

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

Dated the 17-3-1979.

No. 1163/SL/79. The following Ordinance made by the President on 16<sup>th</sup> day of March, 1979, is hereby published for general information:-

(ORDINANCE XXXVIII of 1979)

AN

ORDINANCE

to provide the law relating to preventive detention and control of persons and publications connected with the maintenance of public Order in Azad Jammu and Kashmir

WHEREAS it is expedient to provide the law for preventive detention and control of persons and publications for reasons concerned with public safety, public interest and the maintenance of public Order in Azad Jammu and Kashmir ;

AND WHEREAS the President is satisfied that the 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 Azad Jammu and Kashmir Maintenance of Public Order Ordinance, 1979.
  - (2) It extends to the whole of Azad Jammu and Kashmir.
  - (3) It shall come into force at once.
2. **Definitions.**- In this Ordinance, unless the context otherwise requires the following expressions shall have the meanings hereby respectively assigned to them, that is to say :-
  - (a) 'Code' means, the Code of Criminal Procedure, 1898; and

(b) 'Government' means the Azad Government of the State of Jammu and Kashmir;

3. **Power to arrest and detain suspected persons.-** (1)

Government, if satisfied that with a view to preventing any person from acting in any manner prejudicial to public safety or the maintenance of public order, it is necessary so to do, may by an order in writing direct the arrest and detention in such custody as may be prescribed under sub-section (7), of such person for such period as may, subject to the other provision of this Section, be specified in the order and Government, if satisfied that for the aforesaid reasons it is, necessary so to do, may, extent from time to time the period of such detention for a period not exceeding six months at a time.

(2) If a District Magistrate or any other servant of Government authorised in this behalf by a general or special order of Government, has reason to believe that any person within his territorial jurisdiction has acted, is acting or is about to act in a manner prejudicial to public safety or the maintenance of public order, he shall forthwith refer the matter to Government for orders.

(3) (a) An order of arrest under sub-section (1) may be addressed to a Police Officer or any other person and such officer or person shall have the power to arrest the person mentioned in the order and in doing so he may use such force as may be necessary. The Police Officer or the other person, as the case may be, shall commit the arrested person to such custody as may be prescribed under sub-section (7).

(b) A Police Officer not below the rank of sub-Inspector, is satisfied on receipt of credible information that a person against whom an order of arrest or of arrest and detention has been made under this section is present within such officer's jurisdiction, may arrest him without a warrant in the same manner as he would have done if such order of arrest had been addressed to him, and there upon commit the arrested person to such custody as may be prescribed under sub-section (7) or if he receives any requisition in this behalf from the Police Officer, or other person to whom the warrant for the person arrested is addressed, make over the custody of

the arrested person to such Police Officer or other person.

(4) On receipt of a reference under sub-section (2) Government may :-

- (a) reject the reference ; or
- (b) make an order of arrest and detention in term of sub-section (1).

**Explanation.-** Whoever is or was a member of an association or its Executive Committee, which association is or has been declared to be unlawful under any law for the time being in force in Azad Jammu and Kashmir, at any time during the period of seven days immediately before it was so declared to be unlawful, or remains or becomes a member of such an association or its executive committee thereof after it has been so declared to be unlawful shall be deemed to be acting in a manner prejudicial to public safety and the maintenance of public order for the purposes of this section.

- (5) (a) Government shall constitute a Board consisting of a Judge of the High Court who shall be nominated by the Chief Justice of the High Court, and a senior officer in the service of Azad Jammu and Kashmir who shall be nominated by the President of Azad Jammu and Kashmir.
- (b) No person shall be detained for a period exceeding three months unless the Board has reported, before the expiration of the said period of three months, that there is, in its opinion, sufficient cause for such detention.
- (c) Where a person is to be detained for a period exceeding three months, Government shall, before the expiration of the said period of three months, refer his case to the Board.
- (d) A person whose case has been referred to the Board under the provisions of clause (c), shall not be entitled to appear by any legal practitioner in any matter connected with the case referred to the Board.
- (e) The Board shall after considering the material placed before it and the representation, if any, made by the person whose case has been referred to it, hearing such

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person, if he so desires, and calling for such further information as it may require from Government or may be placed before it by the person detained, submit its report before the expiration of the period of three months specified in clause (c), to Government whether in its opinion there is sufficient cause for the detention of such person.

