

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

Dated the 16th June, 1991.

No. 541-45/LD/91. The following Ordinance made by the President on the 16th day of June, 1991, is hereby published for general information:-

**(ORDINANCE XLIX OF 1991)**

**AN**

**ORDINANCE**

to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970.

WHEREAS it is necessary to amend the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 in the manner hereinafter appearing;

AND WHEREAS the Legislative Assembly is not in session and 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 Legislative Assembly (Elections) (Amendment) Ordinance, 1991.  
(2) It shall come into force at once.
2. **Amendment of Section 2, Ordinance X of 1970.**- In the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance; 1970 (Ordinance X of 1970), hereinafter referred to as the said Ordinance, in Section 2, for clause (iii) the following shall substituted:-  
“(iii) "Commissioner" means the Chief Election Commissioner appointed under the Azad Jammu and Kashmir Interim Constitution Act, 1974.”
3. **Substitution of Section 4, Ordinance X of 1970.** - In the said Ordinance for Section 4, the following shall be substituted, namely:-

- "4. (1) All authorities of the Government shall render such assistance to the Commissioner in the discharge of his functions as may be required of them by the Commissioner.
- (2) Notwithstanding anything contained in any other law or order for the time being in force, the Commissioner may, for reasons to be recorded in writing, suspend any such person in the service of Government, corporation controlled by the Government or local authority if he refuses to perform such functions or render such assistance and shall refer the matter to the appropriate authority for taking disciplinary action against such person."

4. **Addition of Section 4-A, Ordinance X of 1970.**- In the said Ordinance after Section 4, a new Section 4-A shall be added, namely:-

"4-A. **Power to requisition property.** - (1) The Government or an Officer authorised by it in this behalf may, upon a request made in this behalf by the Commissioner, by order in writing requisition any such vehicle or animal as is needed or is likely to be needed for the purpose of transporting to and from any polling station ballot box or other election material or any officer or other person engaged for the performance of any duties in connection with the election:

Provided that no vehicle or animal which is being used by a candidate or his election agent for any purpose connected with the election of such candidate shall be so requisitioned.

(2) Any person authorised in this behalf by the Government may take possession of any vehicle or animal requisitioned under sub-section (1) and may for that purpose use such force, including police force, as may be reasonably necessary.

(3) Where any vehicle or animal is requisitioned under sub-section (1), there shall be paid to the owner thereof compensation the amount of which shall be determined by the Government or the Officer requisitioning the vehicle or animal on the basis of the fares and rates prevailing in the locality for its hire:

Provided that, where the owner of the vehicle or animal, being aggrieved by the amount of compensation so determined makes an application to the Government within a period of thirty

days from the date the amount has been determined for the matter being referred to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator, appointed in this behalf by the Government may determine."

5. **Amendment of Section 5, Ordinance X of 1970.**- In the said Ordinance, in Section 5, in sub-section (2).-

(a) for clause (iv) the following shall be substituted namely.-

"(iv) he holds any office of profit in the service of Azad Jammu and Kashmir or in the service of Pakistan, other than an office which is not a whole time office remunerated either by salary or by fee, or other than an office of Parliamentary Secretary, Advisor to the Government, Special Assistant to the Prime Minister or to the President or Chairman District Council or Municipal Committee or Chairman District or Tehsil Zakat Committee or as specified in the second schedule of Interim Constitution Act, 1974; or" and

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

"(ix) he has been in the Service of Azad Jammu and Kashmir or Pakistan or of any statutory body or anybody which is owned or controlled by the Government or the Government of Pakistan, or in which any of the Government has controlling share or interest, other than an office exempted in clause (iv), unless a period of two years has elapsed since he ceased to be in such service; or"

6. **Amendment of Section 6, Ordinance X of 1970.**- In the said Ordinance in Section 6,-

(a) for sub-section (1) the following shall be substituted, namely:-

(1) The Commissioner shall appoint District Returning Officer for each District within Azad Jammu and Kashmir territory and a Returning Officer for each Constituency for the purpose of holding elections:

Provided that a person may be appointed as Returning Officer for two or more constituencies.

- (b) After sub-section (4) a new sub-section (4-A) shall be added, namely:-

"(4-A), Subject to the superintendence, direction and control of the Commissioner the District Returning Officer shall coordinate and supervise all work in the district in connection with the conduct of elections and shall also perform such other duties and functions as may be entrusted to him by the Commissioner."

