

USHR (ASSESSMENT AND COLLECTION) RULES, 1994

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USHR (ASSESSMENT AND COLLECTION) RULES, 1994

The Gazette of Pakistan, Extraordinary, Part-II, March, 26, 1994

S.R.O. 248(I)/94:- In Exercise of the power conferred by Section 26 of the Zakat and Ushr Ordinance, 1980 (No. XVIII of 1980), Central Zakat Council is pleased to make the following rules for the assessment and collection of Ushr namely:-

1. **Short title, application and commencement.-** (1) These rules may be called the Ushr (Assessment and Collection) Rules, 1994.

(2) These shall come into force at once.

2. **Definitions.**

(1) In these rules unless there is anything repugnant in the subject or context:-

(a) "Agent" means a persons other than a Lambardar or the local revenue official, authorized by the Provincial Revenue Department for the collection of Ushr under sub-rule(1) of rule 14;

(b) "Assessee" means a person who is to be charged and from whom Ushr is to be collected on compulsory basis under Section 5 of the Ordinance;

(c) "Average farm-gate price" means the average farm-gate price of a crop as prescribed in rule 4;

(d) "Collector" means the District Collector;

(e) "Average yield" means the average yield per acre of a crop as prescribed in rule 4;

(f) "Form" means a form appended to these rules;

(g) "Girdawari" includes a special girdawari done or arranged to be done by District Collector;

(h) "Lambardar" includes the local revenue official;

(i) "Ordinance" means the Zakat and Ushr Ordinance, 1980 (No. XVIII of 1980);

(j) "Provincial Revenue Department" means the revenue administration of the Tehsil of District controlled by the Board of Revenue of a Province;

(k) "Revenue Officer" means an officer having authority under the Provincial Land Revenue Laws to discharge the functions of the Revenue Officer.

(l) "Ushr Assessment Date" means the date on which the assessment of Ushr is approved by the Circle Revenue Officer; and

(m) "Unsettled Area" means an area where settlement operation has not taken place so far.

(2) The expressions and terms used in these rules but not defined shall have the same meaning as is assigned to its in the Ordinance or Provincial laws relating to collection of revenue and the rules there under;

3. **Ushr Circle.-** (1) The Provincial Revenue Department shall sub-divide each district into existing administrative units (Patwar and Tapedar Circles) as Ushr assessment circle to be called Ushr Circles and consisting of one or more revenue estates.

(2) In making division of district in Ushr Circles, the Provincial Revenue Department shall ensure that for the crops grown in an Ushr Circle, the average yield per acre and the average farm-gate prices are uniform.

4. Average yields and average for-gate prices of crops in an Ushr Circle.

(1) For each Ushr Circle, the Collector shall with reference to the Valuation Date, determine:-

(a) the average yield per acre for each crop (for example for Cotton, Sugarcane and wheat) which will be referred to as the 'average yield' of such crop.

(b) the average farm-gate price of each crop which shall be referred to as the 'average farm-gate' price for such crop; and

(c) the average sale price per acre generally obtaining in an Ushr Circle for each kind of orchard. Keeping in view the density of plantation and for other crops which are generally sold out by the farmers for a lump sum price.

(2) While determining the averages referred to in sub-rule (1), the Collector may use any one or more of the following basis:-

(a) result inspection or local knowledge or information;

(b) results of the crop-cutting experiments;

(c) information furnished by or collected from the Provincial Agriculture, Revenue or Irrigation Department or any other official or non-official agency;

(d) market prices of crops collected from any official or non-official agency; and

(e) any other information or manner deemed fair and appropriate by the Collector.

5. Communication of average yields and average farm-gate prices by the District

Collector.- (1) The collector shall communicate the averages referred to in sub-rule (1) of rule 4 for different crops in Form Ushr-I to the revenue staff through the Tehsil or Taluka Revenue Agency concerned with a copy to the District Zakat and Ushr Committee and the Local Zakat and Ushr Committee concerned within fifteen days after the Valuation Date;

(2) The "Qanungo" in each Tehsil, the Supervisor in each Taluka, the District Zakat and Ushr Committee and Local Zakat and Ushr Committee concerned shall maintain Forms Ushr-I received by them as permanent record.

6. Date Collector for Ushr Assessment.- The local revenue official shall furnish to the Local Zakat and Ushr Committee concerned his Fard Rafter, Girdawari and Partal programme and the Local Zakat and Ushr Committee may authorize its Chairman or any one or more of its members to accompany the said official during Girdawari.

7. Statement of Assessment of Ushr to be prepared by the Patwari/Tapedar.- The Patwari or as the case may be, Tapedar shall after due verification in an open gathering of the assesses or their representatives and other concerned persons, at a duly announced statement in the register specified in Form Ushr-II.

(1) The statement under sub-rule (1) shall be prepared on the basis of information collected on the spot or information obtained from any other reliable source, including the Local Zakat and Ushr Committee within one month after the receipt of the average yields and average farm-gate prices from the Collector.

