

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

Dated the 11<sup>th</sup> January, 1981.

No. 188/LD/81. The following Ordinance made by the President on the 9th day of January, 1981, is hereby published for general information:-

**(ORDINANCE VI OF 1981)**

AN

**ORDINANCE**

to amend the Zakat and Ushr Ordinance, 1980

WHEREAS it is expedient to amend the Zakat and Ushr Ordinance, 1980 (CLXXXVII of 1980), for the purposes hereinafter appearing;

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 and Commencement.-** (1) This Ordinance may be called the Zakat and Ushr (Amendment) Ordinance, 1981.  
(2) It shall come into force at once.
2. **Amendment of Section 1, Ordinance CLXXXVII of 1980.-** In the Zakat and Ushr Ordinance, 1980 (CLXXXVII of 1980), hereinafter referred to as the said Ordinance, in Section 1;
  - (a) in sub-section (2), after the work "but", the words "as regards payment and recovery of Zakat and Ushr", shall be inserted;
  - (b) in sub-section (3), for the full-stop after the word "person" a colon shall be substituted and thereafter the following provisos shall be added, namely:-

"Provided that no Zakat or Ushr shall be charged or collected on compulsory basis in respect of the assets or the product of a person who, within the period of three months preceding the Valuation Date, files with the Deducting Agency or with the Local Committee in the case of Ushr, a declaration in the prescribed form sworn by him before a Magistrate, an Oath Commissioner, a Notary Public or any other person authorised to

administer oath, in the presence of two witnesses who identify him, to the effect that he is a Muslim and a follower of one of the recognized fiqhs, which he shall specify in the declaration, and that his faith and the said fiqh do not oblige him to pay the whole or any part of Zakat or Ushr in the manner laid down in the Ordinance:

Provided further that, where for any reason Zakat or Ushr is collected on compulsory basis from such a person and he does not wish to leave it in the Zakat Fund as Sadaqah or Khairat in the name of Allah as a manifestation of the unity of the Ummah and claims refund, on the basis of a declaration as aforesaid filed by him within the period specified in the first proviso or within such further period as may be prescribed, the amount so collected shall be refunded to him in the prescribed manner", and

(c) after sub-section (3), amended as aforesaid, the following new sub-section shall be inserted, namely:-

"(3-A) The Azad Jammu and Kashmir Shariat Court may, on the application of any person, decide the question whether a declaration such as is referred to in the first or second proviso to sub-section (3) made by any person is valid according to the fiqh he professes to follow; and, if the Azad Jammu and Kashmir Shariat Court decides that the declaration is not valid, such person shall, without prejudice to any other action that may be taken against him under any other law, be liable to pay Zakat or Ushr, as the case may be, in the manner laid down in this Ordinance."

3. **Amendment of Section 2, Ordinance CLXXXVII of 1980.-** In the said Ordinance, in Section 2;

(a) after clause (xviii), the following new clause shall be inserted, namely:-

"(XVIII-A) 'Nisab' in relation to assets liable to Zakat, except agricultural produce and animals fed free in pastures, means 612.32 grams of silver, or cash or gold, or goods for trade, or any assets liable to Zakat under Shariah, the aggregate value of which is equal to the value of 612.32 grams of silver, as notified by the Chief Administrator for each Zakat year or, in the case of a person whose assets liable to Zakat Consist only of gold, 87.48 grams of gold"

- (b) for clause (XXV) the following shall be substituted, namely:-

"(XXV) "Sahib-e-nisab" means a person who owns or possesses assets not less than nisab, but does not include:-

(a) the Government, the Azad Jammu and Kashmir Council or a Local authority;

(b) a statutory corporation, a company or other enterprise owned wholly, directly or indirectly, by the government, the Azad Jammu and Kashmir Council, a local authority or a corporation owned by the Government or the Azad Jammu and Kashmir Council, either singly or jointly with one or more of the other three;

(c) a subsidiary of a statutory corporation, a company or other enterprise referred to in sub-clause (b) and wholly owned by it;

(d) the National Investment (Unit) Trust;

(e) and ICP mutual Fund;

(f) a recognised provident Fund;

(g) any unit Fund maintained by the Defence Services, including the civil Armed Forces;

(h) a Zakat Fund;

(i) an institution, fund, trust, endowment or society:--

(a) registered as a charitable organization under the Societies Registration Act, 1860 (XXI of 1860), or as a company under Section 26 of Companies Act, 1913 (VII of 1913), or registered or approved as a charitable or social welfare organisation under any other law for the time being in force; and

