

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the August 16, 1976.

No. 3656/SL/76. The following Ordinance made by the President on the 12th day of August, 1976, and is hereby published for general information .-

(ORDINANCE IV OF 1976)

AN ORDINANCE to provide law to empower the Government to exercise control over Industrial establishment in public, semi-public or private sector in Azad Jammu and Kashmir and to safeguard interests of the Government in Industrial Estates and Artisan Workshops set up by it, and to regulate their functioning.

WHEREAS it is expedient to provide law to empower the Government to exercise control over Industrial establishments in public, semi-public or private sector in Azad Jammu and Kashmir and to safeguard the interests of the Government in Industrial Estates of and Artisan Workshops set up by it, and to regulate their functioning in the manner hereinafter appearing ;

AND WHEREAS the Legislative Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by Section 41 (1) of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent and commencement.-** (1) This Ordinance may be called the Azad Jammu and Kashmir Industries Control and Establishment of Industrial Estates and Artisan's Workshops Ordinance, 1976.

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

(3) It shall come into force at once and shall be deemed to have taken effect on and from the 1st day of July, 1965.
2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context,

- (a) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (b) 'Department' means the Department of Industries of Azad Government of the State of Jammu and Kashmir;
 - (c) 'Director' means the Director of Industries appointed by the Government;
 - (d) 'Officer' means an officer of the Industries Department of Azad Government of the State of Jammu and Kashmir;
 - (e) 'Artisan Workshops' means buildings constructed by the Government at its own expense on the land owned by it, whether equipped with machinery or not for allotment on hire purchase basis, for setting up of an Industry ;
 - (f) 'Industrial Estate' means an estate established or managed by the Department of Industries to provide land and other facilities for the establishment and development of large, medium, small and cottage Industries ;
 - (g) 'Industry' means any business, trade, manufacture, calling, service, employment or occupation, carried on by private parties or set up by the Government for private parties or set up by Semi-Government Agency ;
 - (h) 'Loan' means any amount granted to a borrower by the Government in cash or in kind or in the shape of buildings or land in the Industrial Estates or Artisan Workshops or machinery and equipment on ease or on hire purchase or on outright sale basis ;
 - (i) 'Agreement' means a deed containing terms and conditions in respect of the loan executed by the borrower in favour of the Government;
 - (j) 'Borrower' means any person or persons or body of persons whether incorporated or not, to whom loan is granted by the Government;
 - (k) 'Rule and Bye-laws' means rules framed under this Ordinance.
3. **Restrictions on establishment and enlargement of Industrial under-takings.-** No person or body of persons corporated or

incorporated shall expand and modernise or cause to be expanded and modernised or establish or cause to be established any Industrial undertaking except with the prior permission in writing of the Government, provided that no permission will be necessary in cases where the total investment does not exceed Rs. 1,50,000/- and no foreign exchange is involved for raw material and equipment.

4. **Check on unauthorised establishment or enlargement of Industrial undertakings.-** Where the expansion and modernization or establishment of a new Industrial undertaking or enlargement of an existing industrial undertaking is likely to be commenced or has been commenced or has been completed in contravention of the provision of this Ordinance, the Government after giving the person responsible therefore an opportunity of being heard, may by order require him.-

- (i) to refrain from such establishment or enlargement or expansion and modernization; or
- (ii) to stop further construction and to remove the unauthorised undertaking or part thereof

and

the person concerned shall comply with the order within such period as may be specified.

5. **Power of obtaining information and of entry.-** For the purpose of giving effect to the provision of this Ordinance, the Government may ,-

- (i) by order in writing require any person to furnish such information or statistics relating to an industrial undertaking as may be specified in the order ;
- (ii) call for inspection and check any record and register pertaining to the accounts and production relating to the Industrial Unit;
- (iii) authorise any officer to enter an industrial undertaking for the purpose of inspection and issue any kind of instructions as may be deemed fit.

6. **Power to grant loans.-** (1) The Government may give loans to borrowers for the purpose of establishment or enlargement of large, small and cottage Industries and the same shall be repayable within such period and according to such terms and

conditions as may be specified. The Government will not be held responsible or sued in case the loan in does not yeild any profit or gain to the borrower or the borrower fails to make any profit, out of the loan for any reason.

