

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLTAMENTARY AFFAIRS DEPARTMENT
MUZAFFARABAD**

Dated the 11th March, 1985.

No. 738/LD/85. The following Ordinance made by the President on the 10th day of March, 1985, is hereby published for general information:-

(ORDINANCE LXVIII OF 1985)

AN

ORDINANCE

to provide for regulation of the Planning Construction, control and demolition buildings and disposal of buildings and plots in Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for the law relating to the building control Azad Jammu and Kashmir to provide for certain matters connected therewith;

AND WHEREASE 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 and Commencement.**- (1) This Ordinance may be called the Azad Jammu and Kashmir Buildings Control Ordinance, 1985.
 - (2) It shall come into force at once.
2. **Non applicable of a law.**- Nothing contained in any other law for the time being in force shall apply to any matter regulated by this Ordinance.
3. **Definitions.**- (1) In this Ordinance, unless there is anything repugnant in the subject or context.
 - (a) "Architect" means an architect who has been granted a licence under this Ordinance;
 - (b) "Authority" means the authority appointed under section 4;
 - (c) "Builder" means a person or body of persons, including a society engaged in construction of a building on contract, or as owner or agent of the owner for the purpose of transferring such building on hire or by sale or on the basis of ownership, but does not include a person or persons engaged as mason or such other arisen;
 - (d) "Building" means a building or part there of an includes all fittings, fixtures, installation and display structures of the building, but does not include any building notified by the Authority;

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- (e) “Building Designer” means a building designer who has been granted a licence under this Ordinance;
- (f) “Building Supervisor” means a building supervisor who has been granted a licence under this Ordinance;
- (g) “Developer” means a person or body of person including a society, engaged in developing a plot, or plots for any kind of building activity, for transfer by allotment to the members if the developer be a society, or to other person on the basis of ownership by sale;
- (h) “Fund” means the fund of the Authority, constituted under section 7;
- (i) “Government” means the Azad Government of the State of Jammu and Kashmir;
- (j) “Inspecting Architect” means an inspecting architect who has been granted a licence under this Ordinance;
- (k) “Inspection Engineer” means an inspecting Engineer who has been granted a licence under this Ordinance.
- (l) “Prescribed” means prescribed by rules or regulations made under this Ordinance;
- (m) “Private Building” means a residential building of not more than two floors including ground floor constructed on a plot of any size or a commercial building of not more than two floors including ground floor constructed on a plot not exceeding four hundred square yards (367sq: meters) not meant for transfer by sale or on the basis of ownership and does not include a building like a mosque, auditorium, cinema, or such other building;
- (n) “Proof Engineer” means a structural engineer whose name is borne on the panel of proof engineers maintained by the Authority;
- (o) “Public Building” means a building other than a private building;
- (p) “Quality control” means the standards fixed or any code of practice of quality control recognized by the Authority for construction of buildings or development of plots;
- (q) “Regulations” means the regulations made under this Ordinance;
- (r) “Rules” means rule made under this Ordinance;
- (s) “Society” means a society which directly or indirectly deals with providing plots to its members for housing, commercial or industrial purpose;
- (t) “Structural Engineer” means a structural engineer who has

been granted a licence under this Ordinance;

(u) "Surveyor" means a surveyor who has been granted a licence under this Ordinance;

(v) "Town Planner" means a town planner who has been granted a licence under this Ordinance.

4. **Authorities.**- (1) Government may, by notification, appoint anybody corporate or council, or any department of Government or functionary or any organization to act as Authority for such area as may be specified in the notification.

(2) Where a body corporate, a council, or an organization, or any Government department is appointed as Authority, the officer incharge of such body corporate, or council or organization or department as the case may be, shall act as officer incharge of the Authority.

(3) The Authority for any areas shall be, known after the name of that area and shall sue and be sued in such name.

5. **Officers and Servants of the Authority.**- (1) The Authority may appoint such officers, advisers, experts consultants and employees for efficient performance for its functions and consultants on such terms and conditions, as may be prescribed.

(2) All officers, advisers, experts consultants and employees appointed under sub-section (1) shall be deemed to be public servants within the meaning of Section 21 of the Azad Jammu and Kashmir Penal Code (Act XLV of 1860) and shall be subject to such disciplinary action as may be prescribed.

6. **Supervision over the Authority.**- Government may appoint a Committee which may, subject to the control and direction of Government, oversee the functioning of an Authority;

7. **Fund.**- (1) There shall be a fund of the fund of the Authority to be known by its name.

(2) The fund shall consist of:-

(i) grant-in-aid made by Government or received from any other source including foreign aid;

(ii) Loans raised or obtained by the Authority;

(iii) Fees and other sums received by the Authority under this Ordinance.