- (f) The proceedings and the report of the Board excepting that part of the report in which the opinion of the Board is specified, shall be confidential.
- (g) If in any case the Board reports that there is, in its opinion, no sufficient cause for the detention of the person whose case has been referred to it, for a period exceeding three months, Government shall rescind the detention order and direct such person to be released on the expiry of the said period of three months. In case the Board reports that there is, in its opinion, sufficient cause for the detention of such person, Government may, subject to the provision of sub-section (1), continue to detain him for such period as it may deem fit.

(6) Where a detention order has been made under this section the authority making the order shall, as soon as may be, but not later than fifteen days from the date of detention, communicate to such person the grounds on which the order has been made, inform him that he is at liberty to make a representation to Government against the order and afford him the earliest opportunity of doing so:

Provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against public interest to disclose.

(7) So long as there is in force in respect of any person an order under this section directing that he be detained, he shall, be liable to be detained in such custody and under such conditions as to maintenance, discipline and punishment for offences and breaches of discipline as Government may from time to time prescribe by general or special order.

(8) If Government or a District Magistrate has reason to believe that a person in respect of whom an order of arrest and detention has been passed under this section, has absconded or is

concealing himself so that such order cannot be executed Government or the District Magistrate, as the case may be, may:-

- (a) forward a copy of the order, with a declaration that such person cannot be found, to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides and thereupon the provisions of sections 87, 88 and 89 of the Code shall apply in respect of the said person and his property as if the order directing that he be arrested and detained were a warrant issue by the Magistrate;
- (b) by order notified in the Official Gazette direct the said person to appear before such officer at such place and within such period as may be specified in the order and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had within the period specified in the order, informed the officer concerned of the reasons which rendered compliance there with impossible and of his where abouts or taken all possible steps to give such information, be punishable with imprisonment for a term with which may extend to three years, or with fine, or with both.

(9) Government may at any time, subject to such conditions as it may think fit to impose, release a person detained under this Section and may require him to enter into a bond, with or without sureties, for the due observance of the conditions.

(10) The District Magistrate or any servant of Government referred to in subsection (2), may summon and interrogate or cause the summoning and interrogation of any person, including a person arrested or detained under this section , if in his opinion such interrogation is likely to lead to the discovery of information which may enable the more effective exercise of powers under this Ordinance, whether in respect of the person interrogated or any other person, and the person interrogated under this sub-section shall be bound to answer truthfully and questions pertaining to the subject of the enquiry.

4. **Powers of photographing etc. of suspected persons.-** (1) Government or other authority making an arrest or directing the arrest of a person under Section 3 may by order direct that the arrested person shall :-

- (a) let himself be photographed ;
- (b) allow his finger and thumb-impresions to be taken ; and
- (c) furnish specimen of his handwriting and signature.

(2) If any person contravenes any order made under this section, he shall be punished with imprisonment for a term which may extend to six months or with fine or with both.

5. **Power to control suspected persons.**- (1) Government or the District Magistrate, if satisfied with respect to any particular person that with a view to preventing him from acting in any manner prejudicial to public safety or public interest, or the maintenance of public order, it is necessary so to do, may by order in writing, give any one or more of the following directions, namely, that such person :-

- (a) shall not enter, reside or remain in any area that may be specified in the order ;
- (b) shall reside or remain in any area that may be specified in the order ;
- (c) shall remove himself from, and shall not return to, any area that may be specified in the order ;
- (d) shall conduct himself in such manner, abstain from such acts or take such order with any property in his possession or under his control, as may be specified in the order; and
- (e) shall enter into a bond, with or without sureties for the due observance of the directions specified in the order.

(2) An order under sub-section (1) made by the District Magistrate shall not unless Government by special order, otherwise directs, remain in force for more than three months from the making thereof.

(3) Government may at any time cancel or vary any order made by the District Magistrate under sub-section (1).

(4) An order made under clause (a) of sub-section (1) made by Government may specify the area to which the order relates, the whole of Azad Jammu and Kashmir or any part thereof, and an order made by the District Magistrate may specify as such area the whole district or any part thereof :

Provided that no such order made by Government shall direct the exclusion or removal from the Azad Jammu and Kashmir territory of any person ordinarily resident in the territory and no such order made by the District Magistrate shall direct the exclusion or removal from the district of any person ordinarily resident in that district.