- (c) after sub-section (4-A) the following shall be added:-

"(5) Notwithstanding anything contained in any other law or order for the time being in force, the Commissioner may, at any time, for reasons to be recorded in writing, suspend any officer performing any duty in connection with an election or any other public functionary, or any member of police force or any other Law enforcing agency, who obstructs or prevents or attempts to obstruct or prevent the conduct of fair and impartial Poll or interferes or attempts to interfere with an elector when he records his vote, or influences in any manner the Polling Staff or an elector or does any other act calculated to influence the result of election and make such arrangements as he may consider necessary for the performance of the functions of the Officer as suspended.

(6) Where the Commissioner suspends any officer under sub-section (5), the Commissioner shall refer the matter to the appropriate authority for taking disciplinary action against such Officer."

7. **Amendment of Section 7 Ordinance X of 1970.**- In the said Ordinance in Section 7, for sub-section (1) and (2) the following shall be substituted, namely:-

"(1) The Returning Officer shall, before such time as the Commissioner may fix, submit to the Commissioner or as the case may be to the District Returning Officer the list of polling stations he proposes to provide in a constituency for the purpose of election of a member for that constituency.

(2) The Commissioner or as the case may be, the District Returning Officer may make such alterations in the list

of polling stations submitted under sub-section (1) as he may consider necessary and shall, atleast fifteen days before the polling day, publish in the official Gazette. The final list of the polling stations specifying the area and electors whereof will be entitled to vote at each polling station."

8. **Amendment of Section 8 Ordinance X of 1970.**- In the said Ordinance in Section 8, after sub-section (1) the following new sub-section (1-A) shall be inserted, namely:-

"(1-A) A list of such Presiding Officers, Polling Officers and polling Assistants shall be submitted to the Commissioner or as the case may be to the District Returning Officer at least fifteen days before the Polling day for its approval and no change in the personnel shall be made except with the approval of the Commissioner."
9. **Amendment of Section 12, Ordinance X of 1970.**- In the said Ordinance, in Section 12, in clause (a) of Sub-section (1), for the words "five hundred" the words "two thousand" shall be substituted.
10. **Amendment of Section 45, Ordinance X of 1970.**- In the said Ordinance, in Section 45, in sub-section (3) for the words "fifteen thousand" the words "two hundred thousand" shall be substituted.
11. **Substitution of Section 47-A, Ordinance X of 1970.**- In the said Ordinance for Section 47-A, the following shall be substituted and shall be deemed always to have been so substituted, namely:-

"47-A. Notwithstanding anything contained in the Azad Jammu and Kashmir Legislative Assembly (Elections) Ordinance, 1970 (Ordinance X of 1970) or any other law for the time being in force, a contesting candidate at the general elections held under the said Ordinance in 1990, shall not be required to submit a return of election expenses."
12. **Amendment of Section 90, Ordinance X of 1970.**- In the said Ordinance, in Section 90, after sub-section (2), the following new sub-section (3) shall be added:-

"(3) In respect of an offence specified in sub-section (1), Section 494 of the Code of Criminal Procedure, 1898 (Act V of 1898) shall have effect as if, after word and

comma, "may," there-in, the words "if so directed by the Chief Election Commissioner and "were inserted."

13. **Insertion of new Section 92-B, Ordinance X of 1970.**- In the said Ordinance, after Section 92-A, the following new Section 92-B shall be inserted, namely:-

**"92-B Power of Commissioner to punish for contempt.**- The Commissioner shall have the same power as the High Court has to punish any person for contempt of Court and the Contempt of Court Act, 1926 (XII of 1926), shall have effect accordingly as if reference therein to a "Court" and to a "Judge" were a reference to the "Commissioner".

14. **Repeal.**- The Azad Jammu and Kashmir Legislative Assembly (Election) Amendment Ordinance, 1990 (Ordinance XXXV of 1990) and the Azad Jammu and Kashmir Legislative Assembly (Election) (Amendment) Ordinance 1991 (Ordinance XLIII of 1991) are hereby repealed.

Sd/-

(Sardar Mohammad Abdul Qayyum  
Khan)  
President  
Azad Jammu and Kashmir

Sd/-

(Syed Shakir Shah)  
Under Secretary Legislation  
Law Department  
Azad Government of the State of  
Jammu and Kashmir Muzaffarabad.