

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

Dated the 21st October, 1982

No. 1536/LD/82. The following Ordinance made by the President on the 21st day of October, 1982, is hereby published for general information:-

(ORDINANCE CCXXXI OF 1982)

AN

ORDINANCE

to make provisions relating to the assessment, collection and disbursement of Zakat and Usher

WHEREAS it is necessary to make provisions relating to the assessment and disbursement of Zakat and Ushr and matters connected therewith or incidental thereto;

AND WHEREAS, Azad Jammu and Kashmir, being an Islamic State, must provide for the implementation of Islamic precepts;

AND WHEREAS Zakat, including Ushr, is one of the fundamental pillars (Arkan) of Islam;

AND WHEREAS the prime objective of the collection of Zakat and Ushr, and disbursements therefrom, is to assist the needy, the indigent and the poor;

AND WHEREAS the rates of Zakat and Ushr, as also the purposes for the utilization of Zakat and Ushr, are Specified in Shariah;

AND WHEREAS Shariah enjoins upon all Muslims who are Shaib-i-Nisab to pay, and the State to arrange for the proper collection, disbursement and utilization of Zakat and Usher, and also allows such Muslims to disburse for the purposes authorized by Shariah the part thereof not collected by the State;

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;

CHAPTER-I: PRELIMINARY

1. **Short title, Extent, application and Commencement.-** (1) This Ordinance may be called the Zakat and Ushr Ordinance, 1982.

(2) It extends to the whole of Azad Jammu and Kashmir, but as regards payment very of Zakat and Ushr applies any to Muslim State Subject of Azad Jammu and Kashmir and a company, or other association of persons, or body of individuals whether incorporated or not majority of the Shares of which is owned, or the beneficial ownership of which is held by such State subjects.

(3) In respect of a person who may believe that the whole or any part of the recoveries effected from him in the manner laid down in this Ordinance are not according to his belief; such recoveries shall nevertheless be made, but shall deemed to be contribution to Zakat Fund on the Part of the person:

Provided that no Zakat or Ushr shall be charged or collected on compulsory basis in respect of the assets or the produce 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 Usher 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

(4) 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 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 Usher, as the case may be, in the manner laid down in this Ordinance.

Explanation.- In this Ordinance, reference to Zakat deductible at source or to Ushr realizable on compulsory basis shall be construed to imply to reference to contributions to Zakat Fund also.

(5) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provision of this Ordinance.

2. **Definitions.-** In this Ordinance, unless there is anything repugnant in the subject or context:-

- (i) 'annuity' means the sum payable periodically, according to the annuity policy conditions, to an annuitant during his life-time, or for a fixed number of years, as the case may be and includes the scheme or postal annuities as notified by the Government;
- (ii) 'assets' means assets liable to Zakat as provided in this Ordinance;
- (iii) 'atiyyat' means voluntary donations to the Zakat Funds, otherwise than on account of Zakat or Ushr, and includes SADAQAT-I-NAFILAH;
- (iv) 'Council' means the Zakat Council established under Section 12;
- (v) 'Chief Administrator' means a person appointed as such under Section 13, and includes an officer authorised by him to exercise or perform any power or function of Chief Administrator under this Ordinance;
- (vi) 'Company' means a company as defined in the Companies Act, 1913 (VII of 1913).
- (vii) 'Deducting Agency' means a bank, post office or other institution referred to in the fifth Column of the First Schedule;
- (viii) 'Deduction Date' means, in respect of the assets mentioned in the First Schedule, the date or dates on which Zakat is to be deducted at source and which is or are specified in the fourth column of that Schedule;
- (ix) 'District Committee' means a District Zakat and Ushr Committee constituted under Section 14;
- (x) 'Government' means the Azad Government of the State of Jammu and Kashmir;
- (xi) 'Government Security' has the same meaning as in the Securities Act, 1920 (X of 1920) of Pakistan;

