

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW, JUSTICE, PARLIAMENTARY AFFAIRS AND HUMAN RIGHTS
DEPARTMENT MUZAFFARABAD**

Dated: 9th February, 2016

No. LD/Legis-Act/202-14/2016. The following Act of Assembly received the assent of the President on the 8th day of February 2016, is hereby published for general information.

(ACT XVII OF 2016)

**An
Act**

to provide a law for the establishment of the Clerks Foundation in Azad Jammu and Kashmir,

WHEREAS it is necessary to improve the financial and moral conditions of clerks of all departments of Azad Government of the State of Jammu and Kashmir.

It is hereby enacted as follows:-

1. **Short title, Extent and Commencement.**- (1) This Act may be called the Azad Jammu and Kashmir Clerks Foundation Act, 2016.
 - (2) It applies to all the members of Clerks Foundation.
 - (3) It shall come into force at once.
2. **Definition.**- In this Act unless there is anything repugnant in the subject or context:-
 - (a) "Act" means the Azad Jammu and Kashmir Clerks Foundation Act, 2016;
 - (b) "Beneficiaries" means all the Members of the Foundation;
 - (c) "Chairman" means the Chairman of the Board of Governors of the Foundation/Executive Committee;
 - (d) "Board" means the Board of Governors of the Foundation;
 - (e) "Committee" means the Executive Committee;
 - (f) "Dependents" means the wife, dependent parents, minor sons and unmarried daughters of the Beneficiaries;
 - (g) "Foundation" means the Clerks Foundation Azad Jammu and Kashmir;

- (h) “Member” means a person who is registered as such and regularly contributes towards the Clerks Foundation Fund;
- (i) “Clerks Foundation Fund” means the capital received through various sources for undertaking activities of the Foundation;
- (j) “Government” means the Azad Government of the State of Jammu and Kashmir (GoAJK); and
- (k) “Prescribed” means Prescribed by the rules made under the Act.

3. **Clerks Foundation.**-(1) There shall be established a Foundation to be known as the Clerks Foundation Azad Jammu and Kashmir.

(2) The employees of grade BPS-3 to 16 working in different Government departments as clerks shall be eligible to become Member of the Foundation on payment of the prescribed contribution of fee.

(3) Membership shall cease on the death or dismissal or retirement from service or on joining some other line of career.

(4) A retired clerk may also become Member of the Foundation, subject to the prescribed conditions.

(5) The membership of or interest in the Foundation shall not be transferable.

4. **Aims and objectives of the Foundation.**- The aims and objectives of the Foundation are as under;-

- (i) to provide the low cost accommodation to the Members;
- (ii) to extend and improve medical facilities for the Members and their dependents;
- (iii) to award scholarships to the Dependents of the Beneficiaries studying in Government and recognized educational institutions;
- (iv) to provide soft loan to the members on low interest rate;
- (v) to provide grants, in case of death or medical board of any of the Beneficiary;
- (vi) to provide grants, in case of marriage of the daughters and sons of the deserving Members;
- (vii) to provide jobs to the retired Beneficiaries; and

(viii) to do all such other things as are incidental or conducive to carry out the purposes and objectives of the Foundation.

5. **Clerks Foundation Fund.**-There shall be a Clerks Foundation Fund which shall constitute the capital of the Foundation raised from the following sources:-

- (i) Grant in aid provided by the Government;
- (ii) Monthly contribution of the Members towards the Foundation;
- (iii) Benevolent Fund (Gazetted B-16 or Non-Gazetted) of the clerks;
- (iv) Donations received from the philanthropists; and
- (v) Profits earned from the projects and deposits of the Foundation.

6. **Administration of the Foundation.**-(1) The Foundation shall be administered by a Board of Governors consisting of the following members by virtue of their office, namely:-

- (a) Secretary Services & General Administration Department, GoAJK Chairman
- (b) Additional Secretary Law, Justice, Parliamentary Affairs and Human Rights Department, GoAJK Member
- (c) Additional Secretary Finance Department, GoAJK Member
- (d) Additional Accountant General Azad Jammu & Kashmir Member
- (e) Elected Central President All Clerks Association AJ&K Member
- (f) District Presidents All Clerks Association AJ&K Member
- (g) Central Secretary General/ Additional Secretary General All Clerks Association AJ&K Member
- (h) Managing Director Clerk Foundation Member/Secretary

(2) The board shall have the powers and discretion to utilize, apply and invest the corpus of the Foundation and its income in

such manner as it may consider proper without prejudice to the generality of the powers, the Board may:-