(b) approved by the Azad Jammu and Kashmir Central Board of Revenue for the purposes of Section 47 of the Income Tax Ordinance, 1979 (XXXI of 1979), as adapted in Azad Kashmir;

(j) a deeni madrasah registered as such by the Auqaf Department;

(k) a mosque;

Volume VII (1981 to 1984)

- (l) an orphanage registered as such under the law relating to orphanages;
- (m) a workers participation fund established under the Companies Profits (Workers Participation) Act, 1968 (XII of 1968); or
- (n) amount of a party to a suit or case kept with or under the orders of a Court pending decision of the suit or case; and
- (o) for clause (xxviii) the following shall be substituted, namely:-

"(xxviii) 'Valuation Date' means:-

- (a) in respect of assets liable to Zakat, the first day of the Zakat year; and
- (b) in respect of produce liable to Ushr, such date or dates as may be prescribed or as may be notified by the Chief Administrator; for the valuation of the assets or the produce for the purposes of this Ordinance;"

4. **Amendment of Section 3, Ordinance CLXXXVII of 1980.-** In the said Ordinance, in Section 3;--

- (a) in sub-section (1),
  - (i) for the brackets and words "(other than a person excluded from the definition of 'Sahib-i-nisab) who owns or possesses such assets on the "Valuation Date" the words and commas "who is on the Valuation Date, and has for the preceding Zakat year been, sahib-e-nisab" shall be substituted; and
  - (ii) for the full stop at the end a colon shall be substituted and thereafter the following provisos shall be added, namely:-

"Provided further that, if an asset was owned or possessed by a person on the Valuation date but is owned or possessed by some other person on the Deduction Date, the Zakat on such asset shall be charged and collected from such other person on behalf of the person owning or possessing it on the Valuation Date:

Provided further that, if a person proves in the prescribed manner to the satisfaction of the Local Committee of the locality where he ordinarily resides

that he was not a sahib-e-nisab on the Valuation Date or was not in ownership or possession of assets of the value of nisab for the whole of the preceding Zakat year, Zakat shall not be so charged and collected from him, or if collected shall be refunded to him in the prescribed manner:

Provided further that no Zakat shall be charged and collected from the assets of a person who died on or before the Deduction Date;"

(b) In sub-section (2), in clause (c), the words, brackets and letter "in clause (a)" shall be omitted;

(c) for sub-section (3) the following shall be substituted, namely:-

"(3) Where a person from whom Zakat has been deducted at source:-

(a) proves that:-

(i) he is not a Muslim, or

(ii) he is not a State Subject of Azad Jammu and Kashmir, or

(iii) that amount deducted from him is more than what is due under this Ordinance, either on account of an error apparent from the record, or on account of reduction provided for in sub-section (2) not having been duly allowed to him, or

(iv) he falls under any of the exclusion given in sub-clauses (a) to (n) of clause (XXV) of Section 2, or

(b) proves, as laid down in the third proviso to sub-section (1) that he is not a sahib-e-nisab or was not in ownership or possession of nisab for the whole of the preceding Zakat year, or

(c) files a declaration such as is referred to in the second proviso to sub-section (3) of Section 1, which has not been challenged in the Azad Jammu and Kashmir Shariat Court under sub-section (3-A) of that Section, and claims refund, the amount so deducted or, as the case may be, the amount so deducted in excess shall be refunded to him in the prescribed manner", and

(d) for sub-section (6) the following shall be substituted, namely:-

"(6) Any amount deducted at source by the Deducting Agency from any person shall be treated as payment of Zakat on behalf of such person or, in the case of a person referred to in sub-section (3) of Section (1), as contribution to Zakat fund or sadaqah or Khairat in the name of Allah, as the case may be, on the part of that person."

5. **Amendment of Section 6, Ordinance CLXXXVII of 1980.-** In the said Ordinance, in Section 6, in sub-section (4),

- (a) after the words and comma "the Local Committee shall", the words and commas "subject to such guidelines and instructions as may be given by the council or, if so authorized by the council, by the District Committee, shall be inserted;
- (b) after the words, brackets, figure and comma "in sub-section (2), make", the commas and words, in the prescribed form and manner," shall be inserted; and
- (c) the words "in the prescribed form and manner" at the end shall be omitted.