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- (xii) 'Insurer' means the State Life Insurance Corporation of Pakistan or Postal Life Insurance;
- (xiii) 'Local Committee' means a Local Zakat and Ushr Committee constituted under Section 16;
- (xiv) 'Locality' means the area within the jurisdiction of a Local Committee;
- (xv) 'Markaz' means a Markaz as defined in the Local Government Ordinance, 1980;
- (xvi) 'Markaz Committee' means a Committee constituted under Section 15;
- (xvii) 'Maturity value' means the sum payable, according to stipulated conditions, on survival of the life assured to the specified age or to the end of the terms of the policy;
- (xviii) '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 of only of gold, 87.48 grams of gold.
- (xix) 'Prescribed' means prescribed by rules;
- (xx) 'Produce' means gross agricultural, horticulture or forest produce;
- (xxi) 'Provident Fund' has the same meaning as in the Provident Funds Act or rules made thereunder;
- (xxii) 'Recognized Provident Fund' means a Provident Fund recognized as such, by the competent authority, under the Income Tax Ordinance, 1979 (XXXI of 1979);
- (xxiii) 'Return' means income, howsoever described, accruing on an assets;
- (xxiv) 'Rules means rules made under this Ordinance;
- (xxv) 'Sahib-i-Nasab' 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,

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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 subsection (b) and wholly owned by it;
- (d) the National Investment (Unit) Trust;
- (e) and ICP mutual Fund;
- (f) a recognized President 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 organization 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;
- (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.

- (xxvi) 'Security' means any stock, share, scrip, debenture, bond, pre-organization certificate, or instrument commonly known as security;
- (xxvii) 'Share' means a share in the share-capital of a company, or in any body corporate established by or under a Federal or Provincial laws, or Pakistan or under any law for the time being in force in Azad Jammu and Kashmir and includes stock;
- (xxix) 'surrender value' means the sum payable by an insurer on cancellation of a life-insurance policy or annuity, according to stipulated terms and conditions, at any time before maturity benefits become available;
- (xxix) 'survival benefit' means the amount payable according to life-insurance policy conditions, during the currency of a policy, on survival of the life assured to the specified date as stipulated in the policy;
- (xxx) '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;
- (xxxi) 'Zakat Fund' means a Fund established under Section 7; and
- (xxxiii) 'Zakat Year' means year according to the Hijra calendar for which Zakat is chargeable, commencing on the first day of Ramadhan-ul-Mubarak and ending with the last day of the following sha'ban-ul-Moazzam:

Provided that the first Zakat year shall commence with the commencement of this Ordinance and end with the last day of sha'ban-ul-Mo'azzam 1401 A.H.

CHAPTER-II: ZAKAT

3. **Charge and collection of Zakat.**- (1) Subject to the other provisions of this Ordinance, Zakat in respect of assets mentioned in the First year, at the rates and in the manner specified therein, and as may be prescribed, from every person which is on the Valuation Date, and has for the preceding Zakat year been sahib-e-Nisab:

Provided that where an assets mentioned in the First Schedule has been assigned by the person owning or possessing it, in favour of another person, Zakat in respect of that asset shall be charged and collected on compulsory basis as the asset had not been so assigned:

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 locality where he ordinarily resides that he was not a sahib-e-nisab on the Valuation Date or was not in ownership of possession or assets of the value of nisab for the whole of the preceding Zakat years, 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;

(2) In determining the amount to be collected as Zakat on Compulsory basis, the value of an asset on which Zakat is deductible, only on account of debts which have been;

- (a) Primarily secured by that asset;
- (b) used for the creation of an asset on which Zakat is deductible at source; and
- (c) obtained from the Deducting Agency having custody of the asset securing the debt and of the assets created under clause (b).

(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) Shariat Court under sub-section (4) 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.
- (4) Where the recovery of Zakat deductible at source, in respect of any of the assets mentioned in the First Schedule, falls into arrears, the Chief Administrator may forward to the Collector of the District Concerned a duly signed Certificate specifying the amount of arrears due and the particulars of the person from whom due, and the Collector shall, on receipt of such certificate, proceed to recover the amount so specified, as if it were an arrear of land revenue.
- (5) A 'sahib-e-nisab' may pay either to a Zakat Fund or direct to those eligible under Shariah to receive Zakat so much of the Zakat due under Shariah as is not deductible at source under this Ordinance, for example, that due in respect of assets mentioned in the Second Schedule.
- (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, in the case of a person referred to in sub-section (3) of Section 1, as contribution of Zakat fund or Sadaqah or Khirat in the name of Allah, as the case may be, on the part of that person.