8. **Assessment of Ushr to be approved by the Ushr Circle Revenue Officer.**- (1) The Circle Revenue Officer shall within one month of the Valuation Date indicate in column 5 of Form Ushr-II assigned to each assessee against the relevant crop and year, the assessment of Ushr approved by him.

(2) While approving the assessment for fruit orchards and for such crops as are generally sold out by the farmers for lump sum price fixed by the Collector under clause (c) of sub-rule (1) of rule 4, the bonafide sale agreement, if any, between the grower and the person to whom such fruit orchard or the crop has been sold and the amount actually realized by the assessee.

(3) In unsettled areas, the Provincial Revenue Department may after making such enquiries as it may deem fit and after considering any guide-line, determine the Ushr assessment.

(4) The liability of the lessor and lessee to pay Ushr shall be equitably apportioned between them by the Tehsildar or, as the case may be, Mukhtiarkar in accordance with section (2) of Section 6 the Ordinance.

9. **Notifying the Ushr assessment to the assessee.**- The Patwari or, as the case may be, Tapedar shall on the Ushr Assessment Date, publicize in the locality, through a notice or announcement in the mosque, in the locality, through beat of drum or through such other means as he may deem fit, that the assessment of Ushr has been approved by the Ushr Circle Revenue Officer and that it may be seen in the office of the patwari or, as the case may be, Tapedar of the Local Zakat and Ushr Committee concerned.

10. **Ushr Demand statement.**- (1) The Patwari or, as the case may be, Tapedar shall prepare in columns 1 to 3 of Form Ushr-III the demand statement Lambardarwise as well as bill of assessment in Form ushr-IV in respect of each assessee and deliver one copy of demand statement (For Ushr-III) and bills of assessment (Form Ushr –IV) to the Lambardar within ten days after the Ushr Assessment Date.

(2) The demand statement shall be kept by the Lambardar in his record and shall distribute the bills of assessment to the concerned assesses

11. **Revision of the assessment.**- (1) If any assessee feels that his Ushr assessment made by the Provincial Revenue Department under sub-section (1) of Section 6 of the Ordinance is not fair or justified or as the case may be, is aggrieved by the appointment, he may within a period not exceeding thirty days of the Ushr Assessment Date, or, as the case may be, apportionment, by application in writing on a plain paper apply to the Assistant Commissioner or Sub-Divisional Magistrate for revision of the assessment or apportionment under us (3) of Section 6 of the Ordinance.

(2) The application shall contain the following particulars:

(a) Name, parentage and address of the applicant and if the applicant is minor, or a person of unsound mind, the name, parentage and address of his guardian or of a male member of his family.

(b) name of estate and description of land under assessment.

(c) brief facts and reasons necessitating the making of application; and

(d) Signature or thumb impression of the applicant.

(3) No application under sub-rule (1) shall be admitted unless the applicant has deposited in the relevant Local Zakat Fund Account not less than fifty per cent of his liability as assessed or apportioned by the Ushr Circle Revenue Officer.

(4) The assistant Commissioner or the Sub-Divisional Magistrate may, at any time, either of his own motion or on the application of an adult Muslim residing within his jurisdiction make an order enhancing the liability assessed or apportioned under rule 8:

Provided that no such order shall be made unless the person affected has been given an opportunity of showing casue against it and of being heard.

(5) The Assistant Commissioner or Sub-Divisional Magistrate to whom an application is made or who takes up a matter of his own motion shall announce his decision within a period not exceeding one month counted from the date on which he received the application or as the case may be, so takes up the matter;

(6) A copy of the decision each shall be sent to the Revenue Officer and the assessee.

(7) All the facts with regard to a revision of Ushr shall be entered in column 7 of the register in Form Ushr-II.

(8) If the Ushr assessment is varied as a result of revision, the Patwari or, as the case may be, Tapedar shall amend the entries of Ushr demand in Form Ushr-III with red ink when presented before him under sub-rule (2) of rule 16.

(9) The Ushr demand statement shall be deemed to have been amended to the extent of amendment made in Form Ushr-III and shall be given to the Lambardar or his agent within ten days after the decision of the revision.

12. Checking and attestation of Ushr assessment records.- (1) Entries of records shall be checked and attested on the spot by the Field Qanungo or as the case may be, Supervisor who shall verify the Ushr demand statement with the relevant record and also compare it with the copy intended for the use of the Lumberdar or his agent and shall sign every page of it.

(2) The Tehsildar, Mukhtiarkar, Naib Tehsildar or, as the case may be, Naib Mukhtiarkar incharge of the Ushr Circle shall ensure that Baach papers of all the estates within his Ushr Circle are prepared in time and in accordance with the provisions of these rules.

(3) During the tours of the estate, he shall check Baach papers in the presence of the assesses and the members of Local Zakat and Ushr Committee.

(4) In order to ensure that the Qanungo or, as the case may be, Mukhtiarkar and Ushr Circle Revenue Officer have carried out the requisite checking, verification and attestation in accordance with the provision of the Ordinance and the rules, the Board of Revenue may, by notification in the official Gazette, authorize any Revenue Officer not below and Assistant Collector of the First Grade, for checking of Baach papers.

