

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

Dated 5th January, 1977.

No. 35/SL/77. The following Ordinance made by the President on the 5th January, 1977, is hereby published for general information :-

(ORDINANCE I of 1977)

AN ORDINANCE to provide for the nationalisation of cooperative banking business in Azad Jammu and Kashmir.

WHEREAS it is expedient in the public interest to provide for the nationalisation of cooperative banking business in Azad Jammu and Kashmir;

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 sub-section (1) of section 41 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 AJ&K Cooperative Banks (Nationalisation) Ordinance, 1977.

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

(3) It shall come into force at once.
2. **Ordinance to override other laws:-** This Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force or in any agreement, contract, award, memorandum or articles of association or other instrument.
3. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject, or context,-

(1) "bank" means a cooperative bank registered under the Cooperative Societies Act, 1925 (VII of 1925; or any other law for the time being in force, relating to cooperative societies, but does not include -

- (a) a Government Saving Bank to which the Government Savings Bank Act, 1873 (V of 1873), applies or
 - (b) a corporation or company owned or controlled by the Federal Government of Pakistan or a Provincial Government of Pakistan and carrying-on cooperative banking business in Azad Jammu and Kashmir ;
 - (2) "commencing day" means the day on which this Ordinance comes into force ;
 - (3) "prescribed" means prescribed by rules made under this Ordinance ;
 - (4) "State Bank" means the State Bank of Pakistan established under the State Bank of Pakistan Act, 1956 (XXXIII of 1955) ; and
 - (5) Other words and expressions used but not defined in this Ordinance shall have the same meaning as in the Azad Jammu and Kashmir (Interim Constitution) Act, 1974 (VIII of 1974).
4. **Exclusive right to establish cooperative bank.** The Government or a corporation wholly owned or controlled by the Government shall have the exclusive right to establish a bank.
5. **Transfer and vesting of ownership etc. of banks.** (1) The ownership, management and control of all banks mentioned in the Schedule, shall stand transferred to, and vest in, the Government on the commencing day.
- (2) All shares in the capital of a bank held by persons other than the Government or the Federal Government or a Provincial Government of Pakistan, a corporation owned or controlled by the Government or the Federal Government or a Provincial Government of, Pakistan or the State Bank of Pakistan shall stand transferred to, and vest In the Government on the commencing day, free of all trusts, liabilities; and encumbrances.
- (3) The vesting of any shares in the Government under subsection (2) shall not affect the right inters of a Shareholder and any other person who may have an interest in such shares and such other person shall be entitled to enforce his interest against the compensation awarded to the shareholder under section 6.
- (4) The safety of all deposits in banks shall stand guaranteed by the Government.

(5) The provisions of this Ordinance and the vesting of the shares of the banks in the Government thereunder shall not in any way affect the status of the banks as bodies corporate under the Companies Act, 1913 (VII of 1913).

6. **Compensation for transfer of ownership of shares in a bank:-**

(1) Every person who stands registered as a holder of any share of a bank the ownership, management and control of which stands transferred to the Government by virtue of section 5 shall be entitled to receive from the Government by way of compensation per share an amount determined in accordance with the provisions of section 7 in the form of bonds of the Federal Government of Pakistan, repayable at par at any time within a period of fifteen years in accordance with a redemption programme formulated by the Government and bearing interest at the rate of one percent above the bank rate notified by the State Bank of Pakistan from time to time:

Provided that, in formulating the redemption programme, the Government may make provision for preferential redemption of the bonds of such class of persons who are of meager means as orphans, widows and prisoners, and the amount of compensation payable to whom does not exceed such maximum amount, as the Government may deem fit :

Provided further that, where the amount so determined is not an exact multiple of one hundred rupees, the amount in excess of the nearest lower multiple of one hundred rupees shall be paid in cash.

(2) The bonds shall be negotiable and eligible as security for advances.

7. **Assessment of compensation.-** The amount of the compensation shall be the amount equal to the break-up value of the share as determined by an auditor appointed by the Government from the balance-sheet of the bank as on the 31st December, 1976, according to the principles laid down in rule 8 of the Wealth Tax Rules, 1963 as in force in Pakistan.

8. **Removal of previous management.-** (1) Every person holding office in any bank as chairman, director or chief executive by whatever name called, other than a person who holds such office by virtue of his appointment or nomination by the Government, shall stand removed from his office on the commencing day and his removal shall not entitle him to any compensation and no

such claim shall be entertained by any Court, Tribunal or other authority.

(2) The vacation of his office by a chairman, director or chief executive under sub-section (1) or otherwise shall not in any way absolve him of his liability, if any, under any law, contract or otherwise however subsisting immediately before the commencing day or the day on which he ceases to hold such office.