4. **Secrecy of Information.-** Any information furnished or collected in connection with the deduction of Zakat at source under this Ordinance shall be treated as secret and shall not be used for any other purpose, including the assessment or collection of any tax.

CHAPTER-III: USHR

5. **Charge and collection of Ushr.-** (1) Subject to the other provisions of this Ordinance, there shall be charged and collected, on compulsory basis, in such manner as is laid down in Section 6, and as may be prescribed, from every land-owner, grantee, allottee, lessee, lease holder or land holder (other than a person excluded from the definition of "sahib-e-nisab") Ushr at the rate of five percent of his share of produce, as on the Valuation Date:

Provided that if any plot of land is used principally for growing one crop and a small portion thereof, not exceeding one-fourth of an acre, is used for growing another crop, Ushr shall not be charged in respect of the produce of such small portion.

Explanation.- In this section and Section 6, 'land-owner', 'grantee', 'allottee', 'lessee', 'lease-holder' and 'land-holder' shall have the same meaning as in the laws relating to land administration and 'land-holder' includes a person in possession of any plot of land who has grown a crop on such plot.

(2) An individual land-owner, grantee, allottee, lessee, lease-holder nor landholder shall be exempted from the compulsory levy of Ushr if:-

- (a) he is eligible under shariah to receive Zakat; or
- (b) the produce from his land is less than five 'wasqa' (948 Kilograms) of wheat, or its equivalent in value in the case of other crops liable to Ushr.

(3) The currency equivalent of five 'wasqa' of wheat in value shall be such as may be notified for each Zakat year by the Chief Administrator.

(4) Ushr shall be the first charge on the produce.

(5) Ushr shall be collected in cash;

Provided that, where the produce consists of wheat, paddy or maize, Usher, at the option of the Council, may be collected in kind.

(6) A 'sahib-i-naisab' may pay either to the Local Zakat Fund or directly to those eligible under Shariah to receive Zakat, so much of the Ushr due under Shariah is not compulsorily realisable under this Ordinance, for example in respect of item 9 of the Second Schedule.

such decision shall be final and shall not be questioned before any Court or other authority.

(8) The demand as determined under sub-section (3), or, as the case may be, under sub-section (4) or sub-section (7), shall be paid by the assessee and collected by the Local Committee in such manner as may be prescribed.

(9) Where the recovery of Ushr compulsorily realisable under this Ordinance falls into arrears, the Chairman of the Local Committee shall forward to the Collector of the district concerned, a duly signed certificate specifying the amount of arrears due and the particulars of the person from whom due and the Collector shall, on receipt of such certificate, proceed to recover the amount so specified as if it were an arrear of land revenue.

CHAPTER-IV: ZAKAT FUNDS

7. **Establishment of Zakat Fund.-** There shall be established the following Zakat Fund, namely:-
- (a) a Azad Kashmir Zakat Fund to which shall be credited:-
 - (i) the Zakat deducted at Source;
 - (ii) the Zakat paid into it voluntarily;
 - (iii) the transfers, if any, from the Local Zakat Funds; and
 - (iv) the grants, ATIYYAT and other receipts;
 - (b) a Local Zakat Fund for each Local Committee to which shall be credited:
 - (i) the proceeds of Ushr;
 - (ii) the Zakat paid into it voluntarily;
 - (iii) the transfers to it from the Azad Kashmir Zakat Fund; and
 - (v) the grants, ATIYYAT and any other receipts.
8. **Utilization of Zakat Funds.-** The money in a Zakat Fund shall be utilized for the following purposes, namely:
- (a) Assistance to the needy indigent and the poor, particularly orphans and widows, the handicapped and the disabled, eligible to receive Zakat under Shariah for their subsistence or rehabilitation, either directly or indirectly through DEENI-MADARIS or vocational educational institutions or public hospitals, clinics dispensaries or health laboratories:

Provided that the lists of the individual to be assisted directly and the institution through which assistance is to be given, from a Local Zakat Fund shall be prepared and maintained, according to prescribed basis and manner, by the Local Committee in whose jurisdiction the individuals ordinarily resides, or the institutions through which they are to be assisted are situated, as the case may be:

Provided further that the list of institutions through which assistance from Azad Kashmir Zakat Fund is to be given shall be prepared and maintained, according to prescribed basis and manner, by the Council; and

