

**THE PUBLIC OFFICE (MISCONDUCT) ORDINANCE, 1965
(Ordinance I of 1965, dated 20th August, 1965)**

*(Passed under Government Order No. SS\Ordinance\l-33\Home\65,
dated 20th August 1965)*

WHEREAS it is necessary to provide for inquiry into and trial of the offence of misconduct committed by a person while holding a public office and matters incidental thereto;

AND WHEREAS the State Council is not in session ;

Now, THEREFORE, in pursuance of the provisions of Rule 2 of the rules made under the Azad Jammu and Kashmir Government Act, 1964 the President Azad Government of the State of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. (1) This Ordinance may be called the Public Office (Misconduct) Ordinance, 1965.

(2) It extends to the whole of Azad Jammu and Kashmir Territory.

(3) It shall come into force at once.
2. In this Ordinance, unless there is anything repugnant in the subject or context:
 - (a) 'Code' means the Code of Criminal Procedure, 1898 (Act V of 1898);
 - (b) 'Elective body' means any assembly, Board, Committee, local Council, municipal body or any other body or institution, by whatever name called, constituted or established by or under any law for the time being in force, of which the constituent members are wholly or partly chosen by means of election;
 - (c) 'Inquiry Officer' means an Officer appointed under section 3 to investigate and inquire into the offence of misconduct;
 - (d) 'Misconduct' means any subversive activity, the preaching of any doctrine or the doing of any act which contributes to political instability bribery, corruption, jobbery, favouritism, nepotism, wilful maladministration, wilful misapplication or

diversion of public money or moneys collected whether by public subscription or otherwise or any other abuse of whatsoever kind of power or position and any attempt at, or abetment of, such misconduct; and

(e) 'Special Court' means the Special Court constituted under section 6.

3. Where there is reasonable suspicion that a person who, at any time after the 15th day of October, 1958, has held any office, post or position including the membership of an elective body, under or in connection with the affairs of the Azad Government of the State of Jammu and Kashmir has committed the offence of misconduct, the Government may appoint a Police Officer of appropriate rank to investigate and inquire into the misconduct of such person.
4. The Inquiry Officer shall have all the powers of a Police Officer under the Code of Criminal Procedure for investigation of cognizable cases and shall also have the power to arrest an accused person without warrant.
5. (1) On the conclusion of the inquiry the Inquiry Officer shall submit a report to the Government recording therein his findings.

(2) Upon the receipt of the report from the Inquiry Officer, if the Government is of the opinion that there is a *prima facie* case, the Inquiry Officer may be directed by the Government to produce the accused before the Special Court constituted for trial under this Ordinance.
6. (1) The Special Court shall consist of a Judge of the High Court appointed in this behalf by the President.

(2) For the purpose of the trial of an offence of misconduct the Special Court shall be deemed to be a Court of Session and, notwithstanding anything contained in the Code, shall take cognizance of the offence of misconduct, without the accused being committed to it for trial.

(3) Where the Special Court takes cognizance of an offence under subsection (2), then, notwithstanding anything contained in the Code, the Special Court shall try the case, without the aid of a jury or assessors, and in trying the case shall follow, as far as may be and subject to rules, if any, made under section 8, the

procedure, prescribed for the trial by Magistrates of summons cases.

(4) The Special Court may, if in its opinion it is necessary in the public interest so to do, and shall, if the Government so directs, exclude the public from its proceedings.

(5) Where after the conclusion of the trial the Special Court finds the accused person guilty of misconduct it may pass a sentence of fine or of imprisonment for a term not exceeding three years or of both.

(6) The offence of misconduct shall be cognizable and non-bailable.

7. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force and a person liable to punishment under this Ordinance shall not thereby be saved from liability under such other law.
 8. The Government may make rules for carrying out the purposes of this Ordinance.
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