13. Liability to Ushr.- Subject to these rules, every assessee shall be liable to pay the Lambardar or his agent Ushr of his share of the produce for each crop separately.

14. Collection and payment of Ushr.- (1) The Ushr may be collected by the Lambardar or his agent.

(2) The Lambardar or his agent shall issue a receipt in Form-I of the Provincial Land Revenue Rules of the assessee in token of having recovered the Ushr demand.

Provided that an assessee may pay his Ushr demand either to Lambardar, his agent or directly deposit in the Local Zakat Fund Account of the Local Zakat and Ushr Committee maintained in the bank within thirty days of the date of notifying of the Ushr Assessment Date.

(2) Where an assessee deposits the Ushr demand in the Local Zakat Fund Account, he shall hand over to the concerned Revenue Officer, Part-II of the receipt voucher of the Bank issued in Form Ushr-V within seven days of the payment of the Ushr demand.

(3) The Lambardar or his agent shall maintain a Day Book in Form Ushr-VI showing daily collections and deposits in the District Zakat Fund which shall be transferred to the respective Local Zakat Fund Account.

15. Remuneration for the collection of Ushr.- The Lambardar or as the case may be, his agent shall be paid remuneration for collection of Ushr at such rate as the Central Zakat Council may fix by notification in the official Gazette out of the collection of Ushr made by them;

Provided that the remuneration of the agent shall not be more favourable than that payable to Lambardar.

16. Communication of collection and payment of Ushr and keeping account thereof.- (1) The amount or as the case may be, his agent who collects Ushr demand shall deposit the amount in the District Zakat Fund Account in Form Ushr-VII at such regular intervals as the Revenue Department may determine.

(2) The Lambardar or agent shall present to the Patwari or, as the case may be, Tapedar, be Ushr Demand Statement (Form Ushr-III) specifying the amount of collection in **column... to 8** thereof immediately after the expiry of the period specified in sub-rule (2) of rule 14 accompanied by receipt and original Bank Vouchers in Form Ushr-VII indicating the amount of Ushr deposited into the District Zakat Fund.

(3) The Patwari or, as the case may be, Tapedar shall after verification of receipts (Form Ushr-I), record the payment of Ushr of each assessee in column 6 of the relevant register in Form Ushr-II and shall cause the same to be verified by Qanungo who shall put his signatures at column 10 of Form Ushr-III.

(4) Where a Patwari or Tapedar causes the Lambardar or his agent to maintain Form Ushr-VI the Lambardar and his agent shall supply to Patwari or, as the case may be, Tapedar the payment receipt (Dakhla).

17. Recovery of Ushr in case of non-payment.- (1) If Ushr is not paid within the time specified in sub-rule (2) of rule 14, the Patwari/Tapedar/Qanungo/Supervisor may adopt all or any of the following measures for recovery of Ushr demand in time.

- (i) personal contacts, in co-operation with the Local Zakat Committee;
- (ii) announcement in the local mosque; and
- (iii) issuing a formal notice.

(2) The Ushr demand if not paid till fifteen days after the period specified in sub-rule (2) of rule 14, it shall be recovered as arrears of land revenue under the provisions of sub-section (7) of Section 6 of the Ordinance.

18. Powers of Patwari/Tapedar/Qanungo/Supervisor and Ushr Circle Revenue Officer.- Subject to the provisions of the Ordinance and rules, the Parwar/Tapedar/Qanungo or, as the case may be, Supervisor and Ushr Revenue Officer shall have power to:-

- (a) assess the amount payable on account of Ushr in the estate;
- (b) call from an assessee any information relevant for the determination of Ushr demand;
- (c) enter upon the land of an assessee for the purpose of assessment of Ushr; or
- (d) take any other step or measure incidental to or necessary for the assessment or collection of Ushr.

19. **Construction of reference to assessment.**- All references in these rules to assessment shall in cases where apportionment under sub-section (2) of Section 6 of the Ordinance is involved, be construed as reference to appointment.

20 **Inspection for the purpose of verification of assessment and collection of Ushr approved by the Ushr Circle Revenue Officer.**- Subject to the provisions of the Ordinance and rules, the representative of Provincial Revenue Department or the Central Zakat Administration may visit the concerned areas for the purpose of verification of assessment of Ushr approved by the Ushr Circle Revenue Officer and its collection.

21. **Power to issue instruction.**- The Board of Revenue in consultation with the Central Zakat Administration may, for the guidance of Revenue Officers and the Revenue staff, from time to time, issue instructions relating to assessment and collection of Ushr:

Provided that such instructions shall not be inconsistent with the provisions of the Ordinance and the rules made there under:-

22. **Repeal.**- The Punjab Ushr (Assessment and Collection) Rules, 1983, the Sindh Ushr (Assessment and Collection) Rules, 1983, North-West Frontier Province Ushr (Assessment and Collection) Rules 1983, Baluchistan Ushr (Assessment and Collection) Rules, 1983 and the Ushr (Assessment and Collection) Rules 1983 as applicable to Islamabad Capital Territory are hereby repealed.