bailable offence ; or
- (d) if the conditions of such licence or permit provide for its cancellation or suspension at will ; or
- (e) if the purpose for which the license or permit is granted ceases to exist.

(2) The Provincial Government may cancel or suspend any such license or permit without assigning the aforesaid or any other reasons.

¹[(3) As and when any licence is cancelled by the Provincial Government under subsection (2) above, the licensee shall at once declare to the District Excise and Taxation Officer the unsold stock of liquor or intoxicating drug lying with him. Such unsold stock of liquor or intoxicating drug may be disposed of by the licensee to any authorized person after obtaining permission from the District Excise and Taxation Officer concerned.]

23. Penalty for breach of conditions of licenses and permits.

In the event of any breach by the holder of such license or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such license or permit, such holder shall, in addition to the cancellation or suspension of the license or permit granted to him, be punished with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both, unless he shall establish that all due and reasonable precautions were exercised by him to prevent any such breach.

Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence or permit, be liable to the same punishment.

¹ Added by KHYBER PAKHTUNKHWA Ord. X of 1972.

CHAPTER IV—ESTABLISHMENT AND CONTROL

24. Appointment of officers and withdrawal of powers. The Provincial Government may, from time to time, by notification—

- (a) appoint an officer to exercise all the powers of a Collector under this Act in all local areas in which it is in force and to have the control of the administration of the provisions of this Act in such areas;
- (b) appoint any person other than the Collector of land revenue to exercise within a district all or any of the powers and to perform all or any of the duties of a Collector under this Act, either concurrently with or to the exclusion of the Collector of land revenue, subject to such control as the Provincial Government may from time to time direct ;
- (c) withdraw from the Revenue and Divisional Commissioner or the Collector of land revenue any or all the powers conferred on him by this Act ;
- (d) appoint paid or honorary officers with such designation, powers and duties as the Provincial Government may think fit ;
- (e) order that all or any of the powers and duties assigned to any person under clause (d) shall be exercised and performed by any existing Government official or any other person ; and
- (f) delegate to any Prohibition Officer all or any of their powers under this Act.

25. Prohibition Committees. (1) The Collector or other Prohibition Officer in charge of a district may constitute Prohibition Committees in every Sub-Division, Tahsil, Zail or other specified area thereof to assist him in carrying out the objects of this Act in the district.

(2) Every member of a Prohibition Committee shall observe the working of this Act in his Sub-Division, Tahsil, Zail or other specified area and report thereon and on every matter connected therewith at the prescribed intervals and at any other time he thinks fit, to the Collector or other Prohibition Officer aforesaid.

(3) Every member of a Prohibition Committee shall be entitled to give information at any police station in his Sub-Division, Tahsil, Zail or other specified area regarding the commission of any offence against this Act in such Sub-Division, Tahsil, Zail or other specified area and the officer in charge of such station shall take action on such information and investigate the case in the manner laid down in the Code of Criminal Procedure, 1898 (V of 1898).

26. Power of Provincial Government to authorize officers to admit persons arrested to bail.— The Provincial Government may, by notification, and subject to such conditions as may be prescribed in such

notification, empower all or any of the officers or classes of officers or persons mentioned in Section 31 through out the Province or in any local area to admit a person arrested under that section to bail to appear, when summoned or otherwise directed, before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the offence for which such person has been arrested, and may cancel or vary such notification.

CHAPTER V—POWERS, DUTIES AND PROCEDURE OF OFFICERS, ETC.

27. Issue of search warrants. If any Collector, Prohibition Officer or Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under sub-section (1) of Section 4 has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensils, implement or apparatus in respect of which the alleged offence has been committed. Any person who has been entrusted with execution of such a warrant may detain and search, and if he thinks proper, arrest any person found in the place searched, if he has reason to believe such person to be guilty of any offence under this Act ;

Provided that every person arrested under this section shall be admitted to bail by the person arresting, if sufficient bail be rendered for his appearances either before a Magistrate or before a Police or Prohibition Officer as the case may be.

Before issuing such warrant, the Collector, Prohibition Officer or Magistrate shall examine the informant on oath and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the Collector, Prohibition Office or Magistrate.

28. Power of entry and search without warrant. Whenever a Collector, or any Prohibition Officer not below such rank as the Provincial Government may determine, and Police Officer not below the rank of Sub-Inspector, any officer in charge of a Police Station, or any other paid or honorary officer authorised by the Provincial Government in this behalf has reason to believe that an offence under subsection (1) of Section 4 has been committed and that the delay occasioned by obtaining a search warrant under Section 27 will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief, at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act ; and may detain and search and if he thinks proper, arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act :

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before a Police or Prohibition Officer as the case may be.

29. Power to enter and inspect place of manufacture and sale.

The Collector, any Prohibition Officer no below such rank as the Provincial Government may determine, or any other Police paid or honorary officer authorised by the Provincial Government in this behalf, may enter and inspect at any time by day or by night, any place in which it is reasonably suspected that any person carries on the manufacture of any liquor or any intoxicating drug, or stores any liquor or intoxicating drug, and may enter and inspect, at any time, any place in which any liquor or intoxicating drug is reasonably suspected to be kept for sale by any persons ; and may examine, test, measure or weigh any material, still, utensil, implement, apparatus, liquor or intoxicating drug found in such place.

30. Power to use force in case of resistance to entry. If any officer empowered to make an entry under Section 27, 28 or 29 cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacles to his entry into any such place.

31. Arrest of offenders and seizures of contraband liquor and articles without warrant.

Any Prohibition Officer, any officer of the Police or Land Revenue Department, and any other person authorized in that behalf :—

- (a) may arrest without warrant any person found committing an offence punishable under subsection (1) of Section 4 ;
- (b) may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act ; and
- (c) may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom or in or upon which, he may have reasonable cause to suspect any such liquor, drug or other article to be, or to be concealed ;

Provided that if the officer or person making the arrest under this section be not empowered under Section 26 to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered, if such an officer is known to be within a distance of five miles from the place where such arrest took place. And it shall be the duty of such officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the case.

32. Arrest of persons refusing to give name or giving false name.

Any person, who may be accused or reasonably suspected of committing an offence against this Act, and who on demand made by any Prohibition Officer or any officer of the Police or Land Revenue Departments, or by any other person authorized in that behalf refuses to give his name and residence or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

33. Searches how to be made. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898).

34. Duty of officials of all departments and local bodies to assist.

Officials of all departments of the Provincial Government and of all local bodies shall be legally bound to assist the Prohibition or Police Officer in carrying out the provisions of this Act.

35. Offences to be reported, etc.

Every official employed by the Provincial Government or by any local body, other than a Police or Prohibition Officer, shall be bound to give immediate information at the nearest police station or to a Prohibition Officer, of all breaches of any of the provisions of this Act, which may come to his knowledge ; and all such officials shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

36. Landholders and others to give information. All zamindars, proprietors, tenants, under-tenants and cultivators who own or hold land or house property on or in which there shall be any manufacture of liquor or intoxicating drugs shall in the absence of a reasonable excuse be bound to give notice of the same to Magistrate or to a Prohibition Officer or to an Officer of the Police or Land Revenue Departments immediately the same shall have come to their knowledge.

37. Persons arrested how to be dealt with. (1) When any person arrested under the provisions of section 27, 28, 31, or 32 the person arresting him shall, unless bail shall have been accepted under the provisions of section 27, 28 or 31, forthwith forward him to the nearest police station or to a Prohibition Officer, with a report of the circumstances under which such arrest was made.

(2) *Procedure of Police Station Officer.* On any such person being brought to a police station as aforesaid, the officer in charge thereof shall either admit him to bail to appear when summoned before himself, or before the Prohibition Officer, if any, or any Police Officer within the limits of the jurisdiction of which Prohibition or Police Officer, the offence with which he is charged, is suspected to have been committed, or, in default of bail, shall forward him in custody to such officer.

(3) *Procedure of Police or Prohibition Officer empowered to enquire.* On any such person being brought in custody before a Prohibition or Police Officer as aforesaid or appearing before such office on bail or when such officer as aforesaid has himself made the arrest such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before the Magistrate having jurisdiction to inquire into or try the case :

Provided that if such inquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such officer,

he shall, if sufficient bail be tendered for the appearance of the person arrested, admit such person to bail to appear on any subsequent day before himself or any other officer having jurisdiction to inquire into the case.

38. Persons arrested to be admitted to bail. It shall be the duty of any officer arresting any person under the powers conferred by Section 27 or 28 and of any officer in charge of a police station or any Police or Prohibition officer before whom a person arrested is brought or appears under the provisions of Section 37 to release such person on bail if sufficient bail be tendered for his appearance before a Police or Prohibition Officer or before a Magistrate as the case may be.

39. Bond of accused and sureties. (1) Before any person is released on bail a bail bond in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, on condition that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Police or Prohibition Officer before whom he was bailed to attend, or by the Magistrate, as the case may be :

Provided that the officer admitting any such person to bail may in his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

(2) The Provincial Government shall from time to time determine the form of the bond to be used in any local area.

40. Procedure in case of default of persons admitted to bail to appear before a Police or Prohibition Officer. When by reason of default of appearance of a person bailed to appear before a Police or Prohibition Officer, such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to inquire into or try the offence of which the person bailed was accused, and the Magistrate shall proceed to enforce the payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own court.

41. Power of Police or Prohibition Officers to summon witness.

Any Police or Prohibition Officer holding an inquiry in the manner provided in Section 37 may summon any person to appear before himself to give evidence at such inquiry or to produce any document relevant thereto which may be in his possession or under his control :

Provided that no such officer shall so summon any person to appear before him if the journey to be made for complying with such summons exceeds ten miles by road or fifty miles by rail or such other limits as the Provincial Government may fix.

42. Terms of summons. Every summons issued under Section 14 shall state whether the person summoned is required to give evidence or to produce a document, or both, and shall require him to appear before the said officer at a stated time and place.

43. Examination of witnesses. Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced to writing and shall be signed by such officer.

44. When attendance of witness to be dispensed with, and procedure in such cases. It shall be lawful for a Police or Prohibition Officer instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or whom by reason of rank or sex, it may not be proper to summon to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry ; and such person shall be bound so to answer accordingly, and the provisions of Section 43 shall apply to such answer.

45. Powers of Police or Prohibition Officer to summon suspected persons. Any Police or Prohibition Officer may after recording his reasons in writing summon any person to appear before him whom he has good reason to suspect of having committed an offence under his Act. On such person appearing before such officer, the procedure prescribed by sections 47 to 44 shall become applicable.

The Officer may also, if he considers it necessary for the investigation the case, exercise the powers conferred by Section 41 to 44 before summoning the person suspected.

46. Law relating to criminal courts as to summoning of witnesses to apply. The law for the time being in force as to summons and compelling the attendance of persons summoned in criminal Courts shall, so far as the same may be applicable, apply to any summons issued by a Police or Prohibition Officer and to any person summoned by him to appear under the provisions of this Act.

47. Report of Police or Prohibition Officer to give jurisdiction to competent Magistrate. When a Police or Prohibition Officer forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits any such person to bail to appear before such Magistrate such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure, 1898 (V of 1898).

48. Powers of Police or Prohibition Officers to cause attendance of witnesses before Magistrate. When a Police or Prohibition Officer forwards in custody any person accused of an offence against this Act to the Magistrate having jurisdiction to inquire into or try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that such Magistrate shall examine as witnesses for the prosecution of such case.

49. Accused not to be detained in custody for a longer period than twenty four hours without special authority.—No person accused or suspected of having committed an offence under this Act shall be detained for a longer period than under all the circumstances of the case is reasonable : and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not, exceed twenty-hours, exclusive of the time necessary for the journey of such person to the place where a Police or Prohibition Officer may be and from thence to the Court having jurisdiction to try the case.

50. Police to take charge of articles seized.All officers incharge of police stations shall take charge of and keep in safe custody pending the orders of a Magistrate, or of a Prohibition Officer, all articles seized under this Act which may be delivered to them ; and shall allow any Prohibition Officer who may accompany such articles to the police station or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from the. All samples so taken shall also be sealed with the seal of the officer in charge of the police station.

51. Power of District Magistrate to transfer cases. The District Magistrate shall have power to transfer any case under the Act pending inquiry or trial before any Magistrate or officer therein.

52. Operation of the Code of Criminal Procedure, 1898. Nothing contained in this Act shall affect the operation of the Code of Criminal Procedure, 1898 (V of 1898).

CHAPTER IV—RULES AND NOTIFICATIONS

53. Power to make rules. (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the forgoing provision, the Provincial Government may make rules :—

- (a) for the issue of licenses and permits and the enforcement of the conditions thereof;

THE KHYBER PAKHTUNKHWA PROVINCE PROHIBITION ACT, 1938

- (b) prescribing the powers to be exercised and the duties to be performed by paid and honorary Prohibitions Officers in furtherance of the objects of the Act ;
- (c) determining the local jurisdiction of Police and Prohibition Officers in regard to inquires and the exercise of preventive and investigating powers ;
- (d) authorising any officer or person to exercise any power or perform any duty under this Act ;
- (e) prescribing ht empowers and duties of prohibition committees and the members thereof and the intervals at which the members of such committees shall make their reports ;
- (f) regulating the delegation by the Revenue and Divisional Commissioner or by Collectors or other District Officers of any power conferred on them by or under this Act ;
- (g) regulating the cultivation of the hemp plant the collection of those portions of such plant from which intoxicating drugs can be manufactures and the manufacture of such drugs therefrom ;
- (h) declaring how denatured spirit shall be manufactured ;
- (i) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders whether original or appellate, passed under this Act, or under this Act or under any rule made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and procedure for dealing therewith ;
- (j) for the diet money to witnesses, and of compensation for loss of time to persons released under sub-section (3) of Section 37 on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences under this Act and acquitted ;
- (k) regulating the powers of Police or Prohibition Officers to summon witnesses from a distance under Section 41 ; and
- (l) for the disposal of articles confiscated and of the proceeds thereof.

COMMENTS

Rules framed under S. 53—Khyber Pakhtunkhwa Prohibition Rules, 1949.—In exercise of the Powers conferred by section 53 of the Khyber Pakhtunkhwa, Prohibition Act (X of 1938) the Governor, Khyber Pakhtunkhwa, has

THE KHYBER PAKHTUNKHWA PROVINCE PROHIBITION ACT, 1938
framed the North-West Province, Prohibition Rules, 1949, vide Notification No. 8951-Exc, dated 25th October 1949.]¹

Subsequent amendment in Khyber Pakhtunkhwa Prohibition Rules, 1949.—
The Khyber Pakhtunkhwa Prohibition Rules, 1949, have been amended subsequently by the following notifications:—

1. Notification No. 19730-Ex-XIX-C, 263, dated 21st December, 1949.²
2. Notification No.S. W. Ex-2.4/61 (*ii*), dated 9th March, 1962.³
3. Notification No. Ex-27/52-60 XIII, dated 8th December 1961.⁴
4. Notification No. S. O. Ex-I-14-61 (*ii*), dated 8th December 1961.⁵
5. Notification No. 1302-63/757-Ex-I, dated 17th May 1963.⁶
6. Notification No. 4424/632371 Ex-III, dated 24th January 1964.⁷
7. Notification No. 1240-64/907-Ex-I, dated 26th June 1964.⁸
8. Notification No. 3743-64/274-Ex-III, dated 26th March 1965.⁹
9. Notification No. 3601-64/27-Ex-I, dated 9th April, 1965;¹⁰ and
10. Notification No. 721/66/2057 Ex-III, dated 18th November, 1966.¹¹

Grant of rewards—Rules.—In exercise of the powers conferred by clause (1) of subsection (2) of section 53 of the Khyber Pakhtunkhwa Prohibition Act, 1938, the Provincial Government had made the rules for the grant of rewards under this Act in cases of liquor and hemp drugs, etc.¹² Under these rules rewards can be granted to the extent of half of value of the sale proceeds of confiscated articles.

54. Publication of rules and notifications.—All rules made and notifications issued under this Act shall be published in the official Gazette and such publication, shall have effect as if enacted in this Act.

55. Actions against the Government, etc.—No action shall lie against the Government or against any Prohibition, Police or other Officer, for damages in

¹ PLD 1950 KHYBER PAKHTUNKHWA Statutes 22-38.

² PLD 1950 KHYBER PAKHTUNKHWA Statutes 40.

³ PLD 1962 West Pakistan Statutes 463.

⁴ PLD 1962 West Pakistan Statutes 14.

⁵ PLD 1962 West Pakistan Statutes 16.

⁶ PLD 1962 West Pakistan Statutes 244.

⁷ PLD 1962 West Pakistan Statutes 125.

⁸ PLD 1962 West Pakistan Statutes 327.

⁹ PLD 1962 West Pakistan Statutes 127.

¹⁰ PLD 1962 West Pakistan Statutes 144.

¹¹ PLD 1962 West Pakistan Statutes 44.

¹² PLD 1949 KHYBER PAKHTUNKHWA Statutes 74.

THE KHYBER PAKHTUNKHWA PROVINCE PROHIBITION ACT, 1938
any civil Court for any act *bonafide* done or ordered to be done in pursuance of this Act.

56. Court to take judicial notice of appointments.—All Courts shall take judicial notice of all notifications and orders conferring powers, imposing duties had making appointments under this Act.

THE KHYBER PAKHTUNKHWA PROHIBITION RULES, 1949

Notification No. 895-Exc., dated 25th October 1949.—In exercise of the powers conferred by section 53 of the Khyber Pakhtunkhwa Prohibition Act (XI of 1938) the Governor, Khyber Pakhtunkhwa, is pleased to make the following rules for carrying into effect the provisions of the Act.

**KHYBER PAKHTUNKHWA
PROHIBITION RULES, 1949**

**KHYBER PAKHTUNKHWA PROHIBITION
RULES, 1949
[25TH OCTOBER, 1949]**

No. 8951-Exc.—In exercise of the powers conferred by section 53 of the Khyber Pakhtunkhwa Prohibition Act (XI of 1938) the, Governor, Khyber Pakhtunkhwa, is pleased to make the following rules for carrying into effect the provisions of the Act.

1. Short title and definitions.—(1) These rules may be called the Khyber Pakhtunkhwa Prohibition Rules, 1949.

(2). In these unless the context otherwise requires.

(i) the "Act" means the Khyber Pakhtunkhwa Prohibition Act, 1938.

(ii) "Form" means a form appended to these rules.

(iii) "Government" means the Khyber Pakhtunkhwa Government.

(iv) An "authorised person" means a person of non-Asiatic domicile or a non-Muslim and also such persons as are declared by a competent medical authority to be designated by the Director, Excise to be liquor addicts and requiring alcoholic drinks on medical grounds.

2. General conditions applicable to liquor licensees.—Duty of licensees.—Every licensee is bound to observe the general rules applicable to his licence and the special conditions entered in his licence.

3. Transfer of licenses.—No licence is transferable but the Collector may permit a licensee to add any person as a partner in his business or to transfer his licence to any person. Such transfers or additions will be subject to Director Excise confirmation.

4. Specification of premises. A licensee shall not carry on any business connected with his licence, except in premises specified in his licence.

5. Sales under different licences must be on different premises except with the special permission of the Collector.

6. Premises to be licensed shall ordinarily be premises owned or leased by the licensee. Where, however, local conditions render it necessary, sites for liquor shops may be leased or bought for Government under the special orders of Government in each case.

7. Where premises have been specially provided by Government for any shop, the licensee shall be bound to carry on his business in those premises, and to pay to Government in addition to his licence fee, such rent for the premises as may be fixed by the Collector.

8. The Director Excise may require a licensee at any time to maintain separate premises for his liquor business, wherein no business except in liquor may be transacted.

9. Payment of licence fee.-When a licence has been sold on a fixed fee, the fee shall be payable in advance.

10. Signboard.-Every licensee shall maintain above the main outer door of the premises in which he carries on his business a signboard exhibiting in conspicuous painted letters his name and the class of licence held by him. The information shall be in Urdu and in English. The licence must be exhibited in a conspicuous place in the licensed premises.

11. Authorisation of agents.—No licensee for the retail vend of liquor shall allow any person to conduct sales in his behalf unless the name of such person has previously been submitted to the Collector for approval and endorsed by him on the licence. This rule does not apply to (i) the licensee of a hotel, restaurant, bar, railway refreshment room or dining car ; or (ii) a chemist or druggist holding a licence or permit under the Prohibition Act.

12. Employees.—Every licensee shall furnish to the Collector on demand a list of the persons employed, or proposed to be employed, in his licensed business and he may not employ any person whose employment the Collector has in his discretion, forbidden. In particular, no licensee may employ any person suffering from an infectious or contagious disease to sell liquor or serve in any capacity in his licensed premises.

Licensees for consumption on the premises are prohibited from employing any child under sixteen years of age, and also any woman without the previous permission in writing of the Collector.

13. Closure of premises out of hours.—Except at the time when the premises are licensed to be open, no person is allowed therein, except employees or members of the licensee's family.

Explanation.—This rule does not imply entire closure of a club, hotel, restaurant, a dining car before and after licence hours, but closure only of the bar therein and of premises directly connected with liquor, business.

14. Hours.—No licensee may open his shop before sunrise. No licensee for the vend of foreign liquor by retail in an urban area may keep his shop open after 7 p.m. between the 16th of October and 15th of April or after 9 p.m. between the 16th of April and 15th of October. Any extension of these hours requires the sanction of the Director Excise.

Unless otherwise permitted by the Director Excise and endorsed on the licence, the working hours of the bar licences will be SUNRISE TO 12 MID-NIGHT.

No licensee other than the licensees mentioned in this rule, may keep his shop open after the closing time, if any, prescribed in his license without the special permission of the Director Excise.

15. Every shop must be kept open during the hours for which it is licensed.

16. Rights of customers.—Subject to the provisions of these rules, every licensee is bound in respect of any article which he is licensed to sell to meet the demand of every customer entitled to be served who tenders payment for what is required by him, and the licensee must maintain a sufficient stock of all articles in which he is licensed to deal to meet the probable demand.

17. Bribery.—No licensee shall give to any customer any free dole of liquor nor shall he give any customer any per-quisite or dasturi on the price of liquor sold.

18. Liquor to be sold.—No licensee shall sell liquor of any character or brand forbidden by the Director Excise nor shall he sell any other kind of liquor than that permitted by his licence. No licence shall sell, or keep on his licensed premises, any chloral hydrate, unless he is a chemist or druggist.

