

Volume X (1994-2000)
AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS DEPARTMENT
MUZAFFARABAD

Dated the 17th October, 1994

No. 632-36/LD/94. The following Ordinance made by the President on the 17th day of October 1994, is hereby published for general information:-

(ORDINANCE XXXIII OF 1994)

AN
ORDINANCE

to amend the Azad Jammu and Kashmir Local Government Act, 1990

WHEREAS it is necessary to amend the Azad Jammu and Kashmir, Local Government Act, 1990 (Act VII of 1990) 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 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 Local Government (Amendment) Ordinance, 1994.
(2) It extends to the whole of Azad Jammu and Kashmir.
(3) It shall come into force at once.
2. **Amendment of Section 2, Act VII of 1990.**- In the Azad Jammu and Kashmir Local Government Act, 1990 (Act VII of 1990), hereinafter referred to as the said Act, in Section 2, after clause (x) the following new clause (X-A) shall be inserted, namely:-
“(X-A) “Development Council” means the Azad Kashmir Local Government Development Council constituted under this Ordinance;”
3. **Amendment of Section 23, Act VII of 1990.**- In the said Act, clause (c) to sub-section (2) of Section 23 shall be substituted as under:-

“(c) is guilty of an abuse of power or misconduct, misrepresentation or make false recommendations or attestation with intent to cause an undue favour or gain any person to in capacity as a member or has been responsible for any loss or mis-appropriation of any money or property or any local Council or any local body or other local authority; or”

4. **Substitution or Section 43, Act VII of 1990.**- In the said Act, for Section 43, the following shall be substituted, namely:-

“43. **“Local Council Service.**- (1) There shall be constituted an Azad Jammu and Kashmir Local Council Service comprising of,-

- (a) members of the Local Councils appointed by the Local Government Board and under any enactment repealed by the Local Government Act, 1990;
- (b) such other persons as may be appointed to the Azad Jammu and Kashmir Local Council Service by the Ministry of Local Government with the approval of the Government.

(2) The terms and conditions of the service of the members of Azad Jammu and Kashmir Local Council Service shall be such as may be prescribed:

Provided that the terms and conditions of service of such members of the Local Council service as are inducted into the Azad Jammu and Kashmir Local Council Service under this Ordinance shall not be less favourable than the terms and conditions applicable to them before such induction.

(3) All members of the Azad Jammu and Kashmir Local Government Board shall be deemed to be the employees of Local Council Service.

(4) The members of the Azad Jammu and Kashmir Local Council Service shall be liable to such disciplinary action and penalties and in accordance with such procedure as may be prescribed.

(5) Every Local Council shall contribute towards the expenditure of the Local Council service an amount calculated at such rate as may, from time to time be fixed by the Government.

(6) On enforcement of this Ordinance all employees of the Local Government Board and all properties, funds and dues of

the Local Government Board shall stand transferred to the Ministry of Local Government, and shall be under the control of the Ministry of Local Government.

5. **Substitution of Section 44, Act VII of 1990.-** In the said Act, for Section 44, the following shall be substituted namely:-

“44. Azad Kashmir Local Government Development Council.- (1) There shall be an Azad Kashmir Local Government Development Council consisting of,-

(a)	The Prime Minister of Azad Jammu and Kashmir;	Chairman
(b)	a Vice Chairman, who shall be nominated by the Government for first term and for the next term or terms elected by the members from amongst the non-official members of the Development Council;	Member
(c)	ten elected members (two from each district);	Members
(d)	Chairman of the District Councils;	Member
(e)	Secretary Local Governmental	Member
(f)	Secretary Planning and Development;	Member
(g)	Additional Secretary Finance;	Member
(h)	Superintending Engineer, Local Government;	Member
(i)	Director Local Government;	Member/Secretary

- (2) The terms of the Azad Kashmir Local Government Development Council shall be four years:

Provided that for 1st term or remaining terms the Government may nominate the members of the Council.

- (3) The terms and conditions and status of the Vice-Chairman shall be determined by the Government and he shall perform such functions as may be prescribed.

- (4) The Ex-officio members of the Development Council shall hold office for two years, but shall be eligible for re-appointment.

- (5) Government may remove any member of the

Development Council at any time without assigning any reason.

(6) Government may fill-up any casual vacancy of a member of the Development Council at any time if considers necessary.