6. **In Amendment of Section 8, Ordinance CLXXXVII of 1980.-** In the said Ordinance, in Section 8:

- (a) in clause (a)
  - (i) the words" assistance to", occurring for the second time, shall be omitted; and
  - (ii) in the first proviso for the words "such individuals and institutions as are to be assisted directly or indirectly" the words and commas "the individual to be assisted directly, and the institution through which assistance is to be given shall be inserted; and
- (b) in clause (b), in the first proviso, after the words "Chief Administrator", the commas and words, "and that on a District Committee and Markaz Committee", shall be inserted.

7. **Amendment of Section 9, Ordinance CLXXXVII of 1980.-** In the said Ordinance, in Section 9, in sub-section (2), for the words "and the institutions" the words "directly or indirectly" shall be substituted.

8. **Insertion of new Section 16-A, Ordinance CLXXXVII of 1980.-** In the said Ordinance, after Section 16, the following new section shall be inserted, namely:-
- "16-A. Members of Council and Committees to be Muslims.-**  
All the members of the council or committee shall be Muslims and where the holder of an office cannot become a member by reason of his not being a Muslim, the President in the case of council and the council in the case of a Committee shall nominate a Muslim member in his place".
9. **Insertion of new Section IS-A, Ordinance CLXXXvn of 1980.-** In the said Ordinance, after Section 18, the following new Section shall be inserted namely:-
- "18-A. Vote of no confidence against the Chairman of a Markaz Committee or a local Committee or the member of a Local Committee,.
- (1) Where in case of a Markaz Committee, or of a local Committee, the District Committee after such enquiry as it may deem fit, is of the opinion that the members of that committee no longer have confidence in the Chairman, the District Committee may, in the prescribed manner, remove the Chairman from his office.
- (2) Where in the case of a member of a Local Committee, the District Committee, after such enquiry as it may be deem fit, is of the opinion that the adult Muslim residents of the locality no longer have confidence in the member, the District Committee may, in the prescribed manner, remove the member from his office.
- (3) The vacancy in the office of Chairman or member as so caused shall be notified by the District Committee and shall be filled in accordance with the provisions of this Ordinance."
10. **Amendment of the First Schedule, Ordinance CLXXXVII of 1980.-** In the said Ordinance, in the First Schedule;
- (a) the heading 'The Valuation Date' of column 3, the figure 3 of column 3 and all the entries in column 3 shall be omitted.
- (b) against S. No. I in the first column, in column 4, for the words, letters, figure and comma within the brackets the following shall be substituted:-
- "No deduction shall be made in case the amount standing to the credit of an account does not exceed the amount notified by the Chief Administrator";

Volume VII (1981 to 1984)

- (c) against S. No. 2 in the first column:
  - (i) in column 2, the words and comma "and Fixed Deposit receipts with comma of majority of nine months or less," shall be omitted;
  - (ii) in column 4, after the word "account", the commas and words", as the case may be," shall be inserted; and
  - (iii) for the entry in column 5 the following shall be substituted, namely:-

"The date on which the first return is paid or the date of encashment/withdrawal, whichever be earlier in the Zakat year."
- (d) against S. No. 3 in the first column, in column 2, the brackets, words and figure "(other than those mentioned in serial number 2)" shall be omitted;
- (e) against S. No. 4 in the first column:
  - (i) in column 2, for the words "receivable or" the words receivable and" shall be substituted; and
  - (ii) in column 4, for the words and comma "on the date of maturity or encashment withdrawal, as the case may be" the words and comma "as the case may be, as on the Valuation Date" shall be substituted;
- (f) against S. No. 5 in the first column:
  - (i) in column 4, the word "applicable" shall be omitted;
  - (ii) in column 5, for the word "surrender" the word "repurchase" shall be substituted; and
  - (iii) in column 6, for the words "surrender/repurchase" the word "repurchase" shall be substituted;
- (g) against S. No. 8 in the first column, in column 2, for the words "statutory corporations or companies" the Words "companies or statutory corporations" shall be substituted, and for the words "statutory corporation or a company" the words "company or a statutory corporation" shall be substituted;
- (h) against S. No. 9 in the first column:
  - (i) for the entry column in 4 the following shall be substituted, namely:

Volume VII (1981 to 1984)

"2.5% of the aggregate amount of annuity benefit in each Zakat year or 2.5% of the surrender value on the Valuation Date, as the case may be,"; and

