

THE AZAD KASHMIR CIVIL DEFENCE ACT, 1951.

Whereas it is expedient to provide for special powers to secure the civil defence of the State, it is hereby enacted as follows :-

1. **Preamble:-** (i) This Act shall be called the Azad Jammu and Kashmir Civil Defence Act, 1951.
 - (ii) It shall extend to the whole of the Azad Jammu and Kashmir territory.
 - (iii) It shall come into force at once.

2. **Definitions:-** In this Act and the rules or orders made thereunder:-
 - (a) "Government" shall denote the Azad Jammu and Kashmir Government.
 - (b) "State" shall denote the Azad Jammu and Kashmir State.
 - (c) "Civil Defence Services" and "A.R.P. Services (Air Raid Precautions Services)" shall denote the services set up by the Government for the defence of the State and shall include wardens services, fire-fighting service, casualty services, rescue and demolition services, control and communication services, A.R.P. depots and training services first aid and ambulance services, Azad Jammu and Kashmir Razakars, and such volunteer or other organizations as Government may, by notification in the official gazette, declare to be a part of such services.
 - (d) "enemy" shall mean any persons or state at war with the Azad Jammu and Kashmir State.
 - (e) "prohibited area" shall mean any area in respect of which the military authorities impose, from time to time restrictions upon the movements of persons within that area.
 - (f) "Prohibited place" shall mean a prohibited place as defined in the Official Secret Act.

- (g) "protected place" shall mean a place or class of places in respect of which Government consider it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons and declare by notification in the official gazette that place or, as the case may be, every place of that class to be a protected place, and thereupon the provisions of the Official Secrets Act shall have effect in relation to such place or places as if the references therein to a prohibited place were construed as references to protected place.
- (h) "protected areas" shall mean areas declared by Government as such by rules or orders made under this Act and published in the official gazette in which Government consider it necessary or expedient to regulate the entry of persons.
- (i) "foreigner" shall mean any person or class of persons as defined in the Foreigners Act or Rules there-under.
- (j) "essential commodity" shall mean food, water, fuel, light, power or any other thing essential for the existence of the community which is notified in this behalf by Government.
- (k) "prejudicial act" shall mean :-
- (i) any act which is intended or likely to prejudice the State's relation with or maintenance of peaceful conditions with any other power or any Acceding territory ;
 - (ii) to cause disaffection among or to prejudice, prevent or interfere with the discipline, health or training of, or the performance of their duties, by members of the armed forces of the State or the public servants;
 - (iii) to prejudice the recruiting of, or the attendance of persons in any of the armed forces or civil defence services and A.R.P. services of the State ;
 - (iv) to cause fear or alarms to the public, to any section of the public, to undermine public confidence in the State in any way, to encourage or incite any person or class of persons, or the public generally, to refuse or defer payment of any land revenue, taxes, rates, cesses or

other dues or amounts payable to Government or any local authority ;

(v) to influence the conduct or attitude of public or of any section of the public in a manner likely to be prejudicial to the defence of the State ;

(vi) otherwise to prejudice in any way the efficient defence of the State or the public safety or interest ;

(1) "confidential information" includes any information whether true or false ; or any document or other record whatsoever containing or purporting to contain, or calculated directly or indirectly to convey, any information whether true or false with respect to any of the following matters, that is to say :-

(i) the unpublished proceedings of any meeting of the Council of Ministers or of any meeting of its Officers;

(ii) the contents of any secret or confidential document belonging to, or the contents of any document which has, in confidence, been communicated by, or any confidential information obtained from Government or any persons in the service of Government, or public servant and relating to any of the aforesaid matters.

3. **Power to make rules:-** (1) The Government may, by notification in the official gazette, make and enforce such rules or orders as appear to it to be necessary or expedient for securing the civil defence of the State.