(7) There shall be a Secretary of the Development Council to be appointed by Government to deal with the day to day administration of Development Council and to perform such other functions and to exercise such powers as may be assigned to him by the Development Council.

(8) The Staff for Development Council shall be provided by the Local Government Department. The Government may at any time fill-up any post in the Development Council by a person belonging to the Azad Jammu and Kashmir Local Council service or a person in the service of Government or any statutory authority.

6. **Substitution of Section 45, Act VII of 1990.-** In the said Act, for Section 45, the following shall be substituted, namely:-

“45. Power and functions of the Development Council.-
Subject to the rules, the Development Council shall,-

- (a) formulate the policy for rural development and take steps for its implementation;
- (b) sanction any scheme of Union Council and District Councils exceeding 3 Lacs;
- (c) check the implementation of Annual Development Programme of Local Councils and improve its working;
- (d) arrange funds from Government for the rural development programme;
- (e) inspect supervise the development projects of Local Councils, and check the expenditure incurred on such scheme; and
- (f) perform such other functions as may be specified by the Government from time to time.

7. **Insertion of Section 45-A and 45-B, Act VII of 1990.-** In the said Act, after Section 45, the following new Sections 45-A and 45-B shall be inserted, namely:-

“45-A. Powers of the Local Government Department.-
Notwithstanding anything contained in any other Law for the time being in force, the Local Government Department shall,-

- (a) function as a planning commission for Local Council;
- (b) advise and evolve organization and methods (O&M) techniques for the benefit of Local Councils;
- (c) undertake, research and evaluation in the field of Local Government and to issue publication for the benefit of Local Council.

“45-B. Control of Local Government Service.- The Local Government Service shall be directly under the control of Ministry of Local Government and the matters concerning the appointment of employees including terms and conditions, pension and disciplinary action shall be dealt with as may be prescribe.

(2) Until the rules are made under sub-section (1) the existing rules shall remain inforce.

(3) The terms Local Government Board used in the Act or the rules in relation to the service matters of the Local Council shall mean the Minister of Local Government Department or an officer authorised by him.

8. Amendment of Section 46, Act VII of 1990.- In the Said Act, in Section 46,-

- (a) in the heading for the words “Government Board” the words “Councils Service” shall be substituted;
- (b) in sub-sections (1) and (2) for the word “Board” wherever occurring the words “Local Council Service” shall be substituted.

9. Amendment of Section 47, Act VII of 1990.- In the said Act, in Section 47, for the word “Board” wherever occurring the word “Local Council Service” shall be substituted.

10. Amendment of Section 56, Act VII of 1990.- In the said Act, in Section 56, after sub-section (1) the following new sub-section (1-A) shall be inserted, namely:-

- “(1-A) (i) If any Local Council fails to pass the budget under sub-section (1), the Chairman of such Local Council shall obtain vote of confidence within fifteen days;
- (ii) If the Chairman fails to obtain vote of confidence from the majority of the total membership, he shall cease to hold the office

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forthwith; and

- (iii) The new Chairman shall be elected by the majority of members within seven days of the vacation of office.”

11. **Amendment of Section 61, Act VII of 1990.-** In the said Act, in Section 61, in sub-section (4), in clause (b) and (c) for the words “three” the word “six” shall be substituted.

12. **Addition of Section 61-A, Act VII of 1990.-** In the said Act, after Section 61, a new Section 61-A shall be added, namely:-

“61-A. Appointment of Revising Authority.-

- (a) There shall be a revising authority, to be appointed by the Government, for the scrutiny of irregularities or illegalities committed in respect of allotment of plots or estate or in determination of title of any allottee or person applying for allotment;
- (b) Revising Authority either *suo moto*, or on a reference made to it by any authority or on application made by any person, may call for any case in respect of any allotment, in which an order has been made by an allotment authority or which is pending before or disposed of by the appellate Authority established under this Act;
- (c) The Revising Authority may after hearing the party likely to be effected confirm, modify or set aside such allotment order or may make any other order which it may deem fit.”

13. **Repeal.-** The Azad Jammu and Kashmir Local Government (Amendment) Ordinance, 1994 (Ordinance XXVIII of 1994) is hereby repealed.

Sd/- (Sardar Sikandar Hayat Khan)
President
Azad Jammu and Kashmir