19. Standard measures.—No sale of liquor by measure, whether whole- sale or retail, shall be made by any other than standard measures stamped or approved by the Collector. The standard measure shall be the imperial gallon of 277, 274 cubic inches, or fractions thereof and the licensee shall keep measures representing 1/8th, 1/12th, 1/18th and 1/96th of a gallon.

Note.—Arrangement will be made for the supply of standard measures through the Collector on payment.

20. Entertainments.—No licensee shall permit any professional entertainment or dancing or the playing of musical instruments or singing by professionals to be carried on in his premises in such a way as to attract the general attention of his customers, provided that the Collector may grant a general or special permit for such performances for any place licensed under the Prohibition Act.

21. Compensation.—No compensation shall be due to any licensee on account of the opening of a new shop or the issue of any special license during the currency of his licence.

22. Effect of enhanced duty.—No compensation shall be due on account of any change during the currency of a licence in the conditions thereof in the rate at which

customs or excise duty is charged on liquor, or in any other matter connected with the excise administration and dealt with under powers conferred by the Prohibition Act.

23. Cancellation for disorder lines.—The licence of any licensee may be cancelled if drunkenness or disorder amounting to a public nuisance occurs in the vicinity of his shop in consequence of the sale of spirit thereat.

24. Return of licence on revocation.—On the revocation, cancellation or determination of any licence, the licensee or his representative shall cease to carry on his business under it and shall return his licence to the Collector.

25. Incapacity of licensee.—In the event of a licensee dying or becoming insolvent or otherwise incapable of carrying on his business under the conditions of his licence, the licence shall forthwith determine. The Collector may continue the licence to the representative of the licensee or other person for the remainder of the period on the same conditions.

26. Surplus stock on expiry of licence.—If any person, who has held a licence under these rules, shall have in his possession, on the expiry or determination from any other cause of his licence, any excisable article which he is unable forthwith to dispose of, under the provisions of these rules, to any person licensed or authorised to purchase it, he shall at once surrender the same to the Collector. The Collector shall make these articles over, in any quantity not exceeding that which the transferee is to sell within two months, to the incoming licensee or, otherwise, to any licensee within the district who is licensed to sell articles of the kind surrendered:

Provided that if any such article, or any part thereof, be declared by the Civil Surgeon or other duly qualified officer to be unfit for use the Collector shall cause the same to be destroyed.

27. A licensee to whom any article is made over under the preceding clause shall be bound to pay such price for the same as the Collector in his discretion may fix.

28. The Collector shall tender the price so paid to the outgoing licensee by whom the article was surrendered and such licensee shall not be entitled to any price, payment or compensation whatsoever in respect of any article so made over, other than the sum so tendered.

29. Any transaction of the nature of gift or loan between the licensee and an excise officer is prohibited.

30. Every licensee shall maintain the registers prescribed for the class of business carried on by him, and shall make all prescribed returns punctually. True accounts of transactions shall be maintained from day to day in ink. The licensee shall enter all figures in English numerals and other particulars in English or Urdu characters, unless

the Collector, by special order noted on the licence, permit the use of other numerals or characters, and the licensee shall allow the inspection of his registers, stock and premises when duly requested by an Excise Officer.

31. Inspection Book.—An inspection note-book, with the pages numbers consecutively, shall be maintained in every liquor shop, and shall be handed over to the Excise Inspector of the district or any officer authorised by him to receive it on a receipt being given therefor. Any punishment or warning incurred by the licensee without forfeiture or "cancellation of his license shall be recorded in this book.

32. A copy of these general conditions shall be pasted in every inspection note-book.

33. The Khyber Pakhtunkhwa Excise Fiscal Orders.—The following shall, for the purposes of the Khyber Pakhtunkhwa Prohibition Act, 1938, be deemed to be "foreign liquor" :—

- (a) all liquor imported by sea into Pakistan (other than rectified spirit, denatured spirit and perfumed spirit) on which custom duty is leviable under the Indian Tariff Act, 1894 (VIII of 1894);
- (b) all liquor manufactured in "Pakistan (other than rectified spirit, denatured spirit and perfumed spirit) on which duty at a rate higher than that levied on country spirit is leviable ; and
- (c) all beer manufactured in Pakistan or abroad.

34. The following shall be the rates of duty leviable in respect of spirit imported from any licensed distilleries in the West Punjab and the parts of Pakistan into the Khyber Pakhtunkhwa per imperial gallon of the strength of London proof to be increased or reduced in proportion as the strength of spirit exceeds or falls short of London proof:—

34.1.

		Rs.	A.	P.	
(a) Plain country Spirit	....	15	0	0	London Proof Gallon
(b) Country spiced spirit	....	18	2	0	-do-
(c) Country special spirit	....	23	7	0	-do-
(d) country spirit plain issued to troops.	....	30	5	0	-do-
(e) country special spiced spirit issued to troops.	....	35	15	0	Per gallon
(f) Rectified spirit	....	24	6	0	London Proof Gallon
(g) Indian made foreign liquor	....	40	0	0	-do-
(h) Beer:-					
In barrels or other containers containing 27 ozs. Each	....	0	12	0	Per London Proof Gallon

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

In bottles containing less than 27 ozs but not less than 20 ozs. Each	....	0	2	0	Per bottle
In bottles containing less than 13½ ozs but not less than 10 ozs. Each	....	0	1	0	Per bottle
In bottles containing less than 6¾ ozs but not less than 5 ozs. Each	....	0	0	6	Per bottle
In other containers per imperial gallon.	....	1	0	0	

Provided that the duty on beer on import into the Khyber Pakhtunkhwa shall be calculated on the quantity imported less an allowance of:—

10 per cent in case of imports from licensed breweries for transit wastage :

Provided further that duty on rectified spirit issued to approved homoeopathic chemists or practitioners shall be levied at the rate of Rs. 5 per' London Proof Gallon.

34.2. The rates of duty leviable on wines, fermented liquors and rectified and other spirits imported into the Khyber Pakhtunkhwa from Kashmir shall be at the rates of import duty leviable on similar brands under the Pakistan Tariff Act for the time being in force in Pakistan.

34.3. The following shall be the rates of Excise duty on medicinal and other preparations containing rectified spirit on issue from the premises of approved manufactures ;—

		Rs.	A.	P.	
(a) Medicinal preparations	....	5	0	0	Per L.P.Gallon of their spirit contents.
(b) Non-medicinal essences	....	21	14	0	
(c) Non- medicinal essences and medicinal preparations which might be used for other than medicinal purposes(vide schedule attached)	....	21	14	0	
(d) Toilet preparations and perfumery	....	21	14	0	

Provided that any other medicinal preparations may by notification be declared to be non-medicinal for the purposes of levying duty at the enhanced rate of Rs. 21-14-0 per London Proof of spirit contents, vide item (c).

34.4. Import, export or transport duty on Bhang shall be at the rate of Rs. 2-8-0 per quarter maund or less of Bhang imported into exported out of or transported within the Khyber Pakhtunkhwa : Provided that—

(a) When the same consignment of Bhang is either: —

- (i) imported and exported ;
 - (ii) imported and transported :
 - (iii) transported and exported ;
 - (iv) transported and re transported in the course of the same business, transaction duty shall be levied once only in respect of the whole of such transaction.
- (b) No transport duty shall be levied on Bhang transported from one to another place situated within the limits of the same district.
- (c) Duty shall be calculated on gross weight of each parcel or package or Bhang, imported, exported or transported.

35. Exemptions from fiscal and other provisions.—The undermentioned intoxicants are exempted from the operation of the Khyber Pakhtunkhwa Prohibition Act:—

- (i) Medicated wines containing less than 20 per cent, of proof spirit are exempted from the provisions of the Act relating to sale and possession.
- (ii) Medicinal preparations containing rectified spirit manufactured in Pakistan or in any State acceded to Pakistan and required for use in Government and Charitable Hospitals and Dispensaries approved for the purpose by the Khyber Pakhtunkhwa Government are exempt from payment of duty provided that such preparations are directly issued from bonded warehouses of approved manufacturers" to any such hospital or dispensary in quantities not exceeding its requirements for 12 months on indents signed by the Civil Surgeon of the District or for Veterinary Hospitals and Dispensaries only by an Assistant Director of Veterinary Services and provided further that such preparations are only dispensed for bona fide patients of the Hospital or Dispensary concerned.
- (iii) All intoxicants are exempted from the provisions of the Khyber Pakhtunkhwa Prohibition Act, relating to duty leviable thereon in the Khyber Pakhtunkhwa, when exported under export-in-bond passes out of the Khyber Pakhtunkhwa to any State in Pakistan ¹[or any country outside Pakistan
- (iv) Kashmir liquors are exempted from the provisions of Khyber Pakhtunkhwa Prohibition Act, relating to duty leviable thereon, when transported through the Khyber Pakhtunkhwa to any other Province in Pakistan under transport-in-bound passes;
- (v) Country spirit and Pakistan made foreign spirit exported from licensed distilleries in the West Punjab to a Pakistan State under export-in-bound passes are exempt from payment of duty;
- (vi) Rectified spirit imported from licensed distilleries in the West Punjab into the Khyber Pakhtunkhwa or States in Pakistan under export-in- bond passes, for the use of hospitals and dispensaries is exempt from payment of duty.
- (vii) Rectified spirit imported or transported-in-bond from licensed distilleries to the premises of approved manufacturers under import in bond or transport-in-bond

¹ Added by Notification No.S.O. Ex.2-4/6 (ii) Gazette date 9-3-1962

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

- passes is exempt from the payment of duty.
- (viii) Rectified spirit issued from Punjab distilleries to Government or Mission Hospitals and dispensaries in the Khyber Pakhtunkhwa on certificates issued by the Inspector-General of Civil Hospitals, Khyber Pakhtunkhwa, ¹[Director or Veterinary Services, Khyber Pakhtunkhwa Province Director-General Medical Services] and A.D. Ms. of a district as the case may be is exempt from payment Of duty.
 - (ix) Rectified spirit issued under the authority of the Director Excise from West Punjab distilleries for teaching and research purposes to educational institutions in the Khyber Pakhtunkhwa, is exempt from payment of duty.
 - (x) Fusel oil is exempt from payment of duty on import from the Punjab distillers into the Khyber Pakhtunkhwa, provided the contents of ethyle alcohol do not exceed 15 per cent proof spirit.
 - (xi) In the following districts of Khyber Pakhtunkhwa hemp plant gross spontaneously and the licensees of these districts may collect in their own districts the wild produce in reasonable quantities for personal consumption only:-
 - Hazara ;
 - Mardan;
 - Peshawar; and
 - Kohat.
 - (xii) ²[Methylated spirit issued under the authority of the commissioners of Divisions from the distilleries in the Peshawar and Dera Ismail Khan Divisions to Government Hospitals dispensaries and Medical Store Depots or Ordinance Depots for the purposes of Government Hospitals and dispensaries and defence is exempt from payment of permit fee]

36. The authority by the restrictions under, and the conditions on which passes and permits may be granted for the import, export and transport of liquor whose import, export and transport is authorised.— Provided that collections, storage and transport of hemp for export shall be subject to such Rules as may be prescribed by the Director Excise from time to time in that behalf.

36.1. All passes granted to cover the import, export or transport of liquor shall be subject to the condition that bulk shall not be broken in transit and copies of the passes shall be sent to the Prohibition Officer of the district of destination:

- (a) Passes granted to cover the import of spirit shall be subject to the condition that no consignment shall be brought into use until it has been examined by the Prohibition Officer of the district of destination, to whom intimation of the arrival of the consignment shall be given.
- (b) Passes granted to cover the transport of spirit from one district to another shall be subject to the condition that no consignment shall be brought into

¹ Added by Notification No.E & T /4/15-57 dated 16-12-57 (Gazette 20-12-57).

² Inserted vide Notification No.1782-67/267 dated 30th May 1967.

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

use until the fourth day from the date of the pass unless it has been previously examined by the Prohibition Officer.

36.2. It shall be in the discretion of the Collector or any other Excise Officer to refuse to grant any pass, permit or authority, which he is authorised under these Rules to grant.

36.3. Any person importing, exporting or transporting liquor, rectified spirit or denatured spirit must obtain a permit from the officer authorised to grant such permits in the district of destination and a pass from the officer authorised to grant such passes in the district of issue:

Provided that a pass sanctioned by the Director Excise for the removal of spirit from a licensed distillery issued in accordance with the rules shall be deemed to be a pass for the purpose of these Rules:

Provided further that one pass shall transport of spirit or rectified spirit or district.

36.4. Any person importing, exporting or transporting foreign liquor must obtain a pass from the officer authorised to grant such passes in the district of issue:

Provided that a pass sanctioned by the Director Excise for the removal of Pakistan made foreign spirit from a licensed distillery or of beer from a licensed brewery issued in accordance with the Rules shall be deemed to be a pass for purpose of this Rule.

36.5. Whenever any liquor is transported from one licensee to another passes in the prescribed Form P. XXI, should be issued and the entries of such consignment in the registers of the consignee should be checked by the Excise Staff with passes. The consignee shall not receive any liquor which is not covered by a pass:

Provided that the pass for the transport of foreign liquor and of beer within the Khyber Pakhtunkhwa, from vend premises may be given by the vendor.

37. Classes of licences.—The following licences may be granted. Form.—

P. XI. —Licences for the possession of bottled foreign liquor by nonproprietary clubs/messes for supply to members and European non-members.

P. XII.—Wholesale and retail vend of foreign liquor to the trade only.

P. XIII.—Wholesale and retail vend of Foreign liquor to the trade and to authorised persons.

P. XIV.—Retail vend of foreign liquor in a hotel to authorized persons.

P. XV.—Retail sale of Foreign liquor in a military canteen to authorised persons.

P. XVI.—Retail vend of Foreign liquor in a railway dining car.

P. XVII.—Purchase and storage of denatured spirit in privileged quantities.

Special—P. XVIII.—Extension of hours during which sale is permitted.

P. XIX.—Retail vend of Foreign liquor at a bar, theatre etc., or any special occasion when temporary arrangements for the sale of liquor are required.

38. Fees and procedure for assessment, etc.—So far as foreign Liquor is concerned, the distinction between wholesale and retail has no real importance for the purpose in view, in granting licences in Forms P.XII and P. XIII.

39. Foreign liquor wholesale and retail.—The important distinction is between the sales to the trade and sales to the public. Sales to the trade are generally wholesale, but they may occasionally also be retail, i.e below 12 quarters for purposes of convenience. Sales to the public may be either wholesale or retail and very frequently are the former, particularly in the case of wine and beer. Accordingly, licences for sale of foreign liquor are issued in the following forms, namely :—

39.1. P. XII for sale to the trade only of foreign liquor (wholesale or retail) as regards quantities, and

39.2. P. XIII for "Off" sale to the public of foreign liquor of superior quality (wholesale or retail) as regards quantities. The same firm may hold both licenses if this appears desirable to the Excise Authorities.

40. Sale to Trade. —(i) An application for a licence in Form P. XII must contain a description of the liquor which is proposed to be sold and state where the business is to be conducted. The Collector, if he recommends the grant of the licence will forward the application direct to the Director Excise for sanction. A licence once sanctioned by the Excise Commissioner may be renewed or the renewal may be refused, by the Collector.

41. Sale to public.—An application for a licence in Form XIII, may be granted by the Collector, with the previous approval of the Director Excise, to any shop of proved respectability in a Civil Station or cantonment, or any other place where there is a demand for superior foreign liquor by authorised persons. A licence in this form may not authorise consumption on the premises. Once sanctioned by the Director Excise a licence in this form may "be renewed by the Collector at the same fee, but if it is proposed to enhance the fee, a case for enhancement should be made out and the Director Excise's previous sanction obtained. The Collector may refuse to renew the licence.

42. Fees for licences for sale of foreign liquor.—In determining fees for the aforesaid licences the following points should be borne in mind. When liquor is sold to the trade, its disposal is not final, and it will pay again its share of incidence of the vend fees before it reaches the consumer. If, therefore, any considerable licence fee be imposed upon licenses for sale to the trade, the liquor will be taxed with vend fees twice over, and an unfair advantage given to those retailers who import direct from abroad. An advantage already exists in the case of clubs, and large private consumers, who import direct from abroad and thus escape the incidence of vend fees altogether. Taking these facts into consideration the fee for licence for sale to the trade only should generally, be a law or merely nominal one, not exceeding Rs. 100 regardless of the amount of sales. As regards the fee for a licence for sale to the public, it should be calculated upon a

scale which will ensure the maintenance of the aggregate taxation of foreign liquor. And all round rate of Rs. 4-8-0 per gallon for spirits and wines and Re. 0-1-0 per gallon for bear and Rs 3-8-0 per gallon on Pakistan made foreign liquor would be suitable and according to this scale, licence fee may be calculated on the recorded sale, figures. In making these calculations the sale to clubs should be treated as sales to public and the brewer's agents who sell to the public should be charged fee for licences for sale to the public, while sales to the regimental canteens should be regarded as sales to the trade. In fixing fees, however, it is to be remembered that there is no satisfactory method of ascertaining sale and that a premium may be placed upon the falsification of registers, if they are the sole basis of calculation of fees. Apart from this, it may be unfair to make too sudden a rise in the licence fee paid by a particular firm, and it would be preferable to maintain the same fee from year to year subject to variation only when the volume of business undergoes a market change rather than to make frequent alteration. The recorded volume of sales is, therefore, only a general guide, to be taken into account along with other matters in determining what fee is appropriate. But in deciding upon the appropriate fee no attempt should be made to estimate the profits of a firm. The licence fee does not necessarily diminish profits, it is in most cases doubtlessly added on to the selling price and only affects profits in so far as it tends to diminish consumption by increasing price. Apart from this consideration, the estimation of profits and the taxing of them is a matter for the Income-Tax Assessors, not for the Excise Officer.

No. licence in Form XIII shall be issued to licensees or to any one connected with licensees holding licences in Forms P. XIV, P. XV, P. XVI, P. XVII, P. XVIII and P. XIX without the special permission of Director Excise Applications for such permission for the ensuing year should reach the Director Excise's Office by February 1st.

The procedure for renewal shall be the same as that prescribed in rule 42 for licences under Form P. XII.

43. A licence for the retail vend of liquor in a hotel for "one" consumption may be granted by the Collector in Form P. XIV. This licence may be granted for 3, 6, 9 or 12 months at proportionate fees.

44. A license for the retail vend of Beer and Stout only in a Military Canteen may be granted in Form P. XV with the approval of the Divisional Commander. The fee shall be levied generally in accordance with the principle laid down in rule 42. When the Military unit is moved to another district, the Collector of the new district shall countersign the original licence without demanding further payment.

45. A licence for the retail vend of foreign liquor in a railway dining car may be granted by the Director Excise only in Form P. XVI. The fee shall be charged at the rate of Rs. 10-8-0 per gallon on wine and spirit and Re. 0-9-0 per gallon on beer (on actual sales).

46. Form P. XVII.-The Collector may grant a licence in Form P. XVII permitting any chemist, varnish-maker or other person, who in his business uses large quantities

denatured spirit, to purchase and passes any quantity of denatured spirit up to five hundred gallons. The possession of more than five hundred gallons requires the sanction of the Director Excise.

47. Form PXVIII-Extensions.--In urban areas the Collector may grant to licensee a special licence in Form XVIII to keep his shop open for not more than two hours after the time fixed by his licence for closing this special licence shall be given for important festivals only at such fee as the Collector may prescribed.

48. Fairs and special occasions-No Form. -The Collector may grant a licence for a special occasion in a form to be prescribed by him, at such fee as he considers suitable. In granting such a licence on the occasion of a fair the Collector shall observe the following instructions. No special liquor licence shall be granted for any fair, where such a licence has hitherto not been granted or where, having in the past been granted, it has now been discontinued. If a new fair is inaugurated, the Collector shall not grant a special liquor licence without the consent of the Director Excise.

In the case of fairs for which special liquor licences have hitherto been granted, the Collector may continue to grant such licences. He should, however, take cognizance of any bona fide movement favoring prohibition and he may without further sanction decline to grant a special liquor licence if, on testing local opinion, he is thoroughly satisfied that the discontinuance of such a licensed would be a measure approved by the unquestioned voice of local opinion and that such local opinion is free from any suspicion of connivance at illicit distinction.

49. Form P. XIX.-The Collector may grant a special licence in Form P.XIX for the retail vend of foreign liquor at a bar at any place of recreation, or on any special occasion when temporary arrangements for the sale of foreign liquor are required. The Collector shall fix the licence fee.

50. Sale of licence fees.- As provided in rule 38-49 of these Rules, the scale of licence fees will be :-

P.XII.- Licences for the sale of Foreign liquor to trade only.	Rs. 100 per annum
P.XIII.—Licences for the sale of foreign Liquor for “off” consumption to authorised persons.	Spirits and wanes Rs. 3-8-0 per gallon. Beer one anna per gallon. Foreign liquor made in Pakistan Rs. 4-8-0 per gallon.
P.XI, P.XIV, P.XVII, P.XVIII, and P.XIX.- -- Licenses for sale of foreign liquor for “one” consumption in hotels, railway	Spirit Rs. 10-8-0 gallon; Wine Rs. 10-8-0 a gallon; Beer Re. 0-9-0 a gallon Foreign Liquor made in Pakistan, Rs. 10

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

dining cars, at a bar, theater, etc.	per gallon.
P.XIV.—Military Canteens	Beer Rs.1-6-0 a gallon
P.I.—Sale of Denatured spirit	Rs.1[50] per annum.
P.VI.—Sale of Rectified spirit	Rs.1[50] per annum.

The above orders will apply to the settled district in the Khyber Pakhtunkhwa.

51. The maximum quantities of Excisable articles which may be sold at a time by retail shall be as follows.—

51.1. Foreign spirit or wine or fermented liquor.

- | | |
|---------------------------------|---|
| (a) To Europeans | Two imperial gallons or 12 reputed quart bottles. |
| (b) To other authorised persons | One reputed quart bottle plus one pint bottle of Brandy for medicinal purposes. |

Note.—Sales to Europeans through their servants on chits will imply sales to Europeans.

