

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

Dated the October 1, 1978.

No. 3331/SL/78. The following Ordinance made by the President on the 1st day of October, 1978, is hereby published for general information:-

(ORDINANCE LXXI OF 1978)

AN

ORDINANCE

to provide for law relating to the declaration assets by the Ministers, Members of the Assembly and Council

WHEREAS it is expedient to provide for law relating to the declaration of assets by the Ministers, Members of the Assembly and Council, in the manner hereinafter appearing ;

AND WHEREAS 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 Ministers, Members of Assembly and Council (Declaration of Assets) Ordinance, 1978.
 - (2) It extends to the whole of Azad Jammu and Kashmir and shall apply to all State Subjects wherever they may be.
 - (3) It shall come into force at once.
2. **Definitions.**- In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) 'Assembly' means the Legislative Assembly of Azad Jammu and Kashmir;
 - (b) 'Chief Executive' means the Chief Executive of the Azad Jammu and Kashmir;

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- (c) 'Council' means the Azad Jammu and Kashmir Council constituted under the Azad Jammu and Kashmir Interim Constitution Act, 1974;
 - (d) 'Government' means the Azad Government of the State of Jammu and Kashmir.
3. (1) Any Person who has, at any time, been a President, Minister, Presidential Assistant or Member of Assembly during the period December, 1970 and May, 1975, or who has, at any time, been a Prime Minister, Minister, Advisor to the President, Advisor or Special Assistant to the Prime Minister or Member of the Legislative Assembly or of the Council during the period June, 1975 and August. 1977, shall submit to the Chief Executive within a period of 15 days from the commencement of this Ordinance, or within such period as may be notified by the Chief Executive in this behalf, a statement of properties and assets, both movable and immovable whether within or outside the Azad Jammu and Kashmir, which he owns, or has in his possession or under his control, directly or indirectly, either in his own name or in the name of any other person and shall also furnish such other information relating to such properties and Assets as the Chief Executive may require :-

EXPLANATION.- 'Property' shall include-(1)

- (a) Lands rural or urban, all types of buildings and structure whether completed or under construction compounds and enclosures of any type, factories and firms registered or otherwise;
- (b) All types of machines whether fixed or movable including mechanical transport, tractors and similar machines, but excluding machines used for house-hold purposes;
- (c) Jewellery, precious stones all types in any form, pearls, gold, silver and other precious metals in any form;
- (d) Contracts, depots, import and export licences, route permits, agencies granted to or obtained by a person in his own name or in the name of any other person from the Government or any corporation or institution including autonomous and semi-autonomous body or association, controlled by the Government or in which the Government has any interest;

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- (e) Certificates, insurance policies, securities, bonds, bank balances, whether within or outside Azad Jammu and Kashmir, cash in any type of currency, shares, stocks, debentures or any other instrument carrying pecuniary benefits or advantages to a person;
- (f) Any other movable or immovable property, not being a property used for house-hold purposes.

(2) In his statement of properties and assets the person concerned shall specify the properties and the assets held by him at the time when he was appointed as a Minister, Presidential Assistant, Special Assistant or Advisor to the Prime Minister or elected as a Member of the Assembly or of the Council and the properties and assets held by him when he ceased to be a Minister or Member of the Assembly or of the Council.

(3) Upon receiving a statement under sub-section (2), the Chief Executive after making such inquiries through a Commission of Inquiry to be appointed by them and in such other manner as he may think fit, determine the correctness or otherwise of the statement and also the legality or propriety of acquisition of such properties and assets by the person concerned.