- (b) Expenditure on the collection, disbursement and administration of Zakat and Ushr:

Provided that the expenditure on the Zakat Council and the administrative organization of the Chief Administrator and that an a District Committee and Markaz Committee, shall be met by the Government, and that on a Local Committee from the Local Zakat Fund not exceeding ten per cent of the receipts in that Fund during the year:

Provided further that the banking services and the services connected with the assessment or collection of Zakat or Ushr realisable on compulsory basis under this Ordinance shall be rendered free of charge, except that the Chief Administrator in regard to Ushr, may authorise payment of remuneration for any specified services; and

- (c) Any other purpose permitted by Shariah.

9. **Disbursements from Zakat Fund.**- (1) The Council may from Azad Kashmir Zakat Fund make disbursements, and transfer funds to a Local Zakat Fund, in such form and manner *as* may be prescribed and as would help in ensuring satisfaction of the needs of the needy and the poor throughout its jurisdiction, as far as possible, on a uniform basis.

- (2) A Local Committee shall disburse, or incur expenditure from the Local Fund, in the prescribed manner, for authorised purposes within the locality, particularly for the benefit of the individuals directly or indirectly under clause (a) of Section 8:

Provided that a Local Committee mayor, if so required by the Council, shall transfer from the Local Zakat Fund to the Azad Kashmir Zakat Fund, funds surplus to its needs.

10. **Accounts.-** (1) The accounts of the Azad Kashmir Zakat Fund, and a Local Zakat Fund shall be maintained and operated, respectively, by the Chief Administrator, and the Local Committee, in such form and manner as may be prescribed.
- (2) The records of the accounts of the Zakat Funds shall be preserved for such period, and shall be made available for audit or inspection to such persons or agencies, and in such manner, may be prescribed.
11. **Audit.-** (1) To carry out audit of the Azad Kashmir Zakat Fund annually or at shorter intervals, the Council, shall appoint auditors, being persons who are, in its opinion, qualified for the purpose.
- (2) To carry out audit of the Local Zakat Funds within a district annually or at short intervals, the District Committee shall appoint auditors being persons who are, in its opinion, qualified for the purpose.
- (3) The audit performed by auditors under sub-sections (1) and (2) shall include propriety audit.
- (4) The annual report of the Auditors on the Azad Kashmir Zakat Fund shall be laid before the Legislative Assembly and that on a Local Zakat Fund before the District Council on concerned, established under the law relating to Local Government.
- (5) Nothing in this Section shall be deemed to prevent:
- (a) the Auditor-General of Azad Jammu and Kashmir from auditing any of the Zakat Funds;
- (b) the Council from getting audited any of the Local Zakat Fund; or
- (c) a Local Committee from getting its own Local Zakat Fund audited.

CHAPTER-V ORGANIZATION AND ADMINISTRATOIN

12. **Zakat Council.-** (1) The Government shall, by notification in the official Gazette, establish a Zakat Council to provide policy guideline for, and to exercise general superintendence and control on matters relating to Zakat and Ushr, particularly the Zakat Fund and maintenance of their accounts.

- (2) The Council shall consist of:
- (a) a Chairman;
 - (b) four persons, of whom there shall be Ulema, to be nominated by the President in consultation with the Council or Islamic Ideology;
 - (c) four persons, one from each District, to be nominated by the President;
 - (d) the Secretary to the Government in the Finance Department;
 - (e) the Secretary to the Government in the Ammoor-i-Deenia Department; and
 - (f) the Chief Administrator, who shall also be the Secretary to the Council.

(3) The Chairman of the Council shall be a person who is, or has been a Judge of the High Court, to be nominated by the President in consultation with the Chief Justice of the High Court.

(4) The Chairman and the other members of the Council, not being an *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(5) The Chairman or a member, not being an *ex-officio* member, may, by writing under his hand addressed to the President resign his office:

Provided that he shall continue to hold office until his resignation is accepted by the President.

(6) Any vacancy in the office of Chairman or a member, other than an *ex-officio* member, shall be filled by the nomination, in accordance with sub-section (2) or sub-section (3), as the case may be, of a person qualified to hold the office.

(7) The Chairman or member nominated under sub-section (6) shall hold office for the unexpired term of his predecessor.