51.2 Beer.....To authorized persons.....Two gallons.

51.3 Country Spirit To non-muslim embodied personnel of armed force only one reputed quart bottle.

51.4 Rectified Spirit One reputed pint or 2/3rd of one imperial pint.

51.5 Denatured Spirit One imperial gallon.

52. Restrictions on the transport of country liquor.—No country liquor shall be transported in any quantity from one District to another of the Khyber Pakhtunkhwa, except under a permit to be issued by the Collector of the District of destination or except when it is done on behalf of the Crown by any person duly authorised under the Act. Also import into and export from the said Province will be similarly prohibited. A charge of Re. 1 per proof gallon will be made on each permit so issued No such import permits will be issued in the Khyber Pakhtunkhwa, except to 1[Members of the Scheduled Castes and to] a Military Formation containing non-Muslims, located in the Khyber Pakhtunkhwa, for the use of its non-Muslim personnel only.

52.2. Import of Foreign liquor.—[Imported or Pakistan made including Beer] in quantity exceeding one quart bottle from any firm or other source from outside the Province for use of Messes, Clubs, or for private consumption as prohibited except under a permit issued by the Collector of the District of destination or except when an act is done on behalf of the Crown by any person authorised under the said Act. Rs. 2-8-0 per gallon of Spirit or Wine will be charged as permit fee on permits so issued.

52.3. No permit fee will be charged for the import of beer.

52.4. The consignments of country liquor and foreign liquor consigned to and intended for consumption in the Agencies of Khyber, Kurram, Malakand, North Waziristan and South Waziristan shall be exempt from the operation of these orders.

53. Prohibition as to import, transport and possession of excisable articles,—Save as otherwise provided the import, transport and possession of:—

53.1. country liquor except bottled liquor for religious purposes ;

53.2. foreign liquor except medicated wine and one pint brandy ; and

53.3. bhang except on a permit to be issued by the Excise Inspector up to a limit of ten tolas, shall be prohibited within the limits of the Khyber Pakhtunkhwa with effect from the date of introduction of Prohibition in this Province.

54. Possession of liquor.—Whether or not the quantity is within the limits no person shall have any country or foreign liquor in his possession except on the condition that it shall not be taken into or kept upon the premises used as a restaurant, unless such premises have been licensed for the consumption of liquor thereon under the Prohibition Act or Rules made thereunder. For the purpose of this order a "Restaurant" means any place to which the public are admitted for the consumption of food or drink, a consideration.

54. No person travelling or occupying a seat in any vehicle or conveyance shall have any country spirit in his possession within a radius of ten miles of the Municipal or Cantonment Boundaries of Peshawar except under a pass or permit granted under the said Act or the Rules made thereunder.

This order shall have effect whether the quantity of liquor in the possession of person is or is not in excess of the quantity declared by the Provincial Government to be the limit of retail sale (viz., one reputed quart bottle).

55. Powers and appointment of officers Confiscation.—The Collector can order the confiscation of articles liable to confiscation.

55.1.—The Excise Commissioner, Khyber Pakhtunkhwa shall exercise all the powers of a Director under the Act throughout the Province and shall exercise supervisory control over the administration of the provisions of the Act.

55.2.—The Provincial Excise and Taxation Officer shall have all the powers of a Collector under the Act throughout the Province. The Deputy Director shall have such powers within their respective jurisdiction concurrently with the Provincial Excise and Taxation Officer until such time as the Provincial Government by a

Notification in the Gazette specify which powers shall be exercisable by the Deputy Director exclusively.

55.3.—The Assistant Excise and Taxation Officers shall be District Excise Officers within their respective circles.

55.4.—The District Inspector of Excise, shall be Prohibition Officers-in-charge of their respective Districts and shall have all the powers of a Prohibition Officer under the Act. Provided that where no post of District Excise Inspector exists the duties of the Prohibition Officer shall be discharged by a Sub-Inspector of Excise specially designed as Prohibition Offices.

55.5.—Sub-Inspectors of Excise shall be deemed Prohibition Officers for the purposes of sections 26 to 32 and 34 to 50 of the Act in the Province.

55.6.—Excise ¹[clerks] Detectives ¹[and Peons] shall be Prohibition Officers for the purposes of section 31 of the Prohibition Act.

56. Disposal of confiscated articles.—When orders are received from a competent authority for the confiscation of anything seized or detained under the Act, it shall with all convenient dispatch, be sold to authorised persons or destroyed by the person-in-charge thereof, as the officer adjudging the confiscation may direct.

56.1.—No sale of any perishable article ordered to be confiscated shall be postponed on account of the preferring of an appeal against the order of confiscation. The sale of any animal or other thing ordered to be confiscated shall not be postponed or such account unless the owner thereof or his agent shall deposit with the officer ordering the confiscation such sum as such officer may consider sufficient for the maintenance and keeping in the safe custody of such animal or for the safe custody of such thing, as the case may be, pending the result of such appeal. If the order for confiscation is reversed on such appeal the owner shall be entitled to receive back the whole of the sum so deposited less charges on account of the feeding and maintenance of the animal.

56.2.—If any order that any article be confiscated is reversed on appeal such article, if it has not been sold before such reversal comes to the knowledge of the officer-in-charge thereof, or if it has been sold, the sale proceeds thereof, shall be dealt with under rules 4 to 7 inclusive.

56.3.—Things ordered to be released or the proceeds thereof, if they have been sold, shall at once be given up or paid, as the case may be, by the person-in-charge thereof to the owner or his agent.

56.4.—Should no one appear to receive a thing ordered to be released or the

proceeds of the sale thereof, the person-in-charge thereof shall do his best to give notice to the owner of the order of release, and shall also cause a notice of such order to be affixed in the village or town where the seizure of the thing, was effected, in the Office of the Tehsildar of the Tehsil and in a Police Station nearest to such village or town.

56.5.—If within two calendar months from the date of the notice no person entitled to receive a thing ordered to be released, claims the same or pays all charges incurred on its keeping and safe custody after the date on which the order for its release was notified as herein before directed, it shall be sold ; the amount of all charges so incurred shall be credited to provincial revenues, and the net proceeds shall be placed in deposit. The same- course shall be followed with reference to the proceeds of a thing ordered to be released which has been sold before the receipt of the order of release.

56.6.—If no person shall appear to receive the sum so placed in deposit, during a further period of two calendar months, it shall be credited to provincial revenues.

56.7.—The sale proceeds of all confiscated articles shall be paid into the nearest Government Treasury without delay.

57. Powers of Officers to stop conveyances.—The person-in-charge of any vessel, vehicle or animal shall cause it to stop and to remain stationary so long as may reasonably be necessary when required to do so by any Prohibition Officer, any Officer, of the Police or Land Revenue Department, or any other person duly authorised in that behalf, for the purpose of enabling such officer or person to make any arrest, seizure or search under section 31 of the Act.

58. Appeals and Revision—Appeal to the Collector.—An appeal shall lie to the Collector from any order of any officer of the Revenue Department subordinate to him, discharging functions under the Act, under any rule or order made under the Act or under the conditions of a licence issued under the Act. An appeal shall also lie to the Collector from an order of any Officer of any other department, who has been expressly made subject to the control of the Collector in respect of any function discharged by that officer under the Act or who is discharging any function under the Act delegated to him by the Collector.

58.1.—Appeal to the Director Excise.—An appeal shall lie to the Director Excise from any original order passed by the Collector and a second appeal from any order passed by the Collector on appeal.

58.2.—Appeal to the Provincial Government.—An appeal shall lie to the Provincial Government from any order passed by, the Director Excise whether on appeal or otherwise :

Provided that where it is specially provided by rule that the decision of the Director shall be final or where a second appeal has been disposed of by the Commissioner no further appeal shall lie.

58.3.—Limitation.—Save as otherwise provided in any other rule made under the Act, every memorandum of appeal shall be presented:—

- (i) in the case of an appeal to the Collector, within one month from the date of receipt of the order appealed against, and
- (ii) in the case of an appeal, to the Director or to the Provincial Government, within two months from the date of receipt of the order appealed against.

Explanation.—In computing the period of-limitation the time requisite for obtaining copies of the necessary documents shall be excluded.

58.4.—Revision.—The authorities in whom appellate powers are vested by these rules may also exercise those powers by way of revision, whenever they consider it necessary to do so.

59. Authorisation of officers to admit persons arrested to bail.—The Prohibition Officers, Police Officers of and above the rank of the Sub-inspector and Officers of the Land Revenue Department of and above the rank of Naib-Tahsildar, are empowered to admit persons arrested under section 31 of the Prohibition Act to bail to appear, when summoned or otherwise directed; before a Police or Prohibition Officer or Magistrate having jurisdiction to inquire into the offences for which such persons have been arrested.

59.1.—The form of bond to be used for this purpose is appended to these rules.

60.1.—Rules for the grant, of diet money and compensation in certain cases.—For the purpose Of these rules persons shall be classified as belonging either to " special class" or to any one of the three classes specified in rule 60 (2). The Police or Prohibition Officer or the Magistrate by whom they have been summoned as witnesses or released or acquitted shall fix the class of each person so summoned, released or acquitted with due regard to his or her status in life:

Provided that no person shall be declared to come under the "special class" and permitted to draw the rates admissible for that class except for special reasons to be recorded by the Police or Prohibition Officer or Magistrate concerned.

60.2.—Non-official persons summoned as witnesses by any Police or Prohibition Officer, persons brought before any such officer on suspicion of having committed offences under the Khyber Pakhtunkhwa Prohibition Act, 1938 and released by him under subsection (3) of section 37 the said Act on the ground that they have been improperly arrested persons charged with such offences before Magistrate and acquitted be paid travelling allowance and compensation for loss of time for following rates by the Police or Prohibition Officer or Magistrate before whom they appear as

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

witnesses or by whom they are released or acquitted as the case may be :—

Class of witness	Travelling Allowance by rail	Travelling Allowance by road	Travelling Allowance by river or canal	Diet money
Special class	I Class fare	As. 4 per mile	Actual expenses of passage	Rs. 3 per diem in addition to Travelling Allowance.
First class	II Class fare	As. 3 per mile	-do-	Re. 1-1-0 per diem in addition to Travelling Allowance
Second class	Inter Class fare	As. 2 per mile	-do-	Re. 1 per diem in addition to Travelling Allowance
Third class	Third Class fare	One anna per mile.	-do-	As. 0-8-0 per diem in addition to Travelling

60.3.—The distance for which mileage or actual motor bus fare and the number of days for which compensation should be allowed shall be determined by the Police or Prohibition Officer or Magistrate making payment in each case.

60.4.—Travelling expenses and compensation shall be paid by the Police or Prohibition Officer or the- Magistrate as the case may be on the same day as that on which the inquiry is held. All bills for such payments shall after payment be scrutinized by the authority to whom the said Police or Prohibition Officer or Magistrate making the payment is subordinate.

61.1.—The Khyber Pakhtunkhwa Denatured Spirit Rules 1938.— These Rules shall be called the Khyber Pakhtunkhwa Denatured Spirit Rules 1938.

61.2.—In these rules "denatured spirit" means spirit effectually and permanently rendered unfit for human consumption.

61.3.— Possession, Import and Transport.—(i) Any person or institute may without a licence possess, import into or transport within any area to which the Prohibition Act applies, denatured spirit up to maximum of one imperial gallon for any purpose other than for use.

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

(ii) No person or institution may possess, import into or transport within the Province denatured spirit in excess for one imperial gallon, except under and in accordance with the terms and conditions of a licence issued by the Collector in Form P. 1 appended to these rules :

Provided that it shall not be necessary for officers of the Government to obtain licences for possession and use of denatured or methylated spirit in any quantity for Government purposes.

61.4. Retail-sale.—Licences may be issued by the Collector in his discretion in Form P. I appended to these rules and subject to the conditions mentioned therein, to any person for the retail sale of denatured or methylated spirit for any purpose other than for use as beverage. The licence fee shall be Rs. 30 per annum for each licence.

General.—The following general conditions shall apply to all licences issued under rule 61.4 namely :—

- (i) The licence must be hung up in a conspicuous place in the shop.
- (ii) No shop shall be kept open between the hours of 9 p. m. and 6. p.m.
- (iii) Denatured spirit kept for sale shall be of good quality and unadulterated.

Note.—The rendering or attempting to render such spirit fit for human consumption is punishable under section 5 of the Khyber Pakhtunkhwa Prohibition Act, 1938.

(iv) True accounts of transactions shall be maintained from day to day in rank in Form P. II appended to these rules by the holders of licences. The accounts shall be in printed books. Accounts, invoices and passes relating to import or transport shall be preserved for one year after the period covered by the licence one shall be produced when called for by a Prohibition Officer or a Police Officer not below the rank of Sub-Inspector.

(v) The licence shall not be transferable without the Collector's permission nor shall any agent be appointed for the vend of denatured spirit without the Collector's previous approval.

(vi) Any licence may be revoked by the Collector on giving the licensee fifteen days' notice of such revocation.

(vii) The premises for which the licence is granted shall be open to inspection by the Collector, or a Prohibition Officer. The Collector shall be furnished with such information regarding the quantity of spirit sold as may be required by him.

(viii) Every bottle, jar, drum or cask shall bear a label, printed in red and containing skull and cross bones, with a warning "not to be taken internally" in Urdu. The design and style of the lab shall be:—

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

(ix) The licensee shall not import '[from a distillery outside the Province and transferred from a distillery within the Province] any consignment of denatured spirit without' first obtaining a "no objection" permit in Form P.III from the Collector of district of destination. This permit will be granted on payment of permit fee at the rate of Rs. 2[4.50] per gallon. The bulk shall not be broken in transit or the consignment brought in use unless it has been examined by the Prohibition Officer to whom intimation of the arrival of the consignment shall be given

(x) The licensee shall not sell to any one at a time more than six bottles (one bottle=26.6 oz.) of denatured spirit.

(xi) Licensees shall be bound by any additional rules that may be prescribed by the Provincial Government from time to time and the licence shall expire on 31st March of a year or earlier if ordered by the Collector otherwise.

(xii) The licensee shall submit to the Collector of the district or before the 5th day of each month a statement showing the opening balance, the quality received, the quantity sold and the balance on hand the preceding month.

62.1.-- The Khyber Pakhtunkhwa Rectified Spirit Rules, 1938.- These rules shall be called the Khyber Pakhtunkhwa Rectified Spirit Rules, 1938.

62.2.-- In these rules the expression "rectified spirit" includes "absolute alcohol."

62.3.-- Import.-No rectified spirit shall be imported into the Khyber Pakhtunkhwa from outside the Province except under a permit issued by the Collector (Form P.VI).

Export.-No rectified spirit shall be exported from the Khyber Pakhtunkhwa to a place outside the Province except under a permit issued by the Collector (Form P.-VII).

62.4-- The import and possession of perfumes and toilet preparations prepared with methy alcohol or denatured spirit within the Khyber Pakhtunkhwa is prohibited.

62.5.-- Possession.-The following persons and institutions may, without a licence possess at any one time rectified spirit up to the maximum quantity specified against each for the purpose specified in section 16 of the Prohibition Act:-

- (i) Any Government Local Board or Municipal Hospital-Three imperial gallons.
- (ii) Any chemist, medical practitioner or scientific body -Two reputed quarts.
- (iii) Any other person or institution -One reputed pint.

62.6.-- No person or institution may possess or transport rectified spirit in excess of

KHYBER PAKHTUNKHWA PROVINCE PROHIBITION RULES, 1949

the quantity which he or it is permitted to possess under rule 62.5, except under a permit granted by the Collector.

62.7.—The Collector may issue a licence for the sale or a permit for the import of rectified spirit for any of the purposes specified in section 18 of the Act in the forms appended to these rules and subject to the conditions mentioned therein (Forms P.1V and P. VI).

63. Authorities competent to issue and form of licences and permits.—The licences and permits for the purposes specified in columns (1) and (2) of the table below shall be granted in the Form prescribed in the corresponding entries in column (3) thereof and subject to the conditions specification such Form, by the authority specified in the corresponding entry in column (4) of the table: —

TABLE

Section of the Act	Description of licence or permit	Form number in the annexure	Authority
1	2	3	4
18, 19 and 21	Permit for import or transport	P.III, P.VI and P.VII	Collector except in cases where the Director excise is required to issue the permit by any rule or notification under the Act.
18	Licence for the sale of denatured and rectified spirit.	P.I and P.IV	Collector of the District.
18	Licence for the sale of brandy and medicated wines by chemists	P.VIII	Collector of the District.
19 (a)	Permit to consume and possess for personal consumption bhang.	P.IX	Prohibition Officer
19 (b)	Permit to possess and use bottled wine for a religious purpose.	P.X	Director Excise
19 (c)	Licence for the possession of bottled foreign liquor by non-proprietary messes and clubs for supply to authorised persons who are members.	P. XI	Collector

64. Revenue Department Notifications No. 6679-Exc, 6680-Exc, 6681-Exc, 6682-Exc., 6683-Exc, 6683-Exc, 6685-Exc, 6686-Exc, 6687-Exc, 6688-Exc, and 6689-Exc, dated 5th July, 1938 are hereby cancelled.

THE PROHIBITION (ENFORCEMENT OF HADD) ORDER, 1979.

THE PROHIBITION (ENFORCEMENT OF HADD) ORDER, 1979

THE PROHIBITION (ENFORCEMENT OF HADD) ORDER, 1979.

THE PROHIBITION (ENFORCEMENT OF HADD) ORDER, 1979.

President's Order No. 4 of 1979

February 9th, 1979

WHEREAS it is necessary to modify the existing law relating to prohibition of intoxicants so as to bring it in conformity with the Injunctions of Islam as set out in The Holy Quran and Sunnah;

Now, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force), Order, 1977 (C.M.L.A. Order No. I of 1977), and in exercise of all powers enabling him in that behalf, the President and Chief Martial Law Administrator is pleased to make the following Order: -

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.

(1) This Order may be called the Prohibition (Enforcement of Hadd) Order, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri that is, the 10th day of February 1979.

2. Definitions.

In this Order, unless there is anything repugnant in the subject or context, -

- (a) "adult" means a person who has attained the age of eighteen years or puberty;
- (b) "authorized medical officer" means a medical officer, however designated, authorized by the Provincial Government;
- (c) "bottle" or "bottling" means to transfer intoxicating liquor from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not and includes rebottling;
- (d) "buy" or "buying" includes any receipt by way of gift or otherwise;
- (e) "Collector" means any person appointed under this Order to exercise or perform all or any of the powers or functions of a Collector under this Order;
- (f) "hadd" mean punishment ordained by the Holy Quran or Sunnah;
- (g) "intoxicant" means an Article specified in the Schedule and includes intoxicating liquor and other Article or any substance which the Provincial Government may, by notification in the official Gazette, declare to be an Intoxicant for the purposes of this Order;
- (h) "intoxicating liquor" includes toddy, spirits of wine, wine, beer and all liquids consisting of or containing alcohol normally used for purposes of intoxication, but does not include a solid intoxicant even if liquefied;
- (i) "manufacture" includes every process, whether natural or artificial, by which any intoxicant is produced, prepared or blended, and also re-distillation any every process for the rectification of intoxicating liquors;
- (j) "place" includes a house, shed, enclosure, building, shop, tent, vehicle, vessel and aircraft;
- (k) "prohibition Officer" means the Collector or any officer appointed or invested with powers under Article 21;
- (l) "public place" means a street, road, thoroughfare, park, garden or other place to which the public have free access and includes a hotel, restaurant, motel, mess and club, but does not include the residential room of a hotel in the occupation of some person;
- (m) "rectification" includes every process whereby intoxicating liquor are

- purified, coloured or flavored by mixing any material therewith;
- (n) "sale" or "selling" includes any transfer by way of gift or otherwise;
 - (o) "tazir" means any punishment other than hadd; and
 - (p) "transport" means to move from one place to another.

CHAPTER II

PROHIBITION AND PENALTIES

3. Prohibition of manufacture, etc, of intoxicants.

- ¹[(1) Subject to the provisions of clause (2) whoever
- (a) import, exports, transports, manufactures or processes any intoxicant; or
 - (b) bottles any intoxicant; or
 - (c) sells or serves any intoxicant; or
 - (d) allows any of the acts aforesaid upon premises owned by him or in his immediate possession;

shall be punishable with imprisonment of either description for a term, which may extend to five years and with whipping not exceeding thirty stripes, and shall also be to fine.]

- ²[(2) Whoever -
- (i) imports, exports, transports, manufactures, or traffics in, opium or coca leaf or opium or coca derivatives; or
 - (ii) finances the import, export, transport, manufacture, or trafficking of, opium or coca leaf or opium or coco derivatives;

shall be punishable with imprisonment for life or with imprisonment, which is not less than two years and with whipping not exceeding thirty stripes, and shall also be liable to fine.]

4. Owning or possessing intoxicant: Whoever owns, possesses or keeps in his custody any intoxicant shall be punished with imprisonment of either description for a term, which may extend to two years, or with whipping not exceeding thirty stripes, and shall also be liable to fine:

Provided that nothing contained in this Article shall apply to a non-Muslim foreigner or to a non-Muslim citizen of Pakistan who keeps in his custody at or about the time of a ceremony prescribed by his religion a reasonable quantity of intoxicating liquor for the purpose of using it as a part of such ceremony:

³[**Provided** further that if the intoxicant in respect of which the offence is committed is heroin, cocaine, ⁴[⁴ opium or coca leaf, and the quantity exceeds ten grams in the case of heroin or cocaine or one kilogram in the case of ⁵[⁵ opium or coca leaf, the offender shall be punishable with imprisonment for life or with imprisonment which is not less than two years and with whipping not exceeding thirty stripes, and shall also be liable to fine.]³

¹ Inserted by Prohibition (Enforcement of Hadd) (Amendment) Order, 1983 (P.O. No. 12 of 1983).

² Inserted by Prohibition (Enforcement of Hadd) (Amendment) Order, 1983 (P.O. No. 12 of 1983).

³ Inserted by Prohibition (Enforcement of Hadd) (Amendment) Order, 1983 (P.O. No. 12 of 1983).

⁴ The following was omitted by Act VI of 1994 : "raw".

⁵ The following was omitted by Act VI of 1994 : "raw".

5. Article 3 or Article 4 not to apply to certain acts: Nothing contained in Article 3 or Article 4 shall apply to any act done under, and in accordance with, the provision of this Order, or the terms of any rule, notification, order or license issued there under.

6. Drinking: Whoever, intentionally and without ikrah or iztirar, takes an intoxicant by any means whatsoever, whether such taking causes intoxicant or not, shall be guilty of drinking.

Explanation. - In this Article,-

(a) "ikrah" means putting any person in fear of injury to the person, property or honour of that or any person ;and

(b) "iztirar" means a situation in which a person is in apprehension of death due to extreme hunger or thirst or serious illness.