(3) A chairman, director or chief executive by whatever name called ceasing to hold office under any of the aforesaid provisions shall entrust or cause to be entrusted to the person succeeding him in that office, intact and in as good order as they existed on the day immediately preceding the commencing day all properties, all books of accounts and other records and documents belonging to or in the custody or control or pertaining to the affairs, of the bank.

(4) Central Boards of the banks mentioned in Schedule and all local bodies, area boards managing committees, executive committees and similar other bodies for the management of any bank shall stand dissolved, and all members of such bodies shall stand removed from office, on the commencing day.

(5) Vacancies occurring under sub-section (1) and vacancies existing before the commencing day or occurring thereafter shall be filled by the government by appointing such persons as it deems fit.

9. **Transitional arrangements.-** The government may, pending the appointment of any person or persons to fill the vacancy ring in an office under the provisions of section 8 and notwithstanding the provisions of sub-section (2) of that section, authorise any person who was, immediately before the commencing day, the chairman, director or chief executive of the bank or was acting in any such capacity to continue to perform his functions as if he were a person appointed under the said sub-section (2).

10. **General provisions pertaining to management.** (1) The general superintendence and direction of the affairs and business of a bank shall, until other provisions are made under any scheme made under section 14, vest in its board of directors which may-exercise all such powers and do all such acts and things as the bank was permitted immediately before the

commencing day, to exercise or do in a general meeting of shareholders or in a meeting of the board of directors.

(2) The Government may, at any time, by order in writing, so alter the strength or composition of the board of directors of a bank as it may deem fit.

(3) The Government may constitute such local boards, executive committees and other bodies of a bank as may, in its opinion, be necessary for the proper management of a bank and may appoint members thereto.

(4) The bodies constituted under sub-section (3) shall have such powers and perform such functions as may be assigned to them by the government or the board of directors.

(5) Subject to sub-section (1), the management, direction or control of a bank shall vest in the chief executive by what ever name called.

(6) A bank, its board of directors, chairman, local boards, executive committee, and chief executive by whatever name called shall in the discharge of their functions act on sound business principles and be guided by such directions in matters of policy involving the public interest as may be given to it by the government which shall be the sole judge as to whether or not any matter is a matter of policy involving the public interest:

Provided that no such directive shall be in contravention of the provisions of any law relating to banking business.

11. **Fidelity and secrecy.-** (1) Every bank, its chairman, director and chief executive by whatever name called and every member of its management body shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, shall not divulge any information relating to the affairs of its constituents except in circumstances in which it is, in accordance with law or practice and usage, customary among bankers, necessary or appropriate for a bank to divulge such information.

(2) Every director, administrator, auditor, advisor, officer or other employee of a bank and every member of its management body shall, before entering upon his office, make a declaration of his fidelity and secrecy in such form as may be prescribed.

Explanation.- In case of any such person employed in

connection with the affairs of a bank as is not required by any provision of this Ordinance to vacate any office held by him, the requirement of this sub-section shall be deemed to be satisfied if such person has already filed with the bank a declaration more or less to the effect of the prescribed form.

12. **Provisions regarding staff.-** (1) save as otherwise provided in this Ordinance, all officers and other employees of a bank shall continue in their respective offices and employments on the same terms and conditions including remuneration and rights to pension and gratuity, as were applicable to them immediately before the commencing day.

(2) Notwithstanding any law or any provision contained in a contract, agreement letter of appointment, rules or regulations of a bank, every officer and employee of a bank shall be liable to transfer to any of its branches in or outside Azad Jammu and Kashmir or to any other bank:

Provided that his status and emoluments shall not be adversely affected.

13. **Certain claims for compensation barred.-** No person including a chairman, director, chief executive by whatever name called, a shareholder, a constituent or an officer or employee of a bank shall have any right, whether in contract or otherwise, to any compensation other than that expressly provided for by this Ordinance, for any loss or damage directly or indirectly incurred by reason of the operation of any of the provisions of this Ordinance or any rule or order made or direction issued thereunder.

14. **Scheme for re-organization of banks etc.-** (1) The Government may, with due regard to the interests of the depositors prepare a scheme for improving the management and operation of a bank or group of banks to serve better the needs of development of the economy.

(2) A scheme prepared under sub-section (1) may inter alias provide for all or any of the following matters, namely :-

- (i) The reconstitution of a bank or a group of banks into a new bank registered under the cooperative Societies Act, 1925, (VII of 1925) or a corporation incorporated under a law, the amalgamation of two or more banks in another bank;

- (ii) Formulation or re-formulation of articles of association of a bank or reconstituted or amalgamated bank;
 - (iii) Modification of the capital structure of a bank or reconstituted or amalgamated bank; and
 - (iv) Additions to or deletions from the kind of Business in which a bank may engage and the place or place where it may so carry on its business.
- (3) A scheme prepared under sub-section (1) shall be published in the official Gazette and shall take effect on the date of such publication.