(5) Where an order has been made under sub-section (1), the authority making the order shall, as soon as may be but not later than fifteen days from the date of service of the order, communicate to such person the grounds on which the order has been made, inform him that he is at liberty to make a representation to Government against the order and afford him the earliest opportunity of doing so:

Provided that the authority making any such order may refuse to disclose facts which such authority considers it to be against public interest to disclose.

(6) Where a representation is made to Government against an order passed under sub-section (1), Government may, on consideration of the representation and after giving the person affected an opportunity of being heard, modify, confirm or rescind the order.

(7) No order under clause (b) of sub-section (1) shall have effect or a period exceeding three months unless the Board constituted under sub-section (5) of Section 3 has reported, before the expiration of the said period, that there is, in its opinion, sufficient cause for the making of such order ; and the provisions of clause (c), (d), (e), (f) and (g) of sub-section (5) of Section 3 shall mutatis mutandis, apply to the reference made to the Board in regard to any such order.

(8) An order made under sub-section (1) shall remain in force for such period not exceeding two years as may be specified in that order.

6. **Power to control publications.**- (1) Government or any authority authorised by it in this behalf, if satisfied that such action is necessary for the purpose of preventing or combating any activity prejudicial to the maintenance of public order, may, by order in writing addressed to a printer, publisher or editor :-

(a) prohibit the printing or publication in any document or class of documents of any matter relating to a particular

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subject or class of subjects for a specified period, or in a particular issue or issues of a news paper or periodical ;

- (b) require that any matter be published in any particular issue or issues of a news paper or periodical and may while doing so specify the period during which and the manner in which such publication shall take place ;
- (c) require that any matter relating to a particular subject or class of subjects shall before publication be submitted for scrutiny ;
- (d) prohibit for a specified period the publication of any newspaper, periodical, leaflet, or other publication, or the use of any press ;
- (e) require that the name and address of any person concerned in the supply or communication of any news, report or information be furnished to such authority as may be specified in the order ;
- (f) require that any document connected with the news, report or information referred to in clause (e) be delivered to such authority as may be specified in the order:

Provided that when an order is made under clause (a), (c) or (d) :-

- (i) No such order shall remain in force for more than two months from the making thereof ;
- (ii) any person against whom the order has been made may, within ten days of the passing of the order, make a representation to Government or the authority as aforesaid which may on consideration thereof modify, confirm or rescind the order.

(2) Where an order has been made under sub-section (1), the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made, inform him that he is at liberty to make a representation against the order to Government and afford him the earliest opportunity of doing so :

Provided that the authority making such order may refuse to disclose facts which such authority considers it to be against public interest to disclose.

(3) Where a representation is made to Government against an order passed under sub-section (1), Government may on consideration of the representation and giving the person effected an opportunity of being heard, modify, confirm or rescind the order.

(4) In the event of disobedience of an order under this section Government or the authority issuing the order may, without prejudice to any other penalty to which the person guilty of the disobedience is liable, order the seizure of all copies of any publication concerned and of any printing press or other instrument or apparatus used in the production of the publication.

7. **Power to prohibit entry into Azad Jammu and Kashmir of newspaper etc.**- (1) Government or any authority authorised by it in this behalf, if satisfied that such action is necessary for the purpose of preventing or combating any activity prejudicial to the maintenance of public order, may, by notification, prohibit for specified period the bringing into Azad Jammu and Kashmir or any part thereof any newspaper, periodical, leaflet or other publication :

Provided that no such order shall remain in force for more than two months from the making thereof :

Provided further that the person against whom an order has been made may within ten days of the passing of the order make a representation to Government or the authority aforesaid which may on consideration thereof modify confirm rescind the order.

(2) In the event of disobedience of an order under this section, Government or the authority issuing the order may, without prejudice to any other penalty to which the person guilty of the disobedience is liable, order the seizure of all copies of any newspaper, periodical, leaflet or other publication concerned:

Provided that no such order of seizure, shall be passed without giving the person affected an opportunity of showing cause against the order.

8. **Power to secure reports of public meetings.**- (1) The District Magistrate may, by order in writing depute one or more Police Officers not below the rank of Head Constable, or other persons to attend any public meeting for the purpose of causing a report to be made of the proceedings.

(2) Any such order shall operate as a direction to the person responsible for the convening or the conduct of the meeting to admit free of charge the persons so deputed.

