

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR**  
Law, Justice, Parliamentary Affairs and Human Rights Department  
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"Muzaffarabad"  
Dated: 02.06.2021

No. LD/Legis-Act/258-72/2021. The following Act, passed by the Azad Jammu and Kashmir Legislative Assembly on 27<sup>th</sup> day of May, 2021 and received the assent of the President on the 31<sup>st</sup> day of May, 2021, is hereby published for general information.

[Act XI of 2021]

An

Act

to make a law in pursuant to Article 49 of the Azad Jammu and Kashmir Interim Constitution, 1974 for the purposes hereinafter appearing;

*Whereas*, it is expedient to lay off recurrent and customary modes of appointments which, from time to time, made, though in the public interest, in the form of contract employment for execution or implementation of development schemes or programs or persons were appointed on adhoc basis as stop gap arrangement or through irregular manner on temporary basis against budgetary posts, but, such employment continued and prolonged over years from the past and consequently caused prevailing uncertainties which adversely affecting the efficacy and performance of civil service of Azad Jammu and Kashmir;

*And whereas*, it is imperious to surcease sufferings and hardships faced by aforesaid categories of employees having a fearful deprivation of their continuing means of livelihood even after serving to the government since several years in lifetime through warrantable legislative method for providing safeguards to their basic right to life including livelihood for such employees on the rational and reasonable classification for just and equitable purposes;

*It is, therefore*, necessary to provide a law for regulation of the services of aforesaid certain categories of appointments;

It is hereby enacted as follows:-

1. **Shot title, Extent and Commencement.** (1) This Act may be called the Azad Jammu and Kashmir Regulation of the Services of Certain

Categories of Contractual, Adhoc or Temporary Government Employment (Terms and Conditions) Act, 2021.

(2) It shall come into force at once.

2. **Definitions.**- (1) In this Act, notwithstanding anything contained in Section 2, 3 and 4 of Azad Jammu and Kashmir Civil Servant Act 1976 (Act VI of 1976) and Section 2 of Azad Jammu and Kashmir Public Service Commission Act 1986 (Act XVII of 1986) and unless there is anything repugnant in the subject or context:-

- (a) **"Act"** means the Azad Jammu and Kashmir Regulation of the Services of Certain Categories of Contractual, Adhoc or Temporary Government Employees (Terms and Conditions) Act, 2021;
- (b) **"Appointee or Employee"** means a person appointed on adhoc or contract or temporary basis by the competent authority but having requisite qualification and experience for the post either prescribed under Departmental Service Rules or criteria fixed by the competent authority keeping in view the job description and nature of service concerned before making such appointment but excluding persons who were appointed on daily-wages and work-charges basis;
- (c) **"Civil Servant"** shall have the same meaning as assigned to it under the Azad Jammu and Kashmir Civil Servants Act, 1976 and rules made thereunder.
- (d) **"Contract or Adhoc or Temporary Appointment"** means mode of appointments made by the competent authority of a duly qualified person to a post carrying basic pay scale 1 to 18 whether adhoc, on contract or temporary basis against regular budgetary posts or made available under any development scheme or program, which posts are brought on normal budget before the commencement of this Act.
- (e) **"Government"** means the Azad Government of the State of Jammu and Kashmir;

- (f) "Policy" means any policy or instructions issued by the "Competent authority" from time to time providing procedure for appointment to any post, service or cadre.
- (g) "Post" means the post held by appointee or employee in any Government department and includes the post which though initially created for a project under any department but subsequently objectives of the scheme or project were turned into regular or transformed on the normal budget as routine business under the department concerned.

(2) The words and expressions used but not defined in this Act shall bear the same meanings as they assigned to them in the Azad Jammu and Kashmir Civil Servant Act 1976 and Azad Jammu and Kashmir Public Service Commission Act, 1986 and the Rules framed thereunder or any policy of the Government;

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**Regularization of Service of Certain Employees.**- Notwithstanding anything contained under the provisions of Azad Jammu and Kashmir Public Service Commission Act, 1986 and the Azad Jammu and Kashmir Civil Servants Act, 1976 and Rules framed thereunder, or any other law or policy for the time being in force or any judgment or order of the Court including Supreme Court of Azad Jammu and Kashmir or High Court of Azad Jammu and Kashmir, the following categories of appointees or employees who have been rendering service in any government department or statutory institution body or on contractual basis and also,-

