

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

Dated the 16th April, 1990.

No. 249-53/LD/90. The following Ordinance made by the President on the 16th day of April, 1990, is hereby published for general information:-

(ORDINANCE XXVIII OF 1990)

AN

ORDINANCE

to establish a Small Industries Corporation in Azad Jammu and Kashmir.

WHEREAS it is expedient to make provisions for the establishment of a Corporation to provide for and promote the development of small and cottage industries in Azad Jammu and Kashmir;

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, Extent and Commencement.**- (1) This Ordinance may be called the Azad Kashmir Small industries Corporation Ordinance, 1990.
 - (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) "Board" means the Board of Members of the Corporation;
 - (b) "Borrower" means any person or persons or body of persons whether incorporated or not, to whom a loan is given by the Corporation or by schedule Bank and Financial Institute on the guarantee of the Corporation under this Ordinance and includes the successors and assignees of such person or persons or body of persons;

- (c) "Corporation" means the Azad Kashmir Small, Industries Corporation established under this Ordinance;
- (d) "Cottage Industry" means and Industry which is carried on wholly or primarily with the help of the members of the family as a whole time or part time occupation;
- (e) "Managing Director" means the Managing Director of Corporation;
- (f) "Government" means the Azad Government of the State of Jammu and Kashmir;
- (g) "Member" means a Member of the Board and includes its Chairman;
- (h) "Other Industry" means any industry, other than cottage or small industry, approved by the Government and set up or established in Small Industries estate;
- (i) "Prescribed" means prescribed by the rules;
- (j) "Regulations" means regulations made under this Ordinance;
- (k) "Rules" means rules made under this Ordinance;
- (l) "Schedule Bank" means a bank for the time being included in the list of banks maintained under sub-section (1) of Section 37 of the State Bank of Pakistan Act, 1956;
- (m) "Small Industry" means an industry engaged in the handicrafts or manufacture of procedure goods, the value of the total fixed assets whereof (excluding land) does not exceed rupees fifty lacs;
- (n) "Small Industries Estate" means estate established and or managed by the Corporation to provide land and facilities for the establishment and development of small cottage and other industries;
- (o) "Specified" means specified by regulations;
and
- (p) "State Bank" means the State Bank of Pakistan.

3. **Constitution of the Corporation.**- (1) As soon as may be, after the Commencement of this Ordinance, there shall be established a corporation to be known as "Azad Kashmir Small Industries Corporation."

(2) The Corporation shall be a body corporate, shall have the power to acquire and hold property, both movable and immovable, subject to the provision of this Ordinance and shall have perpetual succession and a common seal and shall by the said names sue and be sued.

(3) The Head Office of the Corporation shall be in Muzaffarabad and it may establish branch offices at such places as it may decide.

4. **Management.**- (1) The administration and management of the Corporation and its affairs shall vest in the Board which may exercise powers and do all acts and things that may be exercised or done by the Corporation in accordance with the provisions of this Ordinance.

(2) The Board in discharging its functions shall act on commercial and national considerations and shall be guided by such directions as the Government may give to it from time to time.

(3) Government may suspend the execution of any such resolution or order of the Board as, in the opinion of Government contravenes the directions mentioned in sub-Section (2) or prohibit the doing of any act which is to be done or is being done in pursuance of the said resolution or order, or if the act has been accomplished order its rectification in such manner as may be directed.

5. **Board.**- (1) Subject to the provisions of sub-section (2) the Board shall consist of;

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| 1. | Minister for Industries, Commerce,
Labour and Mineral Development
Azad Government of the State of
Jammu and Kashmir. | Chairman |
| 2. | Additional Chief Secretary, Planning
and Development Department, Azad
Jammu and Kashmir. | Member |
| 3. | Secretary Industries, Commerce,
Labour and Mineral Development
Department. | Member |
| 4. | Secretary, Finance Department, Azad
Government of the State of the State
of Jammu and Kashmir. | Member |
| 5. | Managing director Azad Kashmir | Member |

Small Industries Corporation.