Explanation.- Loans made by the Government may be in kind or cash, or in the form of buildings, or land in the Industrial Estates or Artisan's Workshops, or machinery and equipment or lease on outright sale or on hire purchase basis;

(2) No loan shall be made by the Government until it is secured by pledge, mortgage, hypothecation or assignment of such property movable or immovable and of such value in proportion to the loan as the Government may deem fit; provided that in the cases where a loan has already been granted, the borrower shall within a period of one month from the day this Ordinance comes into force, enter with the Government in proper agreement and comply with the requirements of this clause. Failure to do so will render the allottee liable to be ejected from the premises of the land, building or workshop as the case may be and payments made by him till then if any, be confiscated and workshop allotted to some other desirous party.

(3) At the time of entering into any transaction the Government may impose such conditions as it may think necessary or expedient for protecting its own interests and for securing, that the loan, under writing or other aid shall be put to the best use.

(4) Notwithstanding anything contained in any agreement or any law to the contrary; if

- (a) It is found that loan was contained by information supplied by the borrower which was false or misleading in any material particular; or
- (b) The borrower is found to have committed a breach of the terms and conditions of the agreement with the Government relating to the loan; or
- (c) Loan or any part of it is found to have been utilized otherwise than for the purpose for which it was granted; or
- (d) There is a reasonable apprehension that the borrower will be unable to pay his debts or may go into liquidation; or

- (e) The property pledged, mortgaged, hypothecated as security for the loan is not kept in a proper condition by the borrower or the property has depreciated in value and the borrower is not in a position to give additional security to the satisfaction of the Government; or
 - (f) Without the permission of the Government machinery or other equipment is removed from the premises of the borrower's industrial undertaking; or
 - (g) Without the permission of the Government the building, land or other property mortgaged as security for the loan is in any way disposed of; or
 - (h) If the allottee fails to pay five installments whether consecutively or otherwise during the period of hire as may be specified, the whole amount shall become recoverable in lump-sum on the expiry of the day on which the sixth installment becomes due;
 - (i) If it is found that the allottee has damaged the building for the machinery or any part thereof or the accessories etc, or the Land granted to him in the shape of loan;
 - (j) for any other reason, it is necessary in the opinion of the Government to protect its interests, the Government may, in writing call upon the borrower to pay the entire sum then remaining unpaid by the borrower in respect of the loan and the interest payable thereon or require the borrower to surrender the land, building, machinery and equipment or other material given to him by way of loan with such duration as may be deemed fit, and take possession of the industrial undertaking in question and lock the same until the requirements are complied with by the borrower.
- (5) Such notice shall specify the time within which the borrower is required to make the payment or surrender the factory building machinery and equipment or to carry out the directions given and shall also contain a warning that in case of failure to comply with the requirements or the notice, the borrower on expiry of the prescribed period shall become defaulter and the Government will be at liberty to take possession of the Artisan's Workshop or the factory as the case may be and the amount due from the borrower shall become recoverable from the borrower and his sureties jointly and severally their successors and assignees in case of death of the

borrower and sureties or any one of them, as arrears of land revenue.

(7) **Delegation of Powers.-** Government may, by notification in the Government Gazette, delegate its powers for the purpose of this Ordinance, to any officer or the officers of the Industries Department.

(8) **Penalty for contravention.-** Whoever contravenes the provisions of section 3, 4 and 5 of this Ordinance or the rules made thereunder or fails to comply with any order made thereunder or supplies incorrect information or obstruct any person in the discharge of his duties or functions under these provisions shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to Rs. 1,000/- or with both.

(9) **Cognizance of offence by Court.-** No Court shall take cognizance of any offence punishable under this Ordinance except on a complaint in writing made by the Director.

(10) **Indemnity.-** No suit or other legal proceedings shall lie against the Government, the Director or any person in respect of any thing which in good faith done or intended to be done under this Ordinance.

(11) **Power to make rules.-** Government may make Regulations and Bye-laws for carrying into effect the provisions of this Ordinance.

(12) **Ordinance to override other law.-** The provisions of this Ordinance and the rules and orders made thereunder shall have effect notwithstanding anything to the contrary contained in any other law, contract, instrument or document for the time being in force.

Sd/-

(Mohammad Ibrahim Khan),
President,
Azad Jammu and Kashmir, Muzaffarabad.

Sd/-

(Sardar Aftab Ahmad Khan)
Secretary Law & Parliamentary Affairs Secretariat
Azad Govt. of the State of Jammu and Kashmir.