- (a) Purchase, sell, endorse, transfer, negotiate or otherwise deal in securities of the Government or the Government of Pakistan and any other securities of any description;
- (b) Raise Loans for its various enterprises and undertaking and may for this purpose pledge, hypothecate or otherwise charge the corpus and the properties of the Foundation;
- (c) Enter into contracts, agreements, arrangements and execute necessary documents;
- (d) Open current or fixed overdraft, loan, cash, credit and other accounts with any bank as may be necessary and pay into and draw money from such accounts;
- (e) Subject to Law make, draw, endorse, sign, accept, negotiate and give all cheques, bill, orders, bills of exchange. Government securities, promissory notes, and other negotiable installments;
- (f) The Board may appoint committees or sub-committees to transact business and may delegate any of its functions to any such committee or any officer of such committee;
- (g) The Board shall have powers to create posts, appoint, remove or suspend such officers and servants for permanent, temporary or special service to work for remuneration or gratuity, as the Board may from time to time think fit and may determine their powers and duties in its discretion; and
- (h) The Board shall at all times conform to and abide by rules framed under Section 13 of the Charitable Endowment Act, 1890.

7. **Managing Director.**- (1) The Government shall appoint a Managing Director of the Foundation whose qualification and terms and conditions of service shall be such as may be determined by the Government.

(2) Subject to sub-section (3), the term of office of the Managing Director shall be three years but the Government may extend the same for a period not exceeding one year at a time.

(3) The Government may remove the Managing Director on the ground of inefficiency, unsuitability or misconduct after giving him an opportunity of being heard.

(4) The Managing Director shall be the Chief Executive of the Foundation and shall perform such functions as may be prescribed or assigned to him by the Board.

8. Powers and duties of the Chairman.- The Chairman Board of Governors shall :-

- (a) exercise the powers vested in him under the scheme of Administration i.e., to act as a Chairman of the Board;
- (b) act as Chairman of the Committee;
- (c) preside over the meetings of the Board or Committee and shall exercise a casting vote in the event of tie among the members;
- (d) ensure through the Managing Director that all policies and decisions of the Board are implemented;
- (e) keep Members of the Board informed about the progress and important development of the Foundation and its industrial, commercial and welfare activities;
- (f) may issue letters, orders or instructions on behalf of the Board or exercise any power on behalf of the Board and it shall be presumed that he had issued and exercised the same after full consultation with members of the Board and the same shall not be called in question.

9. Composition of the Executive Committee.-(1)The Committee shall consist of the following:-

- (a) Secretary Services and General Administration, GoAJK Chairman
- (b) Managing Director Clerks Foundation, Vice Chairman
- (c) Additional Secretary Finance Department, GoAJK Member
- (d) Chairman All Clerks Association AJ&K Member
- (e) Elected Central President All Clerks Association AJ&K Member
- (f) Section Officer Services (Regulations) Member/Secretary
- (g) District Presidents All Clerks Association AJ&K Member

(2) The Central President of All Clerks Association Azad Jammu & Kashmir shall continue to be member of the Board/ Executive Committee for at least three years after he ceases to become the President of the said Association:-

10. Powers and duties of the Executive Committee.-(1)The Committee shall exercise all the powers of the Board for effective control, management, supervision and direction of all industrial, commercial and welfare activities of the Foundation, subject to the limitations given below:-

- (a) Approval of annual and revised budget estimates of the Foundation along with performance report pertaining to the industrial, commercial and welfare projects or schemes;
- (b) approval of audited annual account of the Foundation;
- (c) approval of investment in any new industrial, commercial or welfare project or scheme; and
- (d) approval of disinvestment in and disposal of any existing industrial, commercial or welfare project or scheme.

(2) The Powers of the Committee shall include not only the powers specified above but also all other residual powers which are not expressly conferred on Chairman or Managing Director.

(3) The Committee shall scrutinize and approve the annual and revised budget estimates of the Foundation and performance report pertaining to the industrial, commercial or welfare projects or schemes before these are put up to the Board for final approval.

(4) The Committee shall scrutinize and approve the audited annual account of the Foundation before these are put up before the Board for final approval.

(5) The Committee shall examine, sponsor, initiate and recommend proposal for investments of the surplus funds for approval of the Board for:-

- (i) acquiring any industrial, commercial or welfare project or scheme;
- (ii) establishment of new industrial, commercial or welfare project or scheme; and
- (iii) participating by taking or controlling interest or entering into any profit sharing arrangement with any industrial, commercial or welfare project or scheme.

(6) The Committee shall examine, initiate and recommend proposals for disposal of or disinvestment from any industrial, commercial or welfare scheme to the Board for approval.

(7) The Committee shall invest available funds of the Foundation in promissory notes, debentures, shares of any non-speculative nature or other securities of Government or fixed deposits in banks, provided that the investment of dealing in shares business and with the approved projects of acquiring/controlling interest or by way of any profit sharing arrangement or for acquiring managing agency for seeking participation in the management of the Company.

(8) The Committee shall vary the investment from time to time and sell, assign, renew, re-invest, transfer or otherwise dispose off or deal with all or any of the said securities.

(9) The Committee shall be sole competent authority to borrow loans from the Government agencies or other agencies on such terms and conditions as may be beneficial to the Foundation.