6. Three non-official members to be Member
nominated by the Government, one of
whom at least shall be Banker or a
Chartered Accountant or Management
Consultant.

(2) Government shall have the power to alter the membership of the Board as and when considered necessary.

6. **Managing Director.**- (1) Government shall appoint Managing Director or the Corporation who shall be its Chief Executive.

(2) The Managing Director shall,-

- (a) be a whole time officer of the Corporation;
- (b) perform such duties as may be specified or as the Board may assign to him;
- (c) subject to the provisions of Sections 8, 9 and 10, hold office as Managing Director for a term of three years and subject as aforesaid;
 - (i) shall remain in office as Managing Director thereafter until his successor in that office is appointed; and
 - (ii) May be appointed to hold that office for such further term as Government may, in appointing thereto, determine;
- (d) receive such salary and allowance as Government may determine; and
- (e) divest himself of any directorship of, or other interest held by him in, any other Corporation, company or concern:

Provided that nothing in this clause shall prevent the Managing Director from holding shares in any public company acquired by him before his appointment as Managing Director, or acquiring during his term of office as Managing Director shares in any public company which is not a borrower;

Provided further that Government, may, in exceptional circumstances, where it considers necessary to do so in the public interest, exempt by a special order, any person who has been appointed or is about to be appointed as Managing Director from the application of this clause.

7. **Term of office of nominated members.**- Subject to the provision of Section 8, 9 and 10, a nominated Member shall hold office for such terms, not exceeding three years, as may be determined by Government and may be nominated thereafter for a further term or terms of such duration as Government may, in nominating him thereto, determined;
8. **Disqualification of Managing Director and nominated Members.**- No person shall be appointed as Managing Director of nominated as Member, or as the case may be, shall continued to be a Managing Director or Member, who:-
- (a) is, or at any time has been, convicted of any offence involving moral turpitude;
 - (b) is, or at any time has been, adjudged insolvent;
 - (c) is found a lunatic or becomes of unsound mind;
 - (d) is, or at any time has been, disqualified for appointment in or dismissed from the service of Azad Kashmir/Pakistan;
 - (e) is not a State Subject or a citizen of Pakistan.
9. **Removal of Managing Director or nominated members.**- Government may, by order in writing, remove the Managing Director or a nominated member, as the case may be, if he;-
- (a) refuses or fails to discharge or becomes, in the opinion of Government, incapable of discharging his responsibilities under this Ordinance;
 - (b) has, in the opinion of Government abused his position as Managing Director or nominated Member;
 - (c) has knowingly acquired or continued to hold, without the permission in writing of Government, directly or indirectly, or through a partner, any share or interest in any contract or employment with, by or on behalf of the Corporation, or in any property, which in his knowledge, is likely to benefit or has benefitted as a result of the operations of the Corporation;
 - (d) has, in the opinion of Government, violated the declaration of fidelity and secrecy provided under Section 12; or
 - (e) has, absented himself from three consecutive meetings of the Board without the leave of the Board;

10. **Resignation by or removal of the Managing Director of a nominated Member.**- Notwithstanding anything contained in this Ordinance, the Managing Director or a nominated Member may, at any time before the expiry of his term, upon three months notice, resign his office, or upon similar notice, be removed from office by Government without assigning any reason:
- Provided that Government may, in case of Managing Director, upon payment of three months salary and allowances in lieu of the notice, remove him immediately without assigning any reason.
11. **Appointment of Officers etc.** .- (1) The Corporation may, subject to such general or special orders, as Government may give to it from time to time, appoint such officers, advisors and employees, as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit.
- (2) The Corporation shall appoint such officers, experts advisors, constituents and other person as may be transferred to it by Government on such terms and conditions as may be determined by Government.
12. **Declaration of fidelity and secrecy.**- (1) Every member, advisor, officer and other employee of the Corporation shall, before entering upon his office, make such declaration of fidelity and secrecy as may be specified.
- (2) Any advisor, officer or other employee of the Corporation who, in the opinion of Government or a person authorized by Government in this behalf, has violated the declaration of fidelity and Secrecy made by him under sub-section (1) shall be liable, after being given a reasonable opportunity of showing cause against the action proposed to be taken with respect to him be forth with removed from his office or post.
13. **Financial Technical and advisory committees.**- The Board may constitute such financial technical and advisory committees as may be deemed necessary for carrying out the purposes of this Ordinance.
14. **Immunity of the Corporation and its Employees.**- (1) Every member, advisor, officer and employee of the Corporation shall be indemnified by the Corporation against all losses and expenses sustained or incurred by him in the

discharge of his duties, save such losses and expenses as are sustained and incurred as a result of his own wilful act or default.