(2) Without prejudice to the generality of the powers conferred by sub-section (1) such rules or orders may provide for all or any of the following matters, namely :-

(i) the constitution, enrolment, discipline, powers, duties, privileges and protection of Civil Defence services ;

(ii) measures for preventing and dealing with the outbreaks of fire;

(iii) the protection of private and public buildings, factories, mines and public utility undertakings ;

- (iv) control over supply of essential commodities and public utility undertakings, including water and electricity this will include rationing and control of prices ;
- (v) the construction of shelters and safety measures to protect persons, property and records and forcing people to dig trenches and perform demolition or other essential works connected with civil defence and conscription of labour therefore ;
- (vi) the control of traffic, lights, sounds and vehicles ;
- (vii) requisition of property and acquisition thereof for purpose of Civil Defence - this shall include lands, buildings, accommodation of all kinds, transport (both vehicular and animal) machinery and other material ;
- (viii) conferment of enhanced powers on Police, Magistrates and other officials including Azad Jammu and Kashmir Razakars;
- (ix) prohibition of acts likely to prejudice the training, discipline, health, or safety of the armed forces of the State, and prevention of attempts to tamper with the loyalty of the persons or to dissuade persons from entering the service of the State; and unauthorised wearing or display of uniforms or emblems ;
- (x) conscription of persons trained in Civil Defence or A.R.P. measures ;
- (xi) prevention of anything likely to assist the enemy or to prejudice the successful defence of the State, including:
 - (a) communication with the enemy or agents of the enemy ;
 - (b) acquisition, possession, without lawfull authority or excuse and publication of information likely to prejudice the successful defence of the State.
- (xii) prevention of the spread of false reports, likely to cause disaffection or alarm ;
- (xiii) requiring any person or class of persons to comply with a scheme of Civil Defence of the State ;

- (xiv) control of persons entering, departing from or travelling in the State and of foreigners residing or being in the State ;
- (xv) prohibiting or regulating the use of postal, telegraphic wireless or telephonic services, including the taking possession of such services and the delaying, seizing, intercepting or interrupting of postal articles or telegraphic, wireless or telephonic messages ;
- (xvi) regulating the delivery, otherwise than by postal or telegraphic service, of postal articles and telegrams ;
- (xvii) the control of any road or pathway, waterway, ferry or bridge, river, canal or other source of water supply, prohibited areas, prohibited places, protected areas, protected places ;
- (xviii) preventing the disclosure of official secrets and confidential information ;
- (xix) prevention of the unauthorised change of names ;
- (xx) arrest, detention and control of suspected persons and taking their photographs, thumb impressions and handwriting specimens ;
- (xxi) control over publications and destruction and prohibition of the entry of literature prejudicial to the security of the State and arrest, detention and punishment of those possessing it ;
- (xxii) prevention of sabotage and arrest, detention and punishment of offenders and suspects ;
- (xxiii) prohibition of meetings or processions and securing of reports thereof ;
- (xxiv) issue of search warrants and general powers of search and power to give effect to orders etc.
- (xxv) power to requisition and acquire arms and ammunition and make such use of the same as may be necessary for the defence of the state and to require registration of arms and ammunition for the said purpose ;

- (xxvi) controlling the possession, use or disposal of or dealings in, coin, bullion, bank notes, currency notes, securities or foreign exchange ;
- (xxvii) prohibiting or regulating the possession, use or disposal of :-
 - (a) explosives, inflammable substances, arms and ammunitions of war ;
 - (b) wireless telegraphic apparatus, or any other apparatus capable of transmitting messages ;
 - (c) aircraft; and
 - (d) photographic and signalling apparatus and any means of recording information ;
- (xxviii) imposition of collective fines and punishment for instigation of non payment of dues ;
- (xxix) any other measures that the Government may, by notification in the official gazette, declare necessary for the security and the defence of the State.

4. **Ordinary avocations of life to be interfered with as little as possible:-** An authority or a person acting in pursuance of this Act shall interfere with the ordinary avocations of the life and the enjoyment of property as little as may be consonant with the purpose of ensuring the interests, safety and the defence of the State.
5. **Savings orders:-** (1) No proceeding or order taken or made under this Act shall be called in question by any court, and no civil or criminal proceeding shall be instituted against any person or anything done or intended to be done under this Act or against any person for any loss or damage caused to or in respect of any property possession whereof has been taken under this Act ;
 - (2) Nothing contained in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence punishable under this Act.
 - (3) Any order made, and any other action taken, under this Act shall have effect notwithstanding anything inconsistent therewith

contained in any enactment other than this Act or in instrument having effect by virtue of any enactment other than this Act.

