

**THE AZAD GOVERNMENT OF THE STATE OF JAMMU AND
KASHMIR LAW & PARLIAMENTARY AFFAIRS
SECRETARIAT**

MUZAPFARABAD
the 14th May, 1972.

No. 1175/SL/72. the following Ordinance approved by the Legislative Assembly of Azad Jammu and Kashmir under Section 24 of the Azad Jammu and Kashmir Government Act, 1970, at its meeting held on the 1st May, 1972, is hereby published for general information: -

**THE AZAD JAMMU AND KASHMIR WAR INJURIES
ORDINANCE, 1972**

(Ordinance II of 1972)

Whereas circumstances have arisen which render it necessary to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the present hostilities;

And whereas the Legislative Assembly is not in Session and the President is satisfied that circumstances exist and the emergency has arisen which render immediate legislation necessary;

Now, therefore, in exercise of the powers conferred by Section 24 of: the Azad Jammu and Kashmir Government Act, 1970 and all powers enabling him in that behalf, the President Azad Government of the state of Jammu and Kashmir, 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 war Injuries Ordinance, 1972.
 - (2) It shall extend to the whole of Azad Jammu and Kashmir Territory.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Ordinance, unless there is anything repugnant in the subject or context:
 - (1) 'Civil Defence Organization' means any organization established for defence purposes which is declared by a scheme to be a civil defence organization

for the purposes of this Ordinance and the scheme;

(2) 'Civil Defence Volunteer', in relation to an injury, means a person certified by an Officer of a civil defence organization authorised by the Azad Government of the state of Jammu and Kashmir to grant such certificates, to have been a member of that organization at the time the injury was sustained;

(3) 'Continuance of the present hostilities' means the period beginning with the Proclamation of emergency promulgated by the President and ending with such date as the Government, may by notification in the Official Gazette, declare to be the date on which the Proclamation of Emergency is terminated;

(4) 'scheme' means a scheme made under this Ordinance;

(5) 'war injury' means a physical injury;

(a) caused by:-

(i) the discharge of any missile (including liquids and gas),
or

(ii) the use of any weapon, explosive or other noxious thing;
or

(iii) the doing of any other injurious act, either by the enemy
or in combating the enemy or in repelling an imagined
attack by the enemy; or

(b) caused by the impact on any person or property of any enemy aircraft or any aircraft belonging to or held by any person on behalf of or for the benefit of Government or any allied power, or any part of, or anything dropped from, any such aircraft;

(c) caused by any explosion or fire which involves any explosives or munitions or other dangerous things required, storage or transportation of any such explosives, munitions or other dangerous things;

(6) 'War service injury' in relation to a civil defence volunteer, means any physical injury shown to the satisfaction of the Azad

Government of the State of Jammu and Kashmir or other authority authorised to make payments under a scheme to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organization to which he belonged at the time the injury was sustained, and (except in the case of a war injury) not to have arisen out of and in the course of this employment in any other capacity;

Provided that before being so satisfied the Azad Government of the State of Jammu and Kashmir or other authority authorised to make payments under scheme shall have received from the civil defence organization of which the volunteer concerned was a member at the time the injury was sustained, a report, by an officer of the organization authorised by the Azad Government of the State of Jammu and Kashmir to make such reports, about the injury in question.

3. (1) The Government may make scheme in accordance with the provisions of this Ordinance providing for the grant of relief in respect of following injuries sustained during the continuance of the present hostilities:-
 - (a) war service injuries sustained by civil defense volunteers.
 - (2) The schemes framed under sub-section (i) of this section may authorise the Government or any authority authorised by the Government to make payments in such circumstances and subject to such conditions as may be specified in the schemes to make to or in respect of persons injured.
 - (a) payments by way of temporary allowance, which shall be payable only so long as the person injured is incapacitated for work by the injury and has not received any such payment as is mentioned in clause (b);
 - (b) Payments otherwise than by way of temporary allowance, which shall be payable only where the injury causes serious and prolonged disablement or death; and
 - (c) Payments for the purchase of or the grant at the cost of Government of artificial limbs or surgical or other appliances and payment for medical and surgical treatment.
 - (3) The schemes may be amended or rescinded at any time by

the Government .

(4) Any decision of the Government or other authority empowered to make payments under a scheme as to the making, refusal or amount, or as to the continuance or discontinuance, of a payment under the scheme may be varied from time to time by a subsequent decision of the Government or such authority as the case may be, but save in so far as it is so varied shall be final and conclusive.

4. **Relief from liability to pay compensation or damages:-** (1) In respect of a war injury sustained during the continuance of the present hostilities by any person and in respect of a war service injury sustained during the period by a civil defence volunteer, no such compensation or damages shall be, payable, whether to the person injured or to any other person, as apart from the provisions of this sub-section.

(a) Would be payable under the Workmen's Compensation Act, 1923; or

(b) Would, whether by virtue of any enactment or by virtue of any contract or at common law, be payable:

(i) in the case of a war injury, by any person, or

(ii) in the case of a war service injury sustained by a civil defence volunteer, by the employer of the volunteer, or by any person who has responsibility in connection with the volunteer's duties as such or by any other civil defence volunteer, on the ground that the injury in question was attributable to some negligence, nuisance or breach of duty for which the person by whom the compensation or damages would be payable is responsible.

(2) To failure to give a notice or make a claim or commence proceedings within the time required by any enactment shall not be a bar to the maintenance of proceedings in respect of any personal injury, of:

(a) an application for the payment under a scheme has been duly made to the Government or other authority empowered to make payments under the scheme in respect of the injury; and

- (b) the Court or other authority before which the proceedings are brought is satisfied that the said application was made in the reasonable belief that the injury was such that a payment could be made under a scheme; and
 - (c) the Government or other authority empowered to make payment under the scheme certifies that the application was rejected or that payments made in pursuance of the application were discontinued, on the ground that the injury was not such an injury; and
 - (d) the proceedings are commenced within one month from the date of the said certificate.
5. **Information as to earnings:-** (1) Where it is necessary in order to determine, the amount of any payment to be awarded under a scheme in respect of any injury, to ascertain the earnings of the person injured in respect of any period before he sustained the injury, the Government or other authority authorised to make payments under the scheme may by notice in writing require:-
- (a) any person who was an employer of the injured person during that period, or
 - (b) any other person having any knowledge with respect to the financial circumstances of the injured person during the period,
- to furnish in accordance with the notice any information in his possession relating to those earnings or circumstances, and to produce to any person specified in the notice any wage books, records or other documents in his possession containing entries with respect to those earnings.
- (2) If any person:
- (a) fails to comply with the requirements of any such notice, or
 - (b) in purported compliance with any such notice knowingly or recklessly makes any untrue representation, or produces any document which is false in a material particular or calculated to deceive, he shall be punishable with fine which may extend to three hundred rupees.
6. **Penalty for false statement:-** Any person who, for the purpose

of obtaining a payment or grant under a scheme either for himself or for any other person, Knowingly makes any untrue statement or untrue representation, shall be punishable with imprisonment for a term which may extend to three months.

7. **Assignments or charges to be void:-** Any assignment of, or charge on, and any agreement to assign or charge any payment awarded or to be awarded under a scheme shall be void and on the insolvency of any person to whom such a payment has been awarded, the payment shall not pass to any trustee or, other person acting on behalf of the creditors.

(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Jammu & Kashmir.