(2) The Managing Director shall not be personally responsible for the acts of any other Member, advisor, officer or employee of the Corporation which he could not have reasonably prevented by the due exercise of his powers and functions under this Ordinance and the rules and regulations made thereunder or for any loss or expense resulting to the Corporation by reason of the insufficiency or deficiency in value of or title to any property or security acquired or taken on behalf of the Corporation, by the wrong full act of any person under a liability to the Corporation or any thing done by him in good faith in execution of the duties of his office.

15. **Delegation of powers.**- The Board may, by general or special order delegate to the managing Director, a Member, Officer or employee of the Corporation any of its powers, duties or functions under this Ordinance, the rules and regulations subject to such conditions as it may deem fit to impose.

16. **Meetings of the Board.**- (1) The meetings of the Board shall be held at such times and places as may be specified:

Provided that at least one meeting shall be held during each quarter of the year.

Provided further that until regulations are made in this behalf, such meetings shall be held at such times and places as may be determined by the Chairman.

(2) The quorum required for transacting business at a meeting of the Board shall be four.

(3) Each Member, including the Chairman, shall have one vote but in the event of equality of votes the Chairman shall have a casting vote.

(4) The meetings of the Board shall be presided over by the Chairman and in his absence by the senior most ex-officio Member present at the meeting.

(5) No act or proceeding of the Board shall be invalid merely on the ground of the existence or any vacancy in, or any defect in the constitution of the Board.

(6) The Minutes of every meeting, stating among other things, the names of the Members present, shall be drawn up and recorded in a book to be kept for the purpose and shall be signed by the person presiding over the meeting and such book shall, at

all reasonable times and without payment of any fee, be open for inspection by any Member.

(7) If Government so directs in any case, the Managing Director shall forward to it copies of all papers laid before the Board for consideration at a meeting.

(8) Government may require the Managing Director to furnish to it:-

- (a) any return, statement, estimate, statistics or other information regarding any matter under the control of the corporation;
- (b) a report on any such matter; or
- (c) a copy of any document in his charge, and the Managing Director shall comply with any such requisition without any delay.

17. **Powers of Board to associate other persons.**- (1) The Board may associate with itself, in such manner, on such terms and for such period as it may deem fit, any person whose assistance or advice it may desire in carrying out any of the provisions of this Ordinance.

(2) A person associated under sub-section (1) for any purpose shall have a right to take part in the discussion relating to such purpose in the Board's meeting but shall not have a right to vote, and shall not be deemed to be a Member for that or any other purpose.

18. **Functions of the Corporation.**- (1) In accordance with the provisions of this Ordinance, the Corporation shall take such measures as it deems fit to render assistance in the establishment and development of small, cottage and other industries.

(2) In particular and without prejudice to the generality of the fore-going function, the Corporation may, in order to promote and carry out the purposes of this Ordinance.-

- (a) give loans in cash, or in kind or in the form of buildings, developed plots of lands in the small industries estates or machinery and equipment on lease or on hire purchase basis, to borrowers for the purpose of small, cottage and other Industries; and
- (b) furnish guarantees to the Scheduled Banks and financial institute for the repayment of loans to borrowers for the development of industries and to share losses on account

of bad debts in accordance with the agreements executed or made in this behalf between the Corporation and such Banks/Institutes.

(3) The loans given under clause (a) or guaranteed under clause (b) of sub-section (2) shall be repayable within a period not exceeding twenty years.