(3) All the members in the funds shall be kept in a Bank approved by the Authority.

(4) The Authority may invest its funds in any security of the Government or any other security approved by the Government.

(5) The fund shall be utilized for carrying out the purposes of this Ordinance.

(6) The Authority shall maintain or cause to be maintained complete and accurate accounts of the fund in such manner and from as maybe prescribed by rules.

(7) The accounts of the Authority shall be audited at least once in every financial year by such auditors or accountants, as may be approved by the Government.

8. **Sale of plots.**-(1) No developer shall transfer any plot or plots on the basis of ownership or by sale or advertise such transfer, without obtaining a no objection certificate from the Authority in the manner and on payment of such fees as may be prescribed.

(2) Where the Authority is satisfied that the development of the plots made or proposed to be made, are below the standard laid down by the Authority, it shall refuse to give the no objection certificate under sub-section (1).

(3) Where the developer has failed to deliver the possession of the plot mentioned in sub-section (1), by the date specified in the agreement with the transferee, he shall, unless the date has on his application been extended by the Authority, pay such surcharge as may be prescribed on the amount paid by the transferee.

(4) The provisions contained in sub-section (1), (2), (3), (4), (5) and (8) of Section 18 shall mutatis mutandis, be complied with by The developer in respect of the plot or plots mentioned in sub-section (1).

9. **Approval of Plan.**- (1) No building other than a private building as defined under section 3(m) shall be constructed before the Authority has, in the prescribed manner, approved the plan of such building and granted no objection certificate for the construction there of on payment of such fee as may be prescribed:

Provided that in the case of a building, the construction where of has commenced before coming into force of this Ordinance, the Authority approval of the plan and no objection certificate shall be obtained not later than six months of this enforcement of the Ordinance.

Explanation: The word “construct” with all its variations used in this section and hereafter shall include “reconstruct” with all its variations and additions alteration.

(2) No building mention in sub-section (1) shall be occupied by any person or shall be allowed by the builder to be occupied, before the Authority has on application of the occupant or owner, issued occupancy certificate in such manner as may be prescribed.

(3) No building mentioned in sub-section (1), shall, except with the permission of the Authority, be used for the purpose other than that for which its plans were approved.

(4) Where the authority is satisfied that the purpose for which

the building desired to be used is consistent with the approved plans of the building. It may grant the permission under sub-section (3) on such conditions and on payment of such fees as it may fix.

10. **Information for no objection certificate.**- A builder or developer shall for purpose of obtaining no objection certificate under section 8 or as the case may be, under section 9 furnish full and true information as to the following duly attested in the manner as may be prescribed:-

- (a) his own title, and title or interest of any other person or any encumbrance such as mortgage or lease of licence in respect of the land on which a building is to be constructed or which is to be developed into plots;
- (b) Plans, specifications, designs, and materials to be used, as approved by Authority;
- (c) All money payable under any law for the time being in force in respect of the building or plot as the case may be, which include taxes, ground rent and revenue assessment, electricity and water charges;
- (d) such other information and documents as may be specified by the Authority;

11. **Preparation of plans.**- (1) The plan submitted to the Authority under Section 9 shall be prepared by and under the supervision of and signed by such person or persons referred to in sub-section (1) of section 13 as may be prescribed.

Provided that a structural engineer shall be associated with the accordance to prepare the structural designs and drawing and sign them if the building :-

- (i) is sixteen meters or more in height from the plinth level;
- (ii) consists of five or more storeys, in addition to the ground floor;
- (iii) consist of two or more storeys, in addition to the ground floor, situated in the coastal areas notified by the Authority;
- (iv) is considered by the Authority to be of special nature:

Provided further that town planner shall, in addition to structural engineer, be associated to assist the architect in preparation of the plan if the building constructed on a plot of two acres or more and the Authority deems that association of town planner is necessary and in that case the plan shall be signed by the town planner.

- (2) An inspecting engineer shall be engaged for supervision of construction of a building other than a single or double storied building on an area not exceeding four hundred square yards the construction whereof may, instead of engineer, be entrusted to the

supervision of a building supervisor, and the inspecting engineer or as the case may be by the building supervisor shall sign the plan of the building.

(3) The builder and any person or persons associated in any manner with the building including its plan and construction shall be liable for the defect in the structure, plan and construction thereof to such extent and manner as may be determined by the Authority.

(4) The Authority may, for reasons of safe and sound construction, refer the structural design of any building for further examination to a proof engineer who shall scrutinize the design and, if necessary, modify it and the fees or any charges in connection therewith shall be borne by the builder.