13. **Chief Administrator.-** (1) For carrying out the purposes, of this Ordinance, there shall be appointed by the Government a Chief Administrator.

(2) The Chief Administrator shall have such status, grade, tenure and other terms and conditions of service as may be determined by the Government.

(3) The Chief Administrator shall act under the general superintendence and control of and in accordance with the policy

guidelines given by the Council and perform such function as are assigned to him by or under this Ordinance.

14. **District Zakat and Ushr Committee.**- (1) in each district a District Zakat and Ushr Committee shall be constituted by the Council.
- (2) The District Committee shall, subject to such guideline as may be given by the Council:
- (a) Oversee, generally, the functioning of, and, more particularly, the assessment of Ushr and the collection of Zakat, Ushr and ATIYYAT, and the disbursement and utilization of the moneys in the Local Zakat Funds by the Local Committee in the district;
 - (b) for the purposes mentioned in clause (a), make plans for the district, in such form and manner as may be prescribed;
 - (c) Compile accounts of the Local Zakat Funds, for the District, in such form and manner as may be prescribed;
 - (d) Arrange in the prescribed manner, audit of the Local Zakat Funds in the district; and
 - (e) Tender to the Council advise on any matter specified by it.
- (3) The District Zakat and Ushr Committee shall consist of:
- (a) Chairman, The Chairman of the District Council shall be the Chairman of the District Zakat and Ushr Committee;
 - (b) Deputy Commissioner of the District;
 - (c) One representative of each Markaz Council who shall be elected by the members of the Markaz Zakat and Ushr Committee;
 - (d) The Chairman of the Municipal/Town Committee:
- Provided that, in any District where there is a District Social Weir, Officer appointed by the Government, the District Committee may co-opt him as an *ex-officio* member of the Committee.
- (4) The District Committee so constituted shall he duly notified by the Council.
- (5) The Chairman and other members of the District Committee not be the *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for similar term.

(6) The Chairman or a member, not being the *ex-officio* member, may by writing under his hand addressed to the Council, resign his office:

Provided that he shall continue to hold office until his resignation is accepted by the Council.

(7) Any vacancy in the office of Chairman or a member other than the *ex-officio* member, shall be filled in accordance with clause (c) of sub-section (3) by a person qualified to hold the office;

(8) The Chairman or member nominated under sub-section (7) shall hold office for the unexpired term of his predecessor.

15. **Marlaz Zakat and Ushr Committee.** (1) There shall be constituted a Markaz Zakat and Ushr Committee in each Markaz.

(2) The Markaz Zakat and Ushr Committee shall consist of:-

(a) Chairman, who shall be elected by the members of the Markaz Council and District Councilors of that Markaz from amongst themselves;

(b) Assistant Commissioner/Tehsildar;

(c) The members of the Markaz Council;

(d) The members of District Council elected from that Markaz.

(3) The Markaz Committee so constituted shall be duly notified by the District Committee concerned.

(4) The Chairman and member of a Markaz Committee not being the *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(5) The Chairman or a member, not being the *ex-officio* member, may by writing under his hand addressed to the Markaz Committee, resign his office;

Provided that he shall continue to hold office until his resignation is accepted by the Markaz Committee.

(6) Any vacancy in the office of Chairman or member, other than the *ex-officio* member, shall be filled by the election, in accordance with clauses (c) and (d) of sub-section (2).

(7) The Chairman or the member elected under sub-section (6) shall hold office for the unexpired term of his predecessor.

16. **Local Zakat and Usher Committee.** (1) A Local Zakat and Ushr Committee shall be constituted for:

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- (a) each revenue estate in settled area;
- (b) each deh or village in non-settled rural area; and
- (c) each ward in urban area:

Provided that, if in the opinion of the Council, the population of a revenue estate, deh or village is too large or too small to have one Local Zakat and Ushr Committee such revenue estate, deh or village may be divided into two or more localities or grouped with any other revenue estate, deh or village to form one locality.

Explanation.- In this sub-section:

- (a) 'Urban area' means an area within the local limits of a Municipal Committee or Town Committee;
- (b) 'rural area' means area other than urban area;
- (c) 'settled rural area' means rural area for which revenue settlement record exists;
- (d) 'non-settled rural area' means rural area other than settled rural area; and
- (e) 'Ward' means a distinct and compact locality, the population of which does not exceed five thousand approximately.