19. **Security for loans.**- No loan shall be given by Corporation until it is secured by pledge, mortgage, hypothecation or assignment of such property, movable or immovable and of such value in proportion to the loan, as the Corporation may deem fit:

Provided that when the loans is given to an individual and does not exceed five thousand rupees in the aggregate, it may be secured by bond with at least two solvent securities.

20. **Mark up on loans etc.**- The rate of mark up chargeable on loans given by the Corporation shall be determined and notified by Government from time to time.

21. **Limit on loans etc.**- (1) The Corporation shall not give loan, make subscription or furnish guarantee to small or cottage industries in excess of the following aggregate limit namely:-

- (a) when made to an individual rupees one lac; and
- (b) when made to any borrower other than individual, rupees ten lacs.

(2) The Corporation shall not give loans or furnish guarantees in excess of such limits as may be notified by Government from time to time.

22. **Relaxation.**- Government may from time to time, on the recommendations of the Corporation, relax the aggregate limits of loans subscription or guarantees, provided under Section 21.

23. **Power to impose conditions.** – At the time of settlement of any transaction, the Corporation may attach such conditions as it may deem necessary or expedient for protecting its own interest and for securing that the loan, under writing or other aid shall be put to the best use.

24. **Power to demand payment or entire sum.**- (1) Notwithstanding anything to the contrary contained in any agreement of law for the time being in force if:-

- (a) it is found that the loans was obtained by information supplied by the borrower which was false or misleading in any material particular;

- (b) the borrower is found to have committed the breach of any term of his agreement with the Corporation relating to the loan;
 - (c) the loan or any part of it is found to have been utilised for a purpose other than for which it was given;
 - (d) there is reasonable apprehension that the borrower will be unable to pay his debt or may go into liquidation;
 - (e) the property pledged, mortgaged, hypothecated or assigned to the Corporation as security for the loan is not maintained in proper condition by the borrower or the property has depreciated in value by more than the prescribed percentage and the borrower is unable to furnish additional security to the satisfaction of the Corporation;
 - (f) without the permission of the Corporation, machinery or other equipment is removed from the premises of the borrower's industrial establishment without being adequately replaced;
 - (g) without the permission of the Corporation, the building, land or other property mortgaged as security for the loan is in any way disposed of or charged by the borrower, or for any other reason, it is necessary, in the opinion of the Board, to do so in order to protect the interest of the Corporation; or
- any officer authorised generally or specially in this behalf by the Board may, by notice, call upon the borrower to pay up the entire sum then remaining unpaid by the borrower in respect of the loan and the markup payable thereon or any lesser sum as the case may be or require the borrower to surrender the building, machinery and equipment and other material given to him by way of loan or require him to comply with such directions as the Board may consider necessary to give in order to safeguard the interest of the Corporation.
- (2) The notice referred to in sub-section (1) shall indicate the time within which the borrower is required to make the payment or to surrender the factory building, machinery and equipment and other material or to carry out the directions given and shall also contain a warning that if the borrower fails to pay the amount demanded or to surrender factory, building, machinery and equipment and other material or carry out the

directions given as the case may be within the time indicated, the Board may issues a certificate declaring the borrower to be a defaulter and certifying sum due from the borrower to be recoverable as arrears of land revenue.

25. **Certification of sum recoverable.**- (1) If the borrower fails to pay the amount demanded or to carry out the directions given in the notice within the time indicated therein the board may issued a certificate in the prescribed form and manner declaring the borrower to be a defaulter and certifying the aggregate sum, including markup due to the Corporation from the borrower upto the date of issuance of the certificate and mentioning the rate of which future mark up shall be paid thereon.
- (2) Subject to the provision of sub-section (3) a certificate issued under sub-section (1) shall be conclusive evidence that the sums certified on the certificate together with future mark up to be determined at the rate mentioned therein are recoverable by the Corporation form the borrower.
- (3) The borrower may, within fifteen days of the issuance of a certificate under sub-section (1) appeal to Government and thereupon Government may cancel or modify certificate.
- (4) Notwithstanding anything to the contrary contained in the agreement or in any law for the time being in force:-
- (a) the Corporation shall have the option to recover the amount due form a borrower either from him or from his security and a certificate issued under sub-section (1) shall also be acceptable against the surety as if he himself were the borrower;
- (b) any transfer of property pledged, mortgaged, hypothecated or assigned by the borrower as security for the repayment of the loan, so long as the loan or the mark up thereon or any part thereof remains unpaid to the Corporation shall be liable to attachment and sale as if no such transfer has taken place;
- (c) where a loan has been advanced in the form of building or machinery and equipment on hire-purchase basis and the borrower has committed and a breach of the terms and conditions of the agreement or otherwise violated any, provision of this Ordinance or failed to comply with a notice issued under sub-section (1), the Corporation shall be entitled to take possession of the building, machinery and equipment as the case may be; and