- 4. if the Chief Executive is of the opinion that any person mentioned in Section 3 has acquired any property or assets by unlawful or improper means or by means of bribery, corruption, jobbery, favouritism, nepotism, wilful mal-administration, wilful misapplication or diversion of public money or by abuse of whatever kind of official power or position, the Chief Executive may direct such action to be taken against such person, as the Chief Executive may deem fit.
- 5. A person who, being required to submit to the Chief Executive a statement or his properties and assets fails to submit statement or knowingly submits a false or incorrect statement shall be punishable with rigorous imprisonment for term which may extend to seven years and/or fine and/or forfeiture of the Whole or part of his properties and assets.
- 6. (1) Save as otherwise provided in Section 7, a person who sells, transfers or otherwise disposes of any of the properties and assets in respect of which he required to submit a statement under this Ordinance, shall be punishable with rigorous imprisonment for a term which may extend to seven years and/or

fine and / or forfeiture of the whole or part of his properties and assets.

(2) Nothing in this section shall apply to the operation of any bank account by a person for meeting his bonafide requirements or the sale, transfer, dispose of his property which he is required to do under any law or to meet any lawful obligation or in pursuance of any direction or order of a Court or other lawful authority.

7. (1) A person who owns, or has in possession or under his control directly or indirectly, either in his own name or in the name of any other person, any property or assets which he has reason to believe have been acquired by unlawful or improper means or by means of bribery, corruption, jobbery, favouritism, nepotism, wilful mal-administration, wilful misapplication or diversion of public money or by abuse of whatever kind of official power or position shall surrender such properties and assets in favour of the Government, in such manner, to such person and within such time as the Chief Executive may by order, specify.

(2) Subject to the provision of section 11, no action of any kind shall be taken against a person who surrenders the properties and assets he is required to surrender under subsection (1), except the forfeiture of such assets;

8. A person who owns, or has in his possession or under his control, any properties and assets which, he is required to surrender under Section 7, but fails to so surrender, shall be punishable with rigorous imprisonment for a term which may extend to fourteen years and/or fine and/or forfeiture of the whole or part of his properties and assets.

9. No Court or Tribunal shall take cognizance of an offence under Section 5, 6 and 7 of this Ordinance unless the Chief Executive has recommended punitive action against the accused.

10. (1) All Departments of the Government and of Corporations or institutions including autonomous or semi-autonomous bodies or associations controlled by the Government or in which the Government has any interest, which are concerned with the allotment of rural or urban land, the issuance of contracts, import, export licences, route permits or allotment of depots or agencies and selling or purchase of shares and stocks, shall within a period of fifteen days from the commencement of this Ordinance or within such period as may be specified by the

Chief Executive from time to time submit to the Chief Executive, full particulars of the properties mentioned in this Section which have been issued, allotted, granted, purchased or sold to persons, mentioned in sub-section (1) of Section 3 between December, 1970 and August, 1977.

(2) The Department concerned may obtain the list of the persons mentioned in sub-section (1) of Section 3 from the Secretary Services and General Administration Department or Secretary Legislative Assembly or Secretary Council, as the case may be.

11. Notwithstanding anything contained in any law for the time being in force, a person who is required to submit a statement of properties and assets under this Ordinance, shall be disqualified from being elected or chosen as, and from being a member of Assembly or of the Council, if the properties and assets acquired, by him during the period he remained as a Minister, Presidential Assistant, Special Assistant or Advisor to the Prime Minister or Member of Assembly or of the Council, are found by the Chief Executive to be disproportionate to his known sources of income, and the Chief Election Commissioner of Azad Jammu and Kashmir shall be informed accordingly :Provided if , before the elections are held, a candidate of a political party from any constituency is disqualified under the provision of this Section, all parties shall be entitled to nominate fresh candidates for that constituency and election in that constituency be held on such later date as the Chief Election Commissioner may notify in this behalf :

Provided further that, if the person disqualified as aforesaid is an independent candidate, election in the constituency concerned shall not be postponed unless there is no other contesting candidate in that constituency.

12. **Repeal.**- The Ministers, Members of Assembly and Council (Declaration of Assets) (Amendment) Ordinance, 1978 (Ordinance XLIX of 1978) is hereby repealed.

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

Sd/- (Sardar Aftab Ahmed Khan)
Secretary Law.