(4) Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Act, the court shall, within the meaning of the Azad Jammu and Kashmir Evidence Act, presume that such order was so made by that authority.

6. **Compensation to be paid in accordance with certain principles for compulsory acquisition of immovable property etc.:-**

Where under section 7 or under any rule made under this Act any action is taken for the compulsory acquisition for public purposes of any land or any commercial or industrial undertaking or other property, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say:

- (a) Where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement ;
- (b) Where no such agreement can be reached, the Azad Jammu and Kashmir Government shall appoint an arbitrator provided that no such person shall be appointed as an arbitrator unless he is a law graduate or a Bar-at-Law, or has at least 5 years standing as a Judicial officer not inferior to that of a subordinate Judge or Judge of a Small cause Court;
- (c) The Government may, in any particular case, nominate a person having expert knowledge of the kind of property which has been acquired, to be an assessor to assist the arbitrator and where such nomination is made, the persons to be compensated may also nominate an assessor for the said purpose ;
- (d) At the commencement of the proceeding before the arbitrator the Government and the person to be compensated shall, state what, in their respective opinion, is a fair amount of compensation;
- (e) The Arbitrator in making his award shall have regard to :-

- (i) the provisions of sub-section (1) of section 23 of the Land Acquisition Act so far as the same can be made applicable ; and
- (ii) whether the acquisition is of a permanent or temporary character ;

Provided that where any property requisitioned under any rule made under this Act is subsequently required under section 7 or any such rule, the arbitrator in any proceedings in connection with such acquisition shall, for the purposes of the provisions of the said section 23 take into consideration the market value of the property at the date of its subsequent acquisition;

- (f) An appeal shall lie to the Azad Jammu and Kashmir High Court against the award of an arbitrator except in cases where the amount awarded does not exceed an amount prescribed in this behalf by rule made by the Government.
 - (g) Save as provided in this section and in any rules made there-under, nothing in any law for the time being in force shall apply to arbitrations under this section.
- (2) The Government may make rules for the purpose of carrying into effect the provisions of this section.
- (3) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe.
- (a) the procedure to be followed in arbitrations under this section;
 - (b) the principles to be followed in apportioning the costs of proceedings before the arbitrator and on appeal ;
 - (c) the maximum amount of an award against which no appeal shall lie.

7. **Power to acquire requisitioned property:-** (1) Without prejudice to any power to acquire property conferred by any rule made under this Act, any immovable property which has been requisitioned under any rule so made may, in the manner provided by such rules for the acquisition of property, be acquired in the circumstances hereinafter specified, namely :-

(a) Where any works have, during the period of requisition been constructed on, in or over property wholly or partly at the expense of the Government such works shall by means of the acquisition of the property be preserved or secured for the purpose of the Government ;

(b) At the beginning of the day on which notice of such acquisition is served or published under the aforesaid rule; the immovable property shall vest in the Government free from any mortgage, pledge, lien or similar encumbrance and the period of requisition thereof shall end.

(2) Any decision or determination of the Government under subsection (1) shall be final and shall not be called in question in any court.

(3) For the purpose of this section. "Works" includes buildings, constructions and improvements of the property of every description.

8. **Release from requisition:-** (1) Where any property requisitioned under rules made under this Act is to be released from such requisition, the Government or any person generally or specially authorised in this behalf may, after such enquiry, if any, as it or he may in any case consider it necessary to make or cause to be made, specify by order in writing the person to whom possession or the property shall be given.

(2) The delivery of possession of the property to the person specified in an order under subsection (1) shall be a full discharge of the Government from all liabilities in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

9. **Transfer or Powers:-** The Government may, by notification in the official Gazette, direct that all or any of the powers or duties which, under the provision of this Act or rule, made thereunder, are conferred or imposed upon it shall be exercised or discharged by any officer or authority subordinate to it.

10. **Public Servants:-** All persons lawfully engaged on duties in the various branches of civil defence services, the Air Raid

Precautions services and Azad Razakars shall, while performing those duties as such be deemed to be public servants within the meaning of section 21 of the Penal Code in force in Azad Jammu and Kashmir Territory and shall be subject to the law for the time being in force for preservation of official secrets.