(2) A Local Committee shall consist of:

- (a) in Deh- The Chairman of the Union Council shall be the Chairman of the Local Zakat and Ushr Committee;
- (b) member of the union Council;
- (c) the Chairman of Dehi Council.

(3) In cities or towns.-

- (a) The Chairman of the Municipal or town Committee; and
- (b) members of the Municipal or Town Committee.

(4) The Chairman and other members of the Local Committee shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(5) The Chairman or a member may, by writing under his hand, addressed to the Local Committee, resign his office:

Provided that he shall continue to hold office until his resignation is accepted by the Local Committee.

(6) Any vacancy in the office of Chairman or member shall be filled by the election in accordance with the provisions of Local Government Rules.

(7) The Chairman or the member elected under sub-section (6) shall hold Office for the un-expired term of his predecessor.

17. **Member of Council and Committees to be Muslim.-** 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.

18. **Vacancy, etc., not to invalidate Acts or proceedings.-**
(1) Notwithstanding anything contained in this Ordinance:-

(a) Council or Committee established or constituted thereunder for the first time shall be deemed to be duly established or constituted even if its strength; is less than the strength specified in this Ordinance by not more than two;

(b) The Chairman of a Local Committee holding office immediately before the commencement of this Ordinance shall be deemed to be duly elected as such Chairman.

(2) No act or proceeding of a Council or Committee established or constituted under this Ordinance shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of such Council or Committee.

19. **Person to preside at meetings in the absence of Chairman.-** If the office of Chairman of a Council or Committee established or constituted under this Ordinance is for the first time being vacant, or the Chairman is absent from a meeting of the Council or Committee, the meetings thereof or, as the case may be, the meeting from which the Chairman is absent, shall be presided at:-

(a) in the case of a Council, by the Secretary Zakat and Ushr Department;

(b) in the case of a District Committee, by the Deputy Commissioner;

(c) in the case of n. Local Committee, by the member elected by the member present.

20. **Vote of no confidence against the Chairman or a Markaz Committee or a Local Committee or the member or a Local**

Committee. (1) Where in case of a Markaz Committee or of a Local Committee, the District Committee after such inquiry 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 so caused shall be notified by the District Committee and shall be filled in accordance with the provisions of this Ordinance.

21. **Power of supersession and removal.** (1) If, after such inquiry as may be necessary, the Council is of the opinion that a Committee constituted under this Ordinance:

- (a) is unable to discharge or persistently fails in discharging its duties; or
- (b) is unable to administer its affairs; or
- (c) acts in a manner contrary to public interest; or
- (d) otherwise exceeds or abuses its powers, the Council may, by a resolution, declare the Committee to be superseded for such period not exceeding one year as may be specified in the resolution;

Provided that the period of supersession may, if the Council considers it necessary to do so, be extended beyond a period of one year.

(2) When a resolution is passed under sub-section (1) in respect of a Committee:

- (a) the persons holding office as Chairman and members of the Committee to which the resolution relates, shall cease to hold office;
- (b) all functions of the Committee shall, during the period of supersession; be performed by an administrator, not being an official, appointed by the Council; and
- (c) before the expiry of the period of supersession, elections shall be held and selection or nominations made in

accordance with the provisions of this Ordinance to re-constitute the Committee.

- (3) If, after such inquiry as may be necessary, the Council is of the opinion that the Chairman or a member of a Committee constituted under this Ordinance:-
- (a) was at the time of his selection, election or nomination:-
 - (i) not a Muslim;
 - (ii) not an adult;
 - (iii) not a resident of the area within the jurisdiction of the Committee;
 - (iv) an undischarged insolvent; or
 - (v) not of sound mind;
 - (b) has been during the period of three years preceding the date of his selection, election or nomination:
 - (i) ordered to execute a bond under Section 108 109 or 110 of the Code of Criminal Procedure, 1898; or
 - (ii) convicted for an offence, involving moral turpitude; or
 - (iii) declared GOONDA under the law relating to the control of Goondas;
 - (c) has after this selection, election or nomination, incurred any of the disqualifications referred to in sub-clauses (i), (iii), (iv), or (v) of clause (a) or sub-clauses (i), (ii), or (iii) of clause (b),
 - (d) has, without reasonable excuse, absented himself from three consecutive meetings of the Committee;
 - (e) has been guilty of abuse of power or misconduct in the discharge of his duties as Chairman or member, or been responsible for any loss or misapplication of any money or property of the Committee; or
 - (f) has become physically disabled from performing functions as Chairman or member, the Council may, by a resolution, remove such Chairman or member from office.