- (ii) in column 5, after the word "date of", the word "first" shall be inserted;
- (i) against S. No. 10 in the first column, for the entry in column 4 the following shall be substituted, namely:-  
"2.5% of the payable value on maturity or of surrender value, as on the Valuation Date in the Zakat year in which the policy matures or its survival benefit or surrender value is paid, as the case may be";
- (j) against S. No. 11 in the first column, for the entries in column 4, 5 and 6 the following shall be substituted, namely:

4	5	6
"In case of non-refundable advance 2.5% of the amount drawn or, in case of final settlement, 2.5% of the balance standing to the credit of the subscriber as on the Valuation Date, excluding in both cases the employer's contribution and the return accrued thereon.	The date of payment of the advance or of the balance.	The authority, officer or institution making payment of the advance or of the balance"

- (k) after Note 1, the following new Note shall be inserted, namely:  
"1-A. No Zakat shall be charged on the amount paid as premium of a life insurance policy of a person from his Provident Fund and, where the proceeds of a life insurance policy of a person are credited to his Provident Fund during a Zakat year, no Zakat shall be charged on the amount received or drawn during that year as final settlement of his account in the Provident Fund on as non-refundable advance, to the Extent of the proceeds so credited.";
- (l) in Note 2, after tile words and full stop "not be charged," at the end, the following sentence shall be added, namely:  
"Where the entire amount of the return/balance/ installment of immunity benefit is to be appropriated towards Zakat, and the amount contains a fraction of a rupee, this fraction shall not be so appropriated.";

- (m) in Note 3:
- (i) the words "Valuation Date and the Deduction Date for serial number 1 of this Schedule will be notified by the Chief Administrator simultaneously and the" shall be omitted; and
  - (ii) after the words "Deduction Dates", occurring for the second time, the words and figure "for serial number 1" shall be inserted; and
- (n) after Note 3, amended as aforesaid, the following new Note shall be added, namely:-
- "4. In case the amount of the first return on any of the assets specified at S. Nos. 2, 3 and 5 to 8, or the first installment of the annuity benefit, is less than the Zakat due, the entire amount of such return or installment shall be appropriated towards Zakat and the unrealized balance shall be deducted from the subsequent returns or installments paid during the same Zakat year or, as the case may be, from the encashment or surrender value."

11. **Amendment of the Second Schedule, Ordinance CLXXXVII of 1981.-** In the said Ordinance, in the Second Schedule:-

- (a) the heading "The Valuation Date" of column 4, the figure 4 of column 4 and all the entries in column 4 shall be omitted;
- (b) against S. No. 1 in the first column, for the entry in column 2 the following shall be substituted, namely:-  
"Gold and silver and manufactures thereof.";
- (c) against S. No.4 in the first column, for the entry in column 2 the following shall be substituted, namely:-  
"Current Accounts and foreign currency accounts and, to the Extent not subject to compulsory levy of Zakat under the First Schedule, other accounts, certificates, receipts, Units of National Investment (Unit) Trust, ICP-Mutual Fund Certificates, Government securities, securities, life insurance policies and Provident Funds.";
- (d) against S. No. 7 in the first column, after the entries in columns 2 and 3, the following new entries shall be added, namely:-

1	2	3
(c)	Precious metals and stones and manufactures thereof -	2.5% of the market value, as on the Valuation Date.

Volume VII (1981 to 1984)

(d)	Fish and other catch/produce of the sea, except catches by indigenous techniques.	2.5 % of the value, as on the Valuation Date.
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- (e) S. No. 8 in the first column and all entries relating thereto shall be omitted;
- (f) against S. No. 9 in the first column, in Column 3, for entry (b) the following shall be substituted namely:-
- “(b) (i) 5% over and above the compulsory 5%, in the barani area, as on the Valuation Date; and
- (ii) one-fourth of the value of produce allowed as an allowance for expenses on production.”;
- (g) against S. No. 10 in the first column, in column 3:-
- (i) against (c) (ii) for the existing entry the following shall be substituted, namely:
- "For owners of 5 to 24 heads; one sheep/goat for every five heads;" and
- (ii) in entry (c) (iii), for the figure "26" the figure "25" shall be substituted; and
- (h) S. No. 11 in the first column and all the entries relating thereto shall be omitted.

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

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Sd/- (Syed Mohammad Akram Shah)  
Deputy Secretary Law.