12. **Violation of certain provisions.**- Where the provisions of sub-section (1) of section 9 are violated the building may, without prejudice to any other action including sealing of the building or ejection of the occupants be ordered by the Authority or any officer of the Authority authorised in this behalf, to be demolished, at the cost of the builder in the case of public buildings and the owner in other case;

13. (1) No person or body of persons shall act as architect, building designer, inspecting engineer, inspection architect building supervisor, structural engineer, or town planner except with a licence granted by the Authority in the manner and on the terms and conditions as may be prescribed:

Provided that any licence granted under any other law for the time being in force shall expire after six months for the date of the coming into force of this Ordinance.

(2) No licence under sub-section (1) shall be granted unless an architect, building designer, inspecting engineer inspecting architect building supervisor, structural engineer, or town planner possesses such qualifications as may be prescribed.

(3) The functions of and remuneration payable to an architect, building supervisor, structural engineer or town planner shall be regulated in such manner as may be prescribed.

14. **Grant of Licence to Builder of Developer.**- No builder or developer shall engage in construction or transfer of a building or, as the case may be development or transfer of a plot, or plots except with a licence granted by the Authority in the manner and on the terms and conditions including fees as may be prescribed.

15. **Licensing Board.**- Notwithstanding any other provision of this Ordinance, Government may by notification published in the official Gazette, constitute a Licensing Board for the whole of Azad Jammu and Kashmir to grant licencess to the persons referred to in sub-section (1) of Section 13.

- (2) Where a Board has been constituted under sub-section (1) the Authority shall cease to exercise the powers under section 8 and to frame regulations in respect of matters specified therein and in that case all such matters shall be regulated in the manner prescribed by rules.
16. The authority may appoint committees or sub-committees which shall, subject to control and directions of the Authority, exercise such powers and perform such functions as may be assigned to them by the Authority.
17. **Inspection of building or plot.**- (1) The Authority may authorize any officer not below the basic pay scale No. 17 to inspect any building under construction of any plot developed or being developed in any locality or localities or as may be assigned to such officer for the purpose of quality control.
- (2) If in the opinion of the officer authorized under sub-section (1) the construction of any building is not in accordance with the plan or the specifications approved by the authority or any material used in the construction is of sub-standard or is not of the quality or type mentioned in the advertisement under section 18, such officer may by order in writing issue any direction, and it shall be the responsibility of the builder and all those concerned with the construction of the building to carry out such direction or he may require that the construction be suspended until any further direction is issued either by him or by the Authority, or order that the construction which in his opinion is defective be demolished at the cost of the builder.
18. **Sale of building.**- (1) No builder shall sell or, advertise for sale any building through any audiovisual aids or any other means before he has obtained a approval in writing of the Authority and he shall mention such fact in the advertisement which will further specify all such details about the building as may be prescribed.
- (2) The approval granted by the Authority under sub-section (1) shall be displayed at a conspicuous place in the office of the builder, if any, and at the site of the building.
- (3) The builder shall not entertain and register any application in response to the advertisement under sub-section (1), if it is in excess of the number of housing units provided in the building.
- (4) Where an application is made in response to the advertisement, and an agreement shall be executed between builder and the applicant for construction and transfer of the building and the agreement shall inter alia, specify the date by which the construction shall be completed and possession of the building shall be delivered and the total price to be paid in lump sum or in installments and also the interest payable by either party in the event of default.

Provided that the payment if any made by the applicant before the execution of the agreement shall not exceed such percentage of the total price as may be specified by the authority.

(5) Notwithstanding the agreement mentioned in sub-section (4) no builder shall cancel the transfer by sale of otherwise without observing the prescribed procedure.

(6) No builder shall without approval of the Authority make any alternations.

(7) The builder shall take out in contract all Risk Insurance Policy in respect of the building which shall also cover losses arising out of defects in design earthquake.

(8) The builder shall maintain a list of buildings already constructed or transferred by him with full particulars as may be specified by the Authority including the names, and addresses of the transferees, and the terms and conditions on which the buildings were transferred and shall, on demand of the authority furnish a copy of such list or part thereof.

(9) Where any structural defect in the building or the material used in construction thereof any authorised change therein brought to the notice of the builder within a period of one year in respect of structure and six months in respect to fixtures, from the date of offering physical possession to the transferee such defect or unauthorised change shall be removed without any additional cost from the transferee or appropriate compensation be paid to him, and the case of dispute as to the defect or change of or quantum of compensation decision of the Authority shall be final.

19. **Increase of sale area.**- (1) The sale price of a building/plots advertised under section 18, or agreed upon between the parties for sale before the commencement of this Ordinance shall not, after advertisement or agreement, be increased except with the approval of the Authority who may, after taking into consideration the rise in cost of building material and wages of the labour and such other expenditure allow such increase as the Authority deems fit.

