

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

Dated the 9th January, 1985.

No. 721/LD/85. The following Ordinance made by the President on the 9th day of March, 1985, is hereby published for general information:-

(ORDINANCE LXVI OF 1985)

**AN
ORDINANCE**

to provide for law relating to profession of Notaries in Azad Jammu and Kashmir.

WHEREAS it is expedient to provide for law relating to the Profession of Notaries in Azad Jammu and Kashmir, in the manner hereinafter appearing;

AND WHEREASE 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 Notaries Ordinance, 1985.
 - (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 the context otherwise requires,-
 - (a) 'instrument' includes every document by which any right or liability is, or purports to be, created, transferred, modified limited, extended, suspended, extinguished or recorded;
 - (b) 'Legal practitioner' means any advocate or attorney of the Supreme Court or any advocate of the High Court or any pleader authorised under any law for the time being in force to practice in any Court of law;
 - (c) 'notary' means a person appointed as such under this Ordinance;
 - (d) 'prescribed' means prescribed by rules made under this Ordinance;
 - (e) 'Registrar' means a Registrar of Notaries to be maintained under section 4.
3. **Power to appoint notaries.**- The Government, for the whole or any

part of Azad Jammu and Kashmir, may appoint as notaries any legal practitioners or other person who possess such qualifications as may be prescribed.

Provided that not more than four notaries shall be appointed in each District Head Quarter and two in each Tehsil Head Quarter.

4. **Registrars.**- (1) The Government shall maintain, in such form as may be prescribed, a Registrar of the Notaries appoint by the Government and entitled to practice as such under this Ordinance.
(2) Every such Register shall include the following particulars about the notary whose name is entered therein, namely:-
 - (a) his full name, date of birth, residential and professional address;
 - (b) the date on which his name is entered in the Register;
 - (c) his qualification; and
 - (d) any other particulars which may be prescribed.
5. **Entry of names in the Registrar and issue or renewal of certificates of practice.**- (1) Every notary who intends to practise as such shall, on payment to the Government of the prescribed fee, if any, be entitled,-
 - (a) to have his name entered in the Register maintained by the Government under Section 4; and
 - (b) to a certificate authorising him to practise for a period of three years from the date on which the certificate is issued to him.(2) Every such notary who wishes to continue to practise after the expiry of the period for which his certificate of practise has been issued under this section shall, on application made to the Government and payment of the prescribed fee, if any, be entitled to have the certificate of practice renewed for three years at a time.
6. **Annual publication of lists of notaries.**- The Government shall, not later than the end of January each year, publish in the official Gazette a list of notaries appointed by the Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.
7. **Seal of Notaries.**- Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.
8. **Functions of notaries.**- (1) A notary may do all or any of the following acts by virtue of his office, namely:-
 - (a) verify, authenticate, certify or attest the execution of any instrument;

- (b) present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security;
 - (c) note or protest the dishonor by non-acceptance or non-payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881 (XXVI of 1881), or serve notice of such note or protest;
 - (d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;
 - (e) administer oath to, or take affidavit from, any person;
 - (f) prepare bottomry and respondentia bonds, charter parties and other mercantile documents;
 - (g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Azad Jammu and Kashmir in such form and language as may conform to the law of the place where such deed is intended to operate;
 - (h) translate, and verify the translation of, any document from one language into another;
 - (i) any other act which may be prescribed.
- (2) No act specified in sub-section (1) shall be deemed to be a notaries act except when it is done by a notary under his signature and official seal.

9. **Bar of practice without certificate.**- Subject to the provisions of this Section, no person shall practise as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5:

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

10. **Removal of means from Register.**- The Government may, by order, remove from the Register maintained by it under section 4 the name of the notary if he,-
- (a) makes a request to that effect; or
 - (b) has not paid the prescribed fee required to be paid by him; or
 - (c) is an undercharged insolvent; or
 - (d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government, renders him unfit to practice as a notary.

11. **Construction of reference of notaries public in other laws.**- Subject to the provisions of section 16, any reference to a notary

public in any other law shall be construed as a reference to a notary entitled to practice under this Ordinance.

12. **Penalty for falsely representing to be notary, etc.-** Any person who;-
- (a) falsely represents that he is a notary without being appointed as such; or
 - (b) practices as a notary or does nay notarial act in contravention of section 9, shall be punished with imprisonment for a term which may extend to three months, or with fine, or with both.
13. **Cognizance of offences.-** (1) No Court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this ordinance save upon complaint in writing made by an officer authorised by the Government by general or special order in this behalf;
- (2) No Magistrate other than a Magistrate of the first class shall try an offence punishable under this Ordinance.
14. **Reciprocal arrangements for recognition of notarial acts done by foreign notaries.-** If the Government is satisfied that by the law or practice of any country or place outside Azad Jammu and Kashmir, the notarial acts done by notaries within Azad Jammu and Kashmir are recognized for all or any limited purposes in that country or place, the Government may, by notification in the official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognized within Azad Jammu and Kashmir for all purposes, or, as the case may be, for such limited purposes as may be specified in the notification.
15. **Power to make rules.-** (1) the Government may, by notification in the official gazette, make rules to carry out the purposes of this Ordinance.
- (2) In particular, and without prejudice to the generally of the foregoing powers, such rules may provide for all or any of the following matters, namely;
- (a) the qualification of a notary, the form and manner in which application for appointment as a notary may be made and the disposal of such applications;
 - (b) the certificates, testimonials or proofs as to character integrity, ability and competence which any person applying for appointment as a notary may be required furnish;
 - (c) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practices, and exemption, whether wholly or in part, from such fees in specified classes of cases;

- (d) the fees payable to a notary for doing any notarial action;
- (e) the form of Registers and the particulars to be entered therein;
- (f) the form and design of the seal of a notary;
- (g) the manner in which inquires into allegation or professional or other misconduct of notaries may be made.
- (h) the acts which a notary may do in addition to those specified in Section 8 and the manner in which a notary may perform his functions.

16. **Validation of Act XXVI of 1881.**- Noting in this Ordinance affects the provisions of the Negotiable Instruments Act, 1881 (XXVI of 1818), or any appointment made in pursuance of Section 138 of that Act or the powers of any person so appointed. Notwithstanding any judgment, decree or order of any court including High Court, every thing done, all actions taken, notifications issued, appointments made, proceedings initiated, jurisdiction or powers exercised under the provision of the Notaries Ordinance 1980 (Ordinance XLIII of 1980) or its succeeding Ordinances issued from time to time shall be deemed to have been validly done, taken, issued, made, initiated or exercised under this Ordinance.

Sd/-

(Major General (R) Abdul Rehman Khan)
President,
Azad Jammu & Kashmir.