- (i) holding posts of carrying; basic pay scale 1 to 18 who were appointed on Adhoc basis/contract/temporary as stop-gap arrangement but such employment continued in the public interest till enforcement of this Act;
- (ii) were appointed on contract basis against the posts created for execution and implementation upon objectives and targets of any development scheme or project or program which also continued until posts were brought on normal budget till commencement of this Act;

Provided that the development projects and schemes of Government of Pakistan which have been transferred to the Government shall also be included for the purposes of this Act;

- (iii) were appointed against the posts which were made available on establishment of any statutory institution or body under any special law initially authorized to make appointments to make such statutory institution as functional and to run affairs of such institution or body in view of express provision of special law to make such recruitment without referring to the public service commission or gone through selection process either under prescribed rules or before framing of rules or regulations but with approval of competent authority and such appointees or employees continued in the service of such an institution or body concerned till enforcement of this Act;
- (iv) were appointed on temporary basis against budgetary posts but such employees continued in such service with satisfactory performance till enforcement of this Act; and
- (v) were appointed on adhoc, contract or temporary basis who are allowed to continue services as such but their extensions orders are yet not issued due to any reason whatsoever;

shall be deemed to have been regularly selected and appointed on regular basis from the date of commencement of this Act and shall always be deemed to have been so appointed subject to the following terms and conditions:-

- (a) Appointee or employee was/is possessing such requisite qualification and experience as prescribed or criteria fixed for the post held by him, under departmental service rules enforced at the time of recruitment;
- (b) The Public Service Commission or Selection Board has, in respect of the posts held by such employee, neither completed the selection process nor yet recommended any other person for regular appointment against the post concerned, on or before the commencement of this Act;

(c) Employees whose services have been declared as regularized under this Act shall rank junior to all civil servants belonging to same service or cadre, as the case may be, who are in service on regular basis on the commencement of this Act, and shall also rank junior to such other civil servants, if any, who, in pursuance of the recommendations made by Public Service Commission or Selection Board or selection committee or as the case may be made before the commencement of this Act;

(d) Inter-se-seniority of the Employees whose services have been regularized under this Act, within the same service or cadre, shall be determined on the basis of their continuous officiation in such service or cadre, or on the principle of order of merit or on the principle of older in age as the case may be;

(e) The rules already in force relating to the service of the department concerned in which the employee is appointed, shall apply to them for the purpose of promotion and allied matters.

4. **Implementation Process of Regularization:-** (1) In order to ensure lawful compliance with Section 3 above, the Departmental Selection Boards, in case of posts carrying basic pay scale 16 to 18 and Departmental Selection Committees concerning posts BS-1 to 15 within fifteen days of commencement of this Act, shall scrutinize the employees appointed, from time to time, on adhoc, contract or temporary basis, whose services have been declared as regularized under Section 3 *ibid*.

(2) After completion of process by such boards or committees as the case may be, which made compulsory under sub-section (1) above, within three days or earlier, shall furnish the cases to the competent authorities concerned in view of pay scale of the posts, for approval and issuing appointment orders of such employees who have been found as to matching to requisite qualification and experience.

(3) In case, an appointee does not having either requisite qualification or not fulfilling any conditions mentioned hereinabove in Section 3, shall immediately be discharged from such employment without having entitlement to legal recourse.

(4) If any requisition already sent by the department or statutory institution or body concerned to the Public Service Commission or any other designated selection authority for selection purposes, before the commencement of this Act and such post was/is otherwise held by employee on adhoc, contract or temporary basis but selection process could not be completed till enforcement of this Act, such requisition shall stand withdrawn immediately from public service commission or selection authority concerned. The department or institution concerned shall urgently intimate to the Commission or Selection authority concerned not to act upon such previous requisition concerning a post which is held by appointee or employee who has been regularized under this Act.

5. **Immortalization of Adhocism in Service.**- The Secretaries or Heads of the Departments or Statuary bodies or institutions shall prevent immortalization of adhocism or temporariness, except under the circumstances warranted by law, in the service structure of their departments or bodies or institutions in future. They shall make sure the strict compliance with provisions of service laws or special enactments within their organizations while making recruitment in the prescribed manner and also ensure regular method of recruitment to achieve outlined objectives of this law.

6. **Overriding Effect:** Notwithstanding anything contained in any other law for the time being in force, the provisions of this Act, shall have overriding effect and provide protection to the rights of the employees who have been regularized under this Act.

  
2/06/2024  
(Gulfraz Ahmed Khan)  
Section Officer (Legislation)