

**AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLTAMENTARY AFFAIRS DEPARTMENT
MUZAFFARABAD**

Dated the 18th January, 1987.

No. 689-94/87, The following Ordinance made by the President on the 18th day of January, 1987, is hereby published for general information:-

(ORDINANCE XXXIII OF 1987)

AN

ORDINANCE

to amend the Co-operative Banks (Re-payment and Recovery of Loans) Act, 1987.

WHEREAS it is expedient to amend the Co-operative Banks Re-payment and Recovery of Loans) act, 1987 (Act IX of 1987) for the purposes hereinafter appearing;

AND WHEREAS the legislative Assembly is not in session and the President is satisfied that the circumstance 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.**- This Ordinance may be called the Co-operative Banks (Re-payment and Recovery of Loans (Amendment) Ordinance, 1987. .
 - (2) It shall come into force at once.
2. **Amendment of Section 2, Act IX of 1987.**- In the Co-operative Banks (Re-payment and Recovery of Loans) Act, 1987 (Act, IX of 1987), hereinafter referred to as the said Act, in Section 2, after clause (e) the fullstop at the end shall be substituted by a semi-colon and thereafter the following new clause (ee) shall be added:-

“(ee)” “Special Tribunal” means a Special Tribunal established under this Act.”
3. **Amendment of Section 5, Act IX of 1987.**- In the said Act,-
 - (a) sub-section (2) Section 5, shall be substituted as follows:-
 - “(2) On receipt of information under sub-section (1) in respect of any loan or where such information has not been furnished for any reason and the Registrar gets information form any, other source about any un-paid loan borrowed the Registrar may cause notice to be issued to borrower requiring him to re-pay and secure the loan alongwith interest stipulated by the lending bank up to the of recovery.”

- (b) sub-section (4), (5) and (6) of Section 5 shall be omitted.
4. **Addition of Section 5-A to 5-D Act IX of 1987.**- In the said Act, after Section 5, the following new Sections shall be added:-
- “5-A. **Special Tribunal.**- (1) For the purposes of this Act, the Government may appoint as many Special Tribunals as may be necessary.
- (2) A Special Tribunal shall consist of a person who.-
- (a) is or has been a Judge of High Court; or
- (b) is qualified to be a Judge of the High Court; or
- (c) is not below the status of the Secretary to Government.
- (3) any decision, declaration, order or notice of the Registrar under this Act shall be appealable before the Special Tribunal, within thirty days of decision, declaration order, or notice.
- 5-B. **Powers of Tribunals.**- (1) The Tribunal may, on appeal, confirm set aside, vary or modify the order appealed against.
- (2) The Tribunal shall for the purposes of deciding any appeal be deemed to be a Civil Court and shall have the same powers as are vested in such Court under the Code of Civil procedure 1908 (Act V of 1908) including power of:
- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling production of documents; and
- (c) issuing commission for the examination of witnesses and documents:-
- 5-C. **Appeal.** Any party aggrieved by a final order passed by the Special Tribunal, may prefer an appeal to the Supreme Court within thirty days such order.
- 5-D. **Application of Limitation Act 1908.** Section 5 to 12 of the Limitation Act 1908, as adapted in Azad Jammu and Kashmir , shall apply mutatis mutandis, in respect of cases under this Ordinance.”
5. **Amendment of Section 9 Act IX of 1987.**- In the said Act, in Section 9, for the words “The Registrar” in the first line, the words “Notwithstanding anything contained in any other law for the time being in force, the Registrar” shall be substituted.
6. **Amendment of Section 10, Act IX of 1987.**- In the said Act,-
- (a) sub-section (1) of Section 10 shall be substituted as follows;-

“(1) alienated any property by sale, exchange, gift, mortgage or will, otherwise than by or under an order or decree of a Court not being a decree or order which in the opinion of Special Tribunal is collusive or fraudulent, or with the special permission of the Government, granted by an order in writing, subject to such conditions as may be specified therein, such alienation shall not operate to transfer any right, title or interest in the property of the borrower unless the loan due from the borrower has been repaid”.

(b) sub-section (3) of Section 10 shall be omitted.

7. **Amendment of Section 14, Act IX of 1987.**- In the said Act in Section 14, for sub-section (3) the following shall be substituted namely:-

“(3) Any proceeding pending before any Court, in absence of remedy under section 5-A, in respect of any matter to which this Act relates, can be challenged before Special Tribunal within thirty days of the establishment of Tribunal.”

Sd/-

(Sardar Muhammad Abdul Qayyum Khan)
President.

Sd/-

Deputy Secretary Law