(2) Where a building cannot be completed by the date mentioned in the advertisement or offer, the Authority may on application made in this behalf, extend the period for completion of the building.

(3) Where a building has not been completed by the date mentioned in advertisement or offer and the application under sub-section (2) has been rejected, the builder shall be liable to pay interest at such rate not exceeding the rate charge by a scheduled Bank and in such manner as may be prescribed, to the buyer of the building, on the amount of the sale priced paid by such buyer for the period by which the completion of the building has been delayed.

20. **Formation of co-operative societies.**-Where a building after its completion, is transferred to such number of persons who can form a co-operative society, all such persons shall, for the purpose of maintenance of building, form such society.
21. **Dangerous buildings.**- (1) If it comes to the notice of the Authority that a building is in dangerous condition, the Authority may, after such enquiry, as it deems fit order for carrying out the specific repairs or demolition of the whole or part of the building.
- (2) Where the specific repairs are to be carried out the Authority may, by notice, require the owner of building or in the event of his failure, the occupier thereof, to carry out such repairs within such period as may be specified, or the Authority may, notwithstanding any other law for the time being in force, proceed to have the building demolished and the cost of demolition shall be recovered from the owner as occupiers of land revenue.
- (3) Where the whole or a part of the building to be demolished, the Authority may, by notice, require the occupier or occupiers thereof to vacate the building within the period specified in the notice and if the building has not been vacated within such period, the Authority may, notwithstanding any other law for the time being in force order that occupier or occupiers of the building be ejected, if necessary, by force.
22. **Surcharge on un-paid installments.**- Where a person has purchased a building on installments in response to the advertisement under section 18, and has failed to pay any installment in time, he shall be liable to pay surcharge on the amount of the unpaid installment, as may be prescribed.
23. **Appeal.**- An appeal from an order under this Ordinance may, in the prescribed manner, be preferred within thirty days of such order to,-
- (a) the Government in the case of the order made by the Authority; and
- (b) the Authority, in other case.
24. **Disposal of application or appeal.**- An application or appeal made under this Ordinance shall be disposed within thirty days of the receipt thereof unless this time limit is extended by Government on the request of the Authority.
25. **Delegation of powers.**- Government may, by notification published in the official gazette, delegate any of the powers vested in it or the Authority to any officer or Authority.
26. **Penalty.**- (1) Whoever contravenes any provision of this Ordinance, shall be punished with simple imprisonment for a term not exceeding two years or with fine not less than twenty thousand rupees or with both and if the offence is a continuing one, further

fine not exceeding five hundred rupees for each day after the date of the first commission of the offence.

(2) The Authority or any person authorised by it in this behalf may compound any offence under this Ordinance on such terms and conditions as may be prescribed.

(3) No court shall take cognizance of an offence under this Ordinance except on a complaint in writing made by the Authority or any person authorised by it.

27. **Indemnity.**- No suit or legal proceedings shall lie against Government or the Authority or any person in respect of anything done or intended to be done in good faith under this Ordinance.

28. **Notice for Institution of suit.**- No suit shall be filed against the Authority or its employees in respect of anything done or purported to be done by the Authority or such employee under this Ordinance except after expiration of sixty days next after notice in writing has been delivered to or left at the office of the Authority or employee as the case may be.

29. **Power to make rules.**- Government may make rules for the purpose of giving effect to the provisions of this Ordinance.

30. **Regulation.**- (1) The Authority may, frame Regulations not inconsistent with the provisions of this Ordinance, and the rules made there under for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers such regulations may provide for:-

- (a) the recruitment, tenure of office, terms and conditions of service of the officers, advisers, experts, consultants and employees appointed by the Authority and disciplinary action against them;
- (b) the manner of approval, grant of no objection certificates to builders or developers and rates of fees therefor;
- (c) the manner of grant of occupancy certificate and fees therefor;
- (d) the manner of attestation of documents or information;
- (e) the manner of preparation, supervision and submission of building plans;
- (f) the qualifications, manner of grant and terms and conditions of and fees for licences to architects, building designers, inspecting engineers, inspecting architect, building supervisors, structural engineers or town planner and regulation of their functions and remuneration;

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- (g) the manner of grant and terms and conditions of licence to builders or developers and fees for such licence.
- (h) Procedure for cancellation or transfer or sale;
- (i) the details of the building or plot required to be mentioned in the advertisement for its sale by the builder or developer, as the case may be;
- (j) rates of fees for supplying copies of any documents or information;
- (k) terms and conditions of compounding of offences;
- (l) rates of Surcharge payable under this Ordinance.

Sd/-

(Major General (R) Abdul Rehman Khan)
President,
Azad Jammu & Kashmir.

Sd/-

(Choudhry Muhammad Latif)
Joint Secretary Law.