**Explanation.**- For the purpose of this section a public meeting is any meeting which is open to the public or to any class or portion of the public, and a meeting may be a public meeting notwithstanding that it is held in a private place and notwithstanding that admission thereto is restricted by ticket or otherwise.

9. **Service of orders in writing.**- (1) Where under the provisions of this Ordinance any power is to be exercised or any order or direction given by order in writing, then that order in writing :-

(a) if it is an order addressed to any servant of Government or authorising any servant of Government to take any action, shall be given in original or by a copy to the servant of Government concerned and shall be his authority for the doing of all things he is required or enable to do under the order ;

(b) if it is an order made in respect of or addressed to any person not being a servant of Government, may be served in original or by a copy of the order on the person in respect of whom it is made or whom it is addressed in the manner provided in the Code for the Service of a summon;

(c) if it is an order addressed to the public generally, may be served by publication in such manner as the authority making the order considers best adopted for informing the persons concerned.

(2) Any person on whom an order is served as provided in clause (b) of clause (c) of sub-section (1) shall be deemed to have had notice of such order, and where the person to be served is a corporation, company, bank or association of persons the order may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it

at, or sending it addressed to the corporation, company, bank or association by post to its registered office, or where there is no registered office at or to the place where it carries on business.

(3) Where a provision of this Ordinance empowers an authority, officer or person to take action by notified order, the provisions of sub-section (1) and (2) shall not apply in relation to such order, and all persons whom the order concerns shall, upon its notification be deemed to have been duly informed of it.

10. **Power to issue search warrants.**- The power to issue search warrants conferred by Section 98 of the Code shall be deemed to include the power to issue warrants for:-

(a) the search of any place in which any Magistrate mentioned in that section has reason to believe that any offence under this Ordinance or any act prejudicial to public safety or the maintenance of public order has been, is being or is about to be committed, or that preparation for the commission of any such offence or act is being made;

(b) the seizure in or on any place searched under clause (a) of anything which the officer executing the warrant has reason to believe is being used or is intended to be used for any purpose mentioned in that clause ;

and the provisions of the Code shall, so far as may be, apply to searches, made under the authority of any warrant issued and to the disposal of any property seized under this section.

11. **General power of search.**- Any authority on which any power is conferred by under this ordinance may by General or special order authorise any person to enter and search any place the search of which such authority has reason to believe to be necessary for the purpose of :-

(a) ascertaining whether it is necessary or expedient to exercise such power ; or

(b) ascertaining whether any order given, direction made, or condition prescribed in the exercise of such power has been duly complied with; or

(c) generally giving effect to such power or securing compliance with or giving effect to any order given, direction made or condition prescribed in the exercise or such power.

12. **Power to give effect to orders, etc.-** (1) Any authority, officer or person who is empowered by or in pursuance of this Ordinance to make any order, or to exercise any other power may, in addition to any other action prescribed by or under this Ordinance, 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 Ordinance there is no authority, officer or person empowered, to take action prescribed by or under this Ordinance, 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 Government be reasonably necessary for securing compliance with or for preventing or rectifying any breach of such provision.
- (3) The power to take steps under sub-section (1) or sub-section (2) includes the power to enter upon any land or other property whatsoever.
13. **Penalty.-** Whoever contravenes any provision of this Ordinance or disobeys or neglects to comply with any order made or direction given in accordance with its provisions shall, where no express provision is made by this Ordinance for the punishment of such contravention, disobedience, or negligence, be punished with imprisonment which may extend to three years, or with fine, or with both.
14. **Abetment of offences.-** Whoever abets the commission of an offence punishable under this Ordinance shall, whether the act abetted it or is not committed in consequence of the abetment, be punished with the punishment provided for the offence.
15. **Offences committed by corporation or association.-** Where the person committing an offence punishable under this Ordinance is a corporation, company, bank or association of person, any secretary, director or other officer or person concerned with the management thereof shall be punished with the punishment provided to the offence unless he proves, that the offence was committed without his knowledge or consent.
16. **Dissemination of rumors, etc.-** Whoever :

- (a) makes any speech, or
- (b) by words whether spoken or written or by signs or by visible or audible re-presentations or otherwise publishes any statement, rumour or report, shall be punished with imprisonment which may extend to three years, or with fine or with both if such speech, statement, rumour, or report :-
  - (i) causes or is likely to cause fear or alarm to the public or to any section of the public ;
  - (ii) furthers or is likely to further any activity prejudicial to public safety or the maintenance of public order.