11. **Power to give effect to rules, orders etc.:** (1) Any authority, officer or person who is empowered by or in pursuance of this Act or the Rules or orders made thereunder, to exercise any other power may, in addition to any other action prescribed by or under this Act, Rules, or orders take, or cause to be taken, such steps and use, or cause to be used, such force as may, in the opinion of such authority, officer or person, be reasonably necessary for securing compliance with, or for preventing or rectifying any contravention of such order, or for the effective exercise of such power.
- (2) Where in respect of any of the provisions of this Act or rules or orders thereunder there is no authority, officer or person empowered to take action under sub-rule (1) the Government may take, or cause to be taken, such steps and use, or cause to be used, such force as may in the opinion of the Government be reasonably necessary for seeming compliance with, or preventing or rectifying any breach of such provisions.
- (3) The power to take steps under sub-section (1) or under sub-section (2) includes the power to enter upon any land or other property whatsoever.
12. **Saving in respect of Military Forces and Officers of Azad Govt.:-** Nothing in this Act or the rules made thereunder shall in any way interfere with the control and supervisory duties and functions of the various officers of Government over their respective subordinates or the provisions of the Rules of Business of the Government or the work and activities of the Military Forces or the Air Force engaged in the defence of the State.
13. **Sabotage:-** (1) No person shall do any act with intent to impair the efficiency or impede the working of, or to cause damage to:
- (a) any building, vehicle, machinery, apparatus or other property used, or intended to be used for the purpose of Government or any local authority ;

- (b) any road, canal, bridge, culvert, cause-way, aerodrome or any telegraph, telegraph line as defined in the Telegraph Act or any wireless installation ;
- (c) any air-craft ;
- (d) any building or other property used in connection with the production distribution or supply of any essential commodity, or any sewage work, mine or factory ;
- (c) any prohibited place or protected place declared as such by the Government or other authority authorised by the Government in this behalf by notification in the official Gazette.

(2) The provisions of sub-section (1) of this section shall apply in relation to any omission on the part of a person to do anything which he is under a duty, either to Government or to any public authority or to any person, to do as they apply to the doing of any act by a person.

(3) If any one approaches or is in the neighbourhood of any such building, place or property as is mentioned in sub-section (1), in circumstances which afford reason to believe that he intends to contravene that sub-section, he shall be deemed to have attempted a contravention thereof.

(4) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to 7 years or with fine or with both.

14. **Receiving of sabotaged property:-** (1) In this section 'sabotaged property' means property the possession of which has been transferred by or in consequence of, any such act as is referred to in sub-section (1) of Section 13.

(2) If any person dishonestly receives or retains, or voluntarily assists in concealing or disposing of or making away with, any sabotaged property, knowing or having reason to believe, the same to be sabotaged property, he shall be punishable with imprisonment for a term which may extend to 7 years or with fine, or with both.

15. **Interference with postal and telegraphic communications:-**
(1) No person shall knowingly :

(a) cause interference with the sending or receiving of communications by post, telegraphy (including wireless telegraphy) telephony (including wireless telephony) or television ; or

(b) intercept any postal telegraphic or telephonic communication.

(2) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to 5 years or with fine or with both.

16. **Communications with persons engaged in assisting the enemy:-** (1) No person having reasonable cause to believe that any other person is engaged in assisting the enemy, shall communicate or associate with that person.

(2) In any proceedings taken by virtue of sub-section (1), it shall be a defence for the accused that the purpose of the communication or association in question was not prejudicial to the defence of Azad Kashmir, or to the public safety.

(3) If any person contravenes any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

17. **Punishment for contravention of the Act and Rules or orders thereunder with intent to wage-war against the state or to assist the enemy:-** If any person with intent to wage-war against the State or to assist the enemy at war with the State contravenes any provision of the act or the rules thereunder, he shall be punishable with death or transportation for life or imprisonment for a term which may extend to 10 years, and shall also be liable to fine.

18. **Procedure of trials and cognizance of offences:-** (1) All offences against this Act or the rules or orders made thereunder shall be cognizable and non-bailable, and shall notwithstanding anything in the Code of Criminal Procedure in force in the Azad Kashmir Territory, be tried in accordance with the procedure prescribed for the trial of summons' cases by Chapter XX of the said Code.