7. Two Kinds of drinking.

Drinking may be either drinking liable to hadd or drinking liable to tazir.

8. Drinking liable to hadd: Whoever being an adult Muslim takes intoxicating liquor by mouth is guilty of drinking liable to hadd and shall be punished with whipping numbering eighty stripes.

Provided that punishment shall not executed unless it is confirmed by Court to which an appeal from the order of conviction lies; and, until the punishment is confirmed and executed, the convict shall, subject to the provisions of the code of criminal procedure, 1898, relating to the grant of bail or suspension of sentence, be dealt with in the same manner as if sentenced to simple imprisonment.

9. Proof of drinking liable to hadd: The proof of drinking liable hadd shall be in one of the following forms, namely:-

- (a) the accused makes before a court of competent jurisdiction a confession of commission of drinking liable to hadd; and
- (b) at least two Muslim adult male witness, about whom the court is satisfied, having regard to the requirement of tazkiyah al-shuhood, that they are truthful persons and abstain from major sins (kabair), give evidence of the accused having committed the offence of drinking liable to hadd.

Explanation.- In this Article, tazkiyah al-shuhood means the mode of inquiry adopted by a court to satisfy itself as to the credibility of a witness.

10. Cases in which hadd shall not be enforced:(1) Hadd shall not be enforced in the following cases, namely:-

- (a) when drinking is proved only by the confession of the convict but he retracts his confession before the execution of hadd; and
 - (b) when drinking is proved by testimony, but before the execution of hadd, any witness resiles from his testimony so as to reduce the number of witness to less than two.
- (2) In a case mentioned in clause (1), the Court may order retrial in

accordance with the Code of Criminal Procedure, 1898.

11. Drinking liable to tazir: Whoever-

- (a) being a Muslim, is guilty of drinking, which is not liable to hadd under Article 8 or which proof in either of the forms mentioned in Article 9 is not available and the court is that the offence stands proved by the evidence on the record;
- (b) being a non-Muslim citizen of Pakistan, is guilty of drinking, except as a part of a ceremony prescribed by his religion; or
- (c) being a non-Muslim who is not a citizen of Pakistan, is guilty of drinking at a public place;

shall be liable to tazir and shall be punished with imprisonment of either description for a term which may extend to three years or with whipping not exceeding thirty stripes, or with both.

12. Arrest on suspicion of violation of Article 8 or Article 11: (1)

No police officer shall detain or arrest any person on suspicion that he has taken an intoxicant in violation of Article 8 or Article 11 unless he has asked such person to accompany him to an authorised medical officer for examination and such person either refuses to so accompany him or, having been examined by the medical practitioner, is certified by him to have taken an intoxicant.

(2) Whoever contravenes the provisions of clause (1) shall be punishable with imprisonment for a term, which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.

13. Punishment for vexatious delay: Any officer or person exercising powers under this order who vexatiously and unnecessarily delays forwarding to a prohibition officer any person arrested or any Article seized under this order shall be punishment with fine which fine which may extend to one thousands rupees.

14. Things liable to confiscation: In any case in which an offence has been committed under this Order, the intoxicant, still, utensil, implement or apparatus in respect or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, covering, animals, vessels, carts or other vehicles, used to hold or carry the same.

15. Confiscation how ordered: (1) In any case involving liable to confiscation under this Order, the Court deciding the case may order such confiscation despite the acquittal of the person charged.

(2) When an offence under this Order has been committed but the offender is not known or cannot be found, or when anything liable to confiscation under the Order and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the collector or other Prohibition Officer in charge of the District or any other officer authorised by the Provincial Government in this behalf, who may order such confiscation:

Provided that no such order shall be made until the expiration of fifteen

days from the date of seizure of the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any which they produce in support of their claims.

16. Cognizance of certain offences: (1) The following offences shall be cognizable, namely:-

- (a) an offence punishable under Article 3; and
- (b) an offence punishable under Article 4, Article 8 or Article 11, if committed at a public place.

(2) No Court shall take cognizance of an offence punishable under-

- (a) Article 12 or Article 13, save on a complaint made by the person in respect of whom the offence has been committed; and
- (b) Article 20, save on a complaint made by, or under the authority of, a Prohibition Officer.

CHAPTER III

LICENCES FOR MEDICAL OR SIMILAR OTHER PURPOSES

17. Licences for bona fide medicinal or other purposes: The Provincial Government or, subject to the Provincial Government, the Collector, may issue licenses to any person in respect of any institution, whether under the management of Government or not,-

- (a) for the manufacture, import, transport, sale or possession of any intoxicant or Article containing intoxicant liquor on the ground that such intoxicant or Article is required by such person in respect of such institution for a bona fide medicinal, scientific, industrial or similar other purposes or for consumption by non-Muslim citizen of Pakistan as a part of a religious ceremony or by a non-Muslim foreigner; or
- (b) for the export of any intoxicant liquor.

18. Forms and conditions of Licences: Every license issued under this order shall- (a) be granted on payment of such fee, if any, for such period and on such condition; and (b) be in such form and contain such particulars, as the Provincial Government may direct, either generally or in any particular case.

19. Power to cancel or suspend Licences: (1) The Collector may cancel or suspend a licence-

- (a) if any fee payable by the holder thereof be not duly paid; or
 - (b) in the event of any breach by the holder thereof or by his servant or by any one acting with his express or implied permission on his behalf of any of the terms or condition of the licence.
- (2) The collector shall cancel a licence if- or
- (a) the holder thereof is convicted of any offence under this order;
 - (b) the purposes for which the licence is granted cease to exist.

(3) as and when any licence is cancelled under clause (1) or clause (2), the holder thereof shall at once declare to the Collector the stock of intoxicating liquor or Articles containing such liquor lying with him, and dispose of stock to such authorised person as the Collector may specify.

20. Penalty for the breach of condition of licence: In the event of any breach by the holder of a licence, or by his servant or by one acting with his express or implied permission on his behalf, of any of the terms and conditions of the licence, such holder shall, in addition to the cancellation or suspension of the licence and in addition to any other punishment to which he may be liable under this Order, be punishable with imprisonment ¹[for life or with imprisonment which is not less than two years]¹ and with fine, unless proves that he exercised all due diligence to prevent such breach, and any such person who commits any breach shall, whether he acts with or without the permission of the holder of the licence also be liable to same the punishments.

¹ Inserted by Prohibition (Enforcement of Hadd) (Amendment) Order, 1983 (P.O. No. 12 of 1983).

CHAPTER IV

ESTABLISHMENT AND CONTROL

21. Appointment of officers: The Provincial Government may, from time to time, by notification in the official Gazette,-

- (a) appoint an officer to exercise all the powers of a Collector under this Order in any area specified in the notification and to have the control of the administration of the provisions of this Order in such area;
- (b) appoint officers with such designation, powers and duties as the Provincial Government may think fit to assist the Collector or other Prohibition Officer; and
- (c) delegate to any Prohibition Officer all or any of its powers under this Order.

CHAPTER V

POWERS, DUTIES AND PROCEDURE OF OFFICERS, ETC.

22. Issue of search warrant: (1) If any Collector, Prohibition Officer or Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under Article 3, Article 4, Article 8, or Article 11 has been committed, he may issue a warrant for the search for any intoxicant, material, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

(2) Any person who has been entrusted with the execution of such a warrant may detain and search and, if he thinks, proper, but subject to the provisions of clause (1) of Article 12, arrest any person found in the place searched, if he has reason to believe such person to be guilty of an offence under Article 3, Article 4, Article 8, or Article 11.

23. Powers of Prohibition Officer: In addition to the powers conferred on him by the forgoing provisions of this Order, a Prohibition Officer shall have all the powers conferred on the officer in charge of a police station while conducting an investigation into cognizable offence.

24. Enhanced punishment for certain offences after previous conviction: Whoever, having been convicted by a court of an offence punishable under this Order, shall be guilty of that offence shall, in addition to the punishment provided for that offence, be awarder for every such subsequent offence the punishment of imprisonment provided for that offence.

25. Punishment for attempt to commit offence punishable under this Order: Whoever attempts to commit an offence punishable under this Order or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished, in the case of an offence punishable under Article 8, with rigorous imprisonment for a term which may extend to two years, and in other cases with imprisonment for a term which may extend to one-half of the longest term provided for that offence, or with such whipping or fine as is provided for the offence, or with any two of ,or all, the punishment.

26. Application of certain provisions of Pakistan Penal Code: (1) Unless otherwise expressly provided in this Order, the provisions of sections 34 to 38 of Chapter II, section 63 to 72 of Chapter III, and Chapter V and VA of the Pakistan Penal Code shall apply in respect of offences under this Order.

(2) Whoever is guilty of the abetment of an offences liable to hadd under this order be liable to the punishment provided for such offence as tazir.

27. Application of the code of criminal procedure, 1898.

THE PROHIBITION (ENFORCEMENT OF HADD) ORDER, 1979.

(1) Unless otherwise expressly provided in this order, the provisions of the code of criminal procedure, 1898, hereinafter referred to as the said code, shall apply, mutates mutandis, in respect of cases under this order:

Provided that, if it appears in evidence that the offender has committed a different offence under any other law, he may, if the court is competent to try that offence and to award punishment therefore, be convicted and punished for that offence ¹[:]

²**Provided** further that an offence punishable under Article 8 shall be triable by a court of session and not by a magistrate authorised under section 30 of the said code and an appeal from an order under that Article ³[or from an order under any other provision of this order which imposes a sentence of imprisonment for a term exceeding two years] ³ shall lie to the Federal Shariat Court:

Provided further that a trial by a court of session under this order shall ordinarily be held at the Headquarter of the Tehsil in which the offence is alleged to have been committed.]²

(2) The provision of the said code relating to the confirmation of the sentence of death shall apply, mutates mutandis, to the confirmation of a sentence under this order.

(3) The provision of sub-section (3) of section 391 or section 393 of the said code shall not apply in respect of the punishment of whipping awarded under this order.

(4) The provision of chapter XXIX of the said code shall not apply in respect of the punishment awarded under Article 8.

28. Indemnity: No suit, prosecution or other legal proceeding shall lie against a Provincial Government, a police officer, a Prohibition Officer or any other officer in respect of anything, which is in good faith done under this order or the rules, made there under.

29. Order to override other laws: This order shall have effect notwithstanding anything contained in any other law for the time being in force.

30. Presiding officer of court to be a Muslim: The presiding officer of the court by which a case is tried, or an appeal is heard, under this order shall be a Muslim:

Provided that, if the accused is a non-Muslim, the presiding officer may be a non-Muslim.

¹ Substituted by Prohibition (Enforcement of Hadd) (Amendment) Order, 1980 (P.O. No. 5 of 1980), Art. 2 for ".".

² Inserted by Prohibition (Enforcement of Hadd) (Amendment) Order, 1980 (P.O. No. 5 of 1980), Art. 2.

³ Inserted by Prohibition (Enforcement of Hadd) (Amendment) Order, 1982 (P.O. No. 6 of 1982), Art. 2.

31. Power to make rules: (1) The Provincial Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Order.

(2) In particular and without prejudice to the generality of the forgoing provision, the Provincial Government may make rules-

- (a) for issue of licences and the enforcement of the conditions thereof;
- (b) prescribing the powers to be exercised and the duties to be performed by Prohibition Officer in furtherance of the objects of this Order;
- (c) determining the local jurisdiction of prohibition Officer in regards to inquires and investigations;
- (d) authorizing any officer to exercise any power or perform any duty under this Order;
- (e) regulating the delegation by the Collector or other Prohibition Officers of any powers conferred on them by or under this Order;
- (f) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed by an authority other than a Court under this Order or under any rule made there under, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and procedure for dealing therewith;
- (g) for the disposal of articles confiscated and of the proceeds thereof;
and
- (h) examination of persons referred to in Article 12.

32. Saving: Nothing in this Order shall be deemed to apply to cases pending before any Court immediately before the commencement of this Order or to offences committed before such commencement.

33. Repeal: The following laws are hereby repealed, namely:-

- (a) The Prohibition Act, 1977;
- (b) The Baluchistan Prohibition Ordinance, 1978;
- (c) The Khyber Pakhtunkhwa Prohibition Ordinance, 1978;
- (d) The Punjab Prohibition Ordinance, 1978; and
- (e) The Sind Prohibition Ordinance, 1978.

THE SCHEDULE

See Article 2 (g)

1. The leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*cannabis sativa* L. including all forms known as Bhang Siddhi or Ganja).
2. Charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing or transport.
3. Any mixture, with or without neutral materials, of any of the articles mentioned in entries 1 & 2, or any drink prepared there from.
4. Opium and opium derivatives as defined in the Dangerous Drugs Act, 1930 (II of 1930).
5. Coca leaf and coca derivatives as defined in the aforesaid Act.
6. Hashish.

**KHYBER PAKHTUNKHWA
PROHIBITION (ENFROCEMENT OF
HADD)
RULES, 1980**

KHYBER PAKHTUNKHWA PROHIBITION (ENFORCEMENT OF HADD) RULES, 1980

[Gazette of Khyber Pakhtunkhwa Extraordinary 6th October, 1982]

No. 4977.-In exercise of the powers conferred by Article 31 of the Prohibition (Enforcement of Hadd) Order, 1979 (P.O. No. 4 of 1979), the Government of the Khyber Pakhtunkhwa, is pleased to make the following rules, namely :-

1. (a) These rules may be called the Khyber Pakhtunkhwa Prohibition (Enforcement of Hadd) Rules, 1980.
(b) They shall come into force with immediate effect.
2. In these rules, unless the context otherwise requires:-
 - 2(a) "Authorised medical officer" means any person registered as medical practitioner under any law for the time being in force and is in the employment of the Federal Government or the Provincial Government or Public Authority or any other Corporation set up by Government.
 - (aa) "Export" (except in the phrase "export out of Pakistan") means to take out of the Province otherwise than across a customs frontier.
 - (b) "Excise and Taxation Officer" means an Officer appointed as such, by the Government.
 - I. "Excise Commissioner" means Senior Member, Board of Revenue, I Khyber Pakhtunkhwa, holding the charge of the Excise and Taxation Department or any other officer appointed by the Government as such.
 - II. "Director, Excise and Taxation" means an officer appointed as such by the Government.
 - III. "Government" means Government of Khyber Pakhtunkhwa.
 - IV. "Import" (except in the phrase) "import into Pakistan" means to bring into the Province otherwise than across a customs frontier.
 - V. "Licence" includes a pass or permit granted under these rules or under the Excise Regulation, 1915 (1 of 1915) or under any rules, Notifications or orders made thereunder.
 - VI. "Order" means the Prohibition (Enforcement of Hadd) Order, 1979 (President's Order No. 4 of 1979).
 - VII. "Resident Excise and Taxation Sub-Inspector" means a Sub-Inspector posted for the time being at a Hotel licensed under the order.
3. (1) The Director, Excise and Taxation shall exercise and perform all or any of the powers and functions of Collector under the Order within his jurisdiction.
(2) The Excise and Taxation Officer shall exercise within the district of his posting the powers of Prohibition Officer under the order.
4. (1) Subject to control of the Collector and the District Excise and Taxation Officer, all Excise and Taxation Inspectors and Sub-Inspectors shall exercise the power of a Prohibition Officer within their respective jurisdictions except the power under Article 22 of the Order.
(2) All Excise and Taxation Head Constables and Constables shall be

deemed to be officers appointed under Article 21 of the Order to assist the Collector or the Prohibition Officer under whom they be serving for the time being for the purposes of the Order.

(3) The powers of officer referred to in sub-rules (1) and (2) for arrest, detention, seizure or other functions under the order shall stand mutatis mutandis classified or restricted according to their respective powers as Excise Officers within the meaning of Notification No. 5003/73-D .dated 3rd November, 1980 issued by the Secretary to Government, Khyber Pakhtunkhwa, Excise and Taxation Department.

(4) A Prohibition Officer shall exercise the powers of a Police Officer under Chapter XIV of the Criminal Procedure Code while conducting investigations in a cognizable offence under the Order.

5. The Medical Practitioner for the purpose of Article 12 of the Order shall be the nearest authorised Medical Officer easily accessible according to the circumstances of the case. He may examine the person referred to him under Article 12(1) of the Order with respect to the presence of an intoxicant in his breath or blood stream or stomach. If the authorised medical officer can presume the taking or influence of the intoxicant from any other symptom such as hangover effects, nausea, headache, gastritis, thirst, generalized residual malaise, physical or mental incompetence or over drowsiness, Euphoria, Dysphoria or other after effects of taking an intoxicant he may dispense with the aforesaid examination.

6. When any person is arrested by any competent officer, if he is not a Prohibition Officer, he shall forward him to the Prohibition Officer of the areas, with a report containing the facts relating to his arrest and if the Prohibition Officer is satisfied on the basis of the material and facts placed before him that a prima facie case is made out against the accused and the accused is not released on bail he may be sent to the Police Station of the area where the offence has been committed for custody and formal registration of the case.

7. No person, accused or suspected of having committed and offence under the Order, shall be detained for a period longer than is reasonable under the circumstances of the case and such period shall not in the absence of special order of a Magistrate, whether having jurisdiction to try a case or not, exceed 24 hours, exclusive of the time necessary for the journey of such person to the place where the Office of the Prohibition Officer is situated and from there to the Court having jurisdiction to try the case.

8. The Officer Incharge of a Police Station shall take charge of and keep in safe custody, pending the orders of a Magistrate or a Prohibition Officer, all articles seized under the order which may be delivered to him and shall allow the Prohibition Officer to affix his seal to such articles and to take samples therefrom.

9. Subject to any order that may be passed under section 517 of the Criminal Procedure Code, every article, the confiscation of which has been ordered by the Court under Articles 14 and 15(1) of the order, shall be made over to the Collector of the area in which such Court is situated.

10. (1) All articles made over to the Collector under the foregoing rules or confiscated by him under Article 15 (2) of the Order shall be disposed of as follows:—

- (a) An intoxicant shall be destroyed or disposed of under the orders of the Collector. In the case of its destruction, this shall be done in the presence of the Prohibition Officer.
- (b) All other articles made over the Collector in accordance with the rules shall be sold in such manner as he may direct ;

(2) Sale proceeds of all articles sold under the proceeding sub-rule shall be credited to the Excise and Taxation Department under the sub-head "Other items subordinate to the main head "VIII—Provincial Excise".

11. The authorities competent to hear appeals, the time and manner of presenting appeals and the procedure for dealing with them shall mutatis mutandis be the same as laid down under the Rule 58 of Khyber Pakhtunkhwa Prohibition Rules, 1949 provided that for the purpose of the said rule a Prohibition Officer and a Collector under the Order shall be deemed to correspond to an Excise Officer and a Collector as the case may be, under the Khyber Pakhtunkhwa Prohibition Act, 1938 (No. XI of 1938) thereon. Appeal against the orders of the Collector shall lie with the Excise Commissioner.

12. The following liquor permits shall be granted, in the form prescribed by the Excise Commissioner by the Authority and to the persons specified, below and shall be treated as licence under - Article 17 of the Order for the purpose specified as under and subject to the further conditions as prescribed by the Excise Commissioner :—

Form of Permit	Authority	Competent to renew	To whom granted	Purpose
1	2	3	4	5
PR-I	Prohibition Officer	Not Renewable.	Non-Muslim citizen of Pakistan not below the age of 21 years	For purchase, pos session, transport or consumption of such quantity of intoxicating liquor at or about the ceremony prescribed by his religion not exceeding at a time that specified in the permit.

PR-II	Prohibition Officer provided that the resident Sub-Inspector posted to the institution may be treated as Prohibition Officer for the v grant of such permit in favour of foreigners and tourists staying in that institution.	Not Renewable.	Non-Muslim foreigner holding a valid passport..	For purchase, possession, transport of such quantity of intoxicating liquor not exceeding at a time that specified in the permit for his personal consumption at his residence or a hotel room in his occupation.
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13. (1) The powers to grant or renew permits shall be exercised subject to the control of the Excise Commissioner.

(2) All or any of the powers of a prohibition Officer specified above may be exercised by the Collector or Excise Commissioner.

14. (1) An applicant for a permit under these rules may be required to supply all or any of the following particulars : —

- (a) Name and address of the applicant.
- (b) Father's name.
- (c) Age.
- (d) Particulars of identity card or the passport as
- (e) Religion.

(2) The application for the grant of permit in Form PR-I shall be made in Form PR-III and that for permit in Form PR-II shall be made in Form PR-IV as prescribed by the Excise Commissioner.

15. The permit shall be non-transferable.

16. The permit granting authority may refuse to grant a permit if in its opinion the permit applied for is liable to abuse.

17. A permit in Form PR-II shall expire on 30th June of each year unless otherwise specified therein.

18. (1) The quantity of liquor authorised under the permit shall be stated in permit in units and one unit shall for the purposes of these rules be deemed to be equal to one quart bottle of any kind spirit including liquor or three bottles of wine or medicated wine or 16 bottles of beer.

(2) The Excise Commissioner may from time to time fix the maximum quantity of liquor to be allowed, possessed or consumed under each of the

permits. He shall be competent to increase or decrease generally or specially the quantity of liquor to be allowed or direct what kind of liquor is to be supplied to the consumer or a class of consumers.

19. (1) The fee for the grant of permit in Form PR-I shall be charged at the rate of RaJ20 and for at permit in Form PR-II Rs. 10 per calendar month or part thereof.

(2) The permit fee under these rules may be paid in cash or as court-fee stamps to the authority granting the permit. A receipt shall be given by the authority, granting a permit for the fee recovered in cash and the amount shall be deposited in to the Government Treasury without delay.

20. The Excise Commissioner may declare from time to time which liquor is to be treated as intoxicating liquor and what preparations, spirituous medicinal preparations, flavouring essences, extracts, colourings, perfumes, diluted, preparations containing alcohol including denatured and rectified spirits are not be treated as intoxicating liquors.

21. The authority granting a permit under these rules may cancel or suspend it for reasons to be recorded in writing.

22. No permit under these rules shall be used as a means to evade the provisions or the intent of the Order.

23. No permit-holder shall sell, gift or otherwise transfer liquor to a non-entitled persons in any manner or serve any Muslim with intoxicating liquor.