15. **Removal of doubts.-** For the removal of doubts, it is hereby declare that-

- (a) all assets, rights, powers, authorities and privileges and all property, movable or immovable, cash balances, reserve funds, investments and all other rights and interests arising out of such property as were immediately before the commencing day in the ownership, possession, power or control of a bank, whether within or outside Azad Jammu and Kashmir, shall, unless other provisions are made for their predisposition in accordance with a scheme prepared under sub-section (1) of section 14, continue to vest in that bank, and all borrowings, liabilities, including contingent liabilities, and obligations of a bank of whatever kind subsisting immediately before the commencing day shall, unless other provisions at aforesaid are made for their discharge or performance, continue to be the borrowings, liabilities and obligations of that bank ;
- (b) all contracts, deeds, bonds, agreements, powers of attorney, other than those in favour of a person vacating his office under this Ordinance, grant of legal representation and other instruments of whatever kind subsisting or having effect immediately before the commencing day to which a bank is a party or which are in favour of a bank shall be of as full force and effect against or in favour of a bank as they were immediately before the commencing day; and
- (c) if, on the commencing day, any suit, appeal or other proceeding of whatever nature which is by or against the

bank or to which the bank is a party is pending in any court or before a tribunal or other authority, the same shall not abate, be discontinued or be, in any way, prejudicially affected by any provision of this Ordinance.

16. **Disposal of profits.-** Subject to the provision of the law by or under which a bank has been established, a bank shall not declare any dividend on its share capital unless-

- (a) it has drawn up the annual balance-sheet and profit and loss account of the bank, and it has its accounts audited by an auditor qualified to act as such under the Banking Companies Ordinance, 1962 as in force in Pakistan.
- (b) it has made adequate provision for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds and all other contingencies for which provision is necessary under any law or which are usually provided for by bankers, and
- (c) a copy of the balance-sheet and profit and loss account along with the audit report has been supplied to the Government and it has approved the declaration of such dividend:

Provided that, before according such approval the Government may, order a second audit of the accounts of the bank and appoint such auditor for the purpose as it thinks fit.

17. **Indemnity.-** No suit, prosecution, or other legal proceeding shall lie against the Government or any officer of the Government for anything in good faith done or purporting to be done under this Ordinance or any rule or order made or direction issued, the services rendered or for any damage caused or likely to be caused by anything done or purporting to be done as aforesaid.
18. **Bar of jurisdiction.-** No provision of this Ordinance or of any rule or order made or direction issued thereunder shall be called in question by or before any Court or other authority.
19. **Power to make rules.-** The Government may, by notification in the official Gazette, make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.
20. **Adaptation of laws.-** Any Court, tribunal or authority required

or empowered to enforce the Companies Act, 1913 (VII of 1913), or the memorandum or articles of association of a bank registered thereunder, or any other law for the time being in force shall construe the said Act, memorandum or articles of association or such other law with which such adaptations as are necessary to bring the same into accord with the provisions of this Ordinance.

21. **Penalty-** (1) whoever contravenes any of the provisions of this Ordinance or the rules made thereunder shall be punishable with imprisonment for a term which may extend to five years or with fine, or with both.

(2) No person shall be prosecuted under this Ordinance except with the sanction of the Government or an officer authorised by it in this behalf.
22. **Removal of difficulties.-** If any difficulty arises in giving effect to any provision of this Ordinance, particularly in relation to the management of the affairs and business of a bank, other than a bank established by any law, because of the provisions of the memorandum or articles of association of the bank, the Government may make such order not inconsistent with the provisions of this Ordinance as may appear to it to be necessary for the purpose of removing the difficulty.

THE SCHEDULES
(See section 5 and 8)

- 1. Kashmir National Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
- 2. The Kalyal Industrial Cooperative Bank,
Mirpur, Azad Jammu & Kashmir.
- 3. United Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
- 4. Kashmir Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir,
- 5. Azad Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
- 6. Kashmir Development Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
- 7. The Premier Cooperative Bank Ltd.
Mirpur, Azad Jammu & Kashmir.
- 8. Kashmir Muslim Cooperative Bank Ltd.
Kotli Azad Jammu and Kashmir.

Sd/- (Mohammad Ibrahim Khan)
President,
Azad Jammu and Kashmir.

Sd/- (Sardar Aftab Ahmed Khan)
Secretary Law,
Azad Government of the State of J&K,
Muzaffarabad.