

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

Dated the December, 29, 1979.

No. SL/79. The following Ordinance made by the President on the 26th day of December, 1979, is hereby published for general information:-

(ORDINANCE CLXXVII OF 1979)

AN

ORDINANCE

to set up an organization for the assessment, collection and disbursement of Zakat and Ushr

WHEREAS it is necessary to set up an organization for the assessment, collection and disbursement of Zakat and Ushr and to provide for matters connected therewith;

AND WHEREAS Islam ordains all Muslims to adhere to the teachings of the Holy Quran and Sunnah;

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 (Iarakan) of Islam;

AND WHEREAS the prime objective of the collection of Zakat and Ushr, and expenditure 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 Shariat;

AND WHEREAS Shariat enjoins all Muslims, who are sahib-e-nisab, to pay, and the State to arrange for the proper collection and utilization of Zakat and Ushr, and also allows such Muslims to utilize for the purposes authorised by Shariat 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-1
PRELIMINARY.

1. **Short title, extent and commencement.**- (1) This Ordinance may be called the Zakat and Ushr (Organization) Ordinance, 1979.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) It shall come into force at once.
2. **Definitions.**- In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (a) 'Chief Administrator' means a person appointed as such under Section 6, and includes an officer authorised by him to exercise or perform any power or function of Chief Administrator under this Ordinance;
 - (b) 'Council' means a Council constituted under Section 3;
 - (c) 'District Committee' means a committee constituted under Section 5;
 - (d) 'Government' means the Azad Government of the State of Jammu and Kashmir;
 - (e) 'Local Committee' means a committee constituted under Section 7 ;
 - (f) 'Locality' means the area within the jurisdiction of a Local Committee;
 - (g) 'Markaz' means a Markaz as defined in the Local Government Ordinance, 1979;
 - (h) 'Markaz Committee' means a committee constituted under Section 6;
 - (i) 'President' means President of Azad Jammu and Kashmir;
 - (j) 'Prescribed' means prescribed by rules ; and
 - (k) 'Rules' means rules made under this Ordinance.

CHAPTER II
ORGANIZATION AND ADMINISTRATION

3. **Zakat Council.**- (1) The Government shall, by notification in the Official Gazette, establish a Zakat Council, to exercise general superintendence and control on matters relating to Zakat and Ushr in accordance with the policy.

(2) the Council shall consist of -

- (a) a Chairman ;
- (b) three persons, of whom two shall be Ulama, to be nominated by the President on the recommendation of the Council of 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 Local Government and Social Welfare 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 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.

4. **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 functions as are assigned to him by or under this Ordinance.

5. **District Zakat and Ushr Committees.**- (1) In each district, a District Zakat and Ushr Committee shall be constituted by the Council.

(2) 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.

(e) In any district where there is a District Social welfare officer appointed by the Government, the District Committee may co-opt him as ex-officio member of the committee.

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

(4) The Chairman and other members of the District 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 council, resign his office:

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

(6) 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 (2).

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

6. **Markaz Zakat and Ushr Committees.**- (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 Councillors 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 members 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.

7. **Local Zakat and Ushr Committees.**- (1) A local Zakat and Ushr Committee shall be constituted for –

- (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.- (a) the Chairman of the union council shall be the Chairman of the Local Zakat and Ushr Committee ;

VOLUME V (1978-1979)

- (b) members of the union council ;
- (c) the chairman of Dehi council.
- (3) in cities or towns.-
 - (a) the chairman of the Municipal or town committee ;
 - (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.

CHAPTER III
MISCELLANEOUS

- 8. **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 be not more than two.
 - (2) No act or proceeding of a Council or Committee established or constituted under this Ordinance shall be invalid by reason only of a defect in the constitution of, or the existence of a vacancy in such Council or Committee.
- 9. **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 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 Chief Administrator ;
- (b) in the case of a District Committee, by the Deputy Commissioner ;
- (c) in the case of a Markaz Zakat and Ushr Committee, by the Assistant Commissioner ; and
- (d) in the case of a Local Committee, by the member elected by the members present.

10. **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) generally 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 nominations made in accordance with the provisions of this Ordinance and the rules to reconstitute the Committee.

VOLUME V (1978-1979)

(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 has-

- (a) without reasonable excuse, absented himself from three consecutive meetings of the Committee ; or
- (b) been guilty of abuse of power or of misconduct in the discharge of his duties as Chairman or member, or has been responsible for any loss or misapplication of any money or property of the Committee ; or
- (c) become physically disabled from performing his functions as Chairman or member,

the Council may, by a resolution, remove such Chairman or member from office.

Explanation.- For the purposes of clause (b), 'misconduct' means bribery corruption, jobbery, favoritism, nepotism wilful mal-administration or wilful diversion of funds, and includes any attempt at, or abetment of, such misconduct.

(4) When the Chairman or member of a Committee is removed from office under sub-section (3), 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 elected, 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.

11. **Officers and staff.-** Except where otherwise provided in this Ordinance, to enable the authorities constituted or appointed 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.

12. **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).

13. **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 any Court entertain any proceedings, in relation to any thing done or any action taken or intended to be done or taken under this Ordinance or any rule.
14. **Power to make rules.**- The Council may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.
15. **Provision of this Ordinance to override other laws.**- The provisions of this Ordinance shall prevail notwithstanding anything contained to the contrary in any other law, for the time being in force.
16. **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.
17. **Repeal.**- Azad Jammu and Kashmir Zakat Act, 1974 (Act XVIII of 1974) and Azad Jammu and Kashmir Zakat Padawari Act, 1974 (Act XIX of 1974) are hereby repealed.

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

_____ Sd/- (Khalil Ahmed Qureshi)
Secretary Law.