24. A permit-holder under these rules shall produce his permit on demand by the Prohibition Officer.

PART III

25. The following licence may be granted or rendered by the authority stated against each:-

Form and Nature of Licence	Authority competent to	
	Grant	Renew
L-1(Licence for import, export, transport of sale of intoxicating Liquor to the persons holding L-1 or L-2 or equivalent licence/licences.	Government or Subject to the control of Government Collector.	Collector.
L-2 Licences for retail sale of intoxicating Liquor.	Ditto	Ditto
L-3 Licence for manufacture of intoxicating Liquor.	Ditto	Ditto

26. The procedure for grant, suspension, cancellation, of the licences mentioned in rule 25, the accounts to be maintained and other particulars subject to the provision of the order and the rules shall be "mutatis," "mutandis" the same as have been immediately before the coining into force of these rules for the licences in Forms P-XI, P-XIII and P-XIV issued under the Khyber Pakhtunkhwa Prohibition Act, 1938 Khyber Pakhtunkhwa Act (No. XI of 1938) and the rules made and the instructions issued thereunder.

(2) The following fee shall be charged for the grant of licences and sale of liquors:

(a) Fee for the grant of licence for Hotels(L-2)	6,000	Per annum or a part thereof
(b) Fee for the grant of licences for clubs(L-2)	2,000	Per annum or a part thereof
(c) Fee on the sale of Liquors--		
	Rs.	
(i) Spirit	225	Per gallon
(ii) Wine	72	Per gallon
(iii) Beer	42	Per gallon].

27. No licensee shall sell intoxicating liquor to any Muslim whether a citizen of Pakistan or not and to a non-Muslim citizen of Pakistan who is not holding a permit in Form PR-I. Permit under the Khyber Pakhtunkhwa Prohibition (Enforcement of Hadd) Rules, 1960 for the purchase, possession, transport or consumption of Intoxicating liquor by non-Muslims.

FORM PR-I
(For Non-Muslim Pakistani Citizen)
(See Rule 12)
(NOT TRANSFERABLE)

Permit for the purchase, possession, transport and consumption of foreign liquor by non-Muslim Pakistani citizen on or about the occasion of religious ceremony prescribed by religion.

Permit

No.....dated.....

...

1. Name and address of the person to whom permit is granted.....
2. Father's Name.....
3. Age.....
4. Name of religious festival for which permit is ranted.....
5. No of units allowed.....
6. Period of validity of the permit from..... to.....
7. Identity Cards-----
 - (i) No.....
 - (ii) Date.....
 - (iii) Place of issue.....
8. Specimen signature of the permit-holder.....
9. Particulars of the person nominated by the permit-holder to purchase liquor from the licensed vend on his behalf :—
 - (a) Name and parentage.....
 - (b) Address.....
 - (c) Identity Card No.....dated.....
Place of issue.....
- (c) Specimen signature of the authorized agent.....

This permit is granted on the following conditions:-

- (i) The liquor under this permit shall be purchased from the vendors holding L-2 license in Khyber Pakhtunkhwa.
- (ii) The permit covers only the possession and consumption of bottled intoxicating liquor.
- (iii) The quantity which may be possessed under this permit shall not exceed than specified above.
- (iv) One unit means one quart bottle of spirit or three quart bottles of wine or medicated wine or sixteen quart bottles of beer.
- (v) The permit holders shall not drink in a public place.

Excise and Taxation Officer.

KHYBER PAKHTUNKHWA PROHIBITION (ENFORCEMENT OF HADD) RULES, 1980

(While be prepared and in triplicate. First copy will be marked "Original" second copy "Duplication" and the third copy "TriPLICATION" Copies marked "Original" and "Duplicate" will be handed over to the applicant who shall keep the "Original" with himself and give the "Duplicate" to the licensee. The copy marked "TriPLICATION" will be retained in the office of issue).

FORM PR-II
(See rule 12)
(For Non-Muslim Foreigners)
(NOT TRANSFERABLE)

Permit for the possession, transport, consumption and purchase of intoxicating liquor by a Non-Muslim Foreigner or a tourist holding a valid passport.

Permit No..... Date of issue.....

Name and address of the person to whom granted.....

Father's name

Age..... Years

Particulars of Passport:—

- (i) No
- (ii) Date of issue .
- (iii) Place of issue

Nationality..... Religion

Number of Units allowedUnits.....

Specimen signature of the Permit-holder.....

Date of expiry

This permit is hereby granted to the above named, authorising him to possess, purchased, transport or consume liquor as detailed above under the provisions of Prohibition (Enforcement of Hadd) Order, 1980.

- (a) This permit covers only the possession, purchased, transport and consumption of bottled intoxicating liquor.
- (b) The quantity which may be possessed under this permit shall not exceed than specified above.
- (c) A unit means one quart bottle of spirit or three quart bottles of wine or sixteen quart bottles of beer.
- (d) The liquor under this permit shall be purchased from vendor holding L-2 licence in.....
- (e) The permit-holder shall not drink in a public place.

Excise and Taxation Officer.

(Will be prepared in triplicate. First copy will be marked "Original" second copy Duplicate" and the third copy "Triplicate" Copies marked "Original" and "Duplicate" will be handed over to the applicant who shall keep the "Original" with himself and give the "Duplicate" to the licensee. The copy marked "Triplicate" will be retained in the office of issue).

FORM PR-III

(See rule 13(1))

(For Non- Muslim Pakistan Citizens only)

APPLICATION FOR THE GRANT OF A PERMIT FOR THE POSSESSION AND CONSUMPTION OF FOREIGN LIQUOR ON RELIGIOUS GROUNDS

1. Name, Parentage and full address of the applicant.....
 2. Age..... Years
 3. Identification mark
 4. Religion.....
 5. Name of the festival for the observance of the religious rites on which liquor will be consumed
 6. Number of units now in my possession
 7. Number of units required for this occasion.....
 8. Details of Identity Card :—
 - (i) No.....
 - (ii) Date of issue.....
 - (iii) Place of issue
 9. Particulars of the agent authorised by me to collect liquor permit from Excise Office and to purchase liquor from the vend on my behalf :—
 - (a) Name, parentage and address
 - (b) Age
 - (c) Identity Card :—
 - (i) Number.....
 - (ii) Date
 - (iii) Place of issue
 - (d) Specimen signature of the authorised agent
- I declare that whatever is stated above is true and nothing but true and nothing has been concealed herein.
- Date..... Signature of applicant

CERTIFICATE

(To be signed by the Head of Hindu Panchayat or Religious Head of Church or Parsi Priest of Local Councillor).

It is hereby certified that the applicant is a Hindu/Christian/Parsi and that liquor requested for is required to be consumed by him in connection with the religious rites prescribed by Hindu/Christian with the/on the occasion of the festival of

Dated Signature and seal.....

(FOR OFFICE USE ONLY)

1. Number of Unit sanctioned
2. Serial Number of permit as per permit register.....
3. Date of issue of permit.....

Fee of Rs.....paid through Court-fee Stamp/Bank

Challan of..... bearing No.....

Dated..... Application is in order.....

Particulars quoted in the application checked and found correct. Permit prepared and placed below for signature of the applicant in token of having received the permit.

Excise and Taxation Inspector.

FORM PR-IV

[See rule 13(1)]

**(FOR NON-MUSLIM FOREIGNERS ONLY)
APPLICATION FOR GRANT OF PERMIT FOR
THE POSSESSION AND CONSUMPTION OF FOREIGN
LIQUOR BY NON-MUSLIM FOREIGNERS/TOURISTS:—**

1. Name, Parentage and full address of the applicant.....
.....
2. Age.....Years.....
3. Religion
4. Nationality.....
5. Date of arrival at
.....
(name the town)
6. Probable date of departure

Details of Passport

- (i) No
 - (ii) Date of issue
 - (iii) Place of issue
7. Place where liquor is intended to be consumed...
.....

I declare that whatever is stated above is true and nothing but true and nothing has been concealed herein.

Dated Signature of applicant.....

(FOR OFFICE USE ONLY)

1. Number of Unit sanctioned
 2. Serial No. of permit as per permit register
 3. Date of issue of the permit
- Fee of Rspaid through Court-fee Stamp/Bank challan.
Of..... bearing No
- Dated Application is in order.
- Particulars quoted in the application checked and found correct. Permit prepared and placed below for signature.

Excise and Taxation Inspector.

Signature of the applicant
in token of having received
the permit.

Excise and Taxation Officer.

FORM (L-I)
WHOLESALE AND RETAIL VEND OF FOREIGN LIQUOR TO THE TRADE ONLY
(See rule 25)

REGISTERED UNDER DISTRICT NO

Subject to the conditions applicable to all licences granted under the Khyber Pakhtunkhwa Prohibition (Enforcement of Hadd) Rules, 1980 AND to the special condition below AND subject to the payment of prescribed fee.

This licence authorising the wholesale and retail vend of foreign liquor to the trade only in the premises herein specified and for the period

from.....to.....

is.....in the district of.....Description of premises...

.....

SPECIAL CONDITIONS

- (1) The licensee may sell foreign liquor, wholesale or retail in sealed bottled only to a person holding a licence in Form 1-2, and he shall not sell liquor to any retail vendor who is not licensed to sell liquor.
- (2) The licensee may obtain his requirements of bottled liquor from an authorised-dealer in the Province or from a place outside the Province but in later case, the licensee shall pay the import permit fee at the rate of Rs. 2.50 per gallon of spirits, wine and beers.
- (3) The licensee shall not sell liquor of a less strength than 25 degrees under proof in the case of brandy, whisky or of spirit intended to pass brandy, whisky or rum or of a less strength than 35 degrees under proof in the case of gin, or of spirit intended to pass as gin.
- (4) The licensee shall not under this licence, compound, blend flavour colour or rectify the liquor sold by him and shall not alter the label, under which he has purchased it.
- (5) The licensee shall not introduce into his licensed premises or use there in or sell any rectified spirit.
- (6) The licensee should report to the Prohibition Officer of his district the arrival of every consignment of liquor within 7 days of its receipt and at least 48 hours before it is opened, stating the description and quantity of such liquor received.
- (7) The licensee shall maintain a true account of receipts and sale of liquors and shall preserve all

KHYBER PAKHTUNKHWA PROHIBITION (ENFORCEMENT OF HADD) RULES, 1980

such records unless otherwise directed by the Collector.

(8) The licensee shall produce all his record for inspection on demand by a Prohibition Officer.

Name	Father's Name	Age years	Residence

Dated

Excise Commissioner,
Khyber Pakhtunkhwa.

FORM (L-2)

**Registered District No.-----
LICENCE FOR THE POSSESSION OF BOTTLED
FOREIGN LIQUOR FOR SALE AND SUPPLY
TO AUTHORISED PERSONS**

WHEREAS..... in the district

of.....

has applied for a licence to possess liquor and issue it to authorised persons and to that extent to exempt it from the Khyber Pakhtunkhwa, Prohibition (Enforcement of Hadd) Rules, 1980.

AND WHEREAS, I,..... Excise Commissioner am satisfied that there is good reason for so exempting the aforesaidand granting him a licence on payment of Rs..... as licence fee and that it will not be misused.

NOW, THEREFORE, I,..... Excise Commissioner hereby licensed the aforesaid.....to possess bottled foreign liquor for supply to authorised persons possessing valid permits issued by a competent authority indicating the quantity and variety of liquor for which permit may be issued, at the premises specified below in the district ofduring the period fromto.....subject to the following conditions to be observed by the licensee.

1. The privilege extends to the possession of bottled foreign liquor only.
2. Liquor shall be supplied only to authorised persons possessing a valid permit in Form PR-I and PR-II.
3. The licensee may obtain his requirements of bottled liquor from an authorised wholesale dealer within the Province or from a place outside the Province, but if imported from outside the Khyber Pakhtunkhwa he shall pay an import permit fee of Rs. 2.50 per gallon of spirits, wines and beer. All imports will be under an import permit in Form PR-VII.
4. All bills of Purchase of liquor shall be preserved by the licensee and produce for inspection on demand by an officer not below the rank of Prohibition Officer. A true account shall be maintained showing receipts of liquor and issues to authorised persons possessing valid permits.
5. The Manager/Agent or other person incharge of the management of the licensee shall be responsible of the due observance of the conditions of this licence.
6. This license may be cancelled at any time by the Excise Commissioner without assigning any reason therefor.
7. The licensee shall report to the Prohibition ' Officer of his district, the arrival of every consignment of liquor within seven days of its receipt and at least 48 hours before it is opened, stating the description and quantity of such liquor received.
8. The premises for the sale of liquor will be separate and district from the premises meant for the sale of other commodities.

KHYBER PAKHTUNKHWA PROHIBITION (ENFROCEMENT OF HADD) RULES, 1980

9. The licensee or his agent shall comply with all instructions with regard to the licence issued from time to time by Excise Commissioner.

Date :

Excise Commissioner,
Khyber Pakhtunkhwa,

Peshawar.

**GOVERNMENT OF KHYBER PAKHTUNKHWA,
EXCISE & TAXATION DEPARTMENT**

Dated Peshawar, the 24th July, 2001..

NOTIFICATION.

No. SO(TAX)/E&T/5-2/2000. The Provincial Government is pleased to amend the Khyber Pakhtunkhwa Distillery Rules, 1950 and the Khyber Pakhtunkhwa Prohibition (Enforcement of Hadd) Liquor Rules, 1980 to the extent noted below with effect from 01.07.2002:-

S: No.	Name of Spirit	Existing Rates	New Rates
1.	Permit fee on Denature Spirit	Rs. 3/- per litre	Rs. 6/-Per Litre
2.	Permit fee on rectified spirit	Rs 44/per Gallo-	Rs. 60/-per Gallon
3.	Rectified spirit used for industrial purpose.	Rs.1.75 per gallon	Rs. 3/- per gallon

SECRETARY TO GOVT OF N. W.F.P.,
EXCISE & TAXATION DEPARTMENT.

Endst:NO.SO(TAX)E&T/5-2/2000. Dated Peshawar the, 24th July, 2001.

Copy forwarded to:-

1. The Secretary to Govt of Khyber Pakhtunkhwa, Finance Department.
2. The Secretary, Local Government, Rural Development & Election Department.
3. The Director General, Excise and Taxation, N. W.F.P.
4. All Excise & Taxation Officers in N. W.F.P.
5. P.S to Minister, Revenue, Excise & Taxation.
6. P. A to Secretary, Excise & Taxation Department.
7. Manager, Printing & Stationary Department, of Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (TAXATION)

NOTIFICATION.

No. SO(TAX) E&T5-19/2000. The Governor, Khyber Pakhtunkhwa is pleased to amend the Khyber Pakhtunkhwa Distillery Rules, 1950 and the Khyber Pakhtunkhwa Prohibition (Enforcement of Hadd) Liquor Rules, 1980 to the extent noted below with effect from 01.07.2001:-

Licence	Existing Rates	New Rates
Licence L-2	Rs.10,000-	Rs.50,000-
Distillery Fee	Rs.10,000-	Rs.50,000-
Vend Fee on liquor Pak made	Rs.225-PG	Rs.1000-PG
Wine	Rs.72-PG	Rs.120-PG
Beer	Rs.43-PG	Rs.100-PG
Liquor Licence Fee (Club)	Rs.2000-PA	Rs.50,000 PA
Permit Fee PR-I (Non-Muslim Pak)	Rs.20-per Permit	Rs.100- per Permit
Permit Fee PR-II (Non-Muslim Foreigner)	Rs.10-per Permit	Rs.100- per Permit

SECRETARY TO GOVT OF KHYBER PAKHTUNKHWA,
EXCISE & TAXATION DEPARTMENT.

Endst:NO.SO(TAX)E&T 5-2/2000. Dated Peshawar the, 19th July, 2001.

Copy forwarded to:-

1. The Secretary to Govt of Khyber Pakhtunkhwa, Finance Department.
2. The Secretary, Local Government, Rural Development & Election Department.
3. The Director General, Excise and Taxation, Khyber Pakhtunkhwa.
4. All Excise & Taxation Officers in Khyber Pakhtunkhwa.
5. P.S to Minister, Revenue, Excise & Taxation.
6. P. A to Secretary, Excise & Taxation Department.
7. Manager, Printing & Stationary Department, of Khyber Pakhtunkhwa, Peshawar.

SECTION OFFICER (TAXATION)

APPENDIX-A

AMENDMENTS MADE IN UIP TAX ACT, 1958 VIDE KHYBER PAKHTUNKHWA FINANCE ACTS

FINANCE ACT 1997 AMENDMENTS

1. In Section 2, after clause(g), the following new clause shall be inserted namely:

“(ga) “Schedule means the Schedule to this Act”;

2. In section 3, for sub-section(2) the following shall be substituted, namely

“(2) There shall be levied, charged and paid a tax on the buildings, lands in rating areas at such rates and in respect of such buildings and lands as specified in the schedule:

Provided that different rates may be prescribed for different categories of buildings and lands including building and lands located in different areas:

Provided further that Government may, by notification, for reasons to be recorded, remit in whole or in part, the payment of the tax by any class of person in respect of any category of property.”;

3. for section 4 the following shall be substituted, namely:

“**4. Exemptions:-** The tax shall not be leviable in respect of the following properties, namely:

- (a) buildings and lands, other than those leased in perpetuity, vesting in the Federal Government;
- (b) buildings and lands, other than those leased in perpetuity , vesting in Government and not administered by a local authority, or owned or administered by a local authority when used exclusively for public purposes and not used or intended to be used for purposes of profit;
- (c) buildings and lands the area whereof does not exceed three marlas;
- (d) public parks, playgrounds and libraries;
- (e) buildings and lands or portions thereof used exclusively for public worship or public charity including mosques, churches, dharamsalas, gurdwaras, orphanages alms houses, drinking water fountains, infirmaries for the treatment and care of animals and public burial or burning grounds or other places for the disposal of the dead:

Provided that the following buildings and lands or portions thereof shall not be deemed to be used exclusively for public worship or for public charity within the meaning of this section, name:-

- (i) buildings in or land on which any trade or business is carried on unless the rent derived from such buildings or land is applied exclusively to religious purposes or such public charitable institutions as may be prescribed;
 - (ii) buildings or land in respect of which rent is derived, and such rent is not applied exclusively to religious purposes or to public charitable institutions; and
- (f) buildings and lands belonging to widows and minor orphans who are not assessed to income tax.”;

4. in section 7,-

- (a) in sub-section (1), for the words “five years,” the words “three years” shall be substituted; and
- (b) after sub-section (2) the following new sub-section shall be added, namely:
“(3) After every three years the tax shall be increased at the rate of fifteen per cent of the tax last assessed and a new valuation list shall accordingly be prepared.”; and

5. the Schedule specified in Schedule I shall be added at the end.

FA 1997**SCHEDULE – I**

{See Section 4(2)}

“SCHEDULE

[See section 3 (2)]

PART-I**RESIDENTIAL BUILDINGS**

S.No	Category	Rate of tax at Provincial and Divisional Headquarters for old city and new extended area	Rate of tax in suburban areas(other than areas covered by column 3) of the Provincial and Divisional Headquarters	Rate of tax at District Headquarters for old city and extended area not covered by column No.4	Rate of tax at District Headquarters (other than areas covered by column 5) of the District Headquarters
1	2	3	4	5	6
1.	Exceeding 3 Marlas but not exceeding 5 Marlas.	Rs. 750 Per Annum	Rs. 325 Per Annum	Rs. 300 Per Annum	Rs. 150 Per Annum
2.	Exceeding 5 Marlas but not exceeding 10 Marlas.	Rs. 1500 Per Annum	Rs. 750 Per Annum	Rs. 750 Per Annum	Rs. 500 Per Annum
3.	Exceeding 10 Marlas but not exceeding 15 Marlas.	Rs. 2000 Per Annum	Rs. 1000 Per Annum	Rs. 1000 Per Annum	Rs. 500 Per Annum
4.	Exceeding 15 Marlas but not exceeding 20 Marlas.	Rs. 3000 Per Annum	Rs. 1500 Per Annum	Rs. 1500 Per Annum	Rs. 750 Per Annum
5.	Exceeding 20 Marlas.	Rs. 3000 Per Annum for first 20 Marlas plus Rs.200 per additional Marlas.	Rs.1500 Per Annum for the first 20 Marlas plus Rs.100 per additional Marlas.	Rs. 1500 Per Annum for the first 20 Marlas plus Rs. 50 Per additional Marlas.	Rs. 750 Per Annum for the first 20 Marlas plus Rs. 50 per additional Marlas.

PART – II
COMMERCIAL BUILDINGS

S.No	Category	Rate of Tax for Provincial Headquarters	Rate of tax for Divisional Headquarters(other than Peshawar)	Rate of Tax for District Headquarters(other than these covered by column 4)
1	2	3	4	5
1.	Ground/First Floor	Rs. 7 Per Sqft	Rs. 4 Per Sqft	Rs. 2 Per Sqft
2.	Basement/Upper Stories	Rs. 3 Per Sqft	Rs. 2 Per Sqft	Rs. 1 Per Sqft

PART - III
OFFICES

Building required for use as offices by Government or Semi-Government Organizations or by Banks and Development Financial institutions and lands shall be assessed for the purpose of tax on the basis of 20 percent of the annual value of such buildings or lands.

PART - IV
PETROL PUMPS

- | | | |
|------|---|---------------------|
| (i) | Petrol Pumps with convenience stores | Rs. 10000 Per Annum |
| (ii) | Petrol Pumps without convenience stores | Rs. 5000 Per Annum |

PART - V
INDUSTRIAL BUILDINGS

Industrial Buildings within the limits of Urban areas shall be assessed for the purpose of this tax at the rate of one rupee per square foot”.

FINANCE ACT 1999 AMENDMENTS:

7. Amendment of W.P Act V of 1958:- In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P Act V of 1958),-

a) in section 3,-

I. in sub-section (2), the full-stop appearing at the end of second proviso shall be replaced by a colon and thereafter the following new proviso shall be added, namely:

“Provided also that a surcharge at the rate of 10% of the tax shall be levied in addition to the tax in respect of each commercial building the annual tax whereof has been assessed to one lac rupees or more.”; and

II. after sub-section (2), as so amended, the following new sub-section(2a) shall be inserted, namely:

“(2a) A rebate at the rate of 10% of the tax assessed under sub-section (2) shall be admissible to those assesses who pay the tax in advance for the whole year by the 31st day of August of the year to which it relates”

KHYBER PAKHTUNKHWA Ordinance No. II of 2000

AN ORDINANCE

To abolish and modify certain taxes, fees and duties
in the Khyber Pakhtunkhwa.