- (d) all sums due to the Corporation from the borrower or any other person shall be recoverable as arrears of land revenue.

26. **Loan in Foreign Currency.**- (1) The Corporation may, with the previous approval of Government of Azad Jammu and Kashmir and the Government of Pakistan and on such terms and conditions as may be approved by Government borrower in foreign currency from the International Bank for Reconstruction and Development or other agencies, moneys required for the development of small cottage and other industries. In the case of loan secured for the purpose Section 18, the Corporation may pledge, mortgage hypoticate or assign to the said international Bank or other agency, as the case may be, all or any part of Security taken by the Corporation for the loan obtained in foreign currency.

(2) All loans obtained in foreign currency shall be repayable:-

- (a) in the currency in which they are obtained;
- (b) in any other currency which is agreed upon by the loan-giving agency Government and Government of Pakistan; or
- (c) in Pakistan currency at the rate of exchange prevailing at the date of repayment.

27. **Other functions of the Corporation.**- The Corporation shall also be responsible for:-

- (a) Preparing and submitting schemes to Government for the development of Cottage, Small and other industries including schemes for research and mechanisation of such industries;
- (b) giving affect to approved schemes;
- (c) sponsoring industries to be set upon on the small industries estates and outside the estates;
- (d) taking over, implementing and running schemes, projects and training institutions, as may be transferred to the Corporation by the Government;
- (e) organising co-operative societies in furtherance of the purposes of this Ordinance;
- (f) taking appropriate measures for integration of small industries with medium and large industries;

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- (g) undertaking census and survey of cottage, small and other industries;
- (h) organizing trade associations and taking other appropriate measures for promoting and marketing the products of cottage and small industries;
- (i) organizing fairs, pavilions, sales and display of products of cottage and small industries;
- (j) establishing service centers and common facility centers for specific industries or group of industries;
- (k) establishing in special cases and with the prior approval of Government small and cottage industries in less developed areas;
- (l) establishing small industries estates;
- (m) establishing artisan colonies, design centres, workshops and institutes for promotion and development of handicrafts;
- (n) procuring and distributing raw material machinery and spare parts to cottage and small industries;
- (o) establishing institutes for promotion and development of cottage, small and other industries;
- (p) maintaining and running depots for the supply of raw material and for the purchase and sale of finished goods from cottage and small industries and projects run by it;
- (q) introducing better means of production and new designs including proto-types;
- (r) formulating and implementing schemes for training to artisans and small industries;
- (s) arranging for gradation and standardization of products of small and cottage industries;
- (t) working out entitlement to raw material of cottage small and other industries;
- (u) sanctioning, balancing, modernizing etc; of cottage small and other industrial units in accordance with the instructions of Government or in exercise of powers that may be delegated in this behalf by Government; and
- (v) undertaking such other functions measures or steps as may be directed by Government.