(10) The Committee shall secure the loans in such manner as may be required by the banks which may include the powers to execute, demand promissory note, letters or hypothecate mortgage documents, memorandum of deposit of title deeds, irrevocable general powers of attorney, letter of undertaking or any other deed documents, the Committee may authorize any member or Secretary Committee or any other officer to execute all or any of the documents.

(11) The Committee may provide guarantee for the purposes specified in sub-section (10) and (11) on such terms and conditions as may be beneficial to the Foundation.

(12) The Committee shall enter into all contracts of business, commercial or of other nature and may authorize any member or Secretary Committee or any other officer to execute such contracts.

(13) The Committee shall create all necessary posts and determine the required establishment in the industrial, commercial and welfare projects and shall fix the scales of pay and allowances for various categories of posts.

(14) The Committee may appoint all officers of industrial, commercial and welfare projects and of the central organization except the members of the Committee and fix terms and

conditions of service of all employees and may vary, modify and revise rules, terms and conditions of service of employees.

(15) The Committee may terminate, discharge, remove or dismiss the services of any employee serving in the industrial, commercial and welfare projects.

(16) The Committee may approve and promote any officer or employee serving in the industrial, commercial and welfare projects.

(17) The Committee shall hold meetings at least once in three months. In addition to these, informal meetings of the committee may be held at any time when circumstances so demand.

(18) The Chairman shall preside at all meetings of the Board and Committee and in the absence of Chairman, the senior member of the Board or Committee, as the case may be, shall preside and eight members shall constitute a quorum for the meeting:

Provided that the presence of Managing Director shall be necessary in the Quorum. The Chairman at the meeting may exercise the casting vote in case of tie.

11. Powers to constitute Board of Management and Delegation of

Powers.- (1) The Committee may constitute separate Board of Management or appoint any officer for all industrial, commercial and welfare projects wholly owned or controlled by the Foundation. Unless otherwise determined, the members of the Committee shall be ex-officio Directors of the Boards of Management

(2) The Committee may delegate powers for the control of day to day administration and management of industrial, commercial and welfare projects to its respective Board of Management. The powers so delegated shall include;-

- (a) to manage and exercise the overall control and supervision of the business;
- (b) to keep the operation of the projects under constant review and ensure renovation, balancing and modernization of machines where-ever necessary;
- (c) to check the progress and expansion plans;
- (d) to ensure proper maintenance of plant, machinery, building, spare parts and tools;

- (e) to prepare the annual and revised budget estimates for the approval of the Committee;
 - (f) to scrutinize and approve the audited annual account before submission to the Committee;
 - (g) to sanction expenditure within the financial resources of the project and pay all sum payable to or on behalf of such industrial, commercial and welfare projects within sanctioned budget;
 - (h) to assign duties and powers to the Managing Director or other officers of the project to conduct the business and administration of the project;
- (3) In case of urgency, the Managing Director can exercise the powers of Committee and get its approval from the Committee in next meeting.
- (4) Whenever the Managing Director is away or abroad on duty or otherwise, or is absent on leave due to any reason then the senior member will act as the Managing Director in his place in addition to his duties.

12. **Procedure.**- (1) The Committee may lay down specific responsibilities and duties of the members and officers of the central organization.

(2) All proceedings of the Foundation, Executive Committee and actions of the Managing Director shall be open and available for public inspection including Members, Media etc.

13. **Functions of the Managing Director.**-

- (a) The Managing Director shall be the Chief Executive and shall have the powers to control and supervise all the industrial, commercial, welfare or other activities of the Foundation and shall also co-ordinate with the Government;
- (b) the Managing Director may with the approval of the Board deal with the Government for the purpose of making any representation and for taking of action to obtain any concession, privilege or right from the Government or any authority;
- (c) the Managing Director shall, subject to the control of the Board, be responsible for running the business of Foundation and cause the orders and decisions of Chairman and the Board to be implemented;

- (d) the Managing Director shall take all possible steps to ensure that the funds of the Foundation are spent on the purpose for which they are allocated;
 - (e) the Managing Director shall prepare and submit to the Board the audited annual statements of accounts and budget estimates for approval;
 - (f) all meeting of the Foundation shall be convened by the Managing Director under the direction of the Chairman or the Committee;
 - (g) the Managing Director shall conduct the official correspondence of the Foundation under the authority of the Chairman;
 - (h) the Managing Director shall perform such other duties as may be assigned to him by the Committee or the Board .
14. **Contribution.**- The Members of the Foundation shall contribute to the Foundation every month according to the prescribed Financial Rules.
15. **Head Office.**- The Head Office of the Foundation shall be at Muzaffarabad however the Foundation may establish sub offices at such other places as may be deemed necessary.
16. **Powers to make rules.**-The Government may make rules to carry out the purposes of this Act.

Sd/-

(Ch. Muhammad Nawaz)
Section Officer (Legislation)