Whereas it is expedient to abolish and modify certain taxes, fees and duties in the Khyber Pakhtunkhwa;

And Whereas, under the provisions contained in Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, the Governor of a province, on the instruction of the Chief Executive of Pakistan, may issue and promulgate an Ordinance, if the circumstances exist which render it necessary to take immediate action;

And Whereas the Governor of the Khyber Pakhtunkhwa is satisfied that the circumstances exist which render it necessary to take immediate action;

Now THEREFORE, in pursuance of the aforesaid proclamation and the Provincial Constitution Order No.1 of 1999, read with Provincial Constitution (Amendment) Order No.9 of 1999, instructions of the Chief Executive and in exercise of all powers enabling him in that behalf, the Governor of the Khyber Pakhtunkhwa, is pleased to make and promulgate the following Ordinance:

1. Short title, extent and commencement.---(1) This Ordinance may be called the Khyber Pakhtunkhwa Finance Ordinance, 2000.

- (2) It shall extend to the whole of the Khyber Pakhtunkhwa.
- (3) It shall come into force with effect from the first day of July, 2000.

2. Definitions.---In this Ordinance, unless the context otherwise requires,---

- (a) "Government" means the Government of the Khyber Pakhtunkhwa;
- (b) "Prescribed" means prescribed by rules made under this Ordinance; and
- (c) "Schedule" means the Schedule appended to this Ordinance.

**PART – II
COMMERCIAL BUILDINGS AT PROVINCIAL
HEADQUARTER**

S.No	Category of locality where the property is situated.	Rate of tax per square feet of covered area.		
		Ground Floor.	1 st Floor & Basement.	Upper Stories.
1.	2.	3.	4.	5.
1.	A	Rs. 10.00	Rs. 7.00	Rs. 5.00
2.	B	Rs. 7.00	Rs. 5.00	Rs. 3.00
3.	C	Rs. 5.00	Rs. 3.00	Rs. 2.00
4.	D	Rs. 3.00	Rs. 2.00	Rs. 1.00

Note:- For the purpose of column 2, the categories ‘A’, ‘B’, ‘C’ and ‘D’ shall be such as respectively notified by Government in the Official Gazettee.”;

- (ii) after Part II, as so substituted, the following new part shall be inserted, namely;

**“PART-II A
COMMERCIAL BUILDINGS LOCATED AT THE PLACES
OTHER THAN THE PROVINCIAL HEADQUARTER**

S.No	Category	Rate of tax per square feet of covered areas at Divisional Headquarters.	Rate of tax per square feet of covered areas in the Districts other than the District of Provincial and Divisional Headquarters.
1.	2.	3.	4.
1	Ground/First Floor.	Rs. 4.00	Rs. 200
2	Basement/Upper Stories	Rs. 2.00	Rs.1.00

- (iii) for Part V the following shall be substituted, namely:

**“PART – V
INDUSTRIAL BUILDINGS**

Industrial buildings within the limits of rating areas shall, for the purposes of this tax, be assessed at the rate of Rs.2.50 per square feet of the covered areas of such buildings.”

FINANCE ACT 2001 AMENDMENTS:

2. Amendment of W.P Act V of 1958:- In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P Act V of 1958),-

(A). In section 3, for sub-section (2) the following shall be substituted, namely;

“(2) Subject to the provision of section 4, there shall be levied, charged and paid a tax, on the basis of annual rental value of buildings and lands in the rating areas (heretofore notified or as may hereafter be notified under this Act).

- (a) at the rate specified in Schedule I in respect of residential buildings; and
- (b) at the rate specified in Schedule II in respect of commercial buildings,

to be calculated in accordance with the factors and formulas given in the respective Schedules:

Provided that.—

- (i) a residential building owned and occupied by widow, whose annual tax, excluding the permissible rebates, is upto two thousand and five hundred rupees, shall be exempt from payment of any tax under this Act, but if the annual tax of such building, excluding rebate, exceeds the said amount, the entire tax as assessed under clause (a) shall be payable in respect of such building;
- (ii) where a residential building owned and occupied by the owner himself, he shall be entitled to a rebate of fifty percent, if he or any member of his family does not own any other residential building in the same rating area; and
- (iii) all residential buildings shall be admissible to the maintenance/age rebates at the following rates:
 - (a) building exceeding ten years but 10%
not exceeding twenty years old;
 - (b) building exceeding twenty years but 20%
not exceeding thirty years old, and
 - (c) buildings exceeding thirty years old 30%

(B). in section 4, in clause (f), the words “widows and” shall be deleted; and

(C). for the existing Schedule, the Schedules I and II appended to this Ordinance shall be substituted.

For FA 2001
“SCHEDULE –I
 [See Section 3 (2)]
PART- ‘A’
RESIDENTIAL BUILDINGS

The tax on the basis of annual rental value shall be calculated in according with the following rates and formulate:

1. The rating areas shall be divided into four localities, namely A,B,C and D; depending on the living conditions and facilities available therein. The areas so defined shall be notified in the official Gazette.
2. The “A” locality shall, for the time being, be defined in the Provincial Capital, as presently there is no such locality in other district.
3. The locality factors as worked out for computing the tax are:

(a)	For A locality	.....	1.50 (One point five);
(b)	For B locality	.....	1.25 (One point two five);
(c)	For C locality	.....	1.00 (One); and
(d)	For D locality	.....	.75 (Point seven five);

The above factors are for the Provincial Headquarter that is for Peshawar. There shall be a rebate of 30% on the total tax calculated on the basis of the above factor value in respect of former Divisional Headquarters and 50% rebate on the total tax so calculated in respect of all other rating areas.

4. The total annual tax shall be calculated as under:
 - (a) area of the plot in square yards;
 - (b) covered area in square feet, and
 - (c) (a) + (b) multiplied by the locality factor.
5. The tax rebate as provided for in the second and third proviso to sub-section (2) of section 3 shall be deducted from the total annual tax calculated vide items 3 and 4 above to determine the net payable tax.
6. Buildings acquired for the use as offices by Government, semi-government or private commercial organizations or by Bank and Development Financial Institutions, shall be assessed for the purposes of tax on the basis of twenty percent of the actual annual rent; whereas the buildings heretofore mentioned, if rented out for residential purpose, shall be taxed on 15% of the actual rent during the year.
 - (c) buildings exceeding thirty years old. 30%
 - (B) in section 4, in clause (f), the words “widows and” shall be deleted; and
 - (C) form the existing Schedule, the Schedule I and II appended to this Ordinance shall be substituted.

**For FA 2001
SCHEDULE-II
[See section 3(2)]**

COMMERCIAL UNITS

1. The commercial area shall also be divided into four localities namely A,B,C and D depending on the area and the business being carried therein.
2. The "A" locality shall, for the time being, be defined in Provincial Capital, as presently there is no such locality in other cities of the province.
3. The locality factors as worked out for computing the tax are-

(a) for A locality	Nine
(b) for B locality	Seven
(c) for C locality	Five
(d) for D locality	Three
4. The above factors are for the Provincial Headquarter, that is for Peshawar. There shall be a rebate of 30% on the total tax calculated on the basis of the above factor value in respect of former Divisional Headquarters and 50% rebate on the total tax so calculated in respect of all other rating areas.
5. The tax shall be calculated as under:
 - (a) area in square yards;
 - (b) covered area in square feet; provided that open sheds in the commercial units shall be counted as one half of its total measurements, while calculating the covered area; and
 - (c) (a) + (b) multiplied by the locality factor.
6. For educational institutions:
 - (a) The tax shall be calculated on the basis of covered area only. The area of the plot as required per item 5 (a) above shall not be taken for computing the tax. This is to encourage the institutions in providing sports and other recreational facilities to their student; and
 - (b) The tax calculated on the basis of (a) above shall get a special thirty percent rebate, being provided to all the educational institutions.
7. Petrol Pumps with convenience store shall be charged at flat rate of Rs. 10,000/- and those without store at Rs. 5,000/- per annum.
8. Industrial buildings with in the limits of rating areas shall be assessed for the purpose of this tax at a flat rate of Rs. 2.50 per square foot of the building. The provision of item 5(b) above shall be applicable to all the industrial areas as well.

FINANCE ACT 2003 AMENDMENTS

- I. **Amendment of Section 4 of W.P Act No V of 1958:-** In the West Pakistan Urban Immovable Property Tax Act 1958 (W.P Act No V of 1958)
 - i. In SCHEDULE-I, in the entries at Serial No.4, for the existing entry at clause (c), the following shall be substituted, namely:
“(c) total of (a)and(b), multiplied by locality factor.” and
 - ii. In SCHEDULE –II, in the entries at Serial No. 5 for the existing entry at clause (c), the following shall be substituted, namely:
“(c) total of (a)and(b), multiplied by locality factor.”

For FA 2003
“SCHEDULE –I
 [See Section 3 (2)]
PART- ‘A’
RESIDENTIAL BUILDINGS

The tax on the basis of annual rental value shall be calculated in according with the following rates and formulate:

1. The rating areas shall be divided into four localities, namely A,B,C and D; depending on the living conditions and facilities available therein. The areas so defined shall be notified in the official Gazette.
2. The “A” locality shall, for the time being, be defined in the Provincial Capital, as presently there is no such locality in other district.
3. The locality factors as worked out for computing the tax are:

(a)	For A locality	.....	1.50 (One point five);
(b)	For B locality	.....	1.25 (One point two five);
(c)	For C locality	.....	1.00 (One); and
(d)	For D locality	.....	.75 (Point seven five);

The above factors are for the Provincial Headquarter that is for Peshawar. There shall be a rebate of 30% on the total tax calculated on the basis of the above factor value in respect of former Divisional Headquarters and 50% rebate on the total tax so calculated in respect of all other rating areas.

4. The total annual tax shall be calculated as under:
 - (a) area of the plot in square yards;
 - (b) covered area in square feet, and
 - (c) total of (a)and(b), multiplied by locality factor.
5. The tax rebate as provided for in the second and third proviso to sub-section (2) of section 3 shall be deducted from the total annual tax calculated vide items 3 and 4 above to determine the net payable tax.
6. Buildings acquired for the use as offices by Government, semi-government or private commercial organizations or by Bank and Development Financial Institutions, shall be assessed for the purposes of tax on the basis of twenty percent of the actual annual rent; whereas the buildings heretofore mentioned, if rented out for residential purpose, shall be taxed on 15% of the actual rent during the year.
 - (C) buildings exceeding thirty years old. 30%
 - (D) in section 4, in clause (f), the words “widows and” shall be deleted; and
 - (E) form the existing Schedule, the Schedule I and II appended to this Ordinance shall be substituted.

**For FA 2003
SCHEDULE-II
[See section 3(2)]**

COMMERCIAL UNITS

1. The commercial area shall also be divided into four localities namely A,B,C and D depending on the area and the business being carried therein.
2. The "A" locality shall, for the time being, be defined in Provincial Capital, as presently there is no such locality in other cities of the province.
3. The locality factors as worked out for computing the tax are-

(a) for A locality	Nine
(b) for B locality	Seven
(c) for C locality	Five
(d) for D locality	Three
4. The above factors are for the Provincial Headquarter, that is for Peshawar. There shall be a rebate of 30% on the total tax calculated on the basis of the above factor value in respect of former Divisional Headquarters and 50% rebate on the total tax so calculated in respect of all other rating areas.
5. The tax shall be calculated as under:
 - (a) area in square yards;
 - (b) covered area in square feet; provided that open sheds in the commercial units shall be counted as one half of its total measurements, while calculating the covered area; and
 - (c) total of (a)and(b), multiplied by locality factor.
6. For educational institutions:
 - (a) The tax shall be calculated on the basis of covered area only. The area of the plot as required per item 5 (a) above shall not be taken for computing the tax. This is to encourage the institutions in providing sports and other recreational facilities to their student; and
 - (b) The tax calculated on the basis of (a) above shall get a special thirty percent rebate, being provided to all the educational institutions.
7. Petrol Pumps with convenience store shall be charged at flat rate of Rs. 10,000/- and those without store at Rs. 5,000/- per annum.
8. Industrial buildings with in the limits of rating areas shall be assessed for the purpose of this tax at a flat rate of Rs. 2.50 per square foot of the building. The provision of item 5(b) above shall be applicable to all the industrial areas as well.

FINANCE ORDINANCE IV OF 2004 AMENDMENTS

2. Amendment of Section 4 of W.P Act No V of 1958:-

In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P Act No V of 1958) in section 4 for clause (c), the following shall be substituted namely:

“(C) Residential buildings the area whereof does not exceed five marlas and the building is occupied by the owner himself:

Provided that the owner does not own any other immovable property in an urban area for which the owner shall submit an affidavit to this effect:

Provided further that if the owner fraudulently avails the concession under this clause, he shall be liable to pay a penalty amounting five times of the tax so evaded in addition to the tax payable.

FINANCE ACT V OF 2005 AMENDMENTS

2. Amendment of Section 4 of W.P Act No V of 1958:-

In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P Act No V of 1958) in section 4 for clause (c), the following shall be substituted namely:

“(c) residential buildings the area whereof does not exceed five marlas and the building is occupied by the owner himself:

Provided that the owner does not own any other building at the same rating area for which the owner shall submit an affidavit to this effect:

Provided further that if the owner fraudulently avails the concession under this clause, he shall be liable to pay a penalty amounting five times of the tax so evaded in addition to the tax payable.

FINANCE ACT VIII OF 2005 AMENDMENTS

2. Amendment of Section 4 of W.P Act No V of 1958:-

In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P Act No V of 1958) the existing section 4 shall be renumbered as sub-section (1) of that section and after sub-section (1), as so re-numbered , the following new sub-section (2) shall be added, namely:

“2. Notwithstanding anything to the contrary contained in Section 3 or sub-section(1) of this section, there shall not be levied and charged any tax under this Act in relation to buildings and lands occupied by industrial units in any area declared by Government as “Industrial Estates”, for a period of five years with effect from the 1st day of July, 2005: and the owners, in respect of buildings and lands occupied by such industrial units shall also be not liable to pay arrear of the tax, in an, for any period before the day of July, 2005. “

FINANCE ACT II OF 2007 AMENDMENTS

3. Amendment of Section 4 of W.P Act No V of 1958:-

In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P Act No V of 1958), in section 3 , in subsection(2), in the proviso for clause (i) , the following shall be substituted namely:-

“(i) a residential building owned and occupied by widow, whose annual tax, excluding the permissible rebates, is upto two thousand and five hundred rupees, and any other building owned by a widow the total area whereof does not exceed three marlas and the annual tax in respect of such building does not exceed five thousand rupees, shall be exempted from payment of any tax under this Act, but, in case of self occupied building, if the annual tax of such building , excluding rebates, exceeds two thousand and five hundred rupees, than entire tax as assessed under clause (a) shall be payable in respect of such building;”

FINANCE ACT I OF 2008 AMENDMENTS

(i) Amendment of Section 4 of W.P Act No V of 1958:-

In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P Act No V of 1958),

- (i) in section 3 sub section (2) –
 - a. the comma occurring after the word “buildings” at the end of clause (b) shall be replaced by a colon, and the words and colon “to be calculated in accordance with the factors and formula given in the respective Schedules .” appearing thereafter shall be deleted;
 - b. the existing proviso may be deleted.

- (ii) in section 4 in sub-section (1), after clause (c), the following new clause shall be added, namely:
 - “(cc) residential buildings owned and occupied by widows; provided that if a widow owns more than one residential building in the same rating area, she shall e exempted from payment of tax in respect of only one building which is self occupied be her”; and

- (iii) for the existing Schedule-I, the Schedule specified in Appendix I to this act shall be substituted.

Schedules-I of Khyber Pakhtunkhwa FA 2008**"SCHEDULE-I**
[See section 3 (2)]

S. No.	Category	Rate of tax at Provincial and Defunct Divisional Headquarters for old cities and new extended area	Rate of tax in suburban areas (other than areas covered by column 3) of the Provincial and Defunct Divisional Headquarters	Rate of tax at District Headquarters for old city and extended area not covered by column No.4	Rate of tax at District Headquarters (other than areas covered by column 5) of the District Headquarters
1	2	3	4	5	6
1.	Exceeding 5 Marlas but not exceeding 10 Marlas.	Rs. 1500 Per Annum.	Rs. 750 Per Annum	Rs. 750 Per Annum	Rs. 500 Per Annum
2.	Exceeding 10 Marlas but not exceeding 15 Marlas.	Rs. 2000 Per Annum.	Rs. 1000 Per Annum.	Rs. 1000 Per Annum	Rs. 500 Per Annum
3.	Exceeding 15 Marlas but not exceeding 20 Marlas.	Rs.3000 Per Annum.	Rs. 1500 Per Annum.	Rs. 1500 Per Annum	Rs. 750 Per Annum
4.	Exceeding 20 Marlas but not exceeding 40 Marlas.	Rs. 7000 Per Annum.	Rs.3500 Per Annum	Rs.2500 Per Annum	Rs. 1750 Per Annum
5.	Exceeding 40 Marlas	Rs. 10000 Per Annum.	Rs.6000 Per Annum	Rs. 5000 Per Annum	Rs. 3500 Per Annum

Amended vide Khyber Pakhtunkhwa Finance Act 2009:**NOTIFICATION**

Dated Peshawar, the 27th June, 2009.

No. PA/Khyber Pakhtunkhwa/Bills/2009/24491. The Khyber Pakhtunkhwa Finance Bill, 2009 having been passed by the Provincial Assembly of Khyber Pakhtunkhwa on 22-06-2009 and assented to by the Governor of the Khyber Pakhtunkhwa on 25th June, 2009 is hereby published as an Act of the Provincial Legislature of the Khyber Pakhtunkhwa.

THE KHYBER PAKHTUNKHWA FINANCE ACT, 2009.

(KHYBER PAKHTUNKHWA. ACT NO. XI OF 2009)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa (Extraordinary), dated the 27th June, 2009).

AN ACT

to continue, revise and exempt certain taxes and fees in the Khyber Pakhtunkhwa.

Preamble.—WHEREAS it is expedient to continue, revise and exempt certain taxes and fees in the Khyber Pakhtunkhwa;

If is hereby enacted as follows:

1. Short title, extent and commencement.— (1) This Act may be called the Khyber Pakhtunkhwa Finance Act, 2009.

(2) It extends to whole of the Khyber Pakhtunkhwa.

(3) It shall come into force on the first day of July, 2009.

2. Substitution of Schedule-I to W.P. Act No. V of 1958:- In the West Pakistan Urban Immovable Property Tax Act, 1958 (W.P. Act No. V of 1958), for the existing "Schedule-I", the Schedule, specified in Appendix-I to this Act shall be substituted.

“SCHEDULE –I**[See Section 3 (2)]****PART- ‘A’**

S.No	Category	Rate of tax at Provincial and Defunct Divisional headquarters for old city and new extended area	Rate of tax in suburban areas(other than areas covered by column 3) of the Provincial and Defunct Divisional Headquarters.	Rate of tax at District Headquarters for old city and extended area not covered by column No.4.	Rate of tax at District Headquarters (other than areas covered by column 5) of the District Headquarters.
1.	2.	3.	4.	5.	6.
1.	Upto 5 Marlas(other than self occupied).	Rs. 750/- Per Annum	Rs. 325/- Per Annum	Rs. 300/- Per Annum	Rs. 150/- Per Annum
2.	Exceeding 5 Marlas but not exceeding 10 Marlas.	Rs. 1500/- Per Annum	Rs. 750/- Per Annum	Rs. 750/- Per Annum	Rs. 500/- Per Annum
3.	Exceeding 10 Marlas but not exceeding 15 Marlas.	Rs. 2000/- Per Annum	Rs. 1000/- Per Annum	Rs. 1000/- Per Annum	Rs. 500/- Per Annum
4.	Exceeding 15 Marlas but not exceeding 20 Marlas.	Rs. 3000/- Per Annum	Rs. 1500/- Per Annum	Rs. 1500/- Per Annum	Rs. 750/- Per Annum
5.	Exceeding 20 Marlas but not exceeding 40 Marlas.	Rs. 7000/- Per Annum	Rs. 3500/- Per Annum	Rs. 2500/- Per Annum	Rs. 1750/- Per Annum
6.	Exceeding 40 Marlas.	Rs. 10000/- Per Annum	Rs. 6000/- Per Annum	Rs. 5000/- Per Annum	Rs. 3500/- Per Annum

PART ‘B’

Buildings acquired for the use as offices by Government, Semi-Government, Non Governmental Organizations, Development Financial Institutions, private commercial organizations, or by Banks shall be assessed for the purposes of tax on the basis of twenty percent of the actual annual rent; whereas the buildings heretofore mentioned, if rented out for residential purpose, shall be taxed on 15% of the actual rent during the year. In case buildings other than those exempted under section 4 of the Act, which are owned and occupied by such organizations, tax shall be levied on the assessed annual rental value of such buildings.”

[SCHEDULE-II]
[See section 3(2)]

COMMERCIAL UNITS

1. The commercial area shall also be divided into four localities namely A, B, C and D depending on the area and the business being carried therein.
2. The "A" locality shall, for the time being, be defined in Provincial Capital, as presently there is no such locality in other cities of the province.
3. The locality factors as worked out for computing the tax are-

(a) for A locality	Nine
(b) for B locality	Seven
(c) for C locality	Five
(d) for D locality	Three
4. The above factors are for the Provincial Headquarter, that is for Peshawar. There shall be a rebate of 30% on the total tax calculated on the basis of the above factor value in respect of former Divisional Headquarters and 50% rebate on the total tax so calculated in respect of all other rating areas.
5. The tax shall be calculated as under:
 - (a) area in square yards;
 - (b) covered area in square feet; provided that open sheds in the commercial units shall be counted as one half of its total measurements, while calculating the covered area; and
[(a) + (b)] multiplied by locality factor.
6. For educational Institutions:
 - a. The tax shall be calculated on the basis of covered area only. The area of the plot as required per item 5(a) above shall not be taken for computing the tax. This is to encourage the institutions in providing sports and other recreational facilities to their students; and
 - b. The tax calculated on the basis of (a) above shall get a special thirty percent rebate, being provided to all the educational institutions.
7. Petrol pumps with convenience store shall be charged at flat rate of Rs.10,000/- and those without store at Rs. 5,000/- per annum.
8. Industrial buildings with in the limits of rating areas shall be assessed for the purpose of this tax at a flat rate of Rs. 2.50 per square foot of the building. The provision of item 5(b) above shall be applicable to all the industrial areas as well.