Explanation.- For the purposes of clause (e), 'mis-conduct' means bribery, corruption, robbory, favouritism, nepotism, wilful maladministration or willful diversion of funds, and includes any attempt, at or abetment of, such mis-conduct.

(4) When the Chairman or member of a Committee is removed from, or otherwise ceases to hold office, the vacancy in the office of such Chairman or member shall be filled within such time as the Council may determine, by the election, selection or nomination, as the case may be, in accordance with the provisions of this Ordinance, of a person qualified to hold the office.

(5) The Chairman or member ejected, selected or nominated under sub-section (4) shall hold office for the un-expired term of his predecessor.

(6) The Council may delegate to a District Committee all or any of its powers under the preceding provisions of this section in respect of a Committee other than a District Committee.

(7) The Chairman or a member of a Committee superseded under sub-section (1), or a Chairman or member removed from office under sub-section (3), may, within such time, and in such form and manner, as may be prescribed, apply to the Council for a review of its decision; and the decision of the Council in such review, given after giving to the applicant an opportunity of being heard shall be final and shall not be called in question before any Court or other authority.

Explanation.- In this sub-section, reference to 'Council' shall, where the powers of the Council are exercised by a District Committee in pursuance of sub-section (6), be construed as a reference to District Committee.

22. **Officers and staff.-** The administrative organization of the Chief Administrator shall be a Department or a part of a Department of the Government and, except where otherwise provided in this Ordinance, to enable the Committee, constituted under this Ordinance to perform their functions, such officers and staff may be appointed on such terms and conditions, and by such authorities, as may be prescribed.

23. **Certain persons to be public servants.-** Every person engaged in, or employed for the administration of this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Penal Code (Act XLV of 1860).

CHAPTER-VI: MISCELLANEOUS

24. **Exemption.-** The Government may, in consultation with the Council of Islamic Ideology, except, by notification in the official Gazette, any specified class of cases or persons from payment of compulsory levy of Zakat or Usher.

25. **Certain tax concessions.-** Notwithstanding anything contained in any other law for the time being in force:-
- (a) in determining the tax liability of an assessee for an assessment year:
 - (i) under the Income Tax Ordinance, 1979 (XXXI of 1979) his taxable income shall be reduced by the amount paid by him to a Zakat Fund, during the previous year relevant to that assessment year; and
 - (ii) under the Wealth-Tax Act, 1963 (XV of 1963), his assets in respect of which Zakat or contribution in lieu thereof, has been deducted at source during the year relevant to that assessment year shall be excluded from his taxable wealth; and
 - (b) land revenue and development cess shall not be levied on land the produce of which Ushr or contribution in lieu thereof, has been charged on compulsory basis.
- (2) Nothing in the preceding sub-section shall be deemed to affect the liability to pay income tax, wealth tax, land revenue or development cess in respect of any period preceding the enforcement of the relevant provisions of this Ordinance.
26. **Power to make rules.-** The Council may by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.
27. **Power to call for information and issue directions.-** The Council, the Chief Administrator, a District Committee or a Local Committee, may, within its or his jurisdiction call for such information or record from, and issue such directions to, the concerned persons or agencies as may be necessary for the performance of its or his functions under this Ordinance.
28. **Indemnity and Bar of jurisdiction.-** (1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance or any rule.
- (2) No Court shall call in question, or permit to be called in question, anything done or any action taken under this Ordinance or any rule.
 - (3) No Court shall grant any injunction or make any order, nor shall entertain any proceedings in relation to anything done

or it intended to be done or any action taken or intended to be taken under this Ordinance or any rule.

29. **Removal of difficulties.**- The Government may, make such provisions as may be necessary to remove any difficulty in carrying out the purposes of this Ordinance.

(Mohammad Hayat Khan)
President
Azad Jammu and Kashmir

Sd/- (Khalil Ahmed Qureshi)
Secretary Law