28. **Corporation to be deemed a Bank.-** The Corporation shall be deemed to be a Bank for the purposes of the Banker's Books Evidence Act, 1891.
29. **Corporation Fund.-** (1) There shall be a fund to be known as the "Corporation Fund" vested in the Corporation, which shall be utilized by the Corporation to meet charges in connection with its functions under this Ordinance including salaries and other remunerations of the Managing Director, Officers and other employees of the Corporation.
- (2) The Corporation fund shall consist of:-
- (a) investment made by the Government or Government of Pakistan;
 - (b) grants made by the Government or Government of Pakistan;
 - (c) revolving funds placed by the Government at the disposal of the Corporation for preparing feasibility studies for the schemes;
 - (d) loans obtained from the Government or Government of Pakistan;
 - (e) grants made by the Government;
 - (f) sale proceeds of raw material and finished goods;
 - (g) loans obtained from the Scheduled Banks/financial Institutions;
 - (h) Foreign loans obtained by the Corporation;
 - (i) charges for the plots of land and other facilities provided in small industries estates;
 - (j) all other sums received by the Corporation.
30. **Corporation to be deemed a local Body.-** The Corporation shall be deemed to be a local Body under the Local Authorities Loans Act, 1914 for the purpose of borrowing money under the said Act and the making and execution of any scheme under this Ordinance shall be deemed to be work which such authority is legally authorised to carry out.
31. **Custody and investment of Corporation Fund.-** (1) All moneys at the credit of the Corporation shall be kept in such manner as may be prescribed.

(2) Nothing in sub-section (1) shall be deemed to preclude the Corporation from investing any moneys which are not required for immediate expenditure, in any of the securities described in Section 20 of the Trusts Act, 1882, in fixed deposit with a bank approved by Government or in such other manner as may be approved by Government.

32. **Maintenance of Accounts.**- The Corporation shall maintain complete and accurate accounts in such manner as may be prescribed.
33. **Auditors.**- The accounts of the Corporation shall be audited in such manner as may be directed by the Government from time to time.
34. **Reports to be furnished to Government.**- (1) The Corporation shall furnish to Government, as far as possible, within four months of the close of each financial year an audited statement in the prescribed form of its assets and liabilities of commercial undertakings and transactions as they stand at the close of that year, together with a profit and loss account for the year, together with a profit and loss account for the year and full report on the working of the Corporation during the year and copies of the said statements, account and report shall be published in the Official Gazette.
- (2) The Corporation shall submit to the Government its proposals for the ensuing financial year at such time and in such manner as may be prescribed.
35. **Winding up.**- No provision of Law relating to the winding up of companies and Corporation shall apply to the Corporation and the Corporation shall not be wound up except by an order of Government and in such manner as it may direct.
36. **Quarterly report by Managing Director.**- The Managing Director shall regularly submit a quarterly report to the Board on the working of the Corporation.
37. **Power to make rules.**- (1) Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.
- (2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for:-
- (a) the manner and form of keeping the accounts of the Corporation;

- (b) recruitment of officers, advisers and other employees of the Corporation;
- (c) terms and conditions of service of the officers, advisers and other employees of the Corporation;
- (d) functions of the advisers;
- (e) borrowings by the Corporation;
- (f) the date on which and the form in which the annual budget statement of the Corporation is to be submitted each year;
- (g) procedure for appropriation and re-appropriation of moneys at the credit of the Corporation;
- (h) manner and form in which and the authorities to whom returns, reports or statements shall be submitted;
- (i) investment of Corporation funds and surplus moneys;
- (j) sale or transfer of industrial units and other immovable property of the Corporation; and
- (k) such other matters relating to the administration and other affairs of the Corporation as Government think fit to regulate by rules.

38. **Power to make Regulations.**- (1) The Board may, with the previous approval of Government make regulations for all matters not provided for in the rules for which provision is necessary or expedient for carrying out the purposes of this Ordinance and the rules.

(2) In particular and without prejudice to the generality of the fore-going provisions, such regulations, may specify for:-

- (a) meeting of the board;
- (b) constitution, power and terms and conditions of the committees;
- (c) building bye-laws, agreements and lease deeds pertaining to small industries estates;

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- (d) conditions subject to which the corporation may grant loans; and
- (e) manner and form of determining the sufficiency of security taken for loans or for granting loans.

Sd/-
(Sardar Mohammad Abul Qayyum Khan)
President
Azad Government of the State of
Jammu and Kashmir

Sd/-
(Syed Shakir Shah)
Under Secretary Legislation
Law Department
Azad Government of the State of
Jammu and Kashmir

AJK LAW Department (Library)