APPENDIX-B

THE FOURTH SCHEDULE
[See Section 15(1) and 40(1) and (3)]

Authorities entitled to grant licence to drive and to register motor vehicles, the property or for the time being under the exclusive control of the Federal Government and registration marks for such vehicles.

PART A

The authorities specified in the second column may grant license in respect of vehicles. The property for the time being under the exclusive control of the Department of the Federal Government specified in the first column.

Defence Department of the
Federal Government.

1. District Commanders.
2. Commanders of independent brigades.
3. Officers commanding units having mechanically propelled vehicles in their charge.
4. Commanders Pakistan Engineers.

PART B

The authorities specified in the second column may register motor vehicle the property or for the time being under the exclusive control of the Department of the Federal Government specified in the first column and may grant certificates of fitness in respect of such vehicles.

Defence Department of the
Federal Government.

The master General of the Ordinance in Pakistan or any person authorized by him in his behalf.

PART C

Registration marks for vehicles registered under Sec 40.

A broad arrow followed by not more than six figures, or a broad arrow followed by a single letter and not more than five figures.

FORM F
[See Section 25{1}]
Form of application for the registration of Motor Vehicle

1. Full name, name of father, and address of person to be registered as registered owner.....
2. Class of vehicle.....
3. Type of body.....
4. Maker's name.....
5. Year of Manufacture.....
6. Number of cylinder.....
7. M.Horse power.....
8. Maker's classification or if not known, wheel base.....
9. Chassis number.....
10. Engine number.....
11. Scating capacity (including driver).....
12. Unladen weight.....
13. Particulars of previous registration and registered No.(if any).....

Additional particulars to be completed only in the case of transport vehicles other than motor cabs

14. Number description and size of types:-
 - (a) front axle.....
 - (b) rear axle.....
 - (c) any other axle.....
15. Maximum laden weight.....lbs.
16. Maximum axle weight.
 - (a) front axle.....lbs.
 - (b) rear axle.....lbs.
 - (c) any other axle.....lbs.

The above particulars are to be filled in for a rigid frame motor vehicle of two or of three axles, for a semi-trailor of an articulated vehicle of three axle or to the extend applicable, for a trailer (other than the trailer to be registered as part of an articulated vehicle), as the case may be. Where a second trailer or additional trailers are to be registered with an articulate motor vehicle, the following particulars are to be furnished for each such trailer:-

17. Type of body.....
18. Unladen weight
19. Number, description and size of types on the axle.....

20. Maximum weight..... axle

Date :-.....20

Signature of applicant.

Explanation:- An articulate vehicle means a tractor to which a trailer is attached in such a manner that part of the trailer is superimposed on and part of the weight of the trailer is borne by the tractor.

Note:- The motor vehicle above described is held by the person to be registered as the registered owner, under a hire-purchase agreement with.....

Signature of owner
Signature of Hire-purchase Company

FORM G
[See Section 2 (2) and 41 (2)]
Form of Certificate of Registration

Registered Number.....
Brief description of vehicle.....
(e.g., Ford touring car, Chevrolet 32 seater bus, Albion lorry, trailer, etc. Name, name of father, and
address of Registered owner.....

Transferred to Signature of Registering Authority

Transferred to Signature of Registering Authority

Transferred to Signature of Registering Authority

Detailed description

- 1. Class of vehicle.....
- 2. Maker's name.....
- 3. Type of body.....
- 4. Year of manufacture.....
- 5. Number of cylinder.....
- 6. Chassis Number.....
- 7. Engine Number.....
- 8. Horse power.....
- 9. Maker's classification or , if not known, wheel base.....
- 10. Seating capacity (including driver).....
- 11. Unladen weight.....

Additional particulars in the case of all transport vehicles other than motor cabs

- 12. Registered laden weight.....
- 13. Number, description and size of types.
 - a. front axle.....
 - b. rear axle.....
 - c. any other axle.....
- 14. Registered axle weight.
 - a. front axle.....lbs.
 - b. rear axle.....lbs.
 - c. any other axle.....lbs.

Additional particulars of alternative or additional trailer or trailers registered with an articulated vehicle--

- 15. Type of body.....
- 16. Unladen weight.....
- 17. Number, description and size of types on the axle.....
- 18. Registered axle weight.....lbs.

Date :-.....20 Signature of Registering Authority.

Note :- The motor vehicle
above described is held by the person registered as the registered as the registered owner under a hire-
purchase agreement with.....

Date :-.....20 Signature Registering Authority.

FORM H

(See Section 37)

Document to be furnished by the maker or authorized assembler in the case of
Transport vehicles other than motor cabs.

Certified that the vehicles Chassis No.....and Engine No.....manufactured
by.....in the year.....has a wheel base of and is designed for maximum weights as follows
when fitted with the tyre equipment specified below:-

Maximum laden weight.....lbs.
Maximum weight front axle.....lbs.
Maximum weight rear axle.....lbs.
Maximum weight any other axle.....lbs.

Tyres--

Front wheels.....
Read wheels.....
Other wheels.....

Date.....20

Signature of maker or authorized assembler.

Signature certificate to be furnished by an assembler

Certified that I am authorized by the maker of the vehicle described above to issue this certificate.

Signature of authorized assembler.

FORM I

[See Section 39(1) and 40(2)]

Certificate of fitness (Applicable in the case of transport vehicles only)

Vehicle no.....is certified as complying with the provisions of Chapter VI of the Province Motor Vehicles Ordinance 1965 and the rules made there under. The certificate will expire on.....

Signature and Designation of Inspecting Authority.

Date :-.....20

The certificate of fitness is hereby renewed:-

Upto.....20... ..

Signature of Inspecting Authority

Upto.....20... ..

Signature of Inspecting Authority

Upto.....20... ..

Signature of Inspecting Authority

**OFFICE OF THE
DEPUTY COMMISSIONER INCOME TAX
REGIONAL TAX OFFICE, PESHAWAR**

No. RTO/E&C -I/2008/72

Dated: 22/07/2008

To

The Director General,
Excise & Taxation,
Peshawar.

Subject: **CHANGES IN WITHHOLDING TAX PROVISIONS THROUGH FINANCE ACT, 2008.**

Dear Sir,

Please refer to the above.

The following changes have been made in the withholding income tax rates through Finance Act, 2008 and is effective since 1-7-2008.

RATIONALIZATION OF WITHHOLDING TAX COLLECTED AT THE TIME OF TENEWAL OF REGISTRATION OF PRIVATE MOTOR CARS AND REGISTRATION OF NEW CAR/JEEP – (Sections 234 and 231-B)

Withholding tax to be paid under section 234 at the time of annual renewal of registration of motor cars or jeeps is as under:

S.No.	Engine Capacity	Amount of Tax (Rs)
a	Upto 1000cc	750
b	1001cc to 1199cc	1,250
c	1200cc to 1299cc	1,750
d	1300cc to 1599cc	3,000
e	1600cc to 1999cc	4,000
f	2000 and above	8,000

Advance tax to be paid under section 231-B at the time of registration of a new motor car or jeep by the owner would be as under:-

S.No.	Engine Capacity	Amount of Tax (Rs)
a	Upto 850cc	7,500
b	851cc to 1000cc	10,500
c	1001cc to 1300cc	16,875
d	1301cc to 1600cc	16,875
e	1601cc to 1800cc	22,500
f	1800cc to 2000cc	16,875
g	Above 2000cc	50,000

The provisions of section 231-B, shall, however, not be applied in the case of:

- i) the Federal Government or the Provincial Governments; and
- ii) a foreign diplomat or a diplomatic mission in Pakistan.

You are requested to kindly issue directions to your subordinate offices under your kind control for compliance.

Thanks and Regard.

(ASHFAQ MASOOD)
Deputy Commissioner/T.O.
Enforcement & Compliance Wing-I
Regional Tax Office, Peshawar

APPENDIX-C

JOB DESCRIPTION

NOTIFICATION

No.SO(Estt)E&T/1-55/2011: In exercise of powers conferred under Rule-4(3) of Khyber Pakhtunkhwa Government Rules of Business 1985, the following Job descriptions for the officers and officials of Directorate General, Excise & Taxation Khyber Pakhtunkhwa and its sub offices are notified with immediate effect:-

1) Director General:

- i. As Head of Attached Department, he shall exercise Administrative, Establishment and Financial Powers delegated under the Khyber Pakhtunkhwa Civil Servants (Appointment, Promotion and Transfer) Rules, 1989 and Khyber Pakhtunkhwa Delegation of Powers under the Financial Rules and the Powers of Re-Appropriation Rules-2001 and any other rules notified by the Provincial Government from time to time.
- ii. To identify areas for resource mobilization and effective recovery.
- iii. To provide an informed input to the Government on Taxation Policy.
- iv. To suggest new initiatives to improve service delivery.
- v. To suggest new areas and ensure that computerization IT enablement is rendered beneficial to the Department as well as the public.
- vi. He shall ensure maintaining efficient administration and achieving the targets of recovery of taxes/revenue fixed by the Government.
- vii. He may delegate powers, if rules allow, to various officers subordinate to him with the approval of Government for smooth running of the official business.
- viii. He shall be responsible for the proper conduct of the business allocated to the department under the Khyber Pakhtunkhwa Government Rules of Business, 1985.
- ix. He shall invariably keep informed the Administrative Department on all Administrative and Financial affairs in the Directorate and the District Offices in the Province.

2) Director (Administration) :

- i. To deal with all establishment matters of the Directorate & District offices in the Province.
- ii. Incharge of transport affairs of the Department throughout the Province.

- iii. Focal person for future projects of re-structuring / up gradation of the Department.
- iv. Maintenance, updating/amendments and framing of Service Rules.
- v. Disciplinary/Inquiry cases.
- vi. Processing of complaints/grievances etc.
- vii. Purchase of furniture, stationery and other office equipments.
- viii. Security matters of the Directorate premises.
- x. Coordination amongst the ETOs.
- xi. Any other task/work assigned to him.

3) Director (Revenue):

- i. Resource mobilization and taxation policy.
- ii. All revenue related matters/ cases.
- iii. To deal the cases of Provincial Excise i.e. grant and renewal of licenses.
- iv. Cases relating to grant of Reward/Honouraria etc.
- v. Any other task/work assigned to him.

4) Deputy Director (Admin/Estb):

- i. He shall route his cases through Director (Admn).
- ii. Establishment and financial matters.
- iii. All training/capacity building matters.
- iv. Responsible for purchases/procurements.
- v. General Administration, Security & maintenance.
- vi. Matters relating assets, movable and immovable properties.
- vii. Departmental Examination of the Excise and Taxation staff.
- viii. Any other task/work assigned to him.

5) Deputy Director (Revenue, Litigation and Development):

- i. Matters relating revenue, resource mobilization, reforms and taxation.

- ii. Recoveries review meetings.
- iii. Cases relating Provincial Excise.
- iv. All developmental schemes and related matters.
- v. All matters pertaining court (litigation) and appeal cases.
- vi. Assembly business.
- vii. He shall work under the control and supervision of Director (Revenue).

6) Deputy Director (Registration):

- i. To ensure compliance of registration procedure circulated vide this Department's notification No. SO (TAX)E&T/1-39/2010 dated 02/06/2011 in letter & spirit.
- ii. He shall be responsible to keep proper stock/record of the registration packages and ensure their safe custody.
- iii. He shall liaise with EHA/TFCs and oversee/supervise their affairs.
- iv. He shall maintain proper record of destroyed or damaged packages.
- v. He shall ensure secrecy/privacy and confidentiality of the premises/processes under his control (EHA & TFC).

7) Deputy Director (Regional):

- i. To exercise administrative control over the ETOs in his region.
- ii. An inspecting officer of the district offices.
- iii. Distribution of the recovery targets of all taxes amongst all Excise and Taxation Offices in his region.
- iv. Compilation of recovery figures of the Excise and Taxation Offices within the region for onward submission to Director (Revenue).
- v. Transfers of officials of BS-7 and below within his region as per government approved policy.
- vi. To oversee in non intrusive manners the general administration of offices of the region and to ensure that offices are run according to Government policies/procedures.
- vii. Countersigning officer for officials upto Inspectors in his region.
- viii. To monitor progress on litigation matters of the region.

- ix. He shall conduct internal audit of all Excise & Taxation Offices within the region.
- x. Monitoring and reporting of the financial irregularities in taxation matters within the region. He shall submit monthly monitoring/Inspection reports to the Directorate General, Excise & Taxation.
- xi. He shall submit annual report regarding the achievements and other matters of ETOs in his region.
- xii. Any other task/work assigned to him.

8) System Analyst:

- i. Suggesting proposals for development of new software required for computerization of the Excise & Taxation Department.
- ii. Preparation of System Requirement Specifications and Functional Specifications for software identified to be developed internally by the Department's computer programmers.
- iii. Prepare annual IT budget, procurement and appropriation plans, in suitable form, format and detail for inclusion in the Department's overall budgets and procurement plans.
- iv. To develop and design capacity building and training programs for the Management and staff of the Excise & Taxation Department in IT.
- v. Documentation of proposals and procedures beneficial to the Department in the area of computerization.
- vi. Proper Coordination and interaction with other government institutions and stakeholders so that aims and objective of the Excise & Taxation Department are realized so far as its IT enablement is concerned.
- vii. Effective coordination with other organizations concerning computerization so as to understand the current status of IT projects and help to facilitate projects management in their job disposal.
- viii. He shall supervise the work of Computer Programmer.
- ix. He shall report to Director (Admn) and Director (Revenue) in respective domains.
- x. EHA, TFCs and district Excise and Taxation offices shall maintain liaison with System Analyst for smooth running of software installed on district level.
- xi. He shall inspect and ensure the proper function of the IT system installed at the offices of EHA, TFC and District Excise & Taxation

through out the province with the prior permission of Director General.

- xii. Prepare/maintain IT policy that envisages acceptable use of IT resources including hardware, software and network systems.
- xiii. Management and troubleshooting of software applications and Servers.
- xiv. Configure/manage/monitor all the networking equipments (Routers, Switches, DSL Modems, Firewalls, etc); in consultation with Deputy Director (Registration).
- xv. Serve as focal person on all IT-related matters with all other government/ private institutions.
- xvi. To prepare and maintain a database inventory for all IT hardware and software installed in different sections/stations of the department.
- xvii. Any other task/work assigned to him.

9) Computer Programmer:

- i. To work under overall supervision of System Analyst and assist him in all type of IT related works.
- ii. To prepare guidelines for the IT staff for smooth disposal of official business with the approval of Director General.
- iii. To deal with all the I.T related activities of the Excise and Taxation Department.
- iv. Provide support to end users regarding network related issues like connectivity with Servers, PCs and printers etc.
- v. Ensure that latest patches/updates of operating and antivirus software are installed on the servers and client machines.
- vi. Responsible for the proper management of the Computer Cell.
- vii. Build and maintain IT vendor relationships and liaison with administration for the purchase/maintenance of hardware and software products.
- viii. To regularly maintain and update Excise & Taxation official website.
- ix. Any other task/work assigned to him.

10) Assistant Director (Accounts):

- i. All matters pertaining to accounts, budgeting and auditing.

- ii. Preparation and re-appropriation of budget.
- iii. All matters of PAC, DAC, internal audit of Receipts and Payments of all Excise & Taxation Officers.
- iv. He shall route files through Deputy Director (Admn).
- v. He shall assist Director Revenue in related tasks.
- vi. He shall distribute the office work amongst the subordinate officers/officials under his control.
- vii. Any other task/work assigned to him.

11) Senior Excise and Taxation Officer/ Excise and Taxation Officer :

- i. He shall be overall incharge of the administration of his office.
- ii. He shall be the Drawing and Disbursing Officer for the district and shall be responsible for all receipts /expenditure matters of the district.
- iii. As a district head of office, he shall exercise all the powers conferred upon him under the relevant Acts and Rules efficiently.
- iv. He shall be responsible to achieve the recovery of government taxes.
- v. He shall distribute and assign the recovery targets among subordinate staff appropriately.
- vi. He shall be the incharge of mobile squad(s) of his district and responsible for upkeep of vehicles.
- vii. He shall initiate Performance Evaluation Reports of all the subordinate staff posted in the district at the end of each calendar year.
- viii. He shall be responsible for the safe custody of the cash received in the office on account of all type of taxes and to ensure that it is correctly/timely paid into Government Treasury.
- ix. He shall be responsible for proper record and maintenance of officially allotted arms, ammunition, uniform, official vehicles/transport.
- x. He will be the appointing authority as per government policy.
- xi. Shall reconcile receipt and expenditure of the office concerned.
- xii. He shall be responsible for litigation cases, DAC/PAC and Assembly matters concerning to his office.

- xiii. He shall strictly follow the instructions regarding survey of various taxes, proper maintenance of survey register/ record and physical as well as random checking of different tax units.
- xiv. Any other task/work assigned to him.

12) Excise & Taxation Officer (HQs):

- i. Excise and Taxation Officer (HQs) will be the Incharge of Mobile Squads in Peshawar region/Intelligent Bureau.
- ii. He shall coordinate all matters pertaining to physical training of Excise & Taxation staff.
- iii. He will be the focal person of Transport related matters of Directorate General Excise & Taxation, Khyber Pakhtunkhwa.
- iv. He will be the Incharge of wireless system installed in Excise & Taxation Department.
- v. He would be assisted by Assistant Excise & Taxation Officer (HQs).
- vi. He will be responsible for the activities and discipline of all the mobile squads in Peshawar.
- vii. He will ensure the upkeep and maintenance of vehicles under the use of Mobile Squads in Peshawar.
- viii. He shall be responsible for all matters pertaining to Mobile Squads in province.
- ix. He shall report to Director Administration and Director Revenue in related matters.
- x. He shall be responsible for upkeep and maintenance of arms and ammunition of Excise & Taxation Department.
- xi. He will be the incharge of Warehouse and shall be responsible for maintenance of record of seized and confiscated vehicles. He shall ensure processing of cases for confiscation as per law. He shall submit monthly statements pertaining to all seized and confiscated vehicles to Secretary and Director General Excise & Taxation, Khyber Pakhtunkhwa.
- xii. He will be responsible for the security as well as protocol duty at Directorate General, Excise and Taxation Khyber Pakhtunkhwa.
- xiii. Any other task/work assigned to him.

13) Accounts Officer:

- i. All matters pertaining to accounts, budgeting and auditing in Peshawar region.
- ii. Preparation and re-appropriation of budget of Peshawar region.
- iii. He shall assist the Assistant Director (Accounts) in matters relating to PAC, DAC.
- iv. He shall distribute the office work amongst his subordinates.
- v. Any other task/work assigned to him.

14) Data Base Administrator:

- i. Develop database system and making sure that these systems operate efficiently.
- ii. Design and document database architecture.
- iii. Build database table procedures, utilities, automated reporting and permissions.
- iv. Backup data regularly, stored effectively and secure from unauthorized access.
- v. Test databases, correct errors and make necessary modifications.
- vi. Specify user and user access levels for each segment of database.
- vii. Restore and recover corrupted databases.
- viii. Implement security and encryption.
- ix. Recommend new database technology.
- x. Any other task/work assigned to him.

15) Senior Assistant Excise and Taxation Officer/ Assistant Excise and Taxation Officer:

- i. He will work under overall control of Excise and Taxation Officer and assist him in all matters concerning the office.
- ii. He shall be responsible for the achievement of recovery targets through Inspectors.
- iii. Perform all the duties of Excise and Taxation Officer, while he is on leave from official duties.
- iv. He shall keep abreast of ETO of his work performed during his absence.

- v. He shall strictly follow the instructions regarding survey of various taxes, proper maintenance of survey register/ record and physical as well as random checking of different tax units.
- vi. He shall be answerable to Excise and Taxation Officer in all relevant matters of the department and any other task assigned to him.
- vii. Any other task/work assigned to him.

16) Excise and Taxation Inspector:

- i. He shall directly report to the Excise and Taxation Officer/ Assistant Excise & Taxation Officer, as the case may be.
- ii. To carryout survey and recovery of all taxes, prepare, maintain and update all record pertaining to various taxes.
- iii. To issue demand notices and to pursue recovery of all taxes as per law.
- iv. To physically verify the particulars and attributes of motor vehicles desired to be registered by the Motor Registering Authority concerned.
- v. To check the Registration certificate of motor vehicles presented at the time of payment of token tax, transfer of ownership or change of engine if desired by the owners and put up the case for final signature of the Motor Registering Authority.
- vi. To perform road checking duties to seize illegal vehicles and control of Excise and Narcotics crimes as authorized by ETO concerned.
- vii. To achieve the target of recovery of the taxes assigned to him by the concerned Excise & Taxation Officer.
- viii. To perform any duty assigned to him/her under various act/ordinances / rules and notifications etc.
- ix. He will be responsible for online / external verification of G.D/Bill of Entry from Customs Department through DSL.
- x. Any other task/work assigned to him/her by the superiors from time to time.

17) Sub-Inspector:

- i. He shall be responsible for keeping of record and registers.
- ii. To prepare all statements pertaining to taxes.
- iii. To supervise the work of Assistant Sub-Inspectors.

- iv. To maintain service books and other connected matters of the officials.
- v. He will be responsible for processing cases pertaining to taxes, establishment, audit/ accounts and reconciliation matters.
- vi. To recover fees and taxes where required in cash, and to deposit it in the Treasury under the relevant head of receipts.
- vii. To maintain inventory/stock registers of all items including furniture, fixtures and equipment etc in the office.
- viii. To prepare receipt and expenditure statements.
- ix. He will work under the supervision of Inspector concerned.
- x. Any other task/work assigned to him.

18) Assistant Sub-Inspector:

- i. Diary and dispatch.
- ii. Sorting, distribution and filing of papers in respective files.
- iii. Maintenance of registers, relating to office files, record files, files destroyed and movement register about the whereabouts of the files.
- iv. Record keeping.
- v. He shall be responsible for maintenance of records of all taxes.
- vi. Establishment, Audit and Accounts matters including preparation of Pay and T.A Bills, statements etc.
- vii. Handling of cash received in the office, if entrusted to him.
- viii. To do typing work as and when required.
- ix. Stationary indenting, storing and distribution amongst the office staff.
- x. Assessment of all taxes if the task is assigned to him.
- xi. To perform duties as record keeper of motor vehicle record and keep proper record of snatched/stolen vehicles, cancelled vehicles, re-registered vehicles, and tax defaulted vehicles etc.
- xii. Handing over of number plates, vehicle files and registration books etc to the vehicle owners.
- xiii. He will work under the supervision of sub-Inspector/Inspector concerned.
- xiv. Any other task/work assigned to him.