(2) No court shall take cognizance of an offence under this Act except :-

(a) upon a report in writing of the facts constituting such offence made by any Police officer ; or

(b) upon a complaint in writing of such acts made by a public servant of status to be prescribed by the Government and notified in the official gazette.

19. **Imposition of collective fine in disturbed area:-** (1) The Government if satisfied that the inhabitants of any area have been concerned in the commission, abetments or attempts of offences against the provisions of this Act and the Rules thereunder or have been harbouring persons concerned in the commission of such offences or acts may impose a collective fine on the inhabitants, of that area;

(2) The Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) Subject to confirmation by the commissioner the District Magistrate, after such enquiry as he may deem necessary, shall apportion the fine imposed under sub-section (1) among the inhabitants who are liable collectively to pay and such apportionment shall be made accordingly to the District Magistrate's judgement of the respective means of such inhabitants.

(4) (i) The portion of such fine payable by any person may be recovered from him as a fine under the Code or as arrears of land revenue ;

(ii) without prejudice to the generality of the foregoing power, in particular, the District Magistrate may forthwith recover such fine payable by any person by seizure and sale of his entire movable property and uncut or ungathered crops.

Explanation :- For the purpose of this section the 'Inhabitants' of an area include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area ; and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

20. **Emergency appointments:-** (1) In this section, "District Magistrate" includes an officer exercising the powers and

performing the duties of the District Magistrate by virtue of section 11 of the Code of Criminal Procedure.

(2) If in any district an officer serving in connection with the affairs of the Province dies or is for any reason unable to perform the duties of his office and the District Magistrate is satisfied that a reference to the authority competent to make appointments to the office is by reason of military operations or other special circumstances effecting the province likely to cause undue delay, the District Magistrate may appoint to the office any person who is already in the service of the Government and such person shall be deemed, for the purpose of any law for the time being in force including this rule, to have been duly appointed to the office.

21. **Power to impose civil duties on movements of the Government:-** (1) The Government may, if it considers it necessary or expedient so to do, for securing the defence of the State, the public safety or the maintenance of public order or for maintaining supplies, essential commodities, by general or special order, require any person or class of persons in the civil service of the State to perform such civil duties within the jurisdiction in which such person or persons are for the time being serving as may be specified in the order.

(2) Any person to whom an order made under sub-section (1) applies shall, notwithstanding that he subsequently ceases to be in such service, continue to perform the duties imposed on him by the order until he is relieved therefrom by competent authority.

(3) If any person contravenes the provisions of any such order he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

22. **Offences committed by corporation or associations:-** Where the person committing an offence punishable under this Act or the rules framed thereunder is a corporation, company bank or association of persons any secretary, director or other officer or person concerned with the management thereof shall be punishable with the punishment provided for the offence unless he proves that the offence was committed without his knowledge or consent.

23. **Abatements, attempts, & preparation to commit offences:-** Any person who attempts to contravene or abets, or attempts to

abet, or does any act preparatory to a contravention of any of the provisions of this Act or of any rules or order made thereunder shall be deemed to have contravened that provision or as the case may be, that order and be punishable with the punishment provided for the offence.

24. **Special provision regarding bail:-** Notwithstanding anything contained in the Code of Criminal Procedure no person accused or convicted of a contravention of this Act, or the rules or orders made thereunder shall, if in custody be released on bail or on his own bond, unless :-
- (a) the prosecution has been given an opportunity to oppose the application for such release, and
 - (b) where the prosecution oppose the application and the contravention is of any such provision of these rules or orders made thereunder as the Government may by an order notified in the official gazette specify in this behalf, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such contravention.
25. **Burden of proof in certain cases:-** Where any person is prosecuted for contravening any of the rules or orders made thereunder which prohibit him from doing an act or being in possession of a thing without lawful authority or excuse or without a permit, license, certificate or permission, the burden of proving that he had such authority or excuse or as the case may be, the requisite permit, license, certificate or permission shall be on him.
26. **General:-** Whoever contravenes any provision of this Act or rules framed thereunder or disobeys or neglects to comply with any order made or direction given in accordance with the provisions of this Act and the rules shall, where no express provision is made by this Act; for the punishment of such contravention, disobedience or negligence, be punishable with imprisonment which may extend to five years, or with fine or with both.
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