17. **Possession or conveyance of prescribed or prohibited documents.**- (1) Whoever without lawful authority :-

- (a) has in his possession, or on premises in his occupation or under his control; or
- (b) carries for delivery to another person otherwise than through the post, any document in respect of which a notification under Section 7 is in force, or of which the importation has been prohibited or in respect of which an order of forfeiture has been made under any law for the time being in force or any document prejudicial to public safety or the maintenance of public order shall, unless he proves that he was unaware of the nature of the document, be punished with imprisonment which may extend to one year, or with fine, or with both.

(2) Whoever allows his name or address to be used to facilitate transmission through the post or otherwise to any person other than the person for whom it purports to be intended of any document of the nature referred to in sub-section (1) shall be punished with imprisonment which may extend to one year, or with fine, or with both.

18. **Wearing of display of uniforms or emblems.**- Whoever makes or has in his possession or wears, carries or displays any uniform, flag, banner or emblem signifying, or which has been declared by Government by notification to signify association with a movement prejudicial to public safety or the maintenance of public order or with the promotion of any activity prejudicial to public safety or the maintenance of public order shall be

punished with imprisonment which may extend to one year, or with fine or with both, and any such uniform, flag, banner or emblem wherever found shall be forfeited to Government.

19. **Tampering with public servants.**- Whoever induces or attempts to induce any public servant or any servant of local authority to disregard or fail in his duties as such servant shall be punished with imprisonment which may extend to one year, or with fine, or with both.
20. **Sabotage.**- (1) No person shall do any act with intention 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 purposes of Government or any local authority;
  - (b) any road, canal, bridge, culvert, causeway or any telegraph line or post (as defined in the Telegraph Act, 1885) ;
  - (c) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory.
- (2) The provision of sub-section (1) shall apply in relation to any commission 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 person contravenes or attempts to contravene any of the provisions of this section, he shall be punished with imprisonment for a term which may extend to three years, or with fine, or with both.
21. **Representation against certain orders.**- (1) Where a representation is received under sub-section (5) of Section 5 against an order under clause (b), clause (c) clause (d) or clause (e) of sub-section (1) of Section 5 , Government shall, if the order represented against is not rescinded or cancelled and the order is to have effect for a period exceeding three months forward the case, including the representation, to the Board constituted under sub-section (5) of Section 3.

(2) Where a representation is made to Government under the provisions of subsection (3) of Section 6 of or sub-section (2) of Section 7, Government shall as soon as may be, forward the case, including the representation, to the Board constituted under sub-section (5) of Section 3.

(3) The Board shall, after considering the representation and such further information or material as may be placed before it by Government or the person making the representation, and giving such person an opportunity of being heard, submit its report together with its recommendations to Government.

(4) If the Board reports that the order against which the representation is made is unjustified, the Government shall vacate the order.

22. **Procedure for trial of offences.**- (1) In any area the Government may by notification direct that all the offences under this Ordinance, shall, notwithstanding anything in the Code, be tried in accordance with the procedure prescribed for the trial of summons cases by Chapter XX of the Code, subject in the case of summary trials to the provisions of Section 263 to 265 of the Code.

(2) The provisions of sub-section (1) shall apply to the trial of Offences mentioned therein committed before the notification aforesaid.

23. **Offence under Ordinance to be cognizable and non-bailable.**- Notwithstanding anything contained in the Code every offence punishable under this Ordinance shall be cognizable and non-bailable.

24. **Jurisdiction barred.**- Except as provided in this Ordinance no proceeding or order taken or made under this Ordinance shall be called in question in any Court and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under this Ordinance.

25. **Effect of orders, etc. inconsistent with other enactments.**- Any order made and any other action taken, under this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

26. **Operation of other Penal laws not barred.**- Nothing contained in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or commission which constituted an offence punishable under this Ordinance.
27. **Delegation of power to Deputy Commissioners.**- Government may, by order in writing, direct that the power under sub-section (1) of Section 3 shall, subject to such restrictions as may be specified, be exercisable by any district Magistrate within his jurisdiction.
28. **Power to make rules.**- Government may make rules not inconsistent with the provisions of this Ordinance, to carry into effect the purpose thereof.

(Brigadier Mohammad Hayat Khan)  
President,  
Azad Jammu & Kashmir.

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