19) Constable:

- i. Field/office duty as assigned by the Incharge Officer.
- ii. To assist the ETI/SI/ASI in performance of their official duties.
- iii. Assist the Record-keeper in performance of his duties.
- iv. To accompany the Inspector while surveying properties for reassessment and other official business as directed by his superiors.
- v. To serve letters, notices of demand of tax, show-cause notices and final notices etc.
- vi. Any other task/work assigned to him by his superiors.

20) Distillery Security Guard:

- i. Looking after all types of Methylated and ethylated spirits manufactured in the distillery,
- ii. Import/export and transport of Methylated and ethylated spirits in the distillery,
- iii. Keeping information of the visitors/guests,
- iv. Checking of permits and licenses at the time of export of any liquor/spirits from distillery.
- v. Ensure timely submission of reports pertaining to distillery to the higher officers.
- vi. He shall work under the control of incharge AETO/ Inspector and assist them in performance of their duties.
- vii. When posted with the Inspector incharge of a chemical works, he shall comply with the orders of the Inspector in the discharge of his duties in the chemical works.
- viii. Any other task/work assigned to him.

21) Wireless Operator:

- i. Operate the wireless system/communication throughout the province.
- ii. Connect the divisional offices through wireless system.
- iii. Repair and maintenance of wireless system and sets/communication system.
- iv. He shall maintain secrecy in communication.

- v. Maintain log book of messages received/passed.
- vi. Any other task assigned to him.

22) Superintendent-I:

- i. To supervise and deal with administrative and establishment matters of the ETOs, AETOs, ETIs and Sub-Inspectors.
- ii. He will be the Incharge of Receipt and Dispatch Section and shall be personally responsible for the accurate sorting of Dak Section-wise, and shall further ensure that:-
 - a. the Receipt Clerk submits the receipts at least twice daily to the appropriate Section/Office alongwith dairy.
 - b. letters are dispatched on the date of receipt and office copies returned promptly to the Section/Office concerned, and
 - c. that confidential/secret communications are treated in the manner prescribed in paragraphs 67 to 76 of Govt. of Khyber Pakhtunkhwa Manual of Secretariat Instructions.
- iii. He shall open all covers other than those sealed and addressed by name to any particular office/officer in the Department and to:-
 - a. make sure that each envelope is completely emptied.
 - b. check enclosure and make note of omissions, if any, in the margin of the communication.
 - c. separate receipts section-wise and place them in the labeled compartments; and
 - d. obtain, in case of disputed receipts, orders of the Director General or of an officer authorized for the purpose.
- iv. Any other task assigned to him.

23) Superintendent-II:

- i. To supervise and deal with administrative and establishment matters of the KPOs, ASIs, and Constables including maintenance of attendance register on daily basis and leave record of district offices.
- ii. That confidential/ secret communications are treated in the manner prescribed in paragraphs 67 to 76 of Govt. of Khyber Pakhtunkhwa Manual of Secretariat Instructions.
- iii. Communicate and co-ordinate all official matters concerning his office with the superiors.

- iv. Any other task assigned to him.

24) Senior Scale Stenographer/Junior Scale Stenographer:

- i. Take down notes and drafts from his officer and type them neatly and accurately.
- ii. Note down urgent matters and routine appointments of his officer in the desk diary and also put up notes about telephonic/other messages received by him in the absence of officer.
- iii. To arrange engagements and maintain engagement diary.
- iv. Handle and maintain classified documents/ files in accordance with the instructions.
- v. Record date of meeting and arrange file for the same.
- vi. Receive and conduct visitors, arrange interview as permitted by his officer.
- vii. To see that matters requiring Officer's attention are brought to his notice well in time, complete and in proper form.
- viii. Supervise the upkeep of the officer's and visitor's rooms wherever provided.
- ix. Make tour arrangements including issuance of tour programmes.
- x. Keep proper record and movement of files and other papers.
- xi. Keep record of suspense cases and their submission on due dates.
- xii. Ensure maintenance of log book in complete and proper form.
- xiii. He shall be responsible for proper handing care and looking after of the type-writer, computer, printer and / or any other equipment provided for the purpose of his duty.
- xiv. Any other task/work assigned to him.

25) Data Processing Supervisor:

- i. Operating of the software in motor registering office.
- ii. Proper maintenance of computer system.
- iii. Timely provision of data/reports to his superiors.
- iv. Supervision of all IT related matters at the district level.
- v. Any other task/work assigned to him.

26) Computer Operator:

- i. Typing of all official letters/correspondence related to the Section.
- ii. Punching of data in District Excise & Taxation offices.
- iii. Proper maintenance of computer system and other equipments in the office concern.
- iv. Any other task assigned to him.

27) Daftari/Qasid/Naib Qasid:

- i. Carrying official files/papers/letters from one place to another within and outside the office premises.
- ii. To clean office furniture and record before office hours.
- iii. General arrangement and tidiness of the office, furniture including dusting of office furniture, record etc.
- iv. Provide drinking water and serve tea to the officers and staff.
- v. Appropriate and proper behaviour with the visitors.
- vi. Carriage of steel boxes containing secret/confidential files from one office to another.
- vii. Shifting of articles of furniture from one place to another.
- viii. Any other duty assigned to him by his office Incharge.

28) Driver:

- i. To enter the official tours/ mileage covered in the log book of the vehicle and repair work.
- ii. Should check up the Fuel, M/oil, Radiator Water and Battery before starting the vehicle.
- iii. To acquaint himself with Traffic Rules and road sense.
- iv. Shall look after the general up-keep of vehicle.
- v. Shall drive the vehicle with utmost care keeping in view all the traffic rules etc.
- vi. Any other task assigned to him.

29) Chowkidar:

- i. Ensure safety and security of the office.
- ii. Keep vigilance and remain alert.
- iii. Gate keeping.
- iv. Any other task/work assigned to him.

30) Sweeper:

- i. Clean the office.
- ii. Sweep washroom/bathroom/kitchen.
- iii. Clean the office premises.
- iv. Remove and clean dust bins on daily basis.
- v. Any other work pertaining to cleaning.
- vi. Ensure safe sanitation and drainage.
- vii. Any other task/work assigned to him.

2. Consequent upon the above, this department's notifications No. SO(ESTT)Excise & Taxation/1-55/2008 dated 23rd August 2008 and No.SO(Estt)/Excise & Taxation/1-55/2009 dated 08.06.2009 are hereby withdrawn.

SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT

Endst: No.SO(Estt)E&T/1-55/2011

Dated Peshawar the 27th Sep: 2011

Copy forwarded for information/necessary action to the:-

1. Director General, Excise & Taxation Khyber Pakhtunkhwa, Peshawar with the direction to circulate the same amongst all concerned in the Directorate General, Excise & Taxation Khyber Pakhtunkhwa, Peshawar.
2. Director (Admn)/ Director (Revenue), Excise & Taxation Khyber Pakhtunkhwa, Peshawar.

3. All Deputy Directors, Directorate General, Excise & Taxation, Khyber Pakhtunkhwa.
4. All Regional Deputy Directors, Directorate General, Excise & Taxation, Khyber Pakhtunkhwa.
5. System Analyst, Directorate General, Excise & Taxation, Khyber Pakhtunkhwa.
6. All Excise & Taxation Officers in Khyber Pakhtunkhwa with the direction to circulate the same amongst their subordinate staff.
7. Taxation Analyst/ All Section Officers, Excise & Taxation Department, Khyber Pakhtunkhwa, Peshawar.
8. P.S to Minister, Excise & Taxation, Khyber Pakhtunkhwa.
9. P.S to Secretary, Excise & Taxation Department, Khyber Pakhtunkhwa, Peshawar.
10. P.As to Additional Secretary/Deputy Secretary, Excise & Taxation Department, Khyber Pakhtunkhwa, Peshawar.

(USMAN SHAH)
SECTION OFFICER (ESTT:)

UNIFORM POLICY

GOVERNMENT OF KHYBER PAKHTUNKHWA EXCISE & TAXATION DEPARTMENT Dated Peshawar the 23rd April, 2010.

NOTIFICATION:

No.SO(Estt)IE&T/1-76/2000. In supersession of this Department Notification of even No. dated 05/12/2006 as amended vide Notification of even No. dated 26/08/2008, the competent authority is pleased to approve the following pattern of uniform to be worn by the personnel of Excise & Taxation Department, KHYBER PAKHTUNKHWA with immediate effect:

1. EXCISE & TAXATION OFFICER

S.NO.	SUMMER	WINTER
1	Black Beret with KHYBER PAKHTUNKHWA Excise monogram.	As in summer
2	Brown colour leather belt brass fitting buckle with Excise monogram.	-do-
3	One crown chromium colour on each shoulder with P-Excise sign.	-do-
4	Excise chest monogram (left side on chest with bottle green colour).	-do-
5	Name plate right side on the chest with bottle green colour.	-do-
6	Malitia shirt /flannel shirt with flap pockets, full /half sleeves Shoulder. The strips will be fitted with Departmental badges P-	-do-
7	Pasban white and black colour with P-Excise monogram on right arm and round Pasban red & blue on left arm with National Flag.	-do-
8	Brown shoes	-do-
9	Khaki Trouser/Malitia Shalwar	Khaki Woollen Trouser
10		Steel grey jersey
11,		Khaki overcoat (cold weather).

2. ASSISTANT EXCISE & TAXATION OFFICER

S.NO.	SUMMER	WINTER
1	Black Beret with Khyber Pakhtunkhwa Excise monogram.	As in summer
2	Brown colour leather belt brass fitting buckle with Excise monogram.	-do-

3	Four pointed three peps chromium colour-on each shoulder with P-Excise sign.	-do-
4	Excise chest monogram (left side on chest with bottle green colour)	-do-
5	Name plate right side on the chest with bottle green colour.	-,do-
6	Malitia shirt /flannel shirt with flap pockets, full/half sleeves shoulder. The strips will be fitted with Departmental badges P-Excise.	-do-
7	Pasban white and black colour with P-Excise monogram on right arm and round Pasban red & blue on left arm with National Flag.	-do-
8	Brown shoes	-do-
9	Khaki Trouser/Malitia Shalwar	Khaki Woollen Trouser
10		Steel grey jersey
11		Khaki overcoat (cold weather).

3. EXCISE & TAXATION INSPECTOR

S.NO.	SUMMER	WINTER
1	Black Beret with Khyber Pakhtunkhwa Excise monogram.	As in summer
2	Black colour leather belt brass fitting buckle with Excise monogram.	-do-
3	Five pointed chromium colour three phool, plain strips on each shoulder with E & T sign.	-do-
4	Excise chest monogram (left side on chest with bottle green colour)	-do-
5	Name plate right side on the chest with bottle green colour.	-do-
6	Malitia shirt /flannel shirt with flap pockets, full /half sleeves and shoulder strips. The strips will be fitted with Departmental badges P-Excise.	-do-
7	Pasban white and black colour with P-Excise monogram on right arm and round Pasban red & blue on left arm with National Flag.	-do-
8	Black Shoes	-do-
9	Khaki Trouser/Malitia Shalwar	Khaki Woollen Trouser
10		Steel grey jersey
11		Khaki overcoat (cold weather).

4. EXCISE & TAXATION LADY INSPECTOR

S.NO.	SUMMER	WINTER
1	Black Beret with Khyber Pakhtunkhwa Excise monogram.	As in summer
2	Black colour leather belt brass fitting buckle with Excise monogram.	-do-
3	Five pointed chromium colour three phool, plain strips on each shoulder with E & T sign.	-do-
4	Excise chest monogram (left side on chest with bottle green colour).	-do-
5	Name plate right side on the chest with bottle green colour.	-do-
6	Malitia shirt /flannel shirt with flap pockets, full sleeves and shoulder strips. The strips will be fitted with Departmental badges P-Excise.	-do-
7	Pasban white and black colour with P-Excise monogram on right arm and Pasban red & blue on left arm with National Flag.	-do-
8	Black shoes	-do-
9	Khaki Shalwar and Khaki Dupata I Scarf	-do-
10		Steel grey jersey Khaki Over Coat

5. EXCISE & TAXATION SUB-INSPECTOR

S.NO.	SUMMER	WINTER
1	Black Beret with Khyber Pakhtunkhwa Excise monogram.	As in summer
2	Black colour leather belt brass fitting buckle with Excise monogram.	-do-
3	Five pointed chromium colour two phool, plain strips on each shoulder with E & T sign.	-do-
4	Excise chest monogram (left side on chest with bottle green colour).	-do-
5	Name plate right side on the chest with bottle green colour.	-do-
6	Malitia shirt/ flannel shirt with flap pockets, full /half sleeves and shoulder strips. The strips will be fitted with Departmental badges P-Excise.	-do-
7	Pasban white and black colour with P-Excise monogram on right arm and Pasban red & blue on left arm with National Flag.	-do-
8	Black shoes	-do-
9	Khaki Trouser/ Malitia Shalwar	Khaki Woollen

10		Trouser Steel grey
11		Khaki Over Coat (Cold Weather)

6. EXCISE & TAXATION ASSISTANT SUB-INSPECTOR

S.NO.	SUMMER	WINTER
1	Black Beret with Khyber Pakhtunkhwa Excise monogram	As in summer
2	Black colour leather belt brass fitting buckle with Excise monogram	-do-
3	Five pointed chromium colour one phool, plain strips on each shoulder with E & T sign.	-do-
4	Excise chest monogram (left side on chest with bottle green colour).	-do-
5	Name plate right side on the chest with bottle green colour.	-do-
6	Malitia shirt /flannel shirt with flap pockets, full /half sleeves and shoulder strips. The strips will be fitted with Departmental badges P-Excise.	-do-
7	Pasban white and black colour with P-Excise monogram on right arm and Pasban red & blue on left arm with National Flag.	-do-
8	Black shoes	-do-
9	Khaki Trouser/ Malitia Shawar	Khaki Woollen Trouser
10		Steel grey jersey
11		Khaki overcoat (cold weather).

7. EXCISE & TAXATION GUARD JAMADAR/ HAVALDAR/ MOHARAR

S.NO.	SUMMER	WINTER
1	Black Beret with Khyber Pakhtunkhwa Excise monogram monogram	As in summer
2	Black colour leather belt brass fitting buckle with Excise monogram	-do-
3	Excise chest monogram (left side on chest with bottle green colour).	-do-
4	Name plate right side on the chest with bottle green colour.	-do-

5	Malitia shirt /flannel shirt with flab pockets, full/ half sleeves and shoulder strips. The strips will be fitted with Departmental badges P-Excise.	-do-
6	Pasban white and black colour with P-Excise monogram on right arm & Pasban red & black on left arm with National flag.	-do-
7	Black shoes	-do-
8	Three line strip (Hawaldari) red colour on both arms.	-do-
9	Malitia Shalwar/Khaki Trouser	-do-
10		Blue Black Jersey
11		Khaki overcoat (cold weather).

8. EXCISE & TAXATION CONSTABLE, WIRELESS OPERATOR AND DRIVER

S.NO.	SUMMER	WINTER
1	Black Beret with Khyber Pakhtunkhwa Excise monogram	As in summer
2	Black colour leather belt brass fitting buckle with Excise monogram	-do-
3	Excise chest monogram (left side on chest with bottle green colour).	-do-
4	Name plate right side on the chest with bottle green colour.	-do-
5	Malitia shirt /flannel shirt with flab pockets, full half sleeves and shoulder strips. The strips will be fitted with Departmental badges P-Excise.	-do-
6	Pasban white and black colour with P-Excise monogram on right arm & Pasban red & black on left arm with National flag.	-do-
7	Black shoes	-do-
8	Malitia Shalwar/ Khaki Trouser	-do-
9		Blue Black Jersey
10		Khaki overcoat (Cold Weather).

2. All personnel of Excise and Taxation Department shall wear the above uniform

during their duty hours hence-forth.

**SECRETARY TO GOVT. OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT**

Endst: No. and date of even

Copy forwarded to:

1. The Secretary to Governor, Khyber Pakhtunkhwa.
2. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
3. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
4. The Secretary to Govt, of Khyber Pakhtunkhwa, Home & Tribal Affairs Department.
5. The Secretary to Govt. of Khyber Pakhtunkhwa, Law Department.
6. The Inspector General Police Khyber Pakhtunkhwa, Peshawar.
7. The Director General, Excise & Taxation, Khyber Pakhtunkhwa.
8. P.S to Chief Secretary, Khyber Pakhtunkhwa.
9. P.S to Minister for Excise & Taxation, Khyber Pakhtunkhwa.
10. All Excise & Taxation Officers in Khyber Pakhtunkhwa for circulation amongst all concerned for compliance.

SECTION OFFICER (ESTT)

**GOVERNMENT OF KHYBER PAKHTUNKHWA
EXCISE & TAXATION DEPARTMENT.**

POLICY FOR DISPOSAL AND ALLOTMENT OF CONFISCATED VEHICLES.

In order to streamline procedure for confiscation and allotment of vehicles seized under the rule 8 of Khyber Pakhtunkhwa (Seizure and Disposal of Motor Vehicles) Rules 1999 amended in 2010, it is important to put in place a comprehensive policy. The purpose of this procedural mechanism is to ensure transparency and proper regulation so far as confiscation , allotment and auctioning of seized vehicles are concerned. Rule 8 of the Khyber Pakhtunkhwa (Seizure and Disposal of Motor Vehicles) Rules 1999 is reproduced below:

“If no claim is received pursuant to the proclamation made under rule 7, or if received and the claimant is unable to prove his bonafide ownership to the vehicle, the District Officer shall record his order for confiscation of the vehicle and confiscate the same in favor of Government and subject to rule 9, dispose of the vehicle by way of sale in an open auction through an auction committee to be constituted by Government. The sale proceeds thereof shall, after clearance of the dues of the Custom Department, if any, in the form of custom duty, sale tax, Iqra tax etc. be paid into Government Treasury under the Provincial Receipt head “0200000-Indirect Taxes-0280000-Motor Vehicle-0281000-Sale Proceeds of auctioned Item (Motor Vehicle)”:

Provided that the confiscated vehicle in which no other number is deciphered on its chassis number or its chassis sheet is refitted and welded, will not be put to sale by way of auction. Such vehicles can be retained in the Excise & Taxation Department for performance of official duties or allotment to other Departments of the Government for official duty, by the Secretary, after fulfilling all the codal formalities.”

2. In compliance of the relevant rules, the following policy framework is devised in consultation with Law Department, Finance Department and Establishment Department Govt. of Khyber Pakhtunkhwa.

I. SEIZURE:

It shall be ensured by the seizing authority to proceed strictly in accordance with the Law whenever action is taken under Rules 3 read with Rules 5 & 6 of the Khyber Pakhtunkhwa (Seizure and Disposal of Motor Vehicles) Rules 1999 amended in 2010.

II. WAREHOUSE:

- a. All vehicles so seized should be properly handed over to the Incharge Warehouses, through official handing-taking over procedure.
- b. The Incharge of Warehouses shall maintain a proper record of each vehicle seized as per prescribed procedure. It shall be his responsibility to keep updated list of the vehicles with a copy sent to the Secretary office for record.
- c. It shall be the responsibility of the incharge warehouses/ seizing authorities to ensure that confiscation process is initiated and completed as per prescribed procedure.

III. QUARTERLY REPORT

- a. The Director General, Excise & Taxation should send a quarterly report to the Secretary on the action taken under the relevant rules, particularly Rule 8 of Khyber Pakhtunkhwa (Seizure and Disposal of Motor Vehicles) Rules 1999 amended in 2010. The report should include engine and chassis number of the vehicles.
- b. Director General Excise & Taxation should upload the said report in the Excise & Taxation Department website for transparency and to facilitate the Police of other provinces in finding the theft vehicles about which FIRs have been registered in their Police Stations.

IV. SOP FOR SEIZURE

The Director General, Excise & Taxation should device a Standard Operating Procedure (SOP) for the seizure of vehicles, which among other things, should

include a direction to officers incharge of all the squads to shift the seized vehicles to the warehouses, within shortest possible time keeping in view the distance.

V. ALLOTMENT COMMITTEE:

a. The committee comprising the following is constituted to make recommendations:

- | | |
|---|------------------|
| 1. Additional Secretary,
Excise and Taxation Department. | Chairman |
| 2. Director General,
Excise & Taxation,
Khyber Pakhtunkhwa. | Member |
| 3. Deputy Secretary (Admn)
Establishment & Admn: Department,
Govt. of Khyber Pakhtunkhwa. | Member |
| 4. Deputy Secretary
Finance Department,
Govt. of Khyber Pakhtunkhwa. | Member |
| 5. Excise & Taxation Officer (HQr)
Peshawar. | Member |
| 6. Section Officer (Admn)
Excise & Taxation Department. | Member/Secretary |
| 7. (Co-opted Member, if any) | |

b. This Committee shall oversee all vehicles in the Warehouse and recommended auction of such vehicles through the Provincial Auction Committee periodically.

c. The Committee shall also examine previous allotment orders and make its recommendations.

VI. PROCEDURE FOR ALLOTMENT:

The request for allotment of vehicle should be self-contained with detailed justification made by Administrative Department, head of the Attached Department and head of the Office as the case may be.

VII. ORDER OF PRIORITY

Seized vehicles shall be allotted to the following offices in the order of priority.

- a) Provincial Government Departments.
- b) Attached Departments
- c) Line Departments.
- d) Registered and recognized Charitable Institutions, with the approval of the Chief Minister.

VIII. MAINTENANCE OF ALLOTTED VEHICLES:

- a. Allotted vehicles shall become the property of the office (allottee) concerned and the Department / Office shall get them registered in the name of Department accordingly.
- b. Vehicles once allotted, shall be maintained by the concerned office and all expenditure shall be born by them.

IX. SPECIAL ALLOTMENT:

- a. According to provisions of "The Government Staff Vehicles (Use & Maintenance) Rules 1997", the Secretary is empowered to specify vehicles for the officials / officers of the department for official use on need basis.
- b. The Excise and Taxation Department is a revenue generating organ and undertake tax recovery campaigns. Therefore, the Secretary may allot vehicle to any functionary of the Department for the purpose.

X. HARDSHIP CASE:

The paradigm of this policy may be changed by the competent authority i.e. the Secretary, on the recommendations of the committee, keeping in view the exigencies and demands of official work and